

STATUTES



OF THE

CAPE OF GOOD HOPE

PASSED BY THE

SIXTH PARLIAMENT

DURING THE

SESSIONS 1879—1883.

WITH INDEX, &c.

[PRINTED BY AUTHORITY.]

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1884.

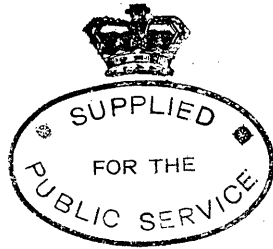


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ACTS OF THE CAPE PARLIAMENT.

Spent.
No. 1—1879.] AN ACT [July 15, 1879.

To Apply a Sum not exceeding Three Hundred Thousand Pounds towards the Service of the Year ending 30th day of June, 1880.

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

I. The public revenue of the colony is hereby charged, towards the service of the year ending the 30th day of June, 1880, with a sum not exceeding three hundred thousand pounds sterling, which said sum shall be applied towards the service of the said year, in conformity with the estimates for the expenditure of the said year, which have been presented to Parliament. Supply.

No. 2—1879.] AN ACT [Sept. 8, 1879.

To Provide for Telegraphic Communication between the Cape Colony and England.

WHEREAS it is desirable that telegraphic communication should be established between this colony and England : Be it, therefore enacted by the Governor of the Cape of Good Hope, with the consent of the Legislative Council and the House of Assembly thereof, as follows :—

I. The Act No. 19 of 1878 is hereby repealed.

II. The Governor is hereby authorised and empowered to pay from and out of the public revenue of this colony, for a term not exceeding Act 19 of 1878 repealed. Telegraph to England to be contracted for.

B

Act. 2-1870.

twenty years, to any joint-stock company or companies, co-partnership or co-partnerships, individual or individuals, who shall enter into a contract with the Colonial Government to construct and maintain, and who shall construct and maintain, a line of telegraph which shall secure for this colony telegraphic communication with England, an annual sum not exceeding £15,000.

Conditions of contract.

III. The contract under or by virtue of which the said sum not exceeding £15,000 shall be payable as aforesaid for a term not exceeding twenty years, shall provide for the fulfilment of the following conditions, stipulations, and provisions, together with any others which the said Government shall deem desirable and shall agree upon with the other contracting party, that is to say :—

1. The terminus of the line shall be fixed by the contract, and shall be such a spot in this colony or in the colony of Natal as the Government shall approve of as convenient.
2. The party contracting for the construction of the said line shall be bound to maintain it in good working order, and to work the same efficiently for such number of years as may be agreed upon in such contract not being less than the number of years during which the annual sum in the second section mentioned shall be payable.
3. The contract shall provide for a cessation of the annual payments authorised by the second section of this Act if the said line shall not be in working order for any space of time exceeding six months, and the said annual payments shall recommence when the said line shall again be in working order.
4. The contract shall fix a time within which the line shall be completed, and shall (if such shall appear desirable to the Government) specify some sum to be deducted from the annual payment as aforesaid for or in respect of every month

beyond the time stipulated during which the line shall remain incomplete. No. 2—1879.

5. No payment shall be made to the party contracting with the Government until the line, or any portion thereof, agreed upon in the said contract, shall have been completed and be in operation, from which time shall be reckoned the term during which the said annual sum authorised by the second section of this Act shall be payable.
6. The contract shall provide for the maximum rate to be paid for messages which shall be sent by the said telegraph line to or from London: Provided, however, that the cost of a message to or from London shall not in any case exceed the sum of ten shillings per word.

IV. This Act may be cited as "The Anglo-African short title. Telegraph Act, 1879."

No. 3—1879.] AN ACT [Sept. 8, 1879.]

To make better Provision for the Disposal of certain
Derelict Lands.

WHEREAS the existing process by which the Preamble. Government is able to resume possession of derelict land is both expensive and tedious, and it is desirable to substitute a simpler process for dealing with such land: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

I. Whenever any land rent due to the colonial When land left derelict for ten years, Governor may resume possession. Government in respect of any place or property held from the Crown shall remain unpaid for the space of ten years, and such place or property shall be abandoned, deserted, and left derelict, and neither the grantee or lessee, as the case may be, of such place or property, nor his lawful representatives in

No. 3 - 1879.

regard to the same can be found, it shall be lawful for the Governor to advertise such place or property as derelict in the Government Gazette, and any other newspaper he may think fit, not less than once in each of three consecutive calendar months, and if, within three months from the date of such last-mentioned advertisement, neither the grantee or lessee, as the case may be, of such place or property, nor his lawful representatives shall establish his or their claim to the same, and pay the land rent so overdue, the Governor shall at the expiration of such last-mentioned period of three months, resume possession of the said place or property, and deal with the same under the provisions of any law in that behalf for the time being in force in this colony : Provided always, that if the place or property, with regard to which the proceedings in this Act mentioned shall be taken, shall be under mortgage, the provisions of the eighth, ninth, and tenth sections of Ordinance 9 of 1844, with reference to the sale of such place or property, and the application of the funds thereof, shall apply to the same.

To apply to lands already left derelict for ten years.

II. The provisions of the preceding section shall apply as well to any place or property for which the land rent has already been unpaid for ten years, and which has already been left derelict as to any place or property upon which such land rent shall hereafter be unpaid for ten years, and shall hereafter be left derelict.

Powers of Government under previous statutes not affected.

III. Nothing in this Act contained shall be taken to deprive the colonial Government of any powers vested in it by the provisions of Ordinance No. 9 of 1844 and Ordinance No. 7 of 1846, or by any other law for the time being in force in this colony ; it being the express object and intention of this Act that the colonial Government shall have the option of dealing with derelict Crown lands, either under the provisions hereinbefore contained, or under any statutory enactment, or any other law which may now or hereafter be in force in this colony and be applicable to such cases.

Short title.

IV. This Act may be cited as the "Derelict Lands Act, 1879."

No. 4—1879.] AN ACT [Sept. 8, 1879.

To remove Doubts as to the meaning of a certain
Section in Act No. 13 of 1878.

WHEREAS an error in punctuation has been Preamble.
made in printing the 4th section of Act No. 13
of 1878, and it is desirable to remove any doubts
which may exist as to the true intent and meaning
of that section, and to render it clear that persons
enrolled as levies under the provisions of Act No. 7
of 1878, are not excepted from liability to deposit
all arms and weapons, or portions of arms and
weapons, and all bullets, cartridges, gunpowder, and
other ammunition in their possession, custody, or
power, as in the said 4th section of Act No. 13 of
1878 is provided, unless such levies shall be licensed
to retain the same : Be it, therefore, enacted by the
Governor of the Cape of Good Hope, with the con-
sent of the Legislative Council and the House of
Assembly thereof, as follows :—

I. The following words contained in section 4 of
Act No. 13 of 1878, namely, “ or enrolled in any
colonial, burgher, or volunteer corps for the time
being,” shall be read and construed as if the same
had been written “ or enrolled in any colonial corps,
for the time being, whether burgher or volunteer.” Error in Act 13, 1878,
corrected.

II. This Act may be cited as the “ Peace Preser- Short title
vation Amendment Act, 1879.”

Repealed by 1896 Act 35.
No. 5—1879.] AN ACT [Sept. 8, 1879.

To increase the Efficiency of the Court of the
Eastern Districts, and to improve the Ad-
ministration of Justice generally.

WHEREAS it has been found expedient to add Preamble.
to the number of judges constituting the
court of the eastern districts, and to make provision
for appeals from the said court and from the circuit
courts, and to establish a court of criminal appeal

No. 5—1879.

for the colony: 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:—

Repeal of repugnant statutes.

I. So much of the Royal Letters Patent of His late Majesty King William the Fourth, bearing date at Westminster in the second year of his reign, commonly called "The Charter of Justice," and so much of Act No. 21 of 1864, commonly called "The Administration of Justice Act of 1864," and so much of any other law, usage, ordinance, or rule of court as shall be repugnant to, or inconsistent with, any of the provisions of this Act, are hereby repealed, so far as such repugnancy or inconsistency exists, but not further or otherwise.

Supreme court to consist of chief justice and five puisne judges.

II. The supreme court shall henceforth consist of one chief justice and five puisne judges, who shall be appointed and hold office in the same manner as the judges already constituting such court.

Eastern districts court to consist of three judges.

III. The court of the eastern districts shall consist of, and be holden by and before, three of the puisne judges of the supreme court, of whom one, to be called the judge president, and who shall be nominated and appointed by the said Governor, shall be a judge of the court of appeal hereinafter mentioned, and the two others shall not be judges of the said court of appeal: Provided, always, that the law relating to the number of judges necessary to constitute a quorum in the supreme court and to the powers vested in certain cases in a single judge, shall apply equally to the said court of the eastern districts.

Judges assigned to eastern districts court.

IV. Every judge who shall be assigned and appointed to the office of judge president of the eastern districts court shall be entitled to hold the said office so long as he shall continue to be a judge of the supreme court.

When case heard by two judges who differ.

V. Whenever any suit, action or cause, or any questions, matters or things arising in any suit, action, or cause, shall be heard before any two of the judges of the court of the eastern districts, and any difference of opinion shall arise between such two judges, the decision of the said court shall in any such case be suspended until three judges shall

be present, and the decision of the majority of such three judges shall be deemed and taken to be the decision of the whole court.

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VI. From and after the taking effect of this Act there shall be in this colony a court of appeal, to be called "The Court of Appeal of the Cape of Good Hope," and such court shall have a seal bearing that inscription.

Court of appeal established.

VII. The said court of appeal shall be a superior court of record, and shall consist of the chief justice of the Cape of Good Hope, the judge president of the eastern districts court, and two other puisne judges of the supreme court who shall be thereto duly assigned and appointed by the Governor, acting by and with the advice of the executive council.

Constitution of court of appeal.

VIII. Every judge who shall be appointed to the office of judge of the court of appeal shall hold such office so long as he shall continue to be a judge of the supreme court.

Judges thereof judges of supreme court.

IX. The judges of the said court of appeal shall take rank and precedence next after the chief justice of the Cape of Good Hope, and before the judges of the supreme court, who shall not also be judges of the said court of appeal, anything in the eighth section of the Charter of Justice to the contrary notwithstanding.

Precedence.

X. Until provision to the contrary shall be made by the Governor, acting by and with the advice of the executive council, the registrar of the supreme court shall be the registrar of the said court of appeal.

Registrar.

XI. It shall be lawful for any person being a party to any civil suit in the eastern districts court, or in any circuit court, to appeal to the said court of appeal against any judgment, decree, or order of such eastern districts or circuit court; provided that the party appellant shall, within twenty-one days next after such judgment, decree, or order, shall have been pronounced, give notice of appeal to the party respondent, and to the registrar of the court from which the appeal takes place, and shall, within three months after judgment, duly prosecute such appeal in the said court of appeal, in case there

Appeal from eastern districts court and circuit courts.

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shall be a sitting of the said court within that period, or if there shall not be any such sitting, then at the next sitting of the said court of appeal: Provided that it shall be lawful for the said court of appeal, for good and sufficient cause shown, to extend the time within which the appellant shall prosecute his appeal.

Repeal of repugnant enactments.

XII. The forty-second and forty-third sections of the Charter of Justice, and the twenty-third, twenty-fourth, twenty-fifth, and twenty-sixth sections of Act No. 21 of 1864, are hereby repealed.

Manner of hearing cases.

XIII. In every civil suit heard or tried before the supreme court, eastern districts court, or any circuit court, the presiding judge shall cause the evidence, if oral, to be fully and clearly taken down in writing, and the evidence so taken shall be entered upon the proceedings of the said courts, and be of record.

Registrar to transmit records if appealed against.

In every case in which notice of appeal shall be given to the registrar of the eastern districts court, or of any circuit court, as the case may be, such registrar shall forthwith transmit a copy of the record, certified by him as authentic, to the registrar of the court of appeal. Such record shall include all oral evidence taken down in writing, in manner aforesaid, and all other evidence, whether taken by commission or by affidavit, and all documents and papers which shall have been produced and given in evidence. Copies of any documents and papers which shall have been produced and tendered in evidence and rejected, shall, if required by the party producing the same, be authenticated and marked by the registrar as rejected.

How judgments appealed against to be dealt with pending appeal.

XIV. It shall be lawful for the eastern districts court, or for any circuit court, as the case may be, to direct that the judgment, decree, or order appealed against shall be carried into execution, or that execution thereof shall be suspended pending the said appeal, as to such court may in each case appear to be most consistent with real and substantial justice. And in case such judgment, decree, or order, shall be carried into execution, the party respondent shall, before the execution of such judgment, decree, or order, enter into good and sufficient

security, to be approved by the registrar of the eastern districts court, or in case of an appeal from any circuit court, by the resident magistrate of the district in which such circuit court was held, for the due performance of such judgment, decree, or order, as the court of appeal shall think fit to make thereon; or in case the execution of any judgment, decree, or order shall be suspended pending the said appeal, the party appellant shall enter into good and sufficient security, to be approved in manner aforesaid, for the due performance of such judgment, decree, or order, as the said court of appeal shall see fit to make thereupon: Provided that it shall be lawful for the court of appeal, for good and sufficient cause shown, to dispense with the security by this section required from the appellant or respondent, as the case may be.

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Security.

Security may be dispensed with.

XV. No judgment, decree, or order, made by the eastern districts court, or any circuit court, by the consent of parties, or as to costs only, which by law are left to the discretion of the court, and no interlocutory order shall be subject to any appeal, except by leave of the court or judge pronouncing such judgment, decree, or order.

Judgments by consent or questions of costs not to be appealed against except by leave.

XVI. For all the purposes of and incidental to the hearing and determination of any appeal within its jurisdiction, and the amendment, execution, and enforcement of any judgment, decree, or order pronounced or made on any such appeal, and for the purpose of every other authority given to the court of appeal by this Act, the said court of appeal shall have all the power, authority and jurisdiction vested in the supreme court of the colony at the time of the passing of this Act.

Enforcement of judgments of appeal court.

XVII. Every appeal to the court of appeal against any judgment of the eastern districts court, in which only two judges thereof shall concur, or against the judgment of any circuit court, shall be heard before not less than three judges of the court of appeal; and every appeal against any unanimous judgment of the three judges of the eastern districts court shall be heard before the full court of appeal. If the four judges of the court of appeal shall in any case be equally divided in opinion, the judgment,

Appeal against judgment of majority of eastern districts court.

Appeal against unanimous judgment.

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decree, or order appealed against shall, in so far as such division shall exist, be confirmed.

Judges of appeal court to frame rules.

XVIII. It shall be lawful for the judges of the court of appeal to frame, constitute and establish from time to time all such rules, orders, and regulations as they shall deem necessary touching the forms and manner of proceeding to be observed in the said court of appeal, and in the court of appeal in criminal cases hereinafter referred to in this Act; and the forty-sixth section of the Charter of Justice, and all laws touching or concerning the supreme court shall apply mutatis mutandis to the rules, orders, and regulations aforesaid, to be observed in the said court of appeal, precisely as if such court of appeal were the supreme court in the said Charter and other laws mentioned.

Until framed, rules of supreme court to apply.

XIX. Until the promulgation of such rules, orders, and regulations as are in the last preceding section mentioned, the rules and orders of the supreme court shall, so far as the same may be applicable apply to the forms and manner of proceeding to be observed in the said court of appeal: Provided that the sittings of the said court of appeal in civil cases shall be held in the supreme court at such times as the chief justice, with the concurrence of the remaining judges of the court of appeal, or of a majority of them, shall from time to time fix and appoint.

Appeal to the Queen.

XX. An appeal to Her Majesty the Queen shall be allowed by such court of appeal against any final judgment, decree, or order thereof in any civil suit or action in which an appeal is now allowed, and the fiftieth, fifty-first, and fifty-second sections of the Charter of Justice shall apply, mutatis mutandis, to every appeal from the said court of appeal, precisely as if such court of appeal were the supreme court in the said Charter mentioned.

Appeals now pending.

XXI. All appeals to the supreme court against any decision of the eastern districts court or of any circuit court which shall be pending at the time of the taking effect of this Act, shall be continued, heard and determined in like manner as if this Act had not been passed.

XXII. The judges of the said court of appeal, or any three of them, shall likewise constitute a court of appeal in criminal cases, and appeals shall be allowed to the said court of appeal in criminal cases in the cases hereinafter provided for, and in no others.

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Appeal in criminal cases.

XXIII. If any defendant, who shall be tried upon any indictment in the supreme court, eastern districts court, or any circuit court, shall think that any of the proceedings of the court before which the trial takes place are irregular or not according to law, it shall be lawful for him either during his trial or after his conviction, to apply to such court to direct a special entry to be made on the record, showing the nature of the proceedings alleged to be irregular or illegal. If such a special entry be directed to be made, it shall be drawn up by the registrar of the court, and the defendant and the prosecutor, or their counsel and attorneys, shall be permitted to see it and to copy it, and if either of them shall object to its terms, it shall be settled by the judge of the court before which the case is tried.

When appeal in criminal cases to be applied for.

Special entry.

XXIV. If any defendant, who shall be convicted of any indictable crime or offence, shall obtain leave to make, and shall cause to be made, such a special entry on the record as is hereinafter provided for, it shall be lawful for him, by leave of the judge of the court before which the case shall have been tried, to appeal against his conviction on the ground of the irregularity or illegality of such proceedings as aforesaid as stated in such special entry aforesaid: Provided that, within fourteen days after verdict notice of such appeal shall be given to the registrar of the court appealed from; and such registrar shall forthwith, after receiving such notice, give notice of such appeal to the attorney-general and transmit to the registrar of the court of appeal an authenticated copy of the record, including copies of the evidence, whether oral or in writing, taken or admitted at the trial, and of the special entry made on the record in manner aforesaid.

Leave to be applied for.

Notice to registrar.

XXV. If any question of law shall arise on the trial of any person for any indictable crime or offence

Questions of law reserved.

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in the supreme court, eastern districts court, or any circuit court, it shall be lawful for such court to reserve such question for the consideration of the court of appeal in criminal cases. If the court shall determine to reserve any such question, and the defendant shall be convicted, the court shall state the question or questions reserved, and shall direct such case to be specially entered in the record, and a copy thereof to be transmitted to the court of appeal in criminal cases.

Cases in which execution of sentence may be suspended.

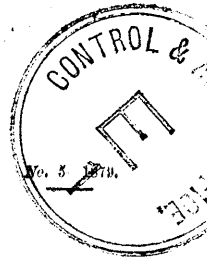
XXVI. The execution of the sentence of a court shall not be suspended by reason of any appeal against a conviction, or by reason of a question having been reserved for the consideration of the court of appeal in criminal cases—

- (a) Unless the sentence shall be that the defendant suffer death, or be flogged or whipped, in either of which cases the sentence shall not be executed until the appeal or question reserved for the court shall have been heard and decided.
- (b) Unless the court from which the appeal is made, or by which the question is reserved, shall think fit to order either that the defendant be admitted to bail, or if he is sentenced to any punishment other than simple imprisonment, that he be treated as an unconvicted prisoner till the appeal or the question reserved for the court shall have been heard and decided.

What appeal court may do in cases where question of law reserved.

XXVII. In case of any appeal against a conviction, or of any question being reserved as aforesaid, it shall be lawful for the court of appeal in criminal cases.

- (a) To confirm the judgment of the court below, in which case, if the defendant, having been admitted to bail, is in court, the court may forthwith commit him to custody for the purpose of undergoing any term of imprisonment to which he may have been sentenced ;
- (b) or direct that the judgment shall be set aside, notwithstanding the verdict, which



order shall have for all purposes the same effect, as if the defendant had been acquitted;

- (c) or direct that the judgment of the court shall be set aside, and that instead thereof such judgment shall be given by the court before which the trial took place as ought to have been given at the trial;
- (d) or if such court has not delivered judgment, remit the case to it in order that it may deliver judgment;
- (e) or give such judgment as ought to have been given at the trial;
- (f) or make such other order as justice may require;

Provided that no conviction shall be set aside, by reason only of some irregularity or illegality, whereby the defendant was not prejudiced in his defence, or because evidence was improperly admitted or rejected, by which no substantial wrong was in the opinion of the court of appeal done to the defendant.

XXVIII. The order or direction of the court of appeal in criminal cases shall be certified under the hand of the presiding judge to the registrar of the court before which the case was tried, and such order or direction shall be carried into effect, and shall authorise every person affected by it to do whatever is necessary to carry it into effect.

How order of appeal court to be certified.

XXIX. This Act shall take effect when and so soon as the Governor, with the advice of the Executive Council, shall, by proclamation published in the Government Gazette, declare that the same is in force.

When Act to take effect.

XXX. This Act may be cited for all purposes as "The Administration of Justice Amendment Act, 1879."

Short title.

No. 6—1879.] AN ACT [Sept. 8, 1879.

To make Provision for the better payment of the Expenses of certain members of the Legislative Council and the House of Assembly of the Colony of the Cape of Good Hope.

Preamble.

WHEREAS it is expedient to make provision for the better payment of the expenses of certain members of the Legislative Council and the House of Assembly of this colony : Be it therefore enacted by the Governor of the Cape of Good Hope, with the consent of the Legislative Council and the House of Assembly thereof, as follows :—

Members of Parliament may be paid for ninety days attendance.

I. In lieu and instead of the words " fifty days " mentioned in the first proviso of the ninetieth section of the Constitution Ordinance, the words " ninety days " shall be substituted, and payment shall be made in accordance therewith for the present and subsequent sessions

Short title.

II. This Act may be cited as the " Payment of Members' Expenses Act, 1879."

No. 7—1879.] AN ACT [Sept. 11, 1879.

To Provide for the Establishment and Management of Reformatory Institutions for Youthful Criminals.

speaks by Act 13/11 § 1

Preamble.

WHEREAS it is desirable to establish reformatory institutions for youthful criminals in this colony and to provide for the management and maintenance of the same : Be it therefore enacted by the Governor of the Cape of Good Hope, with the consent of the Legislative Council and the House of Assembly thereof, as follows :—

Reformatory institutions to be established.

I. It shall be lawful for the Governor to establish for the purposes of this Act reformatory institutions for the reception and custody of youthful criminals, and in every such institution the males shall be kept separate and apart from the females.

II. Convicted children only shall be sent to or detained at any reformatory institution.

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Who may be sent to them.
Until what age.

III. No convicted child shall be detained at any reformatory institution after he or she shall have attained the age of sixteen years.

IV. Whenever any child shall hereafter be convicted of any offence, either upon indictment or on summary conviction, punishable by imprisonment, it shall be lawful for the judge or other competent court by which such child shall be convicted, in addition to the sentence which may then and there be passed as a punishment for the said offence, to direct such child to be sent, at the expiration of such sentence, to any reformatory institution established under this Act, to be there detained until he or she reaches the age of sixteen years; or for such shorter period as such judge or other competent court may think fit; or such judge or other competent court may, if such judge or court deem fit, send such child to any reformatory institution in lieu and instead of sentencing such child to imprisonment, or may at the expiration of any sentence, or instead of sentencing such child to imprisonment, order that such child shall be bound to some useful calling or occupation for such period as such judge or court shall think fit, but not longer, however, than until such child shall attain the age of sixteen years.

Convicted child may be sentenced to detention in institution in addition to imprisonment.

Or may be sent to institution in lieu of imprisonment.

V. If any child shall at the time of the taking effect of this Act be in any prison of this colony under sentence for an offence punishable by imprisonment, the keeper of the goal, in which such child shall be imprisoned, shall take such child before the resident magistrate of the district, and such resident magistrate, if he think fit, shall direct such child to be sent to, and detained in, any reformatory institution pursuant to this Act: Provided always that no such child, as last aforesaid, shall be sent to or detained in any reformatory institution for any longer period than such unexpired term.

Children now in prison how to be dealt with.

VI. Whenever any child shall be directed to be detained in any institution established under this Act, the judge or any other competent court shall

Warrant to detain child.

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issue a warrant for that purpose, setting forth the crime of which such child shall have been convicted, and the period for which such child shall be detained in the reformatory institution to which such child shall be sent.

To whom warrant to be forwarded.

VII. The warrant in the last preceding section mentioned, or a duplicate thereof, shall be forwarded to the superintendent or matron of the reformatory institution with the child, and shall be a sufficient warrant for the conveyance of the child thither and its detention therein.

Warrant sufficient defence to action.

VIII. In every action for anything done in obedience to any such warrant as aforesaid, it shall be sufficient for the defendant to justify under such warrant alone, without setting forth the previous proceedings, and the production of such warrant, shall be sufficient evidence in support of such a plea.

How warrant to be obeyed, &c.

IX. Every warrant issued under this Act, shall be executed and obeyed by the person to whom the same is directed and delivered, and the production thereof with a statement annexed thereto, signed by the superintendent or matron of any reformatory institution, that the child named in such warrant was duly received into, and is at the signing thereof, detained in such reformatory institution, shall in all proceedings whatever be sufficient evidence of the facts by this Act required to be stated in such warrant, and of the subsequent detention and identity of the child named therein.

Production of it in evidence.

Power of removal from one institution to another.

X. The Governor may, at any time during the detention of any inmate in a reformatory institution, remove any such inmate to any other reformatory institution established under this Act, and may also order the release of any such inmate from the reformatory institution in which he or she may be detained, and he or she shall, upon the production of such order (which shall be under the hand of the colonial or under colonial secretary) be discharged accordingly.

Power to bind inmate as apprentice.

XI. At any time before the expiration of the warrant authorising the detention of any inmate in a reformatory institution, the resident magistrate of

the district in which such institution is situate, or of the district in which such child shall then be detained, may bind any such inmate as apprentice to any useful calling or occupation as he may think fit, in the same manner in which destitute children are now authorised to be bound by the law of this colony; and such binding shall be as effectual as if such child were of full age and had bound himself: Provided that, if such child should have one or more parents or guardians alive, no such apprenticeship shall take place without the consent of such parents or guardians.

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XII. The resident magistrate may in any articles of apprenticeship under this Act, provide that such portion of the wages to become due to such apprentice as he may think fit, shall be deposited, at such times and in such manner as he shall determine, in any savings or other bank of this colony on account of such apprentice, and every such deposit shall be deemed and allowed as a payment to such apprentice, but no portion thereof shall be withdrawn by such apprentice without the consent, in writing, of such resident magistrate, until the expiration of the apprenticeship.

Provisions of article of apprenticeship.

XIII. All members of the executive council, all members of the legislature, all judges of the supreme court, and all resident magistrates and justices of the peace, shall be entitled to visit every reformatory institution, and shall have admission to the same accordingly, and all such visitors, as aforesaid, shall also be entitled to have access, at convenient times, to every child apprenticed or bound under this Act.

Who may visit institutions.

XIV. Every person who, by virtue of the last preceding section, shall visit any such reformatory institution may inscribe in a book (to be for that purpose provided and kept by the superintendent or matron of such reformatory institution), any remarks or observations, signed by such visitor, which he may think fit to make touching or concerning such reformatory institution, and the superintendent, matron, teachers, officers, servants, or inmates thereof, or any of them, and every such

Visitors' book. Entries therein;

No. 7—1879.

book shall be carefully preserved by every such superintendent or matron, and any superintendent or matron obliterating or destroying any such books of any such remarks or observations or any signature thereto, shall on conviction before the resident magistrate of the district, be liable to a penalty not exceeding ten pounds, and in default of payment shall be liable to imprisonment with or without hard labour for any period not exceeding three months, unless such fine be sooner paid.

Penalties for allowing escapes.

XV. If the superintendent or matron of any reformatory institution or any teacher, officer, or servant thereof, shall voluntarily or negligently allow any inmate thereof to escape therefrom, every such offender shall on conviction thereof before the resident magistrate of the district forfeit and pay any sum not exceeding twenty pounds, and in default of payment shall be liable to imprisonment with or without hard labour for any period not exceeding six months, unless such fine be sooner paid.

Penalties to inmates violating rules of institution.

XVI. If any inmate of any reformatory institution shall wilfully violate any of the rules and regulations hereinafter authorised to be made for the preservation of order, decency, cleanliness, or health of the inmates of such reformatory institution, such inmate shall be brought before the resident magistrate of the district, who shall inquire into the complaint made against such inmate; and upon proof that such inmate has wilfully violated any of the rules and regulations aforesaid, such resident magistrate may, if such inmate be a male, order him to be whipped in manner hereinafter provided; or in lieu of whipping, and whether such inmate be a male or female, order such inmate to be punished by being fed on spare diet for any period not exceeding three days: Provided, always, that in awarding such punishment, regard shall be had by such resident magistrate to the age and apparent constitution of such inmate

Order to be in writing.

XVII. Every order made by any resident magistrate under the provisions of the last preceding section shall be in writing, and shall be in accordance with the provisions of such section.

XVIII. In case any whipping shall be ordered under the provisions of the 16th section of this Act, the order, sentence, or conviction, ordering such sentence, shall specify the number of cuts to be inflicted; and in case of an offender under the age of fourteen years, such number shall not exceed twelve, and in no case shall exceed twenty; and in all cases the instrument used shall be a cane; and on the occasion of every such whipping, there shall be present the superintendent or matron of the reformatory institution, and one or more of the teachers and officers thereof, who shall sign in the record-book the minute recording the particulars of such whipping.

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In cases of whipping

XIX. If any inmate of any reformatory institution shall abscond therefrom, or wilfully damage or destroy any property belonging to such institution, such inmate, if a male, shall upon conviction thereof before the resident magistrate of the district, be liable, at the discretion of such magistrate, to be whipped in manner hereinbefore provided or, whether male or female, to be fed on spare diet as hereinbefore provided: And such inmate, if he or she has absconded, may be ordered by such magistrate to be sent back to the institution, and to be there detained till he or she attains the age of sixteen years, or for such shorter period as such resident magistrate shall think fit.

Absconding or escaping. Penalties.

XX. If any child apprenticed or bound under the provisions of this Act shall desert or abscond from the service of his master, it shall be lawful for any court before whom such apprentice shall be brought, upon proof to the satisfaction of such court, in addition to any punishment which may be inflicted, either to order the child to return to the service of such master, or that such child shall be detained in any reformatory institution until such child shall attain the age of sixteen years, or for any shorter period.

Apprentices absconding. Penalties.

XXI. Any person who shall directly or indirectly counsel or induce, by letter or otherwise, any inmate of any reformatory institution to abscond or escape therefrom, or break his apprenticeship and abscond

Accessories to escape or absconding.

No. 7—1879.

from his master, before such inmate shall have been regularly discharged, or before the expiration of such apprenticeship, or who shall aid or abet any such inmate in absconding or escaping, or who knowing such inmate to have absconded or escaped, shall harbour or conceal, or assist in harbouring or concealing, such inmate, or prevent him or her from returning to such reformatory institution, or to his master shall, on conviction thereof, forfeit and pay any sum not exceeding twenty pounds, or at the discretion of the court before which such conviction shall be had, be imprisoned for any term not exceeding six months, and with or without hard labour.

Penalties for communicating with inmates without proper permission.

XXII. Any person who, without the authority or permission of the colonial secretary or under colonial secretary, or of the resident magistrate of the district, or of the superintendent of the institution except the persons mentioned in the 13th section of this Act) shall hold communication with any inmate of any reformatory institution, and any person who shall enter such reformatory institution, or any building, yard or ground attached or belonging thereto, and shall not depart therefrom when required so to do by the superintendent, matron or other officer or servant of such institution, shall, on conviction, forfeit and pay any sum not exceeding ten pounds, and in default of payment shall be liable to imprisonment with or without hard labour for any period not exceeding three months, unless such fine be sooner paid.

Appointment of officer under this Act—how proved.

XXIII. Production of the Government Gazette containing any proclamation of any place as a reformatory institution under this Act, or notifying the appointment of any person as any officer under this Act, shall be conclusive evidence of the facts stated therein in any action, suit, or proceeding in any of the courts of this colony.

Limitation of actions against officers.

XXIV. If any action or suit be brought against any person for anything done in pursuance of this Act, the same shall be commenced within six calendar months next after the act complained of; and notice in writing of such action and the cause

thereof shall be given to the defendant one calendar month at least before such action; and the defendant in any such action or suit may, at his election, plead the general issue and give this Act and the special matter in evidence at any trial to be had thereon: And if a judgment for the defendant or an absolution from the instance be pronounced, or if the plaintiff discontinue his action or suit after the defendant shall have appeared, or if upon exception judgment shall be given against the plaintiff, then the defendant shall recover costs as between party and party, and have such remedy for recovering the same as any defendant has or may have in ordinary cases.

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XXV. The provisions of the forty-seventh, forty-eighth, and forty-ninth sections of Act No. 20 of 1856, shall, *mutatis mutandis*, extend and apply to cases in which any offender shall be directed to be detained in any reformatory institution, or apprenticed or bound as aforesaid, or sentenced to be whipped, whatever may be the number of cuts to which the offender shall have been sentenced.

Sections 47, 48, and 49 of Act 20 of 1856 to apply.

XXVI. The Governor may from time to time make and shall publish in the Government Gazette all such rules and regulations for the good government, management, and inspection of reformatory institutions under this Act, and for the visitation and inspection of children, apprenticed or bound as aforesaid, and for the maintenance of cleanliness, order, and decency among the inmates of such reformatory institutions, and all such rules and regulations shall have the same force of law as if they had been included in and formed part of this Act.

Rules and regulations to be framed.

XXVII. This Act may be cited as the "Reformatory Institutions Act, 1879."

Short title.

No. 8—1879.] AN ACT [Sept. 11, 1879.

To Alter and Amend, in many respects, the General Law of the Colony.

Preamble.

WHEREAS the existing general law of the Colony is in several instances unsuited to the advancing trade and the altered circumstances of the country : And whereas, also, many portions of such law are uncertain and partly, if not entirely, obsolete : And whereas it is desirable to alter and amend such laws as are in conflict or inconsistent with modern principles of legislation : 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 :—

PART I.—MARITIME AND MERCANTILE LAW.

In maritime cases English law to prevail.

I. In all questions relating to maritime and shipping law in respect of which the supreme court has concurrent jurisdiction with the vice admiralty court, the law of this colony shall hereafter be the same as the law of England, so far as the law of England shall not be repugnant to or inconsistent with any Ordinance, Act of Parliament, or other statute having the force of law in this colony.

Also in cases of assurance, stoppage in transitu, and bills of lading.

II. In every suit, action, and cause having reference to questions of fire, life, and marine assurance, stoppage in transitu and bills of lading, which shall henceforth be brought in the supreme court, or in any other competent court of this colony, the law administered by the high court of justice in England for the time being so far as the same shall not be repugnant to, or in conflict with, any Ordinance, Act of Parliament, or other statute having the force of law in this colony, shall be the law to be administered by the said supreme court or other competent court.

English statutes passed after this Act not to apply.

III. Nothing in the two preceding sections of this Act contained shall have the effect of giving force in this colony to any statutory enactment made and passed by the Imperial Parliament after the

taking effect of this Act, unless the same shall be re-enacted here.

No. 8—1879.

IV. Nothing in the first and second sections of this Act contained shall have the effect of altering the rules and forms of pleading and procedure, the mode of taking evidence, or the manner of hearing and trying civil suits at present in force or in use in this colony, or the notarial practice of this colony, whether in regard to the suits, actions, and causes in the first and second sections mentioned and referred to, or otherwise, or in any way of modifying, altering, or interfering with the character or extent of the jurisdiction now exercised by the several courts of this colony, or of imposing any duty imposed or to be imposed in England for the purposes of the revenue.

Form of pleading procedure, taking evidence, &c., not altered.

V. The several duties assigned by the admiralty branch of the supreme court of justice in England to the marshal of the said court shall, in the case of shipping or maritime suits in the supreme court, or the court of the eastern districts, or any circuit court of this colony, be executed by the sheriff of this colony or his lawful deputy, or in case any such suit or action shall be brought in the court of any resident magistrate, then by the messenger or other duly authorized officer of such court.

Duties of marshal in admiralty court to be performed by sheriff in other courts.

PART II.—EXECUTION OF PROCESS.

Not to apply to Magistrate's Courts Act 1917 Act 32.

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

Proof that defendant has property must be given before civil imprisonment decreed.

PART III.—THE LAW OF CONTRACTS.

VII. In the absence of any special stipulations to the contrary contained in any contract of lease, no

Leases not void through injury to property by inundation, tempest, &c.

No. 8—1879.

lease of land shall become void or voidable, nor shall the rent accruing under such lease be incapable of being recovered on the ground that the property leased has, through inundation, tempest, or such like unavoidable misfortune, produced nothing, or on the ground that the lessor himself has absolute need of the land or other property leased.

Law of *læsio enormis* repealed.

VIII. No contract shall be void or voidable by reason merely of *læsio enormis*, sustained by either of the parties to such contract.

Short title.

IX. This Act may be cited as the "General Law Amendment Act, 1879."

Proc. 59-1910 4.9.8.10.

No. 9—1879.] AN ACT [Sept. 11, 1879.

To Amend in certain respects the Act No. 7 of 1865, entitled the "Land Beacons Consolidation Act."

Preamble.

WHEREAS the Land Beacons Consolidation Act does not provide for the issue of amended titles in all cases where diagrams do not represent the boundaries actually in existence, and where the correctness of the said boundaries is not disputed or questioned by any of the persons concerned; and whereas it is necessary to amend the said Act in this respect: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Portion of Act 7 of 1865 repealed.

I. So much of the Act aforesaid, No. 7 of 1865, as may be repugnant to or inconsistent with any of the provisions of this Act, is hereby repealed.

Proceedings in cases where diagram found to be incorrect.

II. As often as it shall be found upon resurvey that the diagram of any piece of land unregistered in the land registers of this colony, does not truly and correctly represent the boundaries of the said land, it shall be lawful for the owner thereof to require from the surveyor-general the issue of an amended title and diagram, provided the following conditions shall have been fulfilled:

- (a) An agreement or agreements in writing, which shall be in the form set forth in the schedule hereunto annexed (or shall, so far as the circumstances of the case permit conform thereto), signed in the presence of two competent witnesses (one of whom may be the surveyor making the survey), by all the owners of land adjacent to the land resurveyed, or their duly-accredited agents, shall be lodged with the surveyor-general, which agreement or agreements shall set forth that the said owners do consent to and accept the boundaries adopted in the said resurvey as the true and correct boundaries of the said land : Provided that it shall not be necessary to lodge such agreement or agreements in writing with regard to any beacon or beacons which shall have become admittedly true and correct, by virtue of any proceedings under any one of the following Acts, namely : Act No. 10 of 1859, Act No. 6 of 1862, Act No. 7 of 1865, and Act No. 8 of 1866-67.
- (b) The surveyor aforesaid shall lodge with the surveyor-general a certificate stating that the said agreement or agreements are signed by all the owners of the lands adjacent to and abutting upon the land resurveyed, except as hereafter provided, and that to the best of his knowledge and belief, the boundaries of the land resurveyed have not been changed by mutual arrangement, so as to cause a transfer of land otherwise than according to the laws in force for the transfer of fixed property.
- (c) The surveyor-general shall be empowered to withhold the issue of an amended title, if he shall have reason to believe that crown land or other unregistered land is encroached upon or included within the boundaries of the land resurveyed, or that payment of transfer duty has been sought

No. 9-1879.

Agreements between all owners of lands affected.

Survey or to lodge with surveyor-general certificate of agreement being duly executed.

How surveyor-general to act.

No. —1870.

to be evaded by any change of boundary as referred to in the last clause (*b*): Provided that the owner of the land resurveyed may, if he sees fit, petition the supreme or circuit court, which court may order the surveyor-general to issue an amended title, on proof to the satisfaction of the court that no such change of boundary for the aforesaid purpose has been made.

In case of joint owners, the owner or owners of three-fourths may require amended title and diagram.

III. As often as any land shall be owned by two or more owners, without partition or subdivision, it shall be lawful and sufficient for the purposes of clause II. of this Act, for the person or persons owning in the aggregate three-fourths of the registered contents or area of the land so held in common to require from the surveyor-general the issue of an amended title and diagram, as provided for in the said clause, and such issue shall also be binding upon all the owners of the remaining one-fourth of the registered contents or area of the land aforesaid, who shall, moreover, be chargeable with their pro rata shares in the expenses connected with the re-survey and issue of the amended title and diagram of the land aforesaid, and which pro rata shares of expenses shall be recoverable against them, in any competent court, at the instance of the other owners, who shall have paid the same.

Signature of agreement by owner or owners of three-fourths binding on rest.

IV. As often as any land adjacent to the land, resurveyed shall be owned by two or more owners without partition or subdivision, it shall not be necessary for all such persons to agree in the manner set forth in section (*a*) of clause II., but the signature or signatures to such agreement of the person or persons owning in the aggregate three-fourths of the registered contents or area of the land so held in common shall be taken to be sufficient, and the said agreement shall be as valid and effectual as if it had been signed by all the owners of the said land :

Notice to dissentient owners.

Provided that as to any such owner or owners refusing or failing to give his or their consent, notice in writing be given to such owner or owners or his or their duly authorized agent or agents that, unless within thirty days after service thereof, an objection

be lodged with the divisional council of the division in which the land is situated, in terms of the 93rd section of the "Land Beacons Consolidation Act, 1865," such owner or owners will be deemed and taken to have consented: And, provided further, that within the said period no such objections shall have been lodged by such owner or owners or his or their duly authorized agent or agents with the divisional council aforesaid.

No. 9—1879.

V. As often as the boundaries of any land, which shall have been in dispute between the owners, shall be or have been finally determined by the judgment of any competent court, or by the award of arbitrators duly made a rule of a competent court, it shall be lawful for the owner of such land to apply to the surveyor-general for the issue of an amended title, based upon a diagram correctly representing the boundaries of such land as fixed and determined by such judgment or award: Provided that, as to the boundaries of such land other than the boundaries so fixed and determined as aforesaid, the provisions of the second section of this Act shall apply.

When dispute settled owner may apply for amended title.

VI. It shall be the duty of every land-surveyor who shall be employed upon any such resurveyed to frame an accurate plan of the land resurveyed, and in doing so to conform to such instructions of the surveyor-general, upon technical points, as may from time to time be issued for the guidance of surveyors in such cases. The surveyor shall forward the said plan to the surveyor-general with the new diagrams, and the title deeds or transfer deeds of the land resurveyed, together with a report containing any information which the said surveyor may deem useful, and amongst other things the degree or particulars in which the said plan differs from the existing diagram or title deed; and with his certificate that the beacons thereof have been erected in a substantial and durable manner, and of materials clearly and easily distinguishable from other objects in the vicinity of such beacons. The surveyor shall likewise forward to the surveyor-general such proofs of the accuracy of the resurvey as the said surveyor-general may deem it fitting to require.

Duties of land-surveyor under this Act.

No. 9—1879.

Notice by surveyor-general of intention to issue new title.

Sixty days.

On issue of amended title, &c., former documents void.

VII. It shall be the duty of the surveyor-general to give notice in the Government Gazette of every intended issue of an amended title under this Act, and to name in such notice a day for such issue; Provided always that the day so named shall not be earlier than sixty clear days from the date of such publication.

VIII. Upon the issue of such amended title, all existing title deeds or transfer deeds of the land resurveyed shall become void, cancelled, and of no effect: Provided, that as often as any hypothecation, conventional or tacit, of or over such land shall be in existence at the date of such issue, such hypothecation shall attach to and upon the same precisely as it existed upon the said land under its former title deed or transfer deed, and all usual or proper entries and endorsements as may be necessary to record any such hypothecation shall be made in the deeds registry of the Colony before such amended title shall be delivered from and out of the office of the surveyor-general to the person or persons entitled thereto.

How if diagram found correct.

IX. If in any case application for amended title shall be made under the provisions of this Act, and the existing diagram shall be found to be correct by the surveyor-general, so that no amended title of the said lands shall be necessary, then the surveyor-general shall endorse a certificate of such correctness upon such title deed and diagram.

Interpretation terms.

X. In the interpretation of this Act the term "owner" shall mean the person or persons, or corporate body, or association, in whose favour enregisterment in the land registers in the offices of the surveyor-general or registrar of deeds has been made, or in whom any land may have been vested by legal enactment. The term "unregistered land" shall mean land not enregistered in the aforesaid land registers as the lawful property of any person, corporate body, or association of persons, and shall include the following:—

(a) Land belonging to the Crown, and not previously granted.

- (b) Land described in any proclamation of municipal regulations, or which has been by proclamation, Government notice, or other instrument or act, assigned as pasturage for any town or village.
- (c) Land occupied without title, by virtue of a certificate of reservation or ticket of occupation, issued by authority of any Governor of the Colony.
- (d) Land set apart for public purposes, such as outspan places or other reserves for the public convenience.

No. 9—1879.

XI. This Act may be cited for all purposes as the "Land Beacons Amendment and Extension Act, 1879." Short title

SCHEDULE.

FORM OF AGREEMENT HEREINBEFORE MENTIONED.

We, the Undersigned, _____, owners of the farm _____ [here describe the owners of any common beacons], and _____ owner or owners of the farm _____ [here describe the owner or owners of the property for which a new title is desired], certify that we have on the _____ day of _____, inspected the beacon [or beacons] common to our said properties in the presence of Mr. Surveyor _____. And we declare that we agree and consent to the position of the beacon [or beacons] then pointed out, and consent to a new diagram being framed in accordance therewith.

As witnesses :

E. F.
G. H.

(Signed) A. B.
C. D.

Repealed by 1918 Act-13 so much as applies to the alteration of powers of attorney for deeds registries

No. 10—1879.] AN ACT [Sept. 11, 1879

To Amend the Law relative to the Execution and Attestation of Powers of Attorney.

WHEREAS the existing law relating to the execution of powers of attorney is inconvenient Preamble

No. 10—1879.

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

Repeal of third section of Ordinance 15 of 1845.

I. The provisions of the third section of Ordinance No. 15 of 1845, so far as the same relate to powers of attorney, are hereby repealed.

Signature alone to make power of attorney valid.

II. It shall be sufficient for the validity of any power of attorney made after the passing of this Act that the same shall be signed at the foot or end thereof by the person making the same with his signature or mark : Provided, that it shall be lawful for the registrar of deeds, master of the supreme court, or any other person, before paying out any money, or doing any other act, or authorizing any act to be done by virtue of any power of attorney, to require that the signature or mark of the person making the same shall be attested :

Attestation may be required.

What shall be sufficient attestation.

- (a) By the signature of two witnesses who shall be above the age of fourteen years, and competent to give evidence in a court of justice, and who shall affix their signatures as near as conveniently may be to the signature or mark of the person making the power of attorney ; or
- (b) By the declaration of one such witness as aforesaid, who shall declare that he was present and saw the person making such power sign the same, or affix his mark thereto, or that such person acknowledged his signature or mark thereto in the presence or hearing of the witness ; or
- (c) By the certificate of a justice of the peace or notary public.

Form of declaration.

III. Every declaration made under the last preceding section shall be in the form provided for by Ordinance No. 6 of 1845, and subject to the provisions of the said Ordinance.

Stamp duty not affected.

IV. Nothing in this Act contained shall alter or affect any stamp duty which may now or hereafter be imposed upon powers of attorney.

Short title.

V. This Act may be cited as the " Powers of Attorney Act, 1879."

No. 11—1879.] AN ACT [Sept. 11, 1879.

Repealed by 1892 Act 25.

To enable Joint Stock Banking Companies to participate in the provisions of the "Joint Stock Companies Limited Liability Act, 1861."

WHEREAS it is expedient to abolish the disabilities at present existing against the formation of joint stock banking companies under the provisions of Act No. 23 of 1861 : Be it therefore enacted by the Governor of the Cape of Good Hope, with the consent of the Legislative Council and the House of Assembly thereof, as follows :—

Preamble.

I. The proviso contained in the first section of Act No. 23 of 1861 entitled "An Act to limit the Liability of certain Joint Stock Companies" excluding the application of such Act from any joint stock company for the purpose of banking, is hereby repealed.

Proviso of section 1 of Act 23 of 1861 repealed.

II. The several provisions of the Act No. 23 of 1861 (except the proviso thereof in the last preceding section herein repealed, and save and except the three last provisos of the thirteenth section of said Act having special reference to banking companies), shall henceforth apply to all joint stock banking companies formed in the colony, and registered under this Act : Provided, however, that where the amount paid up on any bank shares shall exceed one-half of the nominal value of such shares, the execution or other process, in the twelfth section of the Act No. 23 of 1861 mentioned, may, in the case of shareholders in any joint-stock banking company formed under the provisions of this Act, be issued against any of such shareholders to the extent of the amount already paid up on such shares.

Other provisions of that Act to apply to joint-stock banking companies:

Provision when more than half the capital is paid up.

III. It shall not be lawful for any joint-stock bank established under the provisions of this Act to have in circulation at any time notes of such bank to a greater amount than its paid-up capital. And any such bank issuing, or having in circulation at any time, notes exceeding in value its paid-up capital, shall forfeit and pay to Government at penalty equal to such excess.

Limitation of bank notes circulation.

No. 11—1879.
Bank statements to continue to be made.

IV. Nothing in this Act contained shall exempt any joint-stock banking company (whether formed under its provisions or otherwise) from the duty of making such half-yearly or other statements as are by Act No. 19 of 1865, or by any existing law, required to be made by joint-stock banks in this colony.

Limitation not to apply to debts contracted by unlimited company before this Act passed.

V. The limit of liability acquired by an unlimited banking company in pursuance of this Act, shall not apply to any debts or liabilities of the company contracted prior to such registration; and such debts and liabilities may be enforced in the same manner in which the debts and liabilities of an unlimited banking company are enforceable.

Short title.

VI. This Act may be cited as the "Joint Stock Banking Companies Limited Liability Act, 1879."

Amended by 1916 Act 14.
No. 12—1879.]

AN ACT

[Sept. 11, 1879.

Acts repealed by 1916 Act 14.
To Amend the "South African College Act, 1878."

716 Act 14.
Preamble.

WHEREAS it is expedient to amend "The South African College Act, No. 15 of 1878," and to make better provision for the management of the schools connected with the said college: 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 certain sections of Act 13 of 1865.

I. The eighth, eleventh, and thirteenth sections, and so much of the said Act No. 15 of 1878, and so much of the Act No. 13 of 1865, and of the school regulations contained in the schedule to, or made in pursuance of, the said last-mentioned Act, as are repugnant to, or inconsistent with, the provisions of this Act, shall be, and the same are hereby, repealed.

College council may appoint a principal and shall appoint professors and teachers.

II. The South African college council may from time to time, if it shall see fit, appoint from amongst the professors, or otherwise, a principal of the said college, and shall appoint such professors, assistant professors, lecturers, and teachers, as may be re-

quired for the college and for any department or school connected therewith, on such terms and at such salaries as the said council shall find expedient, and shall regulate and fix the fees to be paid by the students and scholars, and the appropriation thereof.

No. 12—1879

- X III. The superintendence and regulation of the discipline and instruction of the several departments and classes of the South African college shall be vested in a senate, to be constituted as hereinafter in this Act is provided, subject to such regulations and bye-laws as have been, or may hereinafter from time to time be, framed by the South African college council under the provisions of the fifth section of the "South African College Act, 1878."

Superintendence and regulation of discipline, &c., vested in senate.
- X IV. The senate shall consist of the principal of the college (should a principal be appointed), the professors, and two members of the South African college council; any three of whom shall form a quorum for the transaction of business.

Constitution of senate.
- X V. The two members appointed by the said council to be members of senate shall hold office until the 31st day of March, 1880. The said council shall at some duly convened meeting, to be held not later than the 30th day of April in every year, choose, by a majority of votes, from amongst their number, two to be members of senate, who shall, unless they become disqualified, hold office until the appointment of their successors.

Term of office of two members appointed by council.
- X VI. Any elected member of senate who shall cease to be a member of the council, shall thereupon vacate his seat.

Member ceasing to be member of council.
- X VII. Upon the death, resignation, or disqualification of any elected member of senate, the council shall, in manner hereinbefore provided, elect a member to supply such vacancy, and to hold office during the unexpired portion of the time of the member so vacating office.

In case of death, resignation, &c.
- X VIII. Any act done by a quorum of the senate, during any vacancy, shall be as valid and effectual as if no vacancy existed.

Acts of senate meanwhile.
- X IX. The senate shall annually, in the month of May, elect one of their number to be chairman,

Election of chairman of senate.

No. 12—1879.

who shall hold office for one year, and, in the event of a vacancy, shall elect another to hold office during the remainder of the year. The chairman shall, when present, preside at all meetings, and when absent from any meeting the senate shall elect a member to be chairman thereof. The chairman presiding at any meeting, at which the votes of members are equal, shall have a casting vote in addition to his original vote.

Senate to frame and amend its rules.

X. The senate may from time to time frame, or alter or amend, rules for regulating the holding and proceedings of its meeting and for the due discharge of the duties appertaining to the senate.

College council may establish an undenominational school.

XI. The South African college council may establish in Cape Town an undenominational public school of the first class, or separate boys' and girls' schools, and shall be the managers of any schools which they shall so establish.

School to be under same regulations as other aided school.

XII. Every such school shall, so long as aid shall be received from the public revenue, under the provisions of the Act No. 13 of 1865, be subject to all the regulations applicable to other public schools so aided.

Short title.

XIII. This Act may be cited for all purposes as the "South African College Amendment Act, 1879."

Spent
No. 13—1879.] AN ACT [Sept. 11, 1879.

Repealed by 1916 Act 22.

For Authorizing certain Expenditure incurred for the Construction and Equipment of Railways, in addition to the Provision already made in that behalf by Parliament.

Preamble.

WHEREAS divers public moneys—amounting in all to the sum of one hundred and eighty-one thousand nine hundred and eighty-five pounds one shilling and threepence sterling, have been necessarily expended by authority of the Government of this colony, for the construction and equipment of the lines of railway hereafter mentioned, in

excess of the provision already made by Parliament in that behalf: And whereas these moneys have been found to have been duly applied to and expended upon the railways hereafter mentioned: Be it enacted by 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 expenditure of a further sum not exceeding one hundred and eighty-one thousand nine hundred and eighty-five pounds one shilling and threepence sterling, in addition to the sums already authorized for the construction and equipment of railways, is hereby authorized as follows: For the construction and equipment of railways of the western system, Line No. I, Wellington to Worcester, a sum of one hundred and thirty-six thousand and seventy-two pounds one shilling and fourpence sterling. Line No. IV, Castle to Docks, a sum of three thousand two hundred and fifty-six pounds two shillings and fourpence sterling. For the construction and equipment of railways on the Midland and North-Eastern System, a sum of forty-two thousand six hundred and fifty-six pounds seventeen shillings and sevenpence sterling; amounting in all to the sum of one hundred and eighty-one thousand nine hundred and eighty-five pounds one shilling and threepence sterling.

Further expenditure on certain lines of railway provided for.

Repealed by 1916 Act 22.

No 14—1879.] AN ACT [Sep. 11, 1879.

To Enable the Harbour Board of Port Elizabeth to raise a further Loan of £100,000, and to provide for the Payment thereof.

WHEREAS, by Act No. 17 of 1878, the Harbour Board of Port Elizabeth was authorized and empowered to raise a loan of £67,000 for the purposes in such Act mentioned: And whereas it is expedient to empower the said board to raise on loan

Preamble

No. 14—1879.

a sum not exceeding £100,000 for the purpose of carrying out and completing certain further works necessary for the improvement of the harbour of Port Elizabeth and the safety of the shipping frequenting the same: 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:—

Loan of £100,000 authorized.

I. It shall be lawful for the said board to borrow and take up, from time to time, on interest, with the sanction of the Governor, and under the guarantee of the general revenue of this Colony, such sum or sums of money, not exceeding in the whole, in addition to the sums already borrowed by the said board under the authority of Parliament, a sum not exceeding £100,000 sterling, to be applied to the object of providing additional jetties, wharves, and such other works as may be necessary to facilitate landing and shipping operations, at the said port.

Provisions of Act 10 of 1858 to apply.

II. All the provisions of Act No. 10 of 1858, entitled "An Act to enable the Harbour Board of Port Elizabeth to levy certain Wharfage Dues" (except as the same are, in some respects, altered and amended by Act No. 25 of 1875), shall, so far as the same shall relate to money thereby authorized to be borrowed, apply to the sums hereby authorized to be borrowed, as if the same were borrowed under the authority of the said Act.

Short title.

III. This Act may be cited as the "Port Elizabeth Harbour Board Loan Act, 1879"

No. 15—1879.] AN ACT [Sept. 11, 1879.

To Empower the Governor to raise a Sum not exceeding £120,000 for the purpose of providing suitable Houses of Parliament.

Preamble.

WHEREAS the present accommodation afforded to the Legislative Council and the House of Assembly respectively, is wholly inadequate, incon-

venient, and unsuitable, and it is desirable to make better provision for such accommodation: 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. 15—1879.

I. It shall be lawful for the Governor to raise and take up upon debentures or stock, or partly upon debentures and partly on stock, any sum or sums of money not exceeding in the whole the sum of £120,000 sterling, for the purpose of erecting a building or buildings which shall contain the accommodation necessary for and suitable to the Legislative Council and the House of Assembly of this colony, together with the various offices required for the transaction of the business connected with the said Legislative Council and House of Assembly respectively.

£120,000 to be raised for building Houses of Parliament.

II. The several borrowing powers and other provisions contained in sections 2 and 3 of Act No. 6 of 1877 (together with the several sub-sections of the last named sections) shall, mutatis mutandis, apply to all sums of money borrowed under the authority of this Act.

Borrowing powers.

III. An account showing the amount of all stock and debentures issued from time to time under the authority of this Act, and of the moneys realised by the issue and sale thereof, and of the expenditure of all such moneys, or of so much thereof as shall have been expended, and an account of the amount of such stock and debentures for the time being outstanding, vouched by the controller and auditor-general, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and the like accounts within fourteen days after the commencement of each succeeding session thereof.

Accounts to be rendered.

IV. This Act may be cited as the "Houses of Parliament Loan Act, 1879."

Short title.

No. 16, 1879.] AN ACT [Sept. 11, 1879.

For Authorizing certain Expenditure not provided for by Parliament in the year 1875.

Preamble:

WHEREAS divers public moneys, amounting in all to the sum of fifty-six thousand three hundred and four pounds twelve shillings and eightpence sterling, brought to charge between the 1st day of July, 1876, and the 30th day of June, 1877, have been paid by authority of the Governor of this colony, but without the previous authority of Parliament: And whereas these moneys have been found to have been duly applied to and expended upon certain necessary services of the civil government of this colony, and it is therefore proper and expedient that an Act of Appropriation should be passed, to authorize the amount so expended to be charged against the public revenue 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:—

Expenditure of
£56,304 12s. 8d. au-
thorized.

I. The public revenue of the colony is hereby charged with a further sum of fifty-six thousand three hundred and four pounds twelve shillings and eightpence sterling, in addition to the sums already provided for the service of the year 1875, which shall be applied and accounted for in the manner specified in the schedule hereunto attached.

SCHEDULE.

For the Expenditure of the					
Civil Establishment ... ..	...	...	£875	16	5
Judicial Establishment ... ..	...	...	274	2	2
Medical Establishment ... ..	...	...	20	19	4
Police and Gaols Establishment ...	...	...	28	13	4
Pensions, Retired Allowances, &c....	...	...	114	14	9
Border Department, Schedule D. ...	...	...	850	15	4
Services Exclusive of Establishments:					
Administration of Justice ... ..	...	...	1,628	18	3
Education ... ..	...	...	392	7	2

Hospitals	...	...	...	...	£238	18	11	No. 16—1879.
Police and Goals	...	..	...	...	818	18	11	
Rent	...	...	...	...	887	5	1	
Transport	...	..	...	...	1,888	10	9	
Conveyance of Mails	...	...	...	...	790	9	2	
Works and Buildings	...	...	...	...	5,648	8	8	
Miscellaneous	...	...	...	...	4,588	4	11	
Parliamentary	...	...	...	...	161	4		
Colonial Defence	...	...	...	...	26,906	0	1	
Special Payments	...	...	...	...	158	17	10	
Railways	..	...	...	...	10,018	9	9	
Convicts	...	...	...	...	15	17	6	
					<hr/>			
					£56,304	12	8	

No. 17—1879.] AN ACT [Sept. 11, 1879.

To Authorize the Commissioners of the Municipality of the Paarl to Borrow a further sum of Money for increasing the Water supply of that Municipality.

WHEREAS by "The Town of the Paarl Water Preamble.
Act (No. 8) of 1869," provision was made for enabling the commissioners of the town of the Paarl to borrow a sum not exceeding fifteen hundred pound sterling, for the purpose of increasing the supply of water for the town of the Paarl : And whereas it is expedient to authorise the said commissioners to borrow a further sum of money not exceeding three thousand five hundred pounds sterling, for the purpose of further increasing the water supply of the said municipality : Be it enacted by 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. It shall be lawful for the commissioners of the municipality of the Paarl to borrow and take up such sum or sums of money, not exceeding in the whole the sum of three thousand five hundred pounds sterling, in addition to the sum previously borrowed Municipality of Paarl authorized to borrow £3,500.

40 CATTLE THEFTS EXTENDED PUNISHMENT ACT.

No. 17—1879.

for the same purpose, as shall be required for further increasing the water supply of the said municipality.

Certain provisions of Act 8 of 1869 to apply.

II. The provisions of the first section of the said Act No. 8, 1869, as to the assessment of rates for providing for the payment of principal as well as interest, and the provisions of the third, fourth, fifth, and sixth sections thereof, shall apply to the money borrowed under this Act precisely as if the same were mutatis mutandis, herein repeated.

Short title.

III. This Act may be cited for all purposes as the "Town of Paarl Water Act, 1879."

Repealed by 1893 Act: 35.

No. 18—1879.] AN ACT [Sept. 11, 1879.

To Provide for the better Repression and Punishment of Thefts of Stock.

Preamble.

WHEREAS it is desirable to alter and amend, in certain respects, the law relating to the thefts of stocks, in order to provide for the better repression and punishment of such thefts: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice of the Legislative Council and House of Assembly thereof, as follows:

Alteration of section 6 of Act No. 17 of 1867.

I. The words contained in the first proviso of the sixth section of Act No. 17 of 1867, beginning with the words "save and except," and ending with the words "are hereby substituted," shall be expunged, and the said section and proviso shall henceforth be read precisely as if such words had never been inserted therein.

Also of section 8 of same Act.

II. After the word "stolen" in the eighth section of the said Act, and between such word and the word "precisely" immediately following it, shall be introduced the following words:—"Or by receiving the carcase, or any portion thereof, of any such animal, knowing that such animal had been stolen;" and such section shall henceforth be read precisely as if such last mentioned words had originally been inserted therein, and formed part thereof.

CAPE TOWN AND GREEN POINT TRAMWAY ACT. 41

III. This Act may be cited as the "Cattle Thefts
Extended Punishment Act, 1879." No. 18—1879.
Short title.

No. 19—1879.] AN ACT [Sept. 11, 1879.

To Extend the Term of Incorporation of the Cape
Town and Green Point Tramway Company,
and to confer Additional Powers on such
Corporation.

WHEREAS by the 39th clause of Act No. 33 of Preamble.
1861, the term of incorporation of the Cape
Town and Green Point Tramway Company is
limited to the 1st day of July, 1882, and it is desir-
able to extend the said term for a further period of
twenty-one years : Be it, therefore, enacted by the
Governor of the Cape of Good Hope, with the
consent of the Legislative Council and the House of
Assembly thereof, as follows :

I. Notwithstanding anything in the 39th section Extension of duration
of Green Point Tram-
way Company.
of Act No. 33 of 1861 contained, such Act shall
continue and be in force until the first day of July,
1903, and the several provisions of the said Act
shall apply to the Cape Town and Green Point Tram-
way Company, thereby incorporated, until such last
mentioned date, as if the same had been hereby
re-enacted.

And whereas the said company has hitherto used
horse-power alone for the traction of its carriages,
and it is desirable to empower the said company to
make use, if it should so think fit, of steam, or other
mechanical power, for such traction : Be it therefore
further enacted as follows :

II. It shall be lawful for the Cape Town and Steam may be used
under approval of
Colonial Railway or
other engineer.
Green Point Tramway Company to make use (if it
think fit to do so) of steam, or other mechanical
power, for the traction of the carriages on the
said company's tramway : Provided that the
use of any steam motor for the purposes of
such traction shall be subject to the approval of the

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colonial railway engineer or of such engineer as the Government may appoint for the purposes of such inspection; And, provided further, that no steam motor shall be used on such tramway until the engineer aforesaid shall first have certified that the permanent way is fit and sufficient for such steam motor thereon to be used.

Speed not to exceed eight miles an hour.

III. In the event of the said tramway or any part thereof being worked by steam power, it shall not be lawful for the carriage thereon to proceed at a greater rate of speed than eight miles an hour.

Short title.

IV. This Act may be cited as the "Cape Town and Green Point Tramway Company's Extension Act, 1879."

Repealed by 1891 Act 35.

No. 20—1879.] AN ACT [Sept. 11, 1879.

To Provide for the Safe Custody of Persons Dangerously Insane, and for the Care and Custody of Persons of Unsound Mind.

Preamble.

WHEREAS it is expedient to make provision for the safe custody of, and the prevention of crimes being committed by, persons dangerously insane, and also for the care and custody of persons who are insane but not dangerously so: 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:

How magistrates to deal with persons of unsound mind.

I. Whenever any person shall be discovered and apprehended under circumstances indicating derangement of mind, and a purpose of committing suicide, or manifesting an intention to commit any crime or offence for which, if committed for trial, such person would be liable to be indicted, it shall be lawful for any resident magistrate before whom such person may be brought, to call to his assistance any two duly qualified medical practitioners (one of whom shall, if practicable, be the district surgeon); and if upon view and examination of the person so apprehended, and upon proof upon

oath by such two medical practitioners to the effect that in their opinion the said person is a dangerous lunatic or dangerous idiot, the said magistrate shall be satisfied that such person is a dangerous lunatic or dangerous idiot, then it shall be lawful for such magistrate, by warrant under his hand, to commit such person to some hospital or other place of safe confinement, within this colony, there to be kept in strict custody until such person shall be discharged by order of the supreme court or eastern districts court, or any circuit court, or shall be removed to some lunatic asylum by order of the Governor, as hereinafter provided: Provided, always, that every such person so detained in such hospital or other place of confinement as aforesaid, shall be allowed the privilege of being visited by his friends and legal advisers at such reasonable and convenient times as may be appointed for that purpose by the magistrate or the superintendent of such hospital or other place of confinement.

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Lunatics under commitment may be visited by their friends.

II. The Governor may direct, by warrant under the hand of the colonial secretary or the under colonial secretary, that any person who may be detained in any hospital or other place of confinement, by virtue of any warrant as aforesaid, or any person who may be in any prison or place of confinement under any sentence of death or imprisonment, or under any warrant of default of surety to keep the peace, or to answer any criminal charge, or in consequence of any order of any resident magistrate or justice of the peace, or under any other than civil process, and in respect of whom it shall be certified by two duly qualified medical practitioners that such person is insane, shall be removed to such lunatic asylum or hospital as the Governor shall appoint: And every person so removed shall remain under confinement in such asylum or hospital until it shall be certified to the Governor, upon oath or solemn declaration, by two medical practitioners, that such person has become of sound mind: Whereupon the Governor shall, if such person shall remain subject to be continued in custody, issue his warrant under

Governor may by warrant remove criminals of unsound mind to lunatic asylum.

Such persons may be released if they become of sound mind.

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the hand of the colonial or under colonial secretary to the superintendent or other person having charge of any such asylum or hospital, directing that such person shall be remitted to the prison or other place of confinement from which he shall have been taken ; or if the period of imprisonment or custody of such person shall have expired, or if such person shall not be under any sentence of imprisonment, or otherwise liable to be detained in custody, that such person shall be discharged.

How persons of unsound mind, under committal for trial, are to be dealt with.

III. Whenever it shall be certified to the Governor, by two duly qualified medical practitioners, that any person committed for trial, for any crime or offence, is insane or an idiot, 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 lunatic asylum or hospital as he shall appoint, there to be detained, unless in the meantime admitted to bail by some legal authority until the criminal sessions of the supreme or eastern districts court, or any circuit court, at which such person shall be brought to trial, or indicted according to the due course of the law, and such person shall then be remitted to the custody of the keeper of the goal, or other person in whose custody such person may have been under the terms of the original committal, in order to his being tried for such crime or offence, or otherwise disposed of according to law : Provided always, that every such person, while so detained in such lunatic asylum or hospital, shall have the same liberty and privilege of seeing his friends and legal advisers at all reasonable times as he would have had in the gaol or other prison from which he may have been removed.

Finding of juries on trial when prisoner is of unsound mind.

IV. In all cases in which it shall be given in evidence, upon the trial of any person charged with any crime or offence, that such person was insane at the time of the commission of such crime and offence, and such person shall be acquitted, the jury shall be required to find, specially, whether such person was insane at the time of committing such crime or offence, and to declare whether such person

was acquitted by them on account of such insanity, and in case they shall find that such person was insane at the time of committing such offence, and shall declare that he was acquitted on that ground, the court before which such trial shall be had shall order such person to be kept in strict custody in such gaol, lunatic asylum, or other place of confinement, and in such manner as to the court may 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 and in such manner and for such time as to the Governor shall seem fit.

No. 20—1879.
How to deal with
prisoner acquitted by
reason of insanity.

V. If at any time after the issue of any warrant for the detention of a person as a dangerous lunatic or a dangerous idiot, under the provisions of the first section of this Act, it shall be certified to the Governor by two qualified medical practitioners that the person for whose detention such warrant was issued as aforesaid, has ceased to be or is not a dangerous lunatic or dangerous idiot, and that such person may be suffered to go at large with safety, it shall and may be lawful for the Governor by warrant under the hand of the colonial or under colonial secretary to order the liberation of such person from custody, unless he shall be detained therein for some other cause by due process of law.

Persons ceasing to be
dangerous lunatics.

VI. When any insane or idiotic person shall be committed to any gaol, hospital, or other place of confinement as aforesaid, for the purpose of being received into such hospital or lunatic asylum as the Governor may appoint, the removal to and from, and the maintenance in, such last mentioned hospital or asylum, of such insane 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 insane person or from any person or persons liable by law to pay for or contribute towards the maintenance of such insane person by the civil commissioner of the district in which such estate is situate or in which such last named persons shall reside.

Provisions for main-
tenance of people of
unsound mind.

No. 20—1879.

Agreement may be made with curator of lunatic for his maintenance.

VII. Notwithstanding the provisions of the preceding section, it shall be lawful for the keeper of any such hospital or asylum, in all cases where any lunatic or idiot confined 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 agree with the curator of the property of such lunatic or idiot for his maintenance whilst detained therein, and such curator shall be, and is hereby, empowered to reimburse himself all necessary sums expended in such maintenance out of any funds or property belonging to such lunatic or idiot, which funds or property are hereby made chargeable therewith.

Visitors to be appointed to lunatic asylums.

VIII. The Governor may appoint one or more fit and proper person or persons to be the visitor or visitors of each lunatic asylum within the colony, and may remove any such visitor or visitors, and appoint another, or others, in his or their stead ; and some one of such visitors shall be required to visit each such lunatic asylum at such times as the Governor shall direct unless prevented by illness or other sufficient cause, and shall, from time to time, make such reports to the colonial secretary as may be required by the order of the Governor.

Judges of supreme, eastern districts, and circuit courts may enquire into cases of alleged sanity of persons confined in lunatic asylum.

IX. If the supreme or eastern districts court, or any judge thereof, presiding at any circuit court, shall receive information, upon oath, or otherwise shall have any reason or cause to suspect that any person of sound mind is confined as a lunatic or idiot within any gaol, hospital, lunatic asylum, or other place of confinement under this Act, such court or judge shall have full power and authority to cause the keeper or superintendent of such gaol, hospital, asylum, or other place of confinement, by any warrant or order, directed to such keeper or superintendent, to bring such confined person before such court or judge for examination, at a time to be specified in such warrant or order ; and if, upon the examination of such confined person, or of any medical or other witness who may be called to testify as to the supposed sanity or insanity of such confined person, it shall appear to the satisfac-

tion of such court or judge that such confined person is of sound mind, it shall be thereupon lawful for such court or judge, upon the oath or affirmation of such witness, and such court or judge is hereby required to direct such confined person to be immediately discharged from custody, unless he shall be liable to be detained in custody for some other cause by due process of law.

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Orders to be made after enquiry.

X. If any application shall be made to the Governor by any relative or friend of any person labouring under insanity or idiocy, and in confinement by virtue of this Act, and such relative or friend shall be willing to undertake the charge of and to support such insane or idiotic person, the Governor may, if he shall think fit, and if such insane or idiotic person shall not be liable to be detained in custody for any other cause by due process of law, by warrant under the hand of the colonial or under colonial secretary, order the discharge of such insane person from the gaol, hospital, lunatic asylum, or other place wherein he shall be confined: Provided that no person who shall have been committed to such gaol, hospital, or asylum as a dangerous lunatic or dangerous idiot, shall be so discharged, unless his friend or relative shall enter into sufficient recognizance for the peaceable behaviour, safe custody, and proper treatment of such dangerous lunatic or idiot before a resident magistrate or one of the judges of the supreme court: Provided, further, if it shall at any time be shown to the satisfaction of the Governor that any of the conditions of such recognizance shall have been broken, the Governor may issue a warrant under the hand of the colonial or under colonial secretary, directing that such dangerous lunatic or idiot shall be again confined in the gaol, hospital, or asylum from which he shall have been so discharged, or such other place as to the Governor may seem fit.

Lunatics may be taken care of by their friends.

Recognizance to be entered into in cases of dangerous lunatics.

If recognizance broken, lunatics to be recommitted.

XI. No action shall lie against any person whatever on account of any act, matter, or thing done or commanded by him in carrying the provisions of this Act into effect, unless such action be commenced within three months after the cause of action or complaint shall have arisen; and if any person shall

Limitations of actions under this Act.

No. 20—1879.

be sued on account of any act, matter, or thing which he shall have so done or commanded to be done, he may plead the general issue, and give the special matter in evidence.

Provisions of Act to be retrospective.

XII. All persons who may have subjected themselves to any penalty, action, or indictment by promoting, ordering, or being in any way concerned in the care, charge, or custody of persons who may, before the time at which this Act shall take effect, have been committed to prison or put under confinement in any gaol or hospital by the authority of any magistrate or judge, or of the Governor, as dangerous lunatics, or who having been charged with or convicted of some crime or offence, have been confined as insane persons, shall be, and hereby are, indemnified, freed, and discharged from all penalties, actions, indictments, and liabilities which may have been incurred by reason of the confinement of such persons; and all such persons who at the date at which this Act shall take effect shall be under such confinement, are hereby declared to be subject to the provisions of this Act so far as the same may be applicable.

Powers of superior courts not affected.

XIII. Nothing in this Act contained shall be construed to alter or affect the powers and authorities vested in the superior courts of the colony, or the mode of procedure in such courts for declaring persons to be of unsound mind, or for the appointment of curators to the person or property of any lunatic.

Short title.

XIV. This Act may be cited for all purposes as the "Lunatic Law Amendment Act, 1879."

Lapsed.

No. 21—1879.] AN ACT [Sept. 11, 1879.

To Authorize the Detention in the Gaols of this Colony of certain Persons sentenced to Imprisonment under Martial Law.

Preamble.

WHEREAS, in consequence of the engagement in rebellion and other acts of aggression

against Her Majesty the Queen, of certain evil-disposed persons, the Governor did issue a proclamation, under his hand and under the public seal of this colony, dated the 31st day of December, 1877, proclaiming and directing, amongst other things, that from and after the promulgation of such proclamation, martial law should be in force within the districts of Stutterheim and Komgha :

And whereas, in pursuance of the objects of the said proclamation, the Governor did issue a Government notice, bearing date the 1st day of January, 1878, and numbered 73, 1878, whereby, after reciting the objects of the operations then being carried on in the said divisions of Stutterheim and Komgha, and after reciting that special commissioners would be permanently appointed at the principal stations in the location and its neighbourhood, and that one would be nominated to accompany every column which might have to act in the districts proclaimed : His Excellency was pleased to appoint certain persons in such notice named to administer justice in the districts proclaimed : And whereas it was expedient to issue, and the said Governor did issue, to the persons in the aforesaid notice appointed, a letter of instructions whereby, amongst other things, such persons were informed and instructed that they were vested with all the powers of a circuit court, subject to the confirmation by Government of all sentences exceeding one year's imprisonment, and that all prisoners were to be sent to East London ; and that all offenders against the law would be tried by the persons appointed as aforesaid, but more especially those natives, either taken with arms in their hands or who had in any way aided or abetted in the then prevailing disorder ; and enumerating the several classes of offenders who might be brought for trial before the persons so appointed as aforesaid, and directing the different degrees of punishment to which such offenders might be sentenced, and stating and declaring the necessity of securing all the essentials of a fair trial of all offenders brought before such persons, and the means of securing such essentials : And, whereas several persons engaged

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in acts of hostility and aggression against Her Majesty the Queen in the said proclaimed districts, were afterwards, from time to time, tried and sentenced by the persons so appointed as aforesaid, and are now imprisoned by virtue of such sentences in various of the gaols of this colony : And, whereas it is expedient that such sentences should be confirmed by 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 :—

Sentences under martial law confirmed.

I. The several sentences pronounced by the persons, or any of them, specially appointed by the Government notice dated 1st January, 1878, and numbered No. 73, 1878, upon persons tried by them for acts of rebellion, hostility, or aggression, under such authority, are hereby confirmed : And all persons now confined in any of the gaols of this colony, under or by virtue of such sentences, shall continue liable to be so confined until the expiration of the sentences respectively passed upon them under the authority aforesaid.

Short title.

II. This Act may be cited the “Martial Law Prisoners’ Detention Act, 1879.”

Repealed by 1895 Act 32.

• No. 22—1879.] AN ACT [Sept. 11, 1879.

To Provide for the Payment of Pensions to Widows of Officers on the Fixed Establishment of the Public Service of this Colony.

Preamble.

WHEREAS Act No. 25 of 1874 has never been put in force by the proclamation thereof, as provided in the tenth section of such Act : And whereas it is desirable to repeal the said Act in order to make better and more effectual provision than is therein contained for the payment of pensions to widows of officers on the fixed establishment of the public service 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 House of Assembly thereof, as follows :—

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I. The Act No. 25 of 1874, intituled “An Act to provide for the Payment of Pensions to Widows of Officers on the Fixed Establishment of the Public Service of this Colony,” is hereby repealed.

Repeal of Act 25 of 1874.

II. From and after the taking effect of this Act, there shall be deducted from and out of the salary of every officer who may now, or shall hereafter, hold an appointment on the fixed establishment of the public service of this colony, and from and out of the pension of every officer who may now, or shall hereafter, hold any such appointment and who may retire on pension, one per centum per annum of such salary or pension, together with such further sums of money as any such officer shall agree to have deducted from his salary or pension as hereafter mentioned : Provided that as to any such officer as aforesaid who may hold an appointment as aforesaid at the time of the taking effect of this Act, no such deduction as aforesaid shall be made unless such officer shall within one year after the taking effect of this Act have signified to the treasurer-general his consent that such deduction shall be made, and if such officer shall not signify such consent within the time aforesaid his widow shall not be entitled to any of the privileges or benefits conferred by this Act.

One per cent. to be deducted from salaries of Government officers.

Except from those of existing officers, unless with consent.

III. All moneys deducted from salaries or pensions under the provisions of this Act shall be paid into, and form part of, the public revenue of this Colony, and shall be deemed in the calculation of the scale referred to in the fourth clause of this Act to bear interest reckoned at the rate of five per centum per annum, and the capital and interest so accruing shall be placed to a separate account, to be called “The Widows’ Pension Fund.”

Money so deducted, and interest, to form “Widows’ Pension Fund.”

IV. From and out of the public revenue aforesaid there shall be paid to the widows of all officers from whose salaries or pensions deductions shall have been made under the provisions of this Act, such pensions as may be prescribed by the Governor, depending

Scale of pensions to widows.

No. 22—1879.

upon the respective amounts deducted from the salaries and pensions aforesaid according to a scale calculated on tables of mortality, approved by the Governor, interest being reckoned at the rate of five per centum per annum, and subject to such regulation as shall from time to time be fixed by the said Governor, and published in the Government Gazette. Provided that no scale calculated as aforesaid shall be adopted unless and until such scale shall have been submitted to and approved by a competent actuary resident within Great Britain: Provided, further, that no annual pension paid to any widow under the provisions of this Act shall exceed one-third of the salary of her deceased husband during the year immediately preceding his retirement from the public service, or death as the case may be, nor shall any such pension exceed the sum of two hundred and fifty pounds sterling per annum.

Steps to be taken by officers desirous of securing higher pensions for widows.

V. Every officer of the public service who shall be desirous of securing a pension for his widow under the provisions of this Act, beyond what the deduction of one per centum as aforesaid would secure under the provisions of the fourth section hereof, shall, at the time of his proposing to have a further sum beyond the one per cent. aforesaid deducted from his salary or pension, produce to the treasurer-general the certificate of some duly qualified medical practitioner in this colony, approved by the Governor for the purpose, as to his state of health; and it shall be competent for the treasurer-general, in case such medical practitioner shall not certify that such officer is in sound health, either to refuse his application altogether, or to require such a deduction from the salary or pension of such officer, greater than if he were in sound health, as such officer and the treasurer-general may agree upon, and in case they may not be able to agree, the application shall be considered as refused.

Pension not assignable or transferable.

VI. No pension payable under this Act shall be assignable or transferable, nor shall the same be attached, arrested, or levied upon, for or in respect of any debt or claim due by the deceased husband of such recipient.

VII. Nothing in this Act contained shall apply to the salary or pension of any Governor or Lieutenant-Governor of the colony, or of any officer in the public service, not on the fixed establishment thereof, nor to any public officer as aforesaid, who may be in the receipt of a yearly salary or pension less than one hundred pounds (£100): Provided, however, that if any person whose yearly salary shall have been one hundred pounds (£100) or more, and from whose salary as aforesaid deductions shall have been made in accordance with the said Act, shall subsequently be placed on a yearly pension of less than one hundred pounds (£100), then if such person shall desire it, and shall notify his desire to the treasurer-general, the provisions of the said Act shall continue to apply to his case.

No. 22—1879.
Act not to apply to Governor or Lieutenant-Governor.

Nor to officers with salaries below £100.

VIII. A statement of all moneys deducted from salaries and pensions, and of all pensions paid under the provisions of this Act during each year, together with the interest, reckoned at the rate of five per centum per annum, shall be laid before both Houses of Parliament at every session thereof.

Annual statements to be laid before Parliament.

IX. At the end of every period of five years, the first period being reckoned from the time of the taking effect of this Act, complete statements of all moneys deducted from salaries and pensions, of all pensions paid, and of all liabilities incurred under the provisions of this Act, shall be submitted by the treasurer-general to a competent actuary, together with all such particulars connected therewith as such actuary shall require for a full investigation into the working and effect of this Act, and the report of such actuary shall be laid before both Houses of Parliament during its first session which shall be held after receipt of such report.

At end of five years enquiry to be made into working of this Act.

X. This Act may be cited as "The Public Service Widows Pension Act, 1879."

Short title.

See 1906 Act: 23
 No. 23—1879.]

AN ACT

[Sept. 11, 1879.]

For the Prevention of Vagrancy and Squatting.

Preamble.

WHEREAS it is expedient, as far as possible, to suppress idleness and vagrancy, and whereas serious losses of stock by thefts are experienced by the farmers of this colony, and there is reason to believe that the same are in a great measure traceable to the facilities afforded to unemployed persons, and persons without sufficient means of support, of residing upon crown and other lands, and of roaming about without proper control, and it is expedient that such facilities as aforesaid should be restricted: Be it enacted by 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 11
 of Act 22 of 1867.

I. The eleventh section of the Act No. 22 of 1867, and so much of any other law in force in this Colony as is repugnant to or inconsistent with any of the provisions of this Act, are hereby repealed.

Who shall be deemed
 to be vagrants.

II. Any person found wandering abroad and having no visible lawful means, or insufficient lawful means of support, who, being thereunto required by any resident magistrate, justice of the peace, field-cornet, police officer, police constable, inspector of native locations, or owner or occupier of land, or who having been duly summoned for such purpose, or brought before a resident magistrate or special justice of the peace in pursuance of this Act, shall not give a good and satisfactory account of himself, shall be deemed and taken to be an idle and disorderly person, and on conviction thereof before any special justice of the peace, shall be liable to be imprisoned, with or without hard labour, and with or without spare diet, and with or without solitary confinement, or either of them, for any period not exceeding fourteen days, or upon conviction before any court of resident magistrate, shall be liable to be imprisoned with or without hard labour, and with or without spare diet, and with or without solitary confinement, or either of them, for any period not exceeding three months.

Punishment of va-
 grants.

III. Every person who shall wilfully or knowingly harbour, or suffer or permit to reside on land or premises owned or occupied by him, any idle and disorderly person as aforesaid, shall, on conviction before the court of resident magistrate or special justice of the peace for his district, be liable, in case of conviction before a court of resident magistrate, to a penalty of not exceeding five pounds for every such offence, and in default of payment of such penalty, to be imprisoned, with or without hard labour, for any period not exceeding two months, unless such fine be sooner paid; and in case of conviction before a special justice of the peace as aforesaid, to a penalty of not exceeding twenty shillings, and in default of payment of such penalty, to be imprisoned with or without hard labour, for any period not exceeding fourteen days, unless such fine be sooner paid.

No. 23—1879.
Penalties for harbouring disorderly persons.

IV. Every person found without lawful excuse (the proof of which excuse shall lie on such person) wandering over any farm, in or loitering near any dwelling-house, shop, store, stable, out-house, garden, vineyard, kraal, or other enclosed place, shall be deemed and taken to be an idle and disorderly person; and, upon conviction thereof before any special justice of the peace, shall be liable to be imprisoned with or without hard labour, and with or without spare diet, and with or without solitary confinement, or either of them, for any period not exceeding fourteen days; or upon conviction before a court of resident magistrate shall be liable to be imprisoned with or without hard labour and with or without spare diet, and with or without solitary confinement, or either of them, for any period not exceeding three months in the case of the first conviction, and to be imprisoned with or without hard labour, and with or without spare diet, and with or without solitary confinement, or either of them, for any period not exceeding six months, in the case of any subsequent conviction for the same offence.

Persons loitering and wandering about.

See 1906 Act 23
Sec. 3 1 + 3

Penalties.

V. Every person hereinbefore declared to be idle and disorderly as aforesaid may be apprehended

Apprehension of idle and disorderly persons.

No. 23—1879.

with or without warrant by any resident magistrate, justice of the peace, field-cornet, police officer, or police constable, or by the owner or occupier of the land or premises on which such idle or disorderly person may be, or by anybody acting under the orders of such resident magistrate, justice of the peace, field-cornet, or owner or occupier, and upon apprehension, may be conveyed before the resident magistrate or special justice of the peace of the district in which he was apprehended, or the nearest resident magistrate, or special justice of the peace, to be dealt with according to law : Provided that no such person shall be apprehended without warrant upon the land or premises of any private person without the consent of such private person, except by such private person or somebody acting by his orders or by some resident magistrate, justice of the peace, or the field-cornet of the ward, or by somebody acting under the orders of such resident magistrate, justice of the peace, or the field-cornet.

Not to be apprehended on private property without owner's consent.

Warrant to search for idle and disorderly persons on private property.

VI. In case it shall be made to appear to the satisfaction of the resident magistrate of the district, or some justice of the peace therein, by information in writing upon oath that there is reason to believe that any idle and disorderly person as aforesaid is upon the land or premises of any private person, such resident magistrate or justice of the peace shall grant a general warrant authorizing some person or persons named therein for the purpose, to enter upon the land or premises of such private person, in order to ascertain whether and idle and disorderly person as aforesaid is upon such land or premises ; and in case any idle and disorderly person as aforesaid shall, upon the execution of such warrant, be found upon such land or premises, he may be forthwith apprehended by the person or persons so named in the said warrant as aforesaid, and conveyed before the resident magistrate or special justice of the peace of the district in which he was apprehended, or the nearest resident magistrate or special justice of the peace, to be dealt with according to law.

VII. It shall be lawful for any resident magistrate, justice of the peace, field-cornet, police-officer, police constable, inspector of native locations, or the owner or occupier of the land or premises whereon or wherein any person as hereafter mentioned may be, to stop any person whom he shall find driving any live-stock, and to interrogate such person; and if he shall not account satisfactorily for the possession of the live-stock so being driven by him, or if there shall be reasonable grounds for suspecting that such live-stock have been criminally procured, then it shall be further lawful for such resident magistrate, justice of the peace, field-cornet, police officer, police constable, inspector of native locations, or owner or occupier, to conduct or cause to be conducted, the said live-stock, and the person so driving the same, to the nearest public prison or police-station, so that such person so driving the said live-stock may be detained in custody until the then next sitting of the resident magistrate or a special justice of the peace of the district in which such prison or police station is situated, who shall inquire into the circumstances, and make such determination in conformity with law as shall to him seem fit and proper.

No. 23—1879.

Persons driving stock may be interrogated, and, not giving satisfactory account, may be arrested and detained in custody.

VIII. Everyone who shall assault or resist any person authorized as aforesaid to make an arrest, or to enter upon any land or premises while in the execution of such authority, or who shall aid or incite any person so to assault or resist, shall, for every such offence, be liable, upon conviction before any court of resident magistrate to a penalty of not exceeding ten pounds, and in default of payment thereof, to imprisonment, with or without hard labour, for not exceeding three months, unless such penalty be sooner paid, or to such imprisonment without the option of paying a penalty; or in case of conviction before a special justice of the peace, to a penalty not exceeding twenty shillings, and in default of payment thereof, to imprisonment with or without hard labour, for a term not exceeding fourteen days, unless such penalty be sooner paid, or to such imprisonment without the option of paying a penalty.

Penalties for resisting persons authorized to arrest, &c.

No. 23—1879.

Squatters—how to be dealt with.

See 1909 Act-29
Sec. 15.

IX. All squatters trespassing upon waste crown land, or upon land occupied by any missionary institution, or upon land set apart as a native location, may be summarily directed to remove therefrom by order in writing, signed by the resident magistrate of the district in which such land is situated, such trespassers having been first summoned before the court of such resident magistrate, to show cause why they should not remove from such land, and no sufficient cause to the contrary having been proved to the satisfaction of such court: Provided that no person shall be deemed to be a trespasser within the meaning of this section unless he shall originally have entered upon, and shall be upon, such land, without lawful authority; and any person who may be ordered to remove as aforesaid who shall disobey such order, shall be liable to be dealt with as an idle and disorderly person as aforesaid, and shall be subject to the penalties provided by the second section of this Act.

Persons insufficiently clothed.

X. Every person found wandering or being in any street or road ordinarily used by the public, or in any place of public resort, or in view thereof respectively, without sufficient clothing for the purposes of decency, shall be deemed and taken to be a disorderly person and to be guilty of an offence against the true intent and meaning of this Act, and may be arrested without warrant and conveyed before the nearest resident magistrate or special justice of the peace to be dealt with according to law, and upon conviction, as in the second section of this Act is provided, shall be liable to the penalties imposed by that section.

Power to make convicted persons work.

XI. It shall be lawful for any resident magistrate or special justice of the peace, to adjudge any person convicted under the second and fourth sections of this Act, to a term of service on the public works of the colony, or to employment under any divisional council, or municipality, or private person, other than the said resident magistrate or special justice by whom such person shall have been convicted, or the person at whose instance such prosecution shall have taken place, who may be willing to

employ such person, for any term not exceeding that for which he is liable to imprisonment under this Act on that behalf provided, and at such rate of wages as shall, in the judgment of the resident magistrate or justice of the peace, be sufficient for his maintenance: Provided, always, that if any person so adjudged to service shall escape, or attempt to escape, or otherwise be guilty of any offence under the Masters and Servants' Act, he shall be liable to imprisonment, with or without hard labour, for a period not exceeding six months.

XII. When and as often as any special justice of the peace shall convict any person of any offence under the provisions of this Act, such justice of the peace shall forthwith transmit to the registrar of the supreme court, or in case the said conviction shall have been had within the jurisdiction of the court of the eastern districts, to the registrar of the said court of the eastern districts, the record of the proceedings in the case, together with such remarks, if any, as he may desire to append, and thereupon all and singular the provisions of the forty-seventh, forty-eighth, and forty-ninth sections of the Act No. 20 of 1856 shall, *mutatis mutandis*, and as far as the same are applicable extend and apply such record, the justice of the peace being considered as substituted in the said section for the convicting resident magistrate, and all matters required to be done in the said section by the clerk of the resident magistrate shall be done by the said justice of the peace.

XIII. 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 five pounds sterling, and to pay to the arrested person such amount, not exceeding the sum of five pounds sterling, 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. And, if such arrested person is brought for trial before some

No. 28—1879.

Special justices of the peace to transmit record of their proceedings under this Act to registrar of supreme court.

Penalties for wrongfully putting in force the provisions of this Act.

No. 23—1879.

special justice of the peace, such justice of the peace may impose upon any person who may wrongfully and maliciously, or without probable cause, act as aforesaid, the payment of such fine or damages or both as he may think proper : Provided that such fine and damages shall not exceed the sum of twenty shillings respectively, and in default of payment of such fine, the person upon whom such fine has been imposed shall be liable to be imprisoned, with or without hard labour, for any period not exceeding fourteen days, unless such fine shall be sooner paid : Provided further 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 by him by law in lieu of the remedy by this section given.

Short title.

XIV. This Act may be cited for all purposes as the "Vagrancy Act, 1879."

Spent.

No. 24—1879.] AN ACT [Sept. 11, 1879.

For Authorizing certain Expenditure not provided for by Parliament in the Year 1875.

Preamble.

WHEREAS divers public moneys, amounting in all to the sum of fourteen thousand two hundred and nineteen pounds one shilling and one penny sterling, brought to charge between the first day of July, 1877, and the thirtieth day of June, 1878, have been paid by authority of the Governor of this colony, but without the previous authority of Parliament : And whereas these moneys have been found to have been duly applied to and expended upon certain necessary services of the civil government of this colony, and it is therefore proper and expedient that an Act of Appropriation should be passed to authorize the amount so expended to be charged against the public revenue of this colony : Be it enacted by the Governor of the Cape of Good Hope, wet the advice and consent of the Legislative Council and House of Assembly thereof as follows :—

I. The public revenue of the colony is hereby charged with a further sum of fourteen thousand two hundred and nineteen pounds one shilling and one penny sterling, in addition to the sums already provided for the service of the year 1875, which shall be applied and accounted for in the manner specified in the schedule hereunto attached.

No. 24—1879.

Supply of money not voted in 1875.

SCHEDULE.

For the Expenditure of the			
Civil Establishment	£756	6	3
Judicial Establishment	1	14	1
Medical Establishment	6	5	0
Police and Goals Establishment ...	9	10	0
Border Department (Schedule D), Aborigines	3,778	7	3
Services Exclusive of Establishments,			
Administration of Justice	32	0	0
Police and Goals	72	5	8
Transport	110	3	0
Conveyance of Mails	3	12	0
Miscellaneous	6	4	7
Sums Refunded	66	12	6
Works and Buildings	77	15	0
Parliamentary	64	7	10
Railways	6,063	7	8
Electric Telegraphs	0	2	6
Special Payments	31	17	0
Colonial Defence	3,138	10	9
	£14,219	1	1

Repealed by 1882 Act: 4

No. 25—1879.] AN ACT [Sept. 11, 1879.

To Alter certain Rates of Postage payable in this Colony.

WHEREAS it is desirable to alter, in some respects, the rates of postage payable upon certain letters conveyed by post to various parts of his colony: Be it therefore enacted by the Govern-
Preamble.

62 UNAUTHORIZED EXPENDITURE ACT, 1878.

No. 25—1879.

nor of the Cape of Good Hope, with the consent of the Legislative Council and House of Assembly thereof, as follows :—

Repeal of section 9 of Act 30 of 1864.

I. The ninth section of Act No. 30 of 1864, and every other law in force in this colony which may be inconsistent with the provisions hereinafter contained, are hereby repealed.

Inland letters to bear postage of 3d. per half-ounce.

II. Upon every letter posted in this colony which shall be transmitted and conveyed between any post offices in this colony, including Basutoland and the Transkeian Territories, there shall be charged the rate of threepence for each half-ounce or fraction of half-ounce weight of such letter : Provided that nothing in this Act contained shall alter the existing rate of postage charged on letters posted in any town or village of the colony for delivery within the limits of the same town or village.

Except letters posted and delivered within a town or village—1d. per half-ounce.

Not to affect letters entitled to go free of postage.

III. Nothing in this Act contained shall have the effect of repealing or altering any existing law, rule, or regulation, relating to letters to and from seamen and soldiers, or by virtue of which certain letters are allowed to be transmitted by post in this colony or beyond its borders without the payment or charge of any postage thereon.

Short title.

IV. This Act may be cited as the "Postage Act, 1879."

Spent.

No. 26—1879.] AN ACT [Sept. 11, 1879.

For Authorizing certain Expenditure not provided for by Parliament in the Year ending 30th June, 1878.

Preamble.

WHEREAS divers public moneys, amounting in all to the sum of one hundred and fifteen thousand nine hundred and ninety-eight pounds nineteen shillings and tenpence sterling have been necessarily expended for the service of the year ending 30th June, 1878, by authority of the Government of this colony, but without the previous authority of Parliament : And whereas these moneys have

been found to have been duly applied to and expended upon certain necessary services of the civil government of this colony, and it is therefore necessary and expedient that an Act of Appropriation should be passed to authorize the amount so expended to be charged against the public revenue 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 :—

No. 26—1879.

I. The public revenue of the Colony is hereby charged with a further sum of one hundred and fifteen thousand nine hundred and ninety-eight pounds nineteen shillings and ten pence sterling, in addition to the sums already provided for the service of the year ending 30th June, 1878, which shall be applied and accounted for in the manner specified in the schedule hereunto attached.

Supply to 30th June, 1878, not previously provided for.

SCHEDULE.

VOTE.	SERVICE.	AMOUNT.	TOTAL.
MINISTERIAL DEPARTMENT, No. I.			
1.	The Governor ...	£2,540 8 3	
3.	Colonial Secretary's Department ...	775 1 11	
6.	Police and Gaols, Contingent Services ...	9,171 16 4	
9.	Convicts ...	4,619 1 11	
10.	Colonial Defence ...	13,245 11 8	
13.	Crown Agents for the Colonies ...	204 7 4	
14.	Attorney-General ...	68 9 8	
17.	High Sheriff ...	1,088 3 7	
21.	Controller and Auditor-General ...	23 17 3	
26.	Conveyance of Mails	6,832 1 9	
		<hr/>	£38,568 19 8
MINISTERIAL DEPARTMENT, No. II.			
33.	Interest and Commission on Bills of Exchange ...	£25,403 18 2	
		<hr/>	25,403 18 2

64 UNAUTHORIZED EXPENDITURE ACT, 1878.

No. 26—1879.

VOTE. SERVICE. AMOUNT. TOTAL.

MINISTERIAL DEPARTMENT, No. III.

39.	Port and Harbour Department ...	£4,976	3	11	
41.	Hydraulic Engineer	119	14	0	
42.	Immigration ...	4,490	5	9	
42½.	Services not pro- vided for ...	7,082	15	2	
44½.	Special Services not provided for ...	140	15	0	
46.	Chief Inspector, Works and Build- ings	3,568	1	4	
49.	Miscellaneous Ser- vices	123	13	7	
53.	Railway Engineers, Working and Maintenance ...	15,385	1	0	
54.	Resident Engineer, Port Elizabeth, Working and Maintenance ...	10,557	12	11	
54½.	Second Line from Zwartkops to Port Elizabeth ...	370	11	7	
55½.	Survey Fort Beau- Fort to King William's Town	153	0	1	
56.	General Manager of Telegraphs, Working and Maintenance ...	1,894	11	0	
					48,862 5 4

MINISTERIAL DEPARTMENT, No. IV.

58.	Secretary for Native Affairs Establish- ment	£1,103	15	3	
61.	Native Police ...	402	4	8	
63.	Inspectors and Con- stables, under Act 6, 1876, ...	13	14	5	
67.	Border Department, Aborigines (Out- side the Colony)	1,644	2	4	
					3,163 16 8
					£115,998 19 10

No. 27—1879.]

AN ACT

[Sept. 11, 1879.]

For raising the further Sum of Fifty Thousand Pounds for the Completion of the Graving Dock in Table Bay.

WHEREAS it appears that a further sum of fifty thousand pounds will be required for the completion of the Graving Dock in Table Bay: Be it enacted by 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.

I. It shall be lawful for the Table Bay Dock and Breakwater Commission, with the sanction of the Governor, to raise and take up upon debentures or stock, or partly upon debentures and partly upon stock, such sum or sums of money as from time to time shall be necessary, not exceeding, in the whole, the sum of fifty thousand pounds; and all sums to be so raised shall be applied to the purposes in the preamble to this Act mentioned. Authority to raise
£50,000.

II. In so far as the said borrowing shall be upon debentures, the following provisions shall be observed:—Such debentures shall be issued in this colony, or in England, or partly in this colony and partly in England, for sums not exceeding five hundred pounds nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained, and the interest to accrue due thereon shall be charged upon and made payable out of the general revenue of this colony. Mode of borrowing.

III. In so far as the said borrowing shall be upon stock the following provisions shall be observed:— Provisions as to stock

1. Such stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be kept for that purpose by the treasurer of the colony, such credit to be given in the first instance upon production and delivery to the said treasurer, by such purchaser, or by his order, of a scrip certificate for the amount of stock for which such credit shall be claimed such certificate being signed by

F

No. 27—1879.

- the colonial secretary and countersigned by the said treasurer and by the auditor-general, and which scrip certificate shall be kept in the office of the said treasurer.
2. Such stock shall bear interest after the rate of four pounds and ten shillings per centum per annum on the nominal amount of such stock, from the 15th day of April or the 15th day of October next preceding the issue of the said scrip certificate which shall last happen, and such interest shall be payable thereafter half-yearly on the 15th day of April and the 15th day of October in each year; the first of such payments to be made on the half-yearly day which shall happen next after the opening of such credit in the books of the said treasurer as aforesaid, and shall be paid on such days, respectively, or so soon thereafter as demand shall be made therefor by the lawful holder, for the time being of such stock, to such lawful holder or his duly authorized attorney, at the office of the treasurer in Cape Town.
 3. Such stock, together with the interest from time to time to accrue thereon, shall be, and is hereby, charged upon and made payable out of the general revenue of this colony; and the Governor shall from time to time pay such interest, and may also, out of such revenue or any moneys to be appropriated for that purpose, from time to time buy up and cancel such stock or any part thereof: Provided, however, that such stock shall be, and is hereby, made a charge in the first instance upon the dock dues, harbour rates, warehouse rent, and other revenues accruing to the commissioners for the time being, or to be appointed under the provisions of any Act relating to the management of the docks and breakwater in Table Bay, who shall

- out of such revenues indemnify the Governor for all moneys paid out of the general revenue of the colony on account of such stock, or of any interest thereon.
4. Such stock shall be transferable by transfer in the books of the said treasurer, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the said treasurer a receipt or certificate stating the amount of such stock standing to his credit in such books.
 5. There shall be paid into the treasury upon every transfer in the said books of any sums of such stock a sum of two shillings and sixpence upon every hundred pounds to be transferred in such books, and on every other sum so transferred in the like proportion: Provided that, instead of any fractional part of a penny which would, under this provision, be payable, a full sum of one penny shall be payable; and no transfer shall be actually made in such books as aforesaid unless and until such sum as shall be payable as aforesaid shall be paid.
 6. All 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 terms shall be received for a greater amount of 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 such tenders as circumstances may make expedient.
 7. The moneys realised by the issue and sale of such stock shall be carried to a separate account, and shall be expended, so far as

No. 27—1879.

Sinking fund provided for.

shall be necessary, for the purposes mentioned in the preamble of this Act.

IV. As a fund for the payment of the interest upon, and for the gradual extinction of, the debt to be raised upon debentures under authority of this Act, there shall be charged and chargeable upon, and set apart out of the annual revenues of this colony, an annual sum equal to the interest on the whole amount of such debentures as shall from time to time be issued under authority of this Act; and a further sum equal to one pound sterling per centum on the total amount of the principal or capital sum which shall from time to time be raised upon debentures under the authority of this Act; and such sum shall be annually charged on and payable out of the revenues of the colony so long as any portion of the debt to be raised under authority of this Act upon debentures or any interest thereon shall remain unpaid and unextinguished, and such annual charge shall, so soon as such debt and interest shall have been all paid and extinguished, cease and determine, subject, however, to the proviso in section three, sub-section three, of this Act mentioned.

After payment of interest fund to be applied in redeeming debentures.

V. Such portion of the fund, which shall under the last foregoing section be charged and chargeable annually on the revenues of the colony, as shall not be required for the payment of the interest for the time being due upon the debentures to be issued under authority of this Act, shall be applied in redeeming and cancelling such debentures in such manner and form as shall be provided by the terms and conditions whereon and whereunder such debentures shall be issued.

How debentures to be cancelled.

VI. All debentures which shall be redeemed under the authority of this Act shall, immediately on the receipt thereof, be cancelled by or on behalf of the treasurer of this colony, and shall be duly advertised as so cancelled.

Moneys raised to be entrusted to harbour commissioners.

VII. The application as aforesaid of all sums of money raised under the authority of this Act shall be entrusted to the commissioners for the time being appointed, or to be appointed, under the provisions

MUNICIPALITIES IRRIGATION WORKS LOAN ACT. 69

of any Act relating to the management of the docks and breakwater in Table Bay; and such commissioners shall, in respect to such application, have and exercise all the powers conferred upon them by any such Act.

No. 27—1879.

VIII. An account showing the amount of all stock and debentures issued from time to time under authority of this Act, and of the moneys realized by the issue and sale thereof, and of the expenditure of all such moneys, or of so much thereof as shall for the time being have been expended; and of all other moneys which have been expended upon the said graving dock out of the general revenue of the colony, or otherwise, and an account of the amount of such stock and debentures for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, vouched by the auditor-general, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and like accounts within fourteen days after the commencement of every succeeding session thereof.

Accounts to be laid before Parliament

IX. This Act may be cited as the "Table Bay Harbour Loan Act, 1879."

Short title.

Repealed by 1906 Act 32 Sec 2.

No. 28—1879.] AN ACT [Sept. 11, 1879.

To Assist Municipalities to carry out Irrigation Works.

WHEREAS it is desirable to assist such municipalities as may be desirous of carrying out irrigation works within their respective limits, and to devise better means than at present exist for rendering such assistance: Be it, therefore, enacted by the Governor of the Cape of Good Hope, with the consent of the Legislative Council and the House of Assembly thereof, as follows:—

Preamble.

I. Nothing in Act No. 8 of 1877 shall be taken to debar the Government from making advances of money by way of loan to any municipality, for

Power to Government to advance money to municipalities for irrigation works.

70 MUNICIPALITIES IRRIGATION WORKS LOAN ACT.

No. 28—1879.

the purpose of enabling any such body under the provisions of the said Act to carry out works of irrigation or artificial storage of water, upon the credit and security of any rates which may be assessed or levied by such municipality, with or without such other good and sufficient security as may be in the power of such municipality to offer ; and it shall be lawful for any such municipality to which money for the purpose aforesaid shall be advanced by the Government, to mortgage such rates, or any part thereof, or to give such other security as may be approved of by the said Government, for the purpose of securing the repayment of the money so advanced, with the interest thereon, and such mortgage shall constitute and be a first charge upon such rates: Provided that no such loan as aforesaid shall be effected unless the Government shall be satisfied that the previous consent of a majority of the ratepayers of the said municipality, present at a meeting to be convened by the commissioners of the said municipality under a resolution to that effect passed by the said commissioners, has been obtained, of which said meeting of ratepayers fourteen clear days' notice shall be given by publication in one or more newspapers, if any, published within the said municipality, and by posting or affixing a copy of such notice in some conspicuous place within the said municipality.

Municipalities to impose water rate to defray annual charge.

II. It shall be lawful for any municipality which shall have obtained from the Government any such loan as in the preceding section mentioned, to impose, levy, and collect a special water rate for the purpose of meeting and defraying the annual rent charge payable to the Government under the said Act No. 8 of 1877, and in the event of such water rate not being sufficient for the purpose aforesaid, then to impose, levy, and collect a special annual rate not exceeding twopence in the pound upon the value of the immovable property within its limits liable to be rated, for the purpose of meeting the aforesaid rent charge.

Or a special rate.

Provisions of Act 8 of 1877 to apply.

III. All applications made under this Act to the Government for any advance of money by way of loan as hereinbefore provided, shall be subject to

FIREARMS AND GUNPOWDER AMENDMENT ACT. 71

the several provisions of the said Act No. 8 of 1877, relating to applications for loans by private owners of land, and all and singular the provisions of the said Act No. 8 of 1877 relating to proceedings consequent upon applications for loans by, and to loans made to, and securities given by, such private owners, and to the construction and maintenance of works, and to the rights of liabilities generally under the said Act No. 8 of 1877, of the Government and such private owners respectively, shall in all respects save as to the nature of the security to be given as authorized by this Act, apply mutatis mutandis to applications made, loans granted, and securities given under this Act, and to works constructed by municipalities under this Act.

No. 28—1879.

IV. The term "municipality" in this Act shall be deemed to designate any board of municipal commissioners or town council established under or by virtue of any Ordinance or Act of Parliament.

Definition.

V. This Act may be cited as "The Municipalities Irrigation Works Loans Act, 1879."

Short title.

No. 29—1879.] AN ACT [Sept. 11, 1879.

To Amend the Law relating to the sale of Firearms and Gunpowder.

WHEREAS it is expedient to give authority in certain instances, to persons other than resident magistrates, to grant permission authorizing the issue of gunpowder from private magazines, and certificates authorizing the purchase of firearms and gunpowder: 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.

I. It shall be lawful for the Governor, subject to such limitations and conditions as to the said Governor may seem fit, to authorize and empower any clerk to a resident magistrate, or any other person whom the Governor may specially appoint for that purpose,

Governor may specially appoint persons to issue permits under Ordinance No. 2 of 1863.

72 FIREARMS AND GUNPOWDER AMENDMENT ACT.

No. 29—1879.

to grant and issue under the provisions of the eighth section of the Ordinance No. 2 of 1853 in districts where circumstances may render it necessary, the permission to issue gunpowder from any private magazine therein mentioned in the form and manner, and under the restrictions, contained in such section ; and also to authorize and empower in such districts, and subject to such limitations and conditions as aforesaid, any such persons as aforesaid to grant and issue, under the provisions of the thirteenth section of the said ordinance, certificates authorizing the purchase of firearms, gunpowder, or percussion caps, and of lead, in districts where such certificate is by any existing law required for the purchase thereof, and the permissions and certificates which shall be so granted and issued, shall be of the same force and effect, as if they had been granted and issued by a resident magistrate, and shall be subject to the provisions of any existing law which shall be applicable to such last mentioned permissions and certificates.

May revoke or cancel each appointment.

II. Any authority under this Act to grant or issue permissions or certificates as aforesaid may at any time be revoked and cancelled by the said Governor, and thereupon such authority shall cease and determine.

Register to be kept of permits granted.

III. Every resident magistrate and justice of the peace now authorized to grant or issue permissions or certificates as aforesaid, under any law in that behalf in force, and every person authorized under the provisions of this Act, to grant or issue such permissions or certificates, shall be bound to keep a register of the permissions and certificates granted by him, setting forth the names, addresses, and descriptions of the persons to whom such permissions or certificates were granted or issued, and the dates of such permissions or certificates, together with the number and description of firearms, and the quantity of gunpowder, percussion caps, or lead represented in every such permission or certificate, and every person granting or issuing permissions or certificates as aforesaid, shall further be bound to transmit to the office of the Colonial Secretary,

during the months of January and July in each year, copies of such registries certified under his hand.

No. 29—1879.

IV. This Act may be cited as the “Firearms and Gunpowder Amendment Act, 1879.” Short title.

No. 30—1879.] AN ACT [Sept. 11, 1879

To Incorporate the Port Elizabeth Tramway Company (Limited).

WHEREAS it is desirable and expedient that a company should be formed and incorporated for the purpose of constructing, maintaining, and working a line or lines of tramway in Port Elizabeth, the first line to be laid down from Market-square, through Main-street, Queen-street, Prince’s-street, and Adderley-street, to the north end of Adderley-street : And whereas it is deemed desirable that the liability of shareholders in the proposed company should be limited to the amount of their respective shares : Be it therefore enacted by His Excellency 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.

I. The several persons who are, or shall become, shareholders in the said company, their respective executors, administrators, successors, and assigns, shall be, and are hereby constituted, a body corporate under the name and title of “The Port Elizabeth Tramway Company (Limited),” for the purpose of constructing and working a tramway, with all necessary sidings and appurtenances, from Market-square, Port Elizabeth, through Main-street, Queen-street, and Prince’s-street, and through Adderley-street, to the northern extremity thereof, and the company hereby incorporated shall have perpetual succession and a common seal, and by such name shall and may from time to time sue and be sued, implead and be impleaded, answer and be answered unto, in any competent court, and shall have power to Constitution of Port Elizabeth Tramway Company (Limited).

No. 30—1879.

take, purchase, and hold lands, buildings, hereditaments, and possessions, and also all other property, chattels, and effects whatsoever; and such lands, whether freehold or leasehold, and other property subject to any engagements affecting the same shall be vested in the company in its corporate name without the necessity of each individual shareholder being mentioned in the deed or deeds of transfer, grant or grants, leases, or conveyances thereof.

Capital.

II. The capital of the company shall be fifteen thousand pounds in three thousand shares of five pounds each, and such shares shall be numbered in arithmetical progression, beginning with number one, and each share shall be distinguished by its appropriate number.

Subscription lists for shares.

III. Subscription lists for shares in the said company shall be opened and headed as follows:—

“We, whose names are hereunder written, hereby agree with each other to become shareholders in the ‘Port Elizabeth Tramway Company (Limited),’ incorporated by Act of Parliament, and to take each of us the number of shares set opposite to our respective names.”

And every such list shall be signed by each of the shareholders therein mentioned, personally or by his lawfully authorized attorney, and all such lists and the powers of attorney, if any, authorizing the signatures thereto, shall be preserved by the directors of the said company; and the shareholders signing such list shall from that time be bound to each other for the due fulfilment of the several obligations by this Act imposed upon the shareholders of the said company, as fully and effectually as if every shareholder had executed a trust deed containing all and singular the provisions and stipulations of this Act: Provided always that no person shall, by reason merely of his signing any such list, be entitled to the number of shares therein subscribed for, or to any number of shares, unless the same shall have been allotted to him by the the provisional committee of the said company, consisting of James Brister, Andrew Gloag,

Alexander Wilmot, John Alfred Holland, Benjamin D'Urban Godlonton, George Duncan, James Kemsley, and Robert Thompson, and unless he shall have paid the deposit on subscription hereinafter mentioned.

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IV. No more than five pounds in all shall be due or payable in respect of any share in the said company, and the liability of each shareholder shall be and is hereby limited to the payment of that amount, in instalments as hereinafter mentioned.

Shares limited to £5 each.

V. The amount of the shares in the said company shall be paid in manner following, namely: a deposit of one pound per share in cash on allotment; a second instalment of one pound per share three months thereafter; a third instalment of one pound per share six months after allotment; and the remaining two pounds in instalments not exceeding one pound per share, and at intervals of not less than three months, which instalments it shall be lawful for the directors to call up upon giving a notice to that effect of not less than three months in the Government Gazette and one or more of the local newspapers.

Mode of paying instalments.

VI. If at the time appointed for the payment of the deposit or any instalment or call as aforesaid, any shareholder shall fail to pay such deposit, instalment, or call, it shall be lawful for the company to sue such shareholder for the amount thereof in any court having competent jurisdiction, and to recover the same, with interest at the rate of six per cent. per annum from the day on which the same shall have become due and payable.

Calls with interest of 6 per cent. may be sued for.

VII. If any shareholder shall fail to pay any instalment or call, payable as aforesaid, within one month from the time appointed for the payment thereof, the directors may, at a meeting duly convened, by a resolution in writing, signed by not less than three of their number, declare the share or shares in respect of which such default shall have been committed, forfeited, whether the company shall have sued for the amount of such instalment or call or not. And the directors may forthwith dispose of such share or shares to any other person or persons, and, if

How shares forfeited.

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needful, issue fresh certificates of shares to the person or persons purchasing such forfeited shares.

Directors.

VII. The general management of the affairs of the company shall be vested in a board of not more than seven and not less than five directors: Provided that no person shall be competent to be a director who shall not possess in his own right fifty shares or more in the capital stock of the said company.

Names of first directors.

IX. The following persons, to wit, Andrew Gloag, James Brister, George Duncan, Robert Thompson, Benjamin D'Urban Goddington, Alexander Wilmot, and William Wilson, shall be the first directors of the said company, and shall so continue until other directors are appointed in their place or they or any of them shall die, resign, be removed, or become incapacitated as hereinafter mentioned.

Directors to go out by rotation.

X. Two of the directors shall go out of office annually in the following rotation, namely: The two directors whose names stand lowest on the above list shall go out of office at the annual general meeting to be held in July, 1880, and two directors shall be elected at the said meeting, whose names shall be placed at the head of the list; and in like manner at each succeeding annual general meeting the two directors whose names then stand at the bottom of the list shall retire, and two directors shall be elected in their place whose names shall be placed at the head of the list; Provided always that the retiring directors shall, unless otherwise disqualified, be eligible for re-election; Provided also that if from any cause whatever no election should take place at the time appointed, the outgoing directors shall remain in office until such time as other directors shall be elected and shall consent to act.

Disqualifications.

XI. Any director becoming insolvent, or being absent from Port Elizabeth for six months, or ceasing to be the holder in his own right of fifty shares shall become disqualified and his seat declared vacant.

How if conduct of a director prejudicial to interests of company.

XII. In case the conduct of any director shall at any time be such that his continuance in office

would, in the opinion of at least twenty shareholders, holding in the aggregate not less than two hundred shares, be prejudicial to the interests of the company, and notice thereof in writing signed by such shareholders shall have been given to the directors, the directors shall forthwith call a general meeting of shareholders in manner hereinafter described, and it shall thereupon be lawful for the shareholders voting at such meeting by a majority of votes to remove such director from his office.

XIII. Upon any vacancy in the board of directors occurring by any such means as above mentioned six months or more before the annual general meeting, the remaining directors shall forthwith call a special general meeting of shareholders in manner hereinafter provided to elect a director or directors to fill such vacancy. How vacancies to be filled up.

XIV. The directors shall appoint from amongst themselves a chairman of the board, who shall preside at all meetings of the directors; and in case of his absence from any meetings, the directors present shall elect from among themselves a chairman for the meeting. And in all matters brought forward at every meeting of directors the chairman shall, in case of an equality of votes, have a casting vote in addition to his deliberative vote. Three directors shall form a quorum, and shall be competent to perform all acts which the directors are empowered to do and perform, and all acts done by such quorum shall be valid notwithstanding the existence of any vacancy or vacancies in the board. Chairman.

XV. A full and complete register of the shareholders in the company shall be kept, and shall be open for the inspection of the public at all reasonable times on payment of a fee of one shilling for each inspection. Register of shareholders.

XVI. Each shareholder shall be entitled to receive from the secretary of the company for the time being a certificate of the shares held by such shareholder, which certificates shall at all times be deemed sufficient evidence of the interest held in the company by the persons therein named, and the Certificate of shares.

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certificates so to be granted shall be signed by any two of the directors of the company, and shall be in the following form, to wit :—

Certificate of share in the “Port Elizabeth Tramway Company (Limited).”

This is to certify that A.B., of _____, is proprietor of _____ shares, numbered _____, in the “Port Elizabeth Tramway Company (Limited),” incorporated by Act of Parliament, subject to the provisions and regulations of the Act of incorporation of the said company.

Given under the common seal of the said company, and under the hand of two of the directors thereof at Port Elizabeth this _____ day of _____, 18—.

} Directors.

How shares may be transferred.

XVII. Any shareholder may transfer his share or shares by indorsement upon the certificate, and by letter to the directors, or other writing signed by the shareholder or his agent, specifying the person or persons to whom the share or shares are to be transferred ; but no such transfer shall have any force or effect as regards the affairs of the company until a registration of the same shall have been made in the books of the company and three directors shall have certified their consent in writing to such transfer, and until the assignee, or transferee shall either in person or by attorney, have acknowledged his proprietorship in writing, in substance as follows :—

I, C.D., of _____, do hereby acknowledge to have received by transfer from A.B. _____ shares, Nos. _____, in the “Port Elizabeth Tramway Company (Limited),” subject to the conditions, regulations, and provisions of the Act of incorporation of the said company.

Port Elizabeth _____, 18—,

C.D.

Release from liability after transfer of shares.

XVIII. Any shareholder transferring his share or shares as aforesaid shall, from the date of the registration of the transfer thereof, be wholly released and discharged from all liability in respect of such share or shares, and the person to whom

the same is or are transferred shall be subject to all and singular the same liabilities in respect thereof as if such person had been the original shareholder.

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XIX. The annual general meeting of shareholders of the said company shall be held at Port Elizabeth on the last Wednesday of the month of July in each year, and the directors shall submit to every such annual general meeting a report setting forth the position and prospects of the company, together with an account of receipts and expenditure during the year ending on the 30th of June preceding.

Annual general meeting.

XX. In addition to the annual general meetings, general meetings of the shareholders may be held for special purposes whenever the directors shall consider it necessary or desirable. And the directors shall be bound to convene such special general meetings, whenever called upon so to do by requisition in writing setting forth the purpose or object of such meeting, signed by not less than twenty shareholders holding collectively not less than one hundred shares, and sent in to the chairman of directors; Provided that no business shall be transacted at any special general meeting except that described in the notice of the meeting, to be given as hereinafter provided.

Special meetings.

XXI. All meetings of shareholders, whether the annual general meeting or any special general meetings, to be convened as hereinbefore mentioned, shall be called by advertisement addressed to the shareholders of the said company, to be published twice at least in any two of the local papers, not less than fourteen days before the day appointed for such meeting; and such notice shall, in every case, fully and clearly set forth the object or purpose for which the meeting is called.

How to call meetings.

XXII. At all meetings of the company the shareholders present, in person or by proxy, shall have the right of voting according to the following scale, namely:—

Rights of voting.

Each shareholder possessed of five shares or more, but less than twenty, shall have one vote only.

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Each shareholder possessed of twenty shares or more, but less than fifty, shall have two votes.

And each shareholder possessed of fifty shares or more, shall have three votes, and no more :

Provided that no shareholder shall be entitled to vote in respect of any share or shares until he shall have been registered as the proprietor thereof for a period of at least three months previous to such meeting.

Who may not vote by proxy.

XXIII. No shareholder residing within ten miles of Port Elizabeth, unless he shall be absent from his residence beyond that distance, except females holding shares in their own right and persons unable, from sickness, to attend any meeting, shall be allowed to vote by proxy ; and the proxy of such females or shareholders suffering from sickness or resident beyond ten miles from Port Elizabeth, shall be in the form or to the effect following :—

I, A.B., of _____, one of the shareholders of the "Port Elizabeth Tramway Company (Limited)," do hereby authorise and appoint C.D., of _____, also a shareholder in the said company, to be my proxy at all meetings of the shareholders of the said company (or at a meeting of the shareholders of the said company, to be held on the _____), and to vote for me thereat upon all matters and things proposed relative to the concerns of the Company, unless I shall be personally present.

Witness my hand this _____ day of _____,
18 _____.

A.B.

Chairman of meeting.

XXIV. At all meetings of shareholders they shall make choice of a chairman from among their number, who shall preside ; and all resolutions of shareholders at such meetings shall be determined

by a show of hands as declared by the chairman, but any shareholder feeling dissatisfied with such decision may demand a ballot, which ballot shall forthwith be proceeded with, the votes being given in writing duly signed and reckoned according to the rule in that behalf hereinbefore provided; and in the event of the votes being equally divided, the chairman of the meeting shall decide the question by his casting vote.

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XXV. In all elections of directors, whether at the annual general meeting or at any special general meeting to fill a vacancy or vacancies, the following rules shall be observed:—

Rules for election of directors.

- (a) No person shall be eligible as a director unless he shall have been nominated for that purpose by written notice signed by two shareholders, as proposer and seconder respectively, and left with the directors at least fourteen days before the day appointed for the election.
- (b) If the person or persons duly nominated as candidates shall not exceed in number the vacancies in the direction requiring to be filled up, such person or persons shall, at the meeting, be declared by the chairman duly elected.
- (c) If there shall be more candidates for the election than required to fill the vacancy or vacancies, the election shall take place by ballot, for which purpose a poll shall commence at the close of the other business, if any, before the meeting, and shall be kept open for at least two hours, and the result of such poll as declared by scrutineers appointed by the meeting shall be deemed to be a resolution of the company in the general meeting.

XXVI. The directors shall cause proper books of account to be provided and kept under their superintendence, and shall cause full and sufficient entries to be made in such books of all payments and receipts by or on account of the company, and all other

Books to be kept

G

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the transactions thereof, and shall, prior to each annual general meeting, cause the books of the company to be balanced, and a full and fair balance-sheet to be made up therefrom up to the thirtieth day of June immediately preceding such meeting, to be laid before the meeting as provided by section 19 of this Act. And the said balance-sheet and the said books shall be open to the inspection of any of the shareholders for three days before every annual general meeting and during such meeting.

Annual audit.

XXVII. The accounts of the company shall be audited annually by two auditors, to be annually elected, not being directors, such auditors to be nominated and elected in like manner as the directors provided for in the twenty-fifth section of this Act: Provided, however that no person shall be eligible to act as auditor unless he shall be the proprietor of at least ten shares in the capital stock of the company.

Particulars of the
line of tramway to
be constructed.

XXVIII. The directors of the said company are hereby authorized to construct and lay down a single or double line of tramway from Market-square, Port Elizabeth, along the whole length of Main-street, Queen-street, Prince's-street, and Adderley-street, with such sidings and stations as may from time to time be agreed upon by the said company and the council of the municipality of Port Elizabeth: Provided that in constructing and laying down the said line of tramway or any extension thereof as aftermentioned, the said company shall be bound to ballast between the rails with good ironstone gravel, and where necessary to pave with stone, and shall also be bound to pave a space of eighteen inches wide on each outer side of the tramway; all which works shall be done and thereafter kept in good repair by the said company, at their own exclusive cost and charges, to the satisfaction of the said council or some person duly appointed to act on their behalf. Provided that the said company pay the annual rent of ten pounds agreed upon between the said company and the said council, and comply with all regulations of the said municipality with regard to licenses for their drivers

or servants, to the number and safety of passengers carried, or concerning any other matter or thing whatsoever having reference in that behalf to the provisions of this Act: And provided further that it shall be lawful for the said company, upon the consent of the said council being first properly had and obtained, to extend, deviate from, and vary the said line, and carry the said tramway along any other streets or roads within the said municipality.

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XXIX. The said company shall, whenever thereto required by the council of the municipality of Port Elizabeth, construct and lay down any extension or extensions of the said tramway over any other street or streets within the said municipality in like manner as to construction, and upon the same conditions, as are contained in the last preceding section: Provided that if the said company, on such request being made to them, shall refuse or decline to comply therewith, which they are hereby declared entitled to do it, shall be lawful for the said council to apply to any other company or individual to construct and lay down such extension or extensions, and for that purpose the said council shall have the right, and they are hereby authorized, to concede and grant to such other company or individual running powers over the tramway of the said company upon payment, by way of compensation, of such a sum as shall be agreed upon between the said company and such other company or individual, or, in case of difference of opinion between them, of such sum as shall be decided by arbitrators, to be chosen in manner hereinafter provided, and provided, further, that in case the said line of tramway, or any extension thereof, or any portion or portions of the same, shall not be used for a period of six consecutive months, the company or individual whose line of tramway or extension shall not have been so used, shall be bound to remove the rails and to restore the street or road to the same order and condition in which it was prior to the laying down of the said rails, upon a written notice to that effect of six months being given to them or him by the council of the municipality of Port Elizabeth: And in the event

Extensions to be made if required by the municipality.

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of the said company or individual failing so to do after receipt of such notice, the said council shall be empowered, and are hereby authorized, to cause the same to be done for account, and at the cost of, the said company or individual, and the money so expended by the said council shall be immediately claimable and recoverable from the said company or individual as a first charge upon the plant and stock of the said company or individual: And provided also that in case the said line of tramway, or any extension thereof, or any portion of the same, shall not be completed within three years after the commencement thereof, the concession hereby given to the said company or individual for laying down the said line of tramway shall be null and void in respect to the said line or any extension thereof, or any incomplete part of the same, and the street or road which shall have been used by the said company or individual shall be restored to its original state and condition at the cost of the said company or individual.

Company to have exclusive use of tramway with flange wheels.

XXX. Until the council of the municipality of Port Elizabeth shall have given running powers over the said line of tramway under the powers conferred upon them in section 29, the said company shall have the exclusive use of the said tramway for carriages with flange wheels, or other wheels suitable only to run on the prescribed rail; provided, however, that the public shall have the right of passing along or across any part of a road in which a tramway is laid, whether on or off the tramway with carriages not having flange wheels.

Tramway to be laid down to the satisfaction of the municipality.

XXXI. The said tramway, and any extension thereof, shall be laid down and executed to the satisfaction and subject to the approval of the said council of the municipality of Port Elizabeth, and subject also to the existing contract between the gas company and the said municipality, and the roadway between the rails of the said tramway shall be maintained in good and efficient repair at the costs and charges of the said tramway company or individual, and all damage done to the said streets, or to any of the streets, roads, bridges, drains, and

other property of the said municipality by reason of any work or works performed and executed by the said company or individual shall in like manner, immediately, or as soon as practicable, be made good at the sole costs and charges of the said company or individual: Provided always that the council of the municipality of Port Elizabeth shall have the right at all times, at the costs and charges of the said company, to take up any part of the said tramway or extension thereof which it shall be found necessary to take up for the purpose of constructing, repairing, or cleaning, drains or sewers, or laying down or replacing water pipes, or for any other municipal or public purpose; and all such part or parts of the said tramway or extension thereof, so taken up as aforesaid shall be again properly relaid as speedily as possible at the cost and expense of the said company or individual: And provided also that if at any time, the said line of tramway or any extension, or any part thereof, shall be found to be injurious to the said municipality by prejudicially interfering with the public, the company or individual shall, upon twelve months' notice, having been given by the council of the said municipality, take up the line of tramway, or such portion thereof as may be objected to.

XXXII. Every person who shall wilfully do, or cause to be done, anything in such manner as to improperly obstruct any car or conveyance, using the said tramway, or the horses drawing the same, or to endanger the safety of persons conveyed in and upon the same, or who shall aid and assist therein, shall, on being convicted thereof, be liable to pay a fine of not more than five pounds, and in default of payment to imprisonment, with or without hard labour, for any term not exceeding one month, unless such fine shall be sooner paid.

Penalties for obstructing use of tramway.

XXXIII. If any person or persons shall drive or lead any wagon, cart, carriage, or other vehicle, or any horse or other animal, upon the line of the said tramway in such manner as to improperly obstruct or hinder any car or conveyance belonging to the said company, or shall refuse to remove such

Power to tramway officers to remove obstructions.

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obstruction, it shall be lawful for any officer of the said company, or any person whom he may call to his assistance, to remove such obstruction.

Ordinary street traffic not to be hindered.

XXXIV. Nothing in this Act contained shall authorize the said company, in any manner, to obstruct or hinder the safe passage or crossing of the ordinary traffic on the now existing roads and streets, but in all cases a sufficient space shall be left on both sides of the said roads or streets to allow all carriages, cattle, and passengers to pass the cars on the said tramway in a safe and convenient manner.

Power of directors to make contracts.

XXXV. The board of directors of the said company is hereby empowered to enter into contracts for the supply of work or materials necessary for constructing, maintaining, and working the said tramway, and may also appoint and employ engineers, overseers, masons, carpenters, navvies, and such other workmen as it may deem necessary for carrying out the provisions in that behalf of this Act, and also a secretary or manager, car-drivers, conductors, grooms, and other servants, and may remove or dismiss any such persons and employ other in their stead; and shall be authorized to fix the duties and salaries of such persons, and generally to do all matters and things necessary for the due and effective management of the affairs of the company.

When money may be borrowed on security of plant.

XXXVI. So soon as the whole of the capital of the company shall have been subscribed, and not less than one-third thereof shall have been paid up and expended, it shall be lawful for the directors from time to time (when duly authorized thereto by the shareholders by a special meeting convened for that purpose) to borrow money on the security of the tramway and plant, and the future calls on the shareholders, and of the expected earnings of the line; the interest on such loan to be a first charge on the net profits of the working of the tramway.

Tariff of charges to be made.

XXXVII. So soon as the line of tramway is in a fit condition for traffic, the directors for the time being shall frame a tariff of charges for the con-

veyance of passengers and goods, and such tariff shall be published in two of the local newspapers for general information ; Provided always that the rates so chargeable may from time to time be altered by the directors ; and the directors shall be entitled to recover, by legal process, all such charges as shall be in force for the time being from passengers and from the owners of goods, articles or things conveyed by the company on the said line, and shall, moreover, have the right of retaining such goods, articles, and things until the charges thereon shall have been duly paid.

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XXXVIII. The right to and property in all and singular the earthworks, bridges, culverts, materials, rolling stock, horses, and everthing appertaining to the said tramway to be constructed under this Act, as also all immovable or landed property which may be acquired by the company, shall be vested in two trustees, to be chosen by the directors for the time being from among their number.

Property to vest in two trustees.

XXXIX. In any action or other proceeding at law which may be brought by or against the said company, it shall and may be lawful for the company to sue and be sued by the corporate name of "The Port Elizabeth Tramway Company (Limited)," and all process of law which shall require to be served on the company in any such action or other proceeding may be served at the office of the company.

How company to sue or be sued.

XL. All contracts, agreements, powers of attorney, warrants to sue or to defend, bonds, debentures, and other documents which shall require to be signed by the directors on behalf of the company shall be deemed to be duly and sufficiently executed if signed by two of the said directors.

How contracts, &c. to be signed.

XLI. The chairman and directors and auditors for the time being may receive out of the clear profits of the said company such sum or sums of money, by way of remuneration for their trouble, as the majority of the shareholders shall determine at the annual general meeting.

Remuneration of directors and auditors.

XLII. The amount of dividends to be paid to the shareholders in the said company shall be deter-

Dividends

No. 30—1879.

mined by the directors for the time being, subject to the approval of the shareholders present at the annual general meeting; Provided at least one-tenth of the clear profits in each year shall be set aside to form a protecting fund to meet wear and tear and depreciation of stock, and that such funds shall be applied to no other purpose but the purchase of new stock.

Power to increase the capital.

XLIII. It shall be lawful for the said company at any time hereafter, by a resolution duly passed by a majority of two-thirds of the votes of the shareholders present at a special general meeting properly convened after notice given in manner as hereinbefore provided of the purpose of such meeting, to increase the capital of the said company to such further sum as may be required for the purpose of extending the said tramway in such manner as the said meeting shall decide.

How additional capital to be raised.

XLIV. Such additional capital shall be raised either by creating and issuing additional shares of five pounds each, or by increasing the value of the original shares, as the shareholders present at such meeting as last aforesaid shall decide.

Limitation of shares and of shareholders' liability.

XLV. No more than five pounds in all shall be due by way of additional capital in respect of any additional share or any increase of the value of the original shares; and the future liability of any shareholder arising out of any extension of the said tramway shall be and is hereby limited, in case of such extension, to the payment of a sum not exceeding five pounds per additional share, or the amount of the increased value of the original shares, as the case may be: Provided, however, that the issue of any additional shares may be made subject to such terms, as to bonus or premium thereon, as the shareholders may determine.

Additional shares to be paid for as in section 5.

XLVI. The amount of the additional shares, or of the increased value of the original shares shall be paid in manner as provided in the fifth section of this Act, and may be recovered in manner as provided in the sixth and seventh sections of this Act.

Definition of terms.

XLVII. In the construction of this Act, the words "the company" shall be held to mean the company

hereby incorporated; "directors" and "shareholders" to mean respectively the directors and shareholders for the time being of the said company; "local newspapers" to mean any of the public newspapers from time to time published in Port Elizabeth.

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XLVIII. If at any time the company shall meet with such losses, or if the business thereof shall be so unsuccessful as to exhaust, by such losses or by the expenses of the business, the reserve fund, and also one-fourth of the paid-up capital, then the directors shall forthwith call a special general meeting in manner hereinbefore provided, and shall submit to such meeting a full and complete statement of the affairs and concerns of the company, and thereupon the company shall be dissolved, unless a majority in votes of two-thirds of the shareholders present personally or by proxy shall resolve to continue and carry on the company, and shall undertake in writing to indemnify the dissentient shareholders against all the existing and future debts and engagements of the company, and to purchase the shares of such dissentient shareholders at such amount or price per share as shall be determined by the arbitrators to be chosen as in manner hereinafter provided.

Provisions for winding up company.

XLIX. In case it should be necessary to submit to arbitration any of the matters referred to in the twenty-ninth and forty-eighth sections in this Act, the question in dispute shall be submitted to the arbitrament and award of three impartial persons, one to be appointed by the company or the majority of the shareholders, and the other by the council or other parties interested, or the dissentient shareholders, and the said two arbitrators shall, before proceeding in the arbitration, choose a third arbitrator, the said three arbitrators to sit together, and the said company or majority of shareholders, shall cause a deed of submission to be prepared, which shall be signed by both parties interested, and which shall clearly set forth the matter to be determined by the said arbitrators, and the award of the said arbitrators or a majority of them, shall

Arbitration provided for.

90 HOUSE DUTY ACT, 1878, AMENDMENT ACT.

No. 30—1879.

be binding and conclusive, and may be pleaded in bar of any action or proceeding at law brought before a court, of the matter referred to arbitration.

Power to extend duration of company.

L. At the annual general meeting of shareholders, which shall be holden in the year 1899, it shall be lawful for the shareholders at such meeting, by resolution passed by a majority of votes, to extend the continuation of the company for a further period not exceeding twenty-one years, and it shall in like manner be lawful for the shareholders afterwards, from time to time, to extend the continuance of the company for a period or periods not exceeding twenty-one years.

Act to be in force till 1st August, 1900.

LI. This Act shall continue in force until the 1st August, 1900, and may be cited for all purposes as "The Port Elizabeth Tramway Company Act, 1879."

Repealed by 1882 Act 29.
No. 31—1879.] AN ACT [Sept. 11, 1879.

To Amend the "House Duty Act, 1878."

Preamble.

WHEREAS it is expedient to amend in certain respects the Act No. 20 of 1878, intituled an "Act to impose certain Duties on Houses:" 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:—

Returns to be made to Parliament only after each fresh valuation.

I. The return in section nineteen of the Act aforesaid, instead of being laid upon the table of both Houses of Parliament within thirty days after each meeting thereof in each year, shall be laid upon the table of both Houses only after, and as soon as can be after, the completion of each fresh valuation or revision of the valuation provided to be taken by section seven of the Act aforesaid.

Short title.

II. This Act may be cited for all purposes as the "House Duty Act, 1878, Amendment Act, 1879."

No. 32—1879.] AN ACT [Sept. 11, 1879.

To Alter in certain respects the Act No. 1 of 1872, known as the "Constitution Ordinance Amendment Act, 1872."

WHEREAS it is expedient that Act No. 1 of 1872, known as the "Constitution Ordinance Amendment Act, 1872," should be amended, by increasing the amount of the annual salaries heretofore paid thereunder to the officers mentioned in the seventh section of that 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:—

I. The seventh section of Act No. 1 of 1872 is hereby repealed. Preamble.
Section 7 of Act 1 of 1872 repealed.

II. There shall be paid for and during the year ending on the thirtieth day of June, one thousand eight hundred and eighty, and for and during every subsequent year, until Parliament shall otherwise determine, the following salaries, in lieu and instead of the salaries by the said seventh section of Act No. 1 of 1872 provided, that is to say: to the Colonial Secretary, the Treasurer of the Colony, the Attorney-General, the Commissioner of Crown Lands and Public Works, and the Secretary for Native Affairs, each the sum of one thousand five hundred pounds sterling. Additional salaries to ministers.

III. There shall also be paid to such of the said officers as shall be the prime minister of the colony for the time being, an additional sum of two hundred and fifty pounds per annum, for the period during which such officer shall be prime minister as aforesaid. Prime minister to receive £250 a year more than the other ministers.

92 AGRICULTURAL IMMIGRANTS' LAND EXTENSION ACT.

No. 33—1879.] AN ACT [Sept. 11, 1879.

To make Increased Provision for the Disposal of Crown Land in this Colony to Agriculturist Immigrants.

WHEREAS by Act No. 10 of 1877, provision was made for locating certain agricultural immigrants who had been or might thereafter be introduced into this colony upon crown land, and for enabling such persons to acquire such crown land upon certain terms and conditions: And whereas it is desirable to extend and in certain respects to alter the provisions of such Act, and also to make provisions to enable persons immigrating to this colony at their own expense to occupy and acquire crown land: 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:—

Repeal of repugnant laws.

I. So much of any law in force in this colony as is repugnant to, or inconsistent with, the provisions of this Act, is hereby repealed so far as such repugnance or inconsistency exists, but not further or otherwise.

Governor may assign to any agricultural immigrant arable land of not less than twenty acres.

II. When any crown land has been set apart as provided in the second section of Act No. 10 of 1877, it shall be lawful for any person or persons duly authorized in that behalf by the Governor, to assign to any agricultural immigrant, whether he shall have been introduced into this colony at the public expense, or partly at the public expense, or shall have immigrated entirely at his own expense, an arable lot not less than twenty acres out of such crown land, to be held by such immigrant on lease under the terms and conditions set forth in the third, fourth, and fifth sections of Act No. 10 of 1877.

Commonage to adjoin such lots.

III. Adjoining the arable lots, to be assigned as in the preceding section of this Act mentioned, in any location of agricultural immigrants as aforesaid, there shall be set aside certain land as com-

monage for the joint usage of all the holders of the said arable lots in such location, the extent of which commonage shall be such that if divided into lots equal in number with such arable lots, it would give to each holder of such lots not less than one hundred and eighty acres.

No. 33—1879.

IV. The use for grazing purposes but not otherwise of the said commonage lands in any such location as aforesaid, shall be enjoyed by the holders of the said arable lots free of all charge for the space of six years from the date of the assignment of the said lots to holders as aforesaid: Provided, however, that the Governor may, from time to time, by notice in the Government Gazette, issue such regulations regarding the quantity of stock to be depastured by each holder of lots, and regarding the general preservation of the said commonage for the benefit of the said holders of lots as he shall deem fit and proper.

Commonage rights to endure for six years.

Regulations as to quantity of stock.

V. At the expiration of six years from the date of assigning the said arable lots as hereinbefore provided, or at such time thereafter as the Governor may see fit, the said commonage lands adjoining them shall be divided into lots equal in number to the arable lots in the same area or location, and thereupon the holder of each arable lot shall be entitled to purchase one lot of divided commonage land under the provisions of the sixth and tenth sections of Act No. 14 of 1878, at an annual quitrent to be fixed for that purpose by the Governor: Provided, however, that such quitrent shall in no case exceed the sum of sixpence per acre: And provided, also, that the expenses of the survey of such commonage lots and of the erection of beacons thereon shall be paid by the respective purchasers of such lots.

At expiration of six years, commonage to be divided into lots and sold.

VI. In case the holder of any arable lot shall refuse to purchase a divided commonage lot as provided in the last preceding section, such commonage lot shall be dealt with as crown land under the provisions of Act No. 14 of 1878.

If holder of arable lot will not purchase.

VII. This Act may be cited as the "Agricultural Immigrants' Land Extension Act, 1879."

Short title.

No. 34—1879.] AN ACT [Sept. 11, 1879.

Repealed by 1916 Act 22

To enable the Governor to Borrow a Sum not exceeding £140,000 for the purpose of completing certain Railway Works.

Preamble.

WHEREAS it is expedient that certain additions shall be made to the existing railway station accommodation at Port Elizabeth: And whereas it is also necessary to provide house accommodation for tradesmen and others employed in maintaining and working the line of railway from East London to Queen's Town: And whereas it is necessary to provide the money required for carrying out both the above purposes: 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:—

Power to raise £140,000.

I. For the purpose of carrying out the works in the preamble to this Act mentioned, it shall be lawful for the Governor to raise from time to time, either by debentures or stock, or partly by debentures and partly by stock, a sum of money not exceeding the sum of £140,000, to be applied as follows, that is to say: a sum not exceeding £130,000 for the purpose of providing the said additional railway station accommodation at Port Elizabeth, and a sum not exceeding £10,000 for the purpose of providing the said house accommodation for employes on the line of railway between East London and Queen's Town.

Borrowing powers.

II. The several borrowing powers and other provisions contained in sections two and three of Act No. 6 of 1877 (together with the several subsections of such lastnamed sections) shall, mutatis mutandis, apply to all sums of money borrowed under the authority of this Act.

Accounts to be laid before Parliament.

III. An account shewing the amount of all stock and debentures issued from time to time under the authority of this Act, and of the moneys realized by the issue and sale thereof, and of the expenditure of all such moneys, or of so much thereof as shall

have been expended, and an account of the amount of such stock and debentures for the time being outstanding, vouched by the controller and auditor-general, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and the like accounts within fourteen days after the commencement of every succeeding session thereof.

No. 34—1879.

IV. All and singular the powers and authorities with regard to the taking and appropriation of land which are bestowed by previous Acts upon the Governor or any person charged by him in the making and maintenance of the railway from Bushman's River to Port Elizabeth are hereby bestowed upon him with regard to the extension of railway accommodation at Port Elizabeth.

Powers to appropriate land for extension of railway accommodation at Port Elizabeth.

V. This Act may be cited as the "Additional Railway Works Loan Act, 1879."

Short title.

No. 35—1879.] AN ACT [Sept. 11, 1879.

To Enable the Governor to Borrow a Sum not exceeding £100,000 for the purpose of introducing Immigrants into this Colony.

WHEREAS it is expedient to introduce into this colony from Europe or elsewhere, various classes of immigrants for the purpose of developing and adding to its resources: And whereas it is necessary to provide the moneys required for carrying out such introduction: 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.

I. It shall be lawful for the Governor to raise from time to time, on debentures or on stock, or partly on debentures and partly on stock, such sums of money not exceeding in the whole the sum of one hundred thousand pounds, for the purpose of bringing from Europe and introducing into this colony, the several

Power. to raise
£100,000

No. 35 1879.

classes of immigrants mentioned in the schedule to this Act annexed.

Borrowing powers.

II. The borrowing powers and other provisions contained in sections two and three of Act No. 6 of 1877 (together with the several subsections of the last-named sections) shall, *mutatis mutandis*, apply to all sums of money borrowed under the authority of this Act.

Accounts to be laid before Parliament.

III. An account showing the amount of all stock and debentures issued from time to time under the authority of this Act, and of the moneys realised by the issue and sale thereof, and of the expenditure of all such moneys or of so much thereof as shall have been expended, and an account of the amount of such stock and debentures for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, vouched by the controller and auditor-general, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and the like accounts within fourteen days after the commencement of each succeeding session thereof.

Governor to issue regulation for conducting immigration.

IV. The immigration under this Act shall be conducted upon such terms and under such limitations and conditions as the Governor may from time to time see fit to determine.

Short title.

V. This Act may be cited as the "Immigration Loan Act, 1879."

SCHEDULE.

The classes of immigrants to be introduced under this Act shall be the following:—

I. Agriculturists, to be located on certain crown lands of the colony, under the provisions of any statute which may be enacted by the legislature; also the families of such agriculturists.

II. Agriculturists, agricultural labourers, mechanics, artizans, and other skilled workmen who may be willing to immigrate to the colony under contract of service with employers of such labour; also such agricultural labourers and their families as may be introduced by Government into this colony.

No. 36—1879.] AN ACT [Sept. 11, 1879.

For Constituting certain Districts of this Colony
Divisions.

WHEREAS it is expedient that several of the Preamble. districts of this colony should be constituted divisions for fiscal purposes: And whereas it is expedient to enable the said districts whenever the Governor may deem it necessary to have and possess its own divisional council: And whereas it is at the same time expedient that the several electoral divisions of the colony, as they are at present constituted and by law exist, should not be altered or affected by 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 the House of Assembly thereof, as follows:—

I. So much of the Ordinance for constituting a Repeal of repugnant laws. Parliament in this colony, and commonly called the “Constitution Ordinance,” and so much of any other Ordinance, Act of Parliament, or other statutory enactment as may be repugnant to or inconsistent with this Act, are hereby repealed.

II. Each of the several districts named in the Districts named in Schedule may be proclaimed divisions. schedule to this Act shall, from and after the date of any proclamation to be issued for that purpose by the Governor and published in the Government Gazette, become and be a division for fiscal purposes.

III. Every proclamation in the last preceding Boundaries to be defined. 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.

IV. From and after the date of any proclamation Divisional councils of divisions affected by any such proclamation. issued by the Governor in that behalf and published in the Government Gazette, the divisional council for the time being of every division to which any of the said districts so constituted divisions for fiscal purposes only and named in such proclama-

No. 36—1879.

tion 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 such district bounded as aforesaid, and to the divisions to which such district, by any such proclamation constituted divisions or any part of such district 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.

V. 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 proclamation in the fourth section mentioned 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.

No change of electoral divisions.

VI. 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.

VII. This Act may be cited as the "Fiscal Divisions Extension Act, 1879."

SCHEDULE.

No. 36—1879.

- | | |
|----------------|------------------|
| 1. Barkly | 9. Komgha |
| 2. Carnarvon | 10. Simon's Town |
| 3. Cathcart | 11. Stutterheim |
| 4. Glen Grey | 12. Uniondale |
| 5. Hanover | 13. Willowmore |
| 6. Herschel | 14. Aberdeen |
| 7. Jansenville | 15. Tarka |
| 8. Ladysmith | 16. Port Nolloth |

Repealed by 1889 Act. 40
 No. 37—1879.] AN ACT [Sept. 11, 1879.

To Add to the efficiency of Act No. 11 of 1877.

WHEREAS it is expedient to afford additional Preamble. protection to the owners of enclosed lands over which public roads, paths, or tracks may pass: Be it therefore enacted by the Governor of the Cape of Good Hope, with the consent of the Legislative Council and House of Assembly thereof, as follows:—

I. Any person not being the owner or occupier, or not being thereto duly authorized by the owner or occupier, mentioned in the fifth section of Act No. 11 of 1877, who shall open or unfasten any gate erected or provided in pursuance of the provisions of the said section, except for the purpose of then and there passing through the same with or without any vehicle or animals in his care, or of enabling some other person or persons so to pass, shall, upon conviction before any resident magistrate or special justice of the peace, be liable to a penalty of not exceeding twenty shillings, or in default of payment thereof, to imprisonment with or without hard labour for any term not exceeding fourteen days, unless such fine be sooner paid.

Penalties for opening gates authorized to be erected by Act 11 of 1877, except for purpose of passing through.

II. Any person not being such owner or occupier or duly authorized agent as aforesaid, who shall pass through any such gate as in the preceding section mentioned, and who shall not immediately after so passing through the same, with or without any vehicle or animals in his care, close and fasten such gate, or cause the same to be closed and

Penalties for not closing such gates.

No. 37--1879.

fastened, shall be liable on conviction before any resident magistrate or special justice of the peace, to a penalty of not exceeding twenty shillings or in default of payment thereof, to imprisonment, with or without hard labour, for any period not exceeding fourteen days, unless such fine be sooner paid.

Short title.

III. This Act may be cited "The Roads Act 1877 Amendment Act, 1879."

No. 38—1879.] AN ACT [Sept. 11, 1879.

To Empower the Governor to raise a sum not exceeding £60,000, for the purpose of constructing certain Lines of Telegraph.

reamble.

WHEREAS it is desirable to construct certain lines of telegraph not heretofore provided for: And whereas it is desirable that a sum not exceeding £60,000 sterling should be raised for the purpose of the said construction: 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:—

Authority to raise £60,000.

I. It shall be lawful for the Governor to raise and take up upon debentures or stock, or partly upon debentures and partly upon stock, such sum or sums of money not exceeding in the whole the sum of £60,000 sterling, for the purpose of constructing the lines of telegraph, in the schedule to this Act mentioned.

Borrowing powers

II. The several borrowing powers and other provisions contained in sections two and three of Act No. 6 of 1877 (together with the several subsections of such lastnamed section), shall, mutatis mutandis, apply to all sums of money borrowed under the authority of this Act.

Accounts to be laid before Parliament

III. An account, showing the amount of all stock and debentures issued from time to time under the authority of this Act, and of the moneys realised by the issue and sale thereof, and of the expenditure of all such moneys, or of so much thereof as shall have

been expended, and an account of the amount of such stock and debentures for the time being outstanding, vouched by the controller and auditor-general, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and the like accounts within fourteen days after the commencement of every succeeding session thereof.

IV. It shall be lawful to expend, for the purposes recited in the schedule, so much of the loan authorized under Act No. 8 of 1877 as may not be expended in the completion of the work for which the said loan was intended.

Certain funds under Act 8 of 1877 may be used.

V. This Act may be cited as the "Telegraph Loan Act, 1879." Short title.

SCHEDULE.

1. Aliwal North to Maseru	... ..	£14,000
2. Richmond to Hope Town, <i>via</i> Hanover and Philip's Town	... ..	15,000
3. Bitterwater to Carnarvon, <i>via</i> Fraserberg	... ..	14,000
4. Worcester to Montagu, <i>via</i> Robertson	... ..	3,000
5. George to Knysna	... ..	1,700
6. Avontuur to Uniondale, Fort Beaufort, to King William's Town (for a second wire)	1,300	
7. Piquetberg Road Station to Calvinia, <i>via</i> Porterville, Piketberg, and Clanwilliam	17,500	
		£66,500

No. 39—1879.] AN ACT [Sept. 11, 1879.

For the Incorporation of the Municipality of Queen's Town.

WHEREAS it is expedient that the municipality of Queen's Town shall be incorporated and shall have perpetual succession, and possess, exercise, and enjoy all the rights and privileges which municipal corporations can or may possess, exer- reamble.

No. 39—1879.

cise, or enjoy 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 thereof, as follows:—

Repeal of repugnant laws.

I. The Ordinances No. 9 of 1836, No. 2 of 1844, No. 8 of 1848, No. 5 of 1852, and the Act No. 13 of 1864, in so far as the same are applicable to the municipality of Queen's Town, shall continue to be of legal force and operative as heretofore, until after the first election of councillors, as provided for in and by this Act; and immediately upon and after the names of the councillors shall have been published, as hereinafter provided, the said Ordinances and Act, in so far as the same apply as aforesaid, and also so much of the Act No. 8 of 1877 or any other law as is inconsistent with this Act, shall be and the same are hereby repealed: Provided that the municipal regulations in force at the time of taking effect of this Act shall continue to be in force and operation until such time as the same shall be altered or new ones published under this Act; and provided also, that the commissioners and officers of the municipality who may be in office at the time of the taking effect of this Act shall, until after the first election of councillors under this Act, remain in office, and exercise all such powers and authorities as previous to the taking effect of this Act were vested in them; and provided also, that all municipal rates assessed before the taking effect of this Act, and then due and in arrear, shall be deemed and taken to have been assessed under this Act, and the assessment roll in use at the time of the taking effect of this Act shall continue to be used until a new one shall be completed under this Act.

Area of municipality defined.

II. The area of the municipality of Queen's Town shall comprise all lands within the limits bounded by the following farms, namely, Providence, Long Vale, Cathcart Place, Queen's Park, Royden, Rathwick, Maidenhead and Weltevreden. The town or municipality proper of Queen's Town shall comprehend the lands situate within the beacons

1—10, both inclusive, as shown on the plan signed by the chairman of the committees of the Legislative Council and House of Assembly, counterparts of which plan are also deposited in the office of the registrar of deeds in this colony at Cape Town, of the civil commissioner for the division of Queen's Town, and of the town clerk of Queen's Town: and all ungranted lands within the municipal boundaries aforesaid beyond the limits of the town or municipality proper shall be the common pasturage lands of the town or municipality.

III. There shall be in the said municipality a ^{Municipality created} body corporate, which shall take and bear the name of "the mayor, councillors, and townsmen of Queen's Town," and by that name shall have perpetual succession, and sue and be sued, and shall have a common seal; and shall, by the council thereof, do all acts, and have and enjoy all the rights and privileges which bodies corporate, as such, may, do, and have.

IV. The council of the said municipality shall consist of twelve members, one of whom shall be the mayor. ^{Council to consist of twelve members.}

V. The said municipality proper shall consist of ^{Wards—their boundaries defined.} four wards, as follows:—

Ward No. 1—or north-east ward—bounded south by Ebdon-street, west by Robinson-road and Shepstone-street; north by town boundary; east by town boundary.

Ward No. 2—or south-west ward—bounded north by Ebdon-street; west by Robinson-road and Bowker-street; south by town boundary; west by town boundary.

Ward No. 3—or south-west ward—bounded east by Robinson-road and Bowker-street; north by Cathcart-road; south by town boundary; east by town boundary.

Ward No. 4—or north-west ward—bounded east by Robinson-road and Shepstone-street; south by Cathcart-road; west by town boundary; north by town boundary.

VI. The said council may, from time to time, if ^{Power to alter boundaries of wards.} they think fit, alter the boundaries of all, or any,

No. 39—1879.

or either, of the said wards, and extend the limits of the town or municipality proper, and may for that purpose purchase and hold adjoining properties for the purpose of extending the common pasturage lands, provided that the council shall, before making any such alteration, increase, extension, or purchase, give, in one or more of the newspapers published in Queen's Town, public notice of the alteration, increase, extension, or purchase intended to be made; which notice shall be published for not less than thirty-one days before any such alteration, increase, extension, or purchase shall be made; and a copy of the same shall also be posted in some conspicuous place upon or near the municipal office or market-place: and in case six townsmen, or more, or any other person who may consider that his rights will be interfered with by the proposed purchase, shall, within the time aforesaid, object to the same in writing, or to the objects, terms and conditions thereof, the notice and the objections shall be forwarded to the Governor for his consideration and decision; and in case such decision shall be in favour of the council, but not otherwise, the council may complete the proposed purchase aforesaid.

Three councillors for each ward.

VII. Three councillors shall be elected for each ward in manner hereinafter mentioned.

Who eligible to be elected councillors.

VIII. Every male person of full age not disqualified as by the eleventh section of this Act mentioned, who for six months at least immediately preceding the day of election of councillors or a councillor for any ward, has resided within the limits of the said municipality, and been the owner of any immovable property therein of the assessed value of not less than £300, in regard to which property no municipal rate shall at the time of such election be due and in arrear, and no other person, shall be eligible to be elected a councillor for any ward; provided that different properties owned as aforesaid, in immediate succession shall satisfy this section as fully and effectually as if they had been one and the same property: Provided further, that no person shall be eligible to be a candidate or qualified to be elected

a councillor for any ward unless he shall have been invited to become such candidate by a requisition, signed by at least five qualified voters of such a ward, and shall have transmitted such requisition, with his acceptance thereof, to the town clerk, at his office between the hours of ten a.m. and three p.m. on some day at least fourteen days before such election is appointed to take place.

No. 39—1878.

IX. Every male person of full age, not disqualified as in the said eleventh section mentioned, who is the owner or occupier of any immovable property in any ward valued on the assessment roll of the municipal commissioners in force at the time of the taking effect of this Act at the sum of £150, or upwards, in regard to which property no municipal rate shall be due and in arrear, shall be qualified and entitled to vote at the first election of councillors for such ward to be held under this Act, and at every public municipal meeting to be held either for the municipality or such ward until lists as hereinafter mentioned shall have been settled under this Act. After such last-mentioned lists shall have been settled, every male person of full age, not disqualified as in the said eleventh section mentioned, whose name shall appear as the person liable to pay rates in respect of immovable property of the value of £150 and upwards in the lists of the ward which shall have been settled next immediately preceding the then election or meeting as aforesaid, and in respect of which property no municipal rate shall be due and in arrear, and no other person, shall be qualified and entitled to vote at the election of a councillor or councillors for such ward or at any such meeting as aforesaid; 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.

Who entitled to vote at election.

X. When any property as aforesaid is occupied by more persons than one, each of such co-occupiers shall, subject to the provisions in the preceding section mentioned, be entitled to vote in respect of such property, provided the value of such property,

Joint occupiers.

No. 39—1879.

when divided by the number of such co-occupiers shall be equal to the sum of £150 for each such co-occupier.

Persons disqualified.

XI. The following persons shall be disqualified from voting or being elected as councillors at any election under this Act: persons who have been convicted of treason, murder, rape, theft, receiving stolen goods knowing them to have been stolen, fraud, perjury, forgery, or any attempt to commit any of such offences, and who shall not have received a free pardon.

Lists of voters to be made.

XII. On or before the first Monday in November next after the passing of this Act, and afterwards on or before the first Monday in November, but not earlier than the fifteenth October, in every year, the town clerk, shall cause a list to be made in alphabetical order, for each ward, of all male persons qualified to vote at the election of councillors for each ward, setting forth the Christian and surname of each at full length, the place of his abode, and the nature of his qualification.

Publication of such lists.

XIII. The chairman of the commissioners, for the municipality of Queen's Town, until the appointment of a mayor, and afterwards the mayor, shall forthwith cause such lists to be published by affixing the same to some conspicuous place upon or near the municipal office or market-place; and to every list so published shall be subjoined a notice, signed by such chairman or mayor, that all objections thereto and claims to be inserted therein will be heard and determined at some time and place to be named in such notice and to be fixed by the said chairman or mayor.

Court to be held to hear objections to lists.

XIV. On the day named in the notice in the last preceding section mentioned, the said chairman of the commissioners for the municipality of Queen's Town, and two commissioners, until the appointment of a mayor and council under this Act, and afterwards the mayor and two councillors, to be selected for that purpose by the commissioners or councillors, as the case may be, shall have the power, after hearing objections and claims in open court, to strike out of any list the names of persons not entitled to

be therein, and also to insert in any list the names of all persons entitled to be, but not appearing in, such list.

No. 39—1879.

XV. The lists so settled shall be called "The Townsmen's Roll of Queen's Town," and shall be brought into use on the first day of January in each year, and shall continue to be used until the next succeeding list shall be brought into use.

"The Townsmen's Roll of Queen's Town."

XVI. The said chairman of the commissioners, and afterwards the mayor, shall immediately after the settlement of such roll publish the same, in accordance with the sixty-second section of this Act.

Roll to be published in manner provided in Section 62.

XVII. On the last Monday in February next, after the passing of this Act, an election shall be held for twelve councillors, being three for each ward, and thenceforth on the last Monday in February in each succeeding year an election shall take place for four councillors, being one for each ward. All occasional vacancies shall be filled up as after mentioned.

When elections to take place.

XVIII. The said chairman of the commissioners, until the appointment of a mayor under this Act, and thereafter the mayor, shall at least twenty-eight days before the day appointed for the election of a councillor or councillors, by notice to be published as hereinafter provided, notify the times and places at which, and the ward or wards for which, the election or elections will be held, and shall by such notice require that all requisitions and acceptances thereof under the eighth section of this Act be sent in to him fourteen days at least before the day appointed for such election.

Twenty-eight days' notice of elections.

XIX. The said chairman of the commissioners, until the appointment of a mayor under this Act, and thereafter the mayor, shall, at least ten days before the day appointed for any election, cause the names of the candidates and the names of the persons who have signed the requisitions to them, as aforesaid, to be published in one or more of the local newspapers and by affixing the same on some conspicuous place upon or near the municipal office or market-place.

Ten days' publication of names of candidates.

No. 39—1870.

Polling officer to be appointed.

XX. Every meeting for the election of a councillor or councillors shall be presided over by a polling officer, to be appointed for that purpose by the mayor, or, before the appointment of a mayor under this Act, by the said chairman of the commissioners. The poll shall commence at eight o'clock in the forenoon, and close at three o'clock in the afternoon of the same day.

Each elector may vote for the number of councillors required in his ward.

XXI. At every election of a councillor or councillors every person whose name appears on the townsmen's roll for any ward then in use (a copy of which shall be furnished to each polling officer for his guidance at such election), shall be entitled to vote in such ward in person for any candidates not being more than the number to be elected for such ward, but not elsewhere or otherwise.

Voting by ballot;

XXII. The votes shall be taken by ballot in manner following; that is to say, every voter shall in the polling booth, in the presence of the polling officer, set his name on a paper provided by the returning officer, against the name of the candidate or candidates for whom he intends to vote, and hand the same to the polling officer, who shall forthwith deposit such paper in a locked-up box to be provided for the reception of such papers, and such box shall not be opened until after the close of the poll, and then only by the said chairman of the commissioners or mayor, as the case may be, in the presence of the polling officer only. No voter shall be allowed to give more than one vote to one candidate.

The only enquiries to be made of person tendering his vote.

XXIII. No inquiry shall, at any election, be permitted to be made as to the right of any person to vote, except as follows, that is to say, the polling officer may, of himself, or at the request of any qualified voter, put to any voter the following questions, or either of them, and no others—

- 1st. Are you the person whose name appears as A.B. on the townsmen's roll of Queen's Town and on the voting paper now handed in by you?
- 2nd. Have all municipal rates assessed upon the immovable property now occupied by you been paid?

And in case it shall be proved to the satisfaction of the polling officer, before accepting the voting paper, or of the chairman or mayor, as the case may be, before declaring the poll, that the person has made a false answer to either of such questions, the polling officer shall reject, and the mayor expunge, the vote of such person.

No. 39—1879.

XXIV. If any person shall wilfully make a false answer to either of the above questions, he shall, in addition to the disqualifications before mentioned, be liable to a penalty not exceeding £10, to be recovered in the court of the resident magistrate, and in default of payment may be imprisoned for a period not exceeding one month.

Penalty for false answers.

XXV. All candidates shall be entitled to be present, either personally, or by one proxy for each candidate, in the polling booth (but not at the polling table, which shall be properly isolated), during the time the polling is going on, but shall not interfere in any manner in the election. Any person interfering in the election, or holding intercourse in the polling booth with any voter previous to such voter recording his vote, may be forthwith removed from the polling booth, and prohibited from entering the same during the hours of election; and any person so interfering and refusing to obey the orders of the polling officer to leave the booth, or re-entering the same during the hours aforesaid, shall for each act of interference be liable to a penalty of not more than five pounds, to be recovered in the court of the resident magistrate.

Candidates may be present.

XXVI. In the event of the number of duly qualified candidates invited to stand as councillors for any particular ward, and accepting the requisition mentioned in section eight, being the number required to fill the vacancies in the representation of such ward, the mayor, or, before the appointment of a mayor, the said chairman of the commissioners, shall forthwith declare such candidate or candidates duly elected.

When number of candidates only equal to number of vacancies.

XXVII. On the opening of the ballot box, as hereinbefore mentioned, the person or persons having the greatest number of votes duly recorded

In case of equality of votes, result to be determined by lot.

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shall be taken to be duly elected; but if at any election the ballot shall, by reason of an equality of votes, be rendered indecisive, the returning officer shall thereupon publicly determine by lot which of the persons for whom an equality of votes has been given shall be elected.

Names of successful candidates to be published.

XXVIII. When the said chairman of the commissioners, or the mayor, as the case may be, has ascertained the names of the persons so elected, he shall forthwith cause a list thereof, with the names of the wards for which they are respectively elected, to be published in one or more of the local newspapers.

How seats to be vacated in rotation.

XXIX. Of the persons so elected as before-mentioned, the councillor for each ward respectively who shall have been elected by the smallest number of votes shall vacate his seat at the expiration of one year from the first day of March next, after the passing of this Act; and the councillor who shall have been elected by the next smallest number of votes shall vacate his seat at the end of two years from the said first day of March; and the councillor who shall have been elected by the greatest number of votes shall vacate his seat at the expiration of three years from the said first day of March; and upon the retirement of such councillors respectively, they shall be succeeded by councillors who shall be elected as hereinbefore provided, so that at every subsequent yearly election there shall be elected one councillor for each ward, who shall enter on his office on the 1st day of March in each year, and continue therein for three years thereafter; and every retiring councillor shall be eligible for re-election,—provided that in case, by reason of any two or more councillors in any ward having been elected by an equal number of votes, or in the event of the election having been an uncontested one, it shall be uncertain in what rotation they shall vacate their seats, the mayor shall, at the first meeting of councillors, decide by lot the rotation in which such persons shall retire.

Choice of mayor.

XXX. On the day following the first general election of councillors under this Act, the councillors shall choose by ballot from among them-

selves, by a majority of votes of the councillors present, the mayor of the town, who shall hold office for one year; and thereafter on the day following every annual election of councillors, the councillors for the time being shall in like manner choose from among themselves the mayor of the town for the ensuing year, and such mayor shall forthwith enter upon his office, and shall continue therein for the year next ensuing,—provided that the chair at any meeting of the council for the election of mayor shall be taken by some member of the council chosen by a majority of votes of the councillors present, and in case of equality of votes, by lot, who is not a candidate for the office of mayor; and provided also, that any person who may have filled, or who may hold, the office of mayor may be re-elected to such office. In case of an equality of votes at any election of mayor, the question between the candidates having such an equal number of votes shall be determined by the presiding councillor by lot.

XXXI. At the second ordinary meeting after the annual election of councillors, the council shall appoint from amongst the townsmen two persons to be auditors of the accounts of the council, who shall continue in office until the same day in the following year, subject to the provisions of section thirty-three of this Act: Provided that no person shall be eligible to be an auditor who shall be a councillor, treasurer, clerk, or other officer of the municipality; and in case of an equality of votes at any election of auditors, the mayor shall determine by his casting vote which of the persons for whom an equal number of votes shall have been given shall be elected, in case such persons cannot both be elected.

Appointment of auditors.

XXXII. If the mayor or any councillor shall die, resign, become insolvent, assign his estate for the benefit of his creditors, or be absent from the ordinary meetings of the council for a period of one calendar month without the leave of the council (such leave in no case to be for more than three months during the year of office), his office shall be declared vacant, and another mayor or councillor, as the case may be, shall be chosen or elected in his place in

In case of death, resignation, &c., of councillors.

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manner aforesaid, and shall hold office for the remainder of the term for which the mayor or councillor, who has vacated office would otherwise have remained in office: and provided that the mayor shall in no case resign his office without giving one month's notice to the council.

The like of auditors.

XXXIII. If any auditor shall die, resign, assign his estate, become insolvent or incompetent, or in any way disqualified, his office shall at once become and be declared vacant, and the council shall, at the first ordinary meeting thereafter, appoint another auditor to fill the vacancy.

No councillor to be contractor with the municipality except as shareholder in a public company.

XXXIV. No member of the council, or person holding any office in the gift or disposal thereof, shall, directly or indirectly, have any share or interest in any contract with or employment by the council otherwise than as a shareholder in any bank or fire insurance company, with which such council may transact business, or shall receive any fee, reward, or compensation for any vote given, or act performed, in his capacity as councillor or officer. Any such councillor or officer who shall contravene the provisions of this section shall thenceforward cease to be a member of the council, or to hold such office as aforesaid, and in case of an officer, shall not be entitled to any pension or compensation for loss of office, and shall further be liable to a penalty not exceeding fifty pounds: provided that nothing herein contained shall apply to the case of a lease *bona fide* entered into between the council and a councillor or officer, as landlord and tenant, or to the case of an officer of the council receiving the ordinary salary or remuneration for the performance of the duties of his office.

Powers and authorities of the Council.

XXXV. The council shall have power and authority to do the following acts:—

To make, construct, alter, keep clean and in repair the roads, streets, dams, furrows, sewers, drains, culverts, and bridges within the limits of the municipality.

To excavate, construct, and lay down within the limits of the municipality, water courses, water pipes, conduits, sluices dams,

reservoirs, aqueducts, wells, and other works for supplying the inhabitants of the municipality with water, and to keep the same in repair, or to grant leave to any person, or company of persons, to lay down pipes or to execute any other like works.

- To make provision for the prevention and extinguishment of fires, and for that purpose to provide and keep fire-engines, with hose, pipes, and all necessary utensils, and to establish and to maintain a fire brigade.
- To establish, alter, regulate, and maintain markets and fairs, and to set apart places for that purpose.
- To light or provide for the lighting of the streets.
- To hold, occupy, lease, or purchase any land, and to erect, lease, or purchase, maintain and keep in repair, any building or buildings for any municipal requirement or purpose.
- To lease, purchase, or erect and maintain such school buildings and manage such schools as the council shall, from time to time, think proper, and the exigencies of the times may render necessary and advisable ; 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 should be required under any Act which may now be or may hereafter be in force for this purpose : Provided always that the ordinary revenue of the town be not used in the erection of any school buildings.
- To cause all buildings, which shall be certified in writing by any three master builders to be unsafe to the public, to be placed in a state of security, and, if necessary, removed at the expense of the owners

- of such buildings : Provided that notice in writing shall have been first given by the council to the owner or owners of such buildings, that such buildings are in a state of insecurity, and that the same must be removed or placed in a state of security within a reasonable time.
- To cause all buildings used by the public capable of containing more than four hundred persons to be provided with sufficient and proper means of egress in cases of fire or panic.
 - To erect and maintain proper weighing machines for ascertaining the weight of wagons and other carriages and their loads.
 - To grant permits or licences for any purposes to be defined by the municipal regulations, and to make such charges for the same as may be so defined.
 - To levy tolls and dues, as hereinafter provided.
 - To make such provisions for the isolation of cases of dangerous contagious diseases affecting persons or animals within the municipality, and for the suppression and prevention of the same as shall be necessary from time to time and according to law.
 - To define the width and direction of such streets as may be made on private property by the owners thereof ; which streets, when so defined, shall thereupon, upon application by the owners of the property, become public streets.
 - To make provision for the removal and disposal of all night soil, stable litter, excrement, filth, slops, and refuse from public and private premises and from the streets, and to construct and maintain cemeteries, and generally to devise and carry out all such measures as shall appear to the council to the advantage and convenience of the townsmen.

To establish and provide for the management of public pounds within the said municipal limits.

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To assize weights and measures according to the standard in force.

XXXVI. The provisions of Act No. 15 of 1857, entitled "An Act for enabling municipalities to obtain additional police by contributing towards the expense thereof," shall, mutatis mutandis, continue applicable to the municipality of Queen's Town hereby constituted; the words "town council" being read in place of the words "municipal commissioners" or "commissioners."

Provisions of Act 15 of 1857 to apply.

XXXVII. It shall be lawful for the council at any meeting at which not less than nine of the members shall be present, by resolution agreed to by a majority of not less than two-thirds of those so present, to frame bye-laws, rules, and regulations as to the registration of births and deaths within the municipality,—the inspection of public and private wells, tanks, cisterns and reservoirs, and the temporary or permanent closing of any such in which the water is so polluted as to be injurious to public health,—the inspection, construction and cleaning of ashpits, privies, cesspools, and middens, and of stables, kraals, and enclosures wherein horses, horned cattle, sheep, goats, pigs, or other live stock may be stabled, kraaled, or kept,—the times and places for slaughtering cattle, sheep or goats, within the municipality, and the state and condition of slaughter-houses or enclosures, skin stores, tanneries, and woolwasheries within the municipality,—the confining or killing of dogs, pigs, goats, and fowls,—the appointment of one or more competent persons to examine meat and other provisions, milk, spirituous, and other drinks offered for sale, and who, in case such meat, provisions or drinks be found unfit for human food or drink, shall be empowered to cause the same to be destroyed,—the prevention, abatement, and removal of nuisances, and the recovery of the expenses thereby incurred from the person or persons committing or permitting such nuisances,—

How bye-laws and regulations to be framed.

Repealed by 1923 Act 21 Sec. 1 in so far as it relates to native and native locations

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*a note on
page 115*

the undue obstruction of the public streets and footpaths by carriages or otherwise, and securing that the footpaths shall be for the use and enjoyment of foot passengers,—as to the registration, rates of charges and conduct of coolies,—to make all such sanitary and other regulations for the preservation of the health of the inhabitants of the town, and of natives and others residing or staying within the native location, as may be deemed advisable,—as to the management of the common pasturage lands of the municipality,—as to the portion or portions of the commonage upon which carriers and others frequenting or passing through the municipality, or attending the markets thereof, may depasture their stock,—as to the establishment, continuance, management and regulation of public pounds within the municipality,—the erection of toll bars and the imposition of tolls for the maintenance and repairs of the public streets and roads within the municipality,—as to the user or non-user of the streets and public places within the municipality for holding of public auctions and the imposition of reasonable tolls and dues to be paid to the council in respect of such use,—the granting of licences or permits for digging or getting brick-clay or gravel, or quarrying stone, or cutting firewood on the commonage,—and generally as may seem meet for the good rule and government of the municipality, and as may be expedient for the proper working of the powers thereby given, and as may appear necessary for the purpose of carrying out all such measures as shall appear to the council to be for the benefit, convenience, or improvement of the municipality, and of the health and comfort of the inhabitants thereof, with power, from time to time, to alter, vary or rescind all or any of such bye-laws, rules and regulations, and to frame such others as may, from time to time, appear expedient; provided that no such bye-law, rule, or regulation, nor any alteration, variation, or rescindment thereof, shall be of force until the same has been published, as is in the sixty-second section of this Act provided, for twenty-eight days (together with a notice calling

upon all townsmen who may have any objections to the same, to lodge such objections in writing within the period aforesaid), and thereafter shall have been submitted by the council to the Governor (together with the objections, if any, that may have been so lodged), and shall have been approved of by him with the advice of the executive council, and published in the Government Gazette.

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XXXVIII. After any municipal bye-law, rule or regulation shall have been so published as aforesaid, it shall not be necessary in any proceeding founded upon it to prove that the required number of members of the council was present at the meeting at which such bye-law, rule, or regulation was framed.

Not necessary to prove quorum present at framing bye-laws.

XXXIX. It shall be competent for the council by any such bye-law, rule or regulation as aforesaid, to provide for punishing the contravention thereof by a fine in certain cases of not exceeding five pounds, and in default of payment of such fine by imprisonment for any period prescribed by such regulation, not exceeding three months, unless such fine be sooner paid : Provided the bye-laws, rules, and regulations, the breach of any one of which shall render the persons so contravening liable to a penalty, shall be specially enumerated, stating the penalty attaching to the breach of such bye-law, rule, or regulation.

Provisions for punishment of contravention of bye-laws.

XL. It shall be lawful for the council, by any municipal regulation as aforesaid, to impose such toll or dues as may be reasonable on all persons making use of any road, street, bridge or market-place within the municipality, which the council is hereby empowered to make or maintain, and in case of non-payment thereof, to recover the same by legal process, or in such other manner as may by any such municipal regulation be in that behalf provided : but no toll shall be payable by any officer or private of Her Majesty's forces, or any colonial police, volunteer or other force, or by any judicial or civil officer, mail carrier, or other Government servant, while travelling on public duty ; and no more than one toll shall be payable in any one day, to be computed from twelve o'clock in one night to

Power as to establishing tolls and dues.

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Water servitudes to be vested in municipality.

twelve o'clock the next succeeding night, for or in respect of the same vehicle or animal.

XLI. From and after the passing of this Act, and by virtue thereof, the benefit of the servitudes in favour of the municipal commissioners of Queen's Town in times of drought and scarcity of water in the river Komani at Queen's Town contained in the original grants of the following farms abutting on the river Komani, namely: Clifton Vale, Prospect, Rockwood, Groenfontein, Everton, Aloe Grove, Long Vale, Cathcart Place, and Queen's Park, shall be vested in the said commissioners.

All other servitudes of late municipality transferred to the one now created.

XLII. All property and servitudes heretofore or by this Act vested in the said commissioners, or chairman of the commissioners, and all unsold erven within the municipality's limits, and all municipal pasturage lands shall, after the taking effect of this Act, and by virtue thereof, are hereby and shall be transferred to and vested in the corporation hereby created, or to and in the mayor respectively, upon the like trusts and purposes for which the same were originally granted or transferred, and, as to such erven and pasturage lands, subject to the provisions for the sale, leasing, or other disposition thereof hereinafter contained; and in like manner all liabilities or debts lawfully incurred, and contracts lawfully entered into by the aforesaid commissioners, acting for and on behalf of the said municipality, shall become the liabilities, debts, contracts, and engagements of the said corporation, and all expenses, incurred in the passing of this Act shall also in like manner be charged to the corporation herein created.

Also debts and liabilities.

Power to raise money on mortgage or debentures with Governor's authority.

XLIII. It shall be lawful for the council, by virtue of a resolution to that effect passed at any ordinary meeting at which at least nine members are present by resolution assented to by a majority of not less than two-thirds, and with the consent of the Governor, to be duly certified by writing under the hand of some proper officer, to raise by public sale or by mortgage of any land or property vested in the said council, or by debentures or other securities charged upon such land or property, any sum of money

which shall be necessary to carry on any important public work or other municipal purpose which the council shall deem desirable, and the Governor shall approve of; provided that the said council shall, before applying to the Governor for his consent, give continuous public notice of at least one month of their intention to apply for such consent, in which notice shall be given a full and clear statement of the situation, nature and extent of the land or property proposed to be sold or mortgaged, or charged by these debentures or other securities, and of the object or purpose for which the money to arise from such sale, mortgage, or issue of debentures or other securities is required; and which notice shall further call for objections to such sale, mortgage, or issue of debentures, or to such object or purpose to be lodged with the council in writing; which objections, mutatis mutandis, shall be dealt with in manner provided for objections according to section 6 of this Act.

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XLIV. As often as the said council shall raise money by the issue of debentures to be charged upon any land or property as aforesaid, the council shall execute to and in favour of any person or persons whom the said council shall propose, a mortgage of the land or property upon which it is intended that the said debentures shall be charged, to be held by such person or persons in trust for the holders of the debentures so issued, which holders shall, according to their respective amounts and interests, rank *pari passu* upon the proceeds of the land or property comprised in the mortgage. Every mortgage aforesaid, or power of attorney for authorizing the execution of a mortgage of any land or property under this Act, and every debenture issued under this Act, shall be under the common seal of the said corporation, and shall be executed by the mayor and countersigned by the town clerk. The debentures herein mentioned shall be as near as is material to Form No. 1 annexed to this Act; and all transfers of such debentures shall be registered in the books of the corporation herein created.

How mortgages and debentures to be granted and issued.

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In cases of mortgages
and debentures be-
coming payable.

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

Powers of leasing
pasture lands.

XLVI. The council, by virtue of a resolution of not less than nine members present at any ordinary meeting and agreeing thereto, may from time to time lease any portions of the municipal pasturage lands for agricultural, garden, building or trading purposes, for any period not exceeding fourteen years; provided that continuous public notice shall have been given of not less than twenty-one days previous to the intended leasing, setting forth the objects, terms and conditions of the proposed lease, and requiring any person objecting to the proposed leasing to lodge with the council within fourteen days after the first publication of such notice his objection thereto in writing; and in case six townsmen or more, or any other person who may consider that his rights will be interfered with by the proposed leasing shall, within the time aforesaid, object to the same, or to the objects, terms, and conditions thereof, the notice and objections shall be forwarded to the Governor for his consideration and decision; and in case such decision shall be in favour of the council, but not otherwise, the council may enter into such lease notwithstanding such objections.

Tenders for working
quarries.

XLVII. The council may, by public tender, after public notice of not less than twenty-one days,

grant from time to time privileges of working any quarries belonging to the council, or beneath the municipal pasturage lands, for any term not exceeding five years, upon such terms as to the council may seem fit.

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XLVIII. In case the said council shall require to take or use any land with or without the buildings, if any, erected thereon, for the purpose of making, widening, or improving any street, market, or public building, or to dig out or to carry away any materials belonging to any person within the municipality, then in that case it shall be lawful for the said council, by virtue of a resolution of ten members present at any ordinary meeting and agreeing thereto, and it is hereby authorized and empowered, to treat and agree with every such person for the purchase or hire, as the case may be, of any such land, buildings, materials, as aforesaid, or for the payment of consequential damages, and generally to enter into such contract or contracts relative to the obtaining of any such land, buildings or materials, upon such terms and conditions as may be mutually agreed upon between the council and the said proprietors, and in case any such person and the said council shall not agree upon the purchase money, hire, or other recompense to be respectively given by the one party and accepted by the other, then the said council may cause to be served upon such person a written notice, offering as recompense or compensation, whatever sum of money it shall deem sufficient, and requiring such person to state, in writing, to the said council, or to some person by it appointed, within fourteen days of the said notice, whether he is willing to accept the sum therein mentioned or not; and in case the person shall neglect or refuse to accept the sum offered, or shall neglect to reply to the said notice, the said council shall, by another notice in writing, call upon such person to refer to arbitration the amount of recompense or compensation to be paid to him by the said council, and for that purpose to transmit to the said council, within a certain reasonable time, to be specified in the said last

Powers of acquiring property of private persons resident in Queen's Town for the public purposes of the municipality.

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mentioned notice, the name of some person whom he shall select to be an arbitrator upon such arbitration, and the said council, upon receiving the name of the person so selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed on behalf of the said municipality by the town clerk for the time being, and by the person claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, together with a power to the said arbitrators, previous to entering upon the reference to appoint an umpire, and the decision of the arbitrators, or in case of difference, the decision of the umpire shall be final; and the award of such arbitrators or umpire, as the case may be, shall be made a rule of the supreme court of this colony, or of the court of the eastern districts, or of any circuit court, and shall be binding and conclusive and may be pleaded in bar of any action or proceeding at law brought for or on account of the same subject matter; provided, however, that unless the amount so settled by the arbitrators or umpire as the value of any property so required by the council, or such hire or other recompense, shall not be less than three-fourths of the amount demanded by the owner of such property or materials, the council shall be bound to pay the amount of such owner's demand in full, together with the whole costs of and incidental to the reference; and provided, further, that all expenses incurred by such arbitration, fees of arbitrators and legal assistance of whatever kind shall, except in the case above provided, be considered costs in the case, and shall be paid by the parties, or one or other of them, in such manner as the arbitrators or umpire shall direct; and in case such person as aforesaid claiming such recompense or compensation, shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, it shall be lawful for the said council, and it is hereby authorized, to lodge in some joint-stock bank in the colony the sum of money offered by it as

aforesaid, on its first notice in this section mentioned, for and on account of, and at the risk of such person as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his absolute property, and the said council, upon so lodging the said sum, shall be authorized and entitled to take or use the said land, buildings or materials in question, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been an order by the arbitrators or umpire under the provisions of this section, and as if all acts by law required for vesting in the said council a sufficient title to the use of, or property in, the land, buildings, or materials aforesaid had been duly done and performed.

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XLIX. In case the said council shall, for any purpose in the last preceding section, require to take or use any of the land, with or without the buildings, if any, erected thereon, or to dig or carry away any of the materials in the last preceding section mentioned, the owner of which shall be absent from the colony, and not represented by any agent duly accredited, or shall not be discoverable, it shall be lawful for the said council, and it is hereby authorized, to cause a notice to be inserted in the Government Gazette, and in one or more newspapers published in the town of Queen's Town, once in each week for twelve successive months, describing as accurately as may be, the materials, land, or buildings which are required to be taken or used, and calling by name on the owner of the said land, buildings, or materials, if known or, if not known, upon the owner, whoever he may be, to take notice that the said council is ready and willing to treat with the owner or any persons duly authorized by him, for the recompense or compensation to be made or paid by the said council for the said land, buildings, or materials, and requiring such owner to apply, within twelve months from the date of such notice, which shall be the day of its publication, to the said council, stating the recompense or compensation claimed, and if the owner shall so apply within the said period, the like proceeding in regard to the

Powers of acquiring property of persons absent from the colony for the same purposes.

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agreeing for, or otherwise determining, the recompense or compensation to be respectively given and received shall in all respects be had and taken, which are prescribed in the last preceding section, precisely as if the said owner had from the first been in actual occupation, and in case such owner shall not apply to the said council within the said period, it shall be lawful for the said council to appoint some competent person, to be approved of by the civil commissioner of the division, to appraise the value of the land, buildings, or materials required, and such person shall make oath before some justice of the peace that he hath, to the best of his judgment, fairly appraised such value, and thereupon it shall and may be lawful for the said council to pay whatever sum the said land, building, and materials shall have been valued at by such person, into the guardian's fund, to the credit of the person or persons entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105 of 1833, in regard to moneys placed in the said fund belonging to the persons absent from the colony; and the said council, upon so paying the said sum, shall be authorized and entitled to take or use the land, buildings, or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all acts by law required for vesting in the said council sufficient title to the use of, or property in, the land, buildings, or materials aforesaid had been duly done and performed.

Majority of meeting to decide on what shall be done.

L. All acts, matters, and things hereby authorized or required to be done by the council, and all questions that may come before it shall be done and decided by the majority of councillors who shall be present at any meeting at which not less than seven members of the council shall attend, provided that nothing herein contained shall extend to alter or effect the provisions of the thirty-seventh, forty-third, forty-fifth, forty-sixth, forty-eighth, and fifty-eighth sections of this Act.

Quorum.

Date of holding ordinary meetings.

LI. The ordinary meeting of councillors follow-

ing the first general election of councillors under this Act shall be held on the first Monday following such election, and all subsequent, ordinary, and special or extraordinary meetings of the council shall be held as directed by the municipal regulations, and all meetings of the council shall be open to the public.

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LII. At every meeting of council, the mayor, if present, shall preside, and, in case of his absence, the councillors present shall elect a chairman among themselves, who shall thereupon and during such absence have authority to sign all documents and do all such acts as herein is provided shall be done by the mayor. In all cases of equality of votes the mayor or chairman, as the case may be, shall have a second or casting vote.

Mayor to preside.
or chairman to be
elected in his ab-
sence.

LIII. Minutes of the proceedings of every meeting of the council shall be regularly entered in a book to be kept for that purpose, and signed by the person presiding thereat, and shall be read and confirmed at the next succeeding meeting. All such minutes shall be deemed and taken to be original minutes, and such books shall and may be produced and read as prima facie evidence of all the proceedings therein recorded, in any proceeding, civil or criminal, in any court.

Minutes to be kept.

LIV. It shall be lawful for the council from time to time to appoint out of their own body such and so many committees, either of a general or special nature, and consisting of such number of members as may seem fit, for any purpose which in the judgment of the council would be better managed by means of a committee; provided always that the proceedings of every such committee shall be regularly entered in a minute book and submitted to the council for its approval, and the mayor shall ex-officio be a member of all such committees.

Committees to be
appointed.

LV. It shall be lawful for the council from time to time to appoint fit persons. (not being members of the council) to be townclerk and treasurer; and also to appoint such other officers as they shall think necessary for enabling them to carry into execution the provisions of this Act, and to pay all the officers

Appointment of off-
cers.

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so to be appointed such salaries as the council shall deem reasonable, and to demand of all such officers such security as the council may deem sufficient ; and unless it shall otherwise be stipulated in the contract of service, to remove all such officers upon notice of not less than three months, or, in case of misconduct, without any notice.

Appointment of streetkeepers, policemen, and constables.

LVI. The said council are hereby empowered, from time to time, to appoint and employ such number of streetkeepers, policemen, and special constables as shall be required for the protection of the inhabitants and property, streets, and public places within the municipality by day and by night ; and to provide all such streetkeepers, policemen and special constables with such clothing, arms, ammunition, and weapons, and appoint to them such duties and hours or time of duty, and shall make such rules, orders, and regulations, relative to such streetkeepers, policemen, and special constables, and their duties, as shall be deemed fit. All such streetkeepers and policemen shall act as constables within the municipality while in the execution of their duties under this Act, and are hereby invested with and shall have and enjoy the like powers, authorities, privileges, and immunities, and shall be subjected to such and the like penalties and forfeitures, as ordinary constables are invested with, or shall or may have, or enjoy, or are or may be subject or liable to by law.

Power to levy rates, and for what purposes.

LVII. For the purpose of raising the means for making new roads, streets, market-places and conveniences, bridges, drains, sewers, water courses, reservoirs, aqueducts and other water works ; for the purchase of such lands or the erection of such buildings, as may be required in or about the execution of the powers hereby given to the council ; for the purchase of water pipes, fire-engines, and appurtenances ; for the effecting of all other public works and improvements within the municipality ; for lighting the streets and public places in the municipality, and for providing proper and necessary plant for the same : for the purpose of raising the means for effecting the repairs of such works as

the council is empowered to make or to have made ; for the maintaining of water works, fire-engines, police establishments, markets, and pounds ; and for the payment of salaries and all other ordinary current expenses required to be borne by the municipality, the council shall have power to impose, levy, and recover all such market dues, water rates, dog and carriage tax, and other fees and licence moneys as shall be deemed necessary and reasonable, and shall be authorized by any such municipal regulations as aforesaid ; and shall also have the power, as often as shall be deemed necessary, to make and levy a rate upon all immovable property within the municipality, the value of such property to be ascertained as hereinafter provided : provided that no rate shall be made or levied by the council unless there shall be at least nine members of the council present at the meeting at which such rate shall be imposed and consenting thereto by a majority ; and provided also, that no rate shall be imposed upon any almshouses or hospitals ; nor on any buildings solely appropriated to public worship ; nor upon any burial grounds ; nor upon any building solely appropriated to the purposes of gratuitous education, provided the exemption last mentioned shall not be construed to extend to any separate or adjoining building or buildings in which the teacher or teachers, or his or their family, or any other person or persons, dwell, or which he or they occupy, but shall solely apply to such buildings as are especially appropriated for the education and use of the pupils ; and all persons owning or occupying property within the limits of the municipality, except such property exempted, shall be liable to be rated on account of such property to any municipal rate in such manner and to such extent as is in this Act provided ; but nothing in this Act contained shall be taken to authorize the assessment of a rate both upon the owner and the occupier of any one property in respect of such property.

LVIII. The council shall annually, in the month of February, make an estimate of the amount of

No. 39—1879.

Estimates to be prepared.

No. 39—1879.

money required for municipal purposes, and shall assess the rate accordingly, and give public notice thereof in one or more of the newspapers published in the municipality, and shall, in like manner, if any further or unforeseen expenditure shall become necessary during the year, ending on the last day of February next following, make a supplementary estimate, and assess a second or further rate, whereof they shall give public notice in like manner: provided that it shall not be lawful for the council in any one year, ending on the day aforesaid, to levy any rate or rates amounting in the aggregate to more than two pence in the pound on the value of the immovable property subject to such rates, without obtaining the consent of the majority of the townsmen present and entitled to vote, according to the ninth and tenth sections of this Act, at a public meeting to be called for the purpose of authorizing such rate or rates, of the object, and the time and place of holding which meeting at least seven days' notice shall be given.

Mode of valuation of property to be settled by regulations.

LIX. The mode of valuing the immovable property within the municipality for rating purposes; of objecting to the valuation; of conducting and hearing of appeals against the valuation; the time during which any valuation shall be in force and how often the same shall be renewed, and the effect of the valuation shall be as directed by municipal regulations to be from time to time made in conformity with the powers hereinbefore contained.

When rates due, and how recoverable.

LX. Every rate assessed by the said council shall become due and payable upon a certain day, to be fixed by the council, of which day, and the amount of which rate, the said council shall give twenty-one days' notice in one or more of the local newspapers; and when any such notice shall have been given it shall be incumbent upon all persons liable to such rate to pay the amount thereof to any person whom the council may have authorized to receive the same, on or before the day fixed in the said notice for the payment of the same, on pain of being forthwith liable to legal proceedings, at the suit of the town clerk, for the recovery of the amount; and in any

suit or proceeding for the recovery of any rate, the valuation roll of the municipality for the time being shall be prima facie evidence of the value of the property rated, and it shall not be necessary to prove anything further as to the due assessment of the rate and of due notice thereof having been given than the publication of the notice in the commencement of this section mentioned. The town clerk may, in suing for the recovery of any rate, proceed against the owner or, in case of his absence from the municipality, his agent, or the person receiving the rents for him, or against the occupier, either separately or both of them in one and the same action, each for the whole rate, in the court of the resident magistrate for the district of Queen's Town, and recover the same by the judgment and process of such court; provided that no occupier of any immovable property shall be liable for any rate which became due and payable thereon at any time before he entered on the occupation thereof; and provided, further, that any person, who, as occupier, may have become liable for any rate as aforesaid shall continue to be so liable although he may have ceased to occupy the property in respect of which the rate has been imposed; and provided, also, that any occupier who shall have paid any such rate shall be entitled to recover the same from the owner, unless there be an agreement to the contrary.

LXI. The treasurer of the said municipality shall be bound, within a reasonable time, to lodge with some joint-stock bank within the municipality, to be ordered by the council, all moneys from time to time entrusted to him or received by him, and shall, in books to be kept for that purpose, enter true accounts of all sums of money by him to be received and paid, and of the several matters in respect whereof such sums shall have been received and paid; all such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance-sheet thereof, shall yearly, on the last day of February, or at such other times as the council shall appoint, be handed by him to the

Treasurer to lodge
moneys in a bank.

No. 39—1879.

Abstract and balance-sheet to be prepared and audited.

auditors and to such members of the council as the mayor shall name, for the purpose of being examined and audited; and such abstract or balance-sheet, if found correct, shall be signed by the auditors, and shall be forthwith published by the treasurer in one or more of the newspapers published within the municipality: Provided always, that in no case shall any payment of municipal moneys be made to any person or persons whomsoever, without a warrant in that behalf being first granted under the hand of the mayor, which warrant shall be in substance and form according to the schedule hereto annexed, marked No. 2.

How notices to be published.

LXII. Every notice calling a public meeting of the townsmen, and every notice or other document or thing required by this Act to be published, shall, where no other mode is prescribed, be published by causing a copy thereof to be posted or affixed in some conspicuous place upon or near the municipal office or market-place, and, when practicable, in one or more of the local newspapers.

How public meetings to be called.

LXIII. All public meetings of townsmen shall be called by the mayor of the town by notice under his hand, published in accordance with the sixty-second section of this Act; and no public meeting of townsmen shall be so called by the mayor except upon a resolution of the council to that effect, and at all public meetings called by the council the mayor, if present, shall preside: Provided always that the mayor, upon receiving a requisition signed by not less than twenty-five townsmen, shall call such public meeting within a reasonable time, and provided, further, that the expenses incurred by the council through the mayor or any of its officers in calling such meetings, shall be defrayed by the persons signing the requisition, unless it shall appear to the council that such meeting was purely connected with municipal purposes, or its object of such a character as in the opinion of the council would warrant it in charging the same expenses to the municipality.

Gunpowder, &c.

LXIV. The storing of gunpowder, or other explosive material, shall not be permitted within

the municipality, except in such places as may be approved of and licensed by the council for that purpose.

No. 39—1879.

LXV. No burial ground shall be established within the municipality without the permission of the council; and so soon as any burial ground within the municipality, or any portion thereof, shall become so crowded as to be, in the opinion of the council, dangerous to the public health, the council shall be empowered to give six months' notice that the burials therein must cease, and after the expiration of such six months it shall not be lawful to continue burials in such grounds, and any persons, after the expiration of such period who shall inter, or cause any interment to be made, therein, shall be liable to pay a fine not exceeding fifty pounds, to be recovered in any competent court.

Burial grounds.

LXVI. All fines and penalties imposed by this Act, or by any municipal regulations made by virtue thereof, shall and may be prosecuted for in any competent court, and in the name of the mayor councillors, and townsmen, and shall, when recovered, be paid to the treasurer of the municipality for municipal purposes: provided that no such prosecution shall be commenced later than three months from and after the date of the act or omission upon which the same shall be grounded.

How fine to be recovered.

LXVII. Every warrant and power of attorney deed, contract, or other document to be given, made, or entered into by the said council, shall, when no other mode is prescribed, be under the common seal of the corporation, to be affixed thereto by the mayor and countersigned by the town clerk. And the said common seal of the corporation shall be and remain in the care and custody of the mayor of the town for the time being.

Deeds, &c., to be under common seal of Council.

LXVIII. This Act may be cited as the "Queen's Town Municipality Act, 1879."

Short title.

132 NATIVE LOCATIONS, LANDS, AND COMMONAGE ACT.

No. 39—1879.

Schedule No. 1

MUNICIPALITY OF QUEEN'S TOWN

Debenture Certificate.

No. _____ £ _____.

This is to certify that the town council of Queen's Town is indebted to _____ in the sum of _____, for so much money borrowed for the purpose of (here state the object for which the loan has been raised) under and by virtue of the provisions of the Municipality Act, 1879, and that the said money is secured by mortgage on (here state the nature of the mortgage or security as contemplated in the forty-third and forty-eighth sections of the said Act); and further, that the said debt will be payable and paid by the said town council to the said _____ or assigns in the manner following, that is to say (here insert the rate of interest, time of payment and other conditions agreed upon).

Given under my hand and the seal of the corporation, at Queen's Town, this _____ day of _____ 18 —.

(C.D.)
Town Clerk.

(A.B.)
Mayor.

Schedule No. 2.

The treasurer of the municipality of Queen's Town is hereby authorized to pay to _____ the sum of _____ being for (here state the object of the payment), which money was voted by the council at its meeting on _____ (or being for fixed salary, as the case may be).

Queen's Town, _____ day of _____ 18—.

No. _____ (A.B.)
Mayor.

No. 40—1879.] AN ACT [Sept. 11, 1879.

To Provide for the Disposal of Lands forming Native Locations.

Preamble.

WHEREAS it is expedient in several districts of the colony to form native locations on Govern-

ment waste lands, and whereas it is desirable that portions of the land in such locations shall be granted on personal and individual tenure : Be it enacted by 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. 40—1879.

I. Whenever any native location has already been or shall be formed or established on land the property of the Government, under the provisions of Act No. 8 of 1878, it shall be lawful for the Governor to divide a portion of such land into lots and to grant titles to such lots to separate individuals, being in such locations, upon quitrent tenure upon such annual rent, and upon and subject to such conditions and provisions as to the said Governor shall seem fit and proper, and as shall have been approved of by the two Houses of Parliament, anything in Act No. 14 of 1878, or in any other Act, Ordinance, law, or custom, to the contrary notwithstanding : Provided always, that the grantees of such lands shall be and remain subject to all existing regulations, and to all such regulations as may from time to time be lawfully made, for the proper government and conduct of native locations in this colony.

Power to divide lands in native locations, and grant titles on individual tenure.

II. In addition to the land so divided into lots, as in the preceding section provided, it shall be lawful for the Governor to set aside and reserve a sufficient quantity of land in the vicinity of, or adjoining, such lots as and for commonage land or lands for the common pasturage of stock, the property of the several occupiers of the said lots, and to make, from time to time, such regulations as to the said Governor shall seem fit, for fixing the number of live-stock which each owner of a lot shall be entitled to depasture on such commonage lands, and for generally regulating and preserving the use of the said lands for the common benefit of the said holders of lots.

Power to set aside lands adjoining such lots as commonage.

III. This Act may be cited as the “Native Locations, Lands, and Commonage Act.”

Short title

No. 41—1879.] AN ACT [Sept. 11, 1879.

Spent.

To Apply a Sum of Money for the Service of the
Year ending the 30th day of June, 1880.

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

Supply for year ending 30th June, 1880.

I. The public revenue of the colony is hereby charged towards the service of the year ending the 30th June, 1880, with a sum of one million three hundred and thirty-six thousand five hundred and eighty-four pounds sterling, in addition to the sum provided for by the Act No. 1 of 1879.

Application of the money.

II. The money granted by this Act and by the said Act No. 1 of 1879, amounting in the whole to the sum of one million six hundred and thirty-six thousand five hundred and eighty-four pounds sterling, shall be applied for the purposes and services expressed in the schedule annexed hereto, and more particularly specified and set forth in the Colonial Estimates and Supplementary Estimates of the Expenditure for the year ending 30th June, 1880, with the notes to such estimates, submitted to and approved by Parliament.

Not to be applied to any other purposes.

III. 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.

IV. This Act may be cited for all purposes as the "Appropriation Act, 1879."

SCHEDULE.

No. 41—1879.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for
	£	£	£	£
I. Ministerial Department of the Colonial Secretary	411,237	460,189	871,426	758,235
II. Ministerial Department of Treasurer of the Colony ...	40,005	505,834	546,839	15,899
III. Ministerial Department of Attorney-General	23,605	11,300	34,905	22,850
IV. Ministerial Department of Commissioner of Crown Lands and Public Works ...	75,883	719,899	795,782	782,092
V. Ministerial Department Secretary for Native Affairs ...	74,853	30,975	105,828	57,509
Grand Totals ...	625,583	1,729,197	2,354,780	1,636,584

Less amount provided for by Act. No. 1, 1879 .. £300,000

Total required to be voted .. £1,336,584

Spent.

No. 1—1880.] AN ACT [July 1, 1880.

To apply a Sum not exceeding One Hundred and Fifty Thousand Pounds Sterling towards the Service of the Year ending the 30th day of June, 1881.

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 :—

Expenditure, 1880-1881. How to be appropriated.

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 day of June, 1881, with a sum not exceeding one hundred and fifty thousand pounds sterling, which said 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.

 No. 2—1880.] AN ACT [July 26, 1880.

To relieve certain Agricultural Immigrants from Payment of Quitrent under the "Agricultural Immigrants Land Act, 1877."

Preamble.

WHEREAS certain persons have come into this colony from Scotland and elsewhere in Great Britain as agricultural immigrants, under special agreements made and executed by them and by certain persons acting for and on behalf of the Government of this colony in England ; and in such agreements and in the notices annexed to or accompanying the same, no mention is made of the perpetual quitrent to be paid by such immigrants, as provided by the 6th sub-section of section 3 of Act No. 10 of 1877 ; And whereas such persons, being wholly ignorant of the provisions of the said sub-section, have been misled into the belief that

they are entitled, after paying yearly for ten years one shilling per acre for such land as may be allotted to them under such Act, to receive a grant of the said land in perpetuity: And whereas it is expedient to relieve such immigrants from the payment of quitrent under the aforesaid circumstances: 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. 2—1880.

I. Whenever any person shall before the taking effect of this Act have immigrated into this colony as an agricultural immigrant, under any special agreement made between him and any person lawfully acting for and on behalf of the Government of this colony in Great Britain, whereby such immigrant is entitled to acquire land in this colony under the provisions of Act No. 10 of 1877, but in which special agreement, or in the notices or other documents annexed to or accompanying such agreement, no mention is made of the quitrent to be paid under sub-section 6 of section 3 of such Act, such immigrant, so soon as he 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, shall, on payment of the survey expenses, and other expenses of title, receive a grant of such land in perpetuity free of quitrent, but subject to every other condition now attaching to quitrent grants in this colony; anything contained in the aforesaid sub-section or in any other section or sub-section of the said Act, or in any other statutory enactment to the contrary notwithstanding.

No quitrent or grants of land to immigrants who have had no notice of its being payable.

II. This Act may be cited as “The Agricultural Immigrants Relief Act, 1880.”

Short title.

No. 3—1880.] AN ACT [July 26, 1880.

To amend and explain in certain respects the Act No. 22 of 1879, intituled "An Act to provide for the Payment of Pensions to Widows of Officers on the Fixed Establishment of the Public Service of this Colony."

Preamble.

WHEREAS doubts have arisen as to the true meaning of the words "widows of officers on the fixed establishment of the public service of this colony," in the Act No. 22 of 1879, and the word "salary" in the second section thereof, and it is thereof expedient that such doubts should be removed and the true interpretation thereof declared: Be it therefore enacted by the Governor of this colony, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

Act 22 of 1879 to apply only to widows of officers in permanent civil service.

I. The benefits of the Act No. 22 of 1879 shall apply only to the widows of officers who were at the date of the taking effect of the said Act, or were thereafter or may hereafter be serving in the permanent civil service of the colony, or who were then or thereafter, or may be hereafter, pensioners of the said permanent civil service.

Percentage to be on emoluments of officer besides salary.

II. The percentage provided for under the second section of the said Act shall be deducted not only from the amount of the actual salary of each officer, but also from the amount of such emoluments (if any) as may be derived by him from allowances which would be taken into computation in fixing the superannuation allowances from time to time made to any such officer.

Short title.

III. This Act may be cited as "The Civil Service Widows' Pensions Amendment Act, 1880."

No. 4—1880.] AN ACT [July 26, 1880.

Repealed by 1916 Act 22.

For providing a Sum sufficient to redeem the Sum of Eighty-five Thousand Nine Hundred Pounds, coming due and payable from and out of the General Revenue of this Colony on the 15th day of October, 1880, being part of the Debt originally incurred under Act No. 6 of 1860.

WHEREAS it appears that a sum of eighty-five thousand nine hundred pounds will be required for the redemption of the loan falling due on 15th October, 1880, under Act No. 6 of 1860: Be it enacted by 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.

I. It shall be lawful for the Table Bay Dock and Breakwater Commission, with the sanction of the Governor, to raise and take up upon debentures or stock, or partly upon debentures and partly upon stock, such sum or sums of money as from time to time shall be necessary, not exceeding, in the whole, the sum of eighty-five thousand and nine hundred pounds; and all sums to be so raised shall be applied to the purposes in the preamble to this Act mentioned.

Power to raise on stock or debentures £5,900.

II. In so far as the said borrowing shall be upon debentures, the following provisions shall be observed:—Such debentures shall be issued in this colony, or in England, or partly in this colony and partly in England, for sums, not exceeding five hundred pounds nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained, and the interest to accrue due thereon shall be charged upon and made payable out of the general revenue of this colony.

Debentures in sums not exceeding £500 to be issued here or in England.

III. The several provisions of the second, third, fourth, fifth, sixth, and seventh sections of Act No. 27 of 1879 shall, *mutatis mutandis*, apply to this Act and the moneys hereby authorised to be issued.

Certain section of Act 27 of 1879 to apply.

No. 4—1880.

A accounts of stock and debentures, &c., to be laid before Parliament

IV. An account showing the amount of all stock and debentures issued from time to time under authority of this Act, and of the moneys realized by the issue and sale thereof, and of the expenditure of all such moneys, or of so much thereof as shall for the time being have been expended; and an account of the amount of such stock and debentures for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, vouched by the auditor-general, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and like accounts within fourteen days after the commencement of every succeeding session thereof.

Short title.

V. This Act may be cited as "The Table Bay Loan Redemption Act, 1880."

Repealed by 1916 Act 22.

No. 5—1880.] AN ACT [July 26, 1880.

For raising the Sum of £100,000 for the Extension of the Breakwater in Table Bay.

Preamble.

WHEREAS it is expedient that the Breakwater in Table Bay should be extended: And whereas it is necessary to provide the sum of £100,000 towards making such extension: 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:—

Power to raise £100,000.

I. It shall be lawful for the Table Bay Dock and Breakwater Commission, with the sanction of the Governor, to raise and take up upon debentures or stock, or partly upon debentures and partly upon stock, such sum or sums of money, as from time to time shall be necessary, not exceeding in the whole the sum of £100,000; and all sums to be so raised shall be applied to the purposes in the preamble to this Act mentioned.

II. The several provisions of the second, third, fourth, fifth, sixth, and seventh sections of Act No. 27 of 1879 shall, *mutatis mutandis*, apply to this Act and the moneys hereby authorised to be issued.

No. 5—1880.
Provisions of Act 27
of 1879 to apply.

III. An account showing the amount of all stock and debentures issued from time to time under the authority of this Act, and of the moneys realized by the issue and sale thereof, and of the expenditure of all such moneys, or of so much thereof as shall for the time being have been expended; and an account of the amount of such stock and debentures for the time being outstanding, and of all such issues thereof as shall from time to time be bought in and cancelled, if any, vouched for by the auditor-general, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and like accounts within fourteen days after the commencement of every succeeding session thereof.

Accounts of stock
debentures, &c., to be
laid before Parliament

IV. This Act may be cited as "The Table Bay Breakwater Loan Act, 1880."

Short title.

Lapsed

No. 6—1880.]

AN ACT

[July 26, 1880.]

To provide for the Detention within the Colony of certain Prisoners of War, now in Military Custody.

WHEREAS the native chief Cetewayo and the native chief Sekukuni have been captured in arms against Her Majesty the Queen, and are now in the custody of Her Majesty's military forces: And whereas Her Majesty's Government have applied to the Government of this colony to provide for the detention and safe custody of the said chiefs under the civil authorities here: And whereas it is necessary for the preservation of the tranquility of South Africa and for the general safety that the said chiefs should be so retained and kept in custody, and that all due precautions should be taken

Preamble.

No. 6—1880.

to prevent them from proceeding beyond the boundaries of this colony: 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:—

Authority to Governor to detain Cetewayo and Sekukuni as prisoners of war.

I. It shall and may be lawful for the Governor for the time being to detain and keep as prisoners of war the said Cetewayo and the said Sekukuni, or either of them, during the pleasure of the Governor, in the custody of such person or persons, in such place within this colony, and under such restrictions as to the said Governor from time to time shall seem meet.

Suitable locations to be provided.

II. It shall and may be lawful for the said Governor to provide and set apart a suitable and sufficient location, or suitable and sufficient locations, on the mainland, within this colony, suitable for the residence or residences of the said chiefs Cetewayo and Sekukuni, during such time as the said Governor shall deem it desirable that such chiefs, or either of them, shall be detained and kept in custody as aforesaid.

Locations to be proclaimed and fixed.

III. The said location or locations shall be defined and fixed by proclamation to be published in the *Government Gazette*, but may from time to time, by like proclamation, be changed and altered as may be found expedient.

Power to Governor to make regulations necessary to restrict and confine the prisoners.

IV. It shall be lawful for the said Governor from time to time to make such regulations as may be considered necessary in order to restrict and confine the said Cetewayo and the said Sekukuni, or either of them, during the time they or he shall be detained and kept in custody for the purposes aforesaid, to the said location or locations, and to prevent them or him from proceeding beyond the limits thereof, and to regulate the intercourse and communication with the said location or locations during the time the said Cetewayo and Sekukuni, or either of them, shall be detained therein.

Transgression of boundaries to be followed by arrest and fresh regulation.

V. In case the said Cetewayo and the said Sekukuni, or either of them, shall, during the time they or he shall be detained and kept in custody

as aforesaid, proceed beyond the limits of the said location or locations without the permission in writing of the Secretary for Native Affairs, or in case they or either of them shall contravene any regulation which may be made as aforesaid, it shall be lawful for any person, with or without warrant, to apprehend them or him ; and thereupon it shall be lawful for the said Governor to take such steps as may be considered necessary for the further and more effectual safe custody of the said offender or offenders during the remainder of the term of their detention and custody as aforesaid.

No. 6—1880.

VI. Every person who shall rescue, or attempt to rescue, or aid or incite the said Cetewayo and the said Sekukuni, or either of them, to escape, or attempt to escape, beyond the limits of the said location or locations, or shall knowingly harbour the said Cetewayo and the said Sekukuni, or either of them, when they have so escaped, shall, on conviction before any competent court, be liable to imprisonment, with or without hard labour, for any term not exceeding three years.

Punishment of attempt to rescue, or assist in escape of prisoners.

VII. The said Governor and the commander or commanders of Her Majesty's naval or military forces for the time being, and all persons acting under them or any or either of them, shall be, and they are, hereby jointly and severally indemnified, freed, and discharged from and against all actions, suits, and prosecutions whatsoever, whether criminal or civil, which might be brought or instituted in any of the courts of this colony for, or on account or in respect of, any acts, matters, and things whatsoever done by the said Governor or the said commander or commanders of Her Majesty's naval or military forces, or by any person or persons acting under them or any or either of them respectively in any command or capacity, civil or military, in bringing or conveying the said Cetewayo within the limits of this colony, and in detaining and keeping him in custody therein prior to the taking effect of this Act : Provided that all such acts, matters, and things shall have been done *bona fide* and properly in furtherance and execution of bringing or conveying the said

Indemnity clause for acts done in reference to Cetewayo.

No. 6—1880

Cetewayo within the limits of this colony and detaining and keeping him in custody therein as aforesaid : Provided also that every such act, matter, or thing shall be presumed to have been done *bona fide* and properly until the contrary shall be made to appear by the party complaining.

Short title.

VIII. This Act shall take effect from and after such date as shall be fixed by the Governor by proclamation in the *Government Gazette*.

Repealed by 1906 Act 32 Sec. 2.

No. 7—1880.]

AN ACT

[July 26, 1880.

To alter and amend Act No. 8 of 1877, entitled
“An Act for the Promotion of Irrigation.”

Preamble.

WHEREAS it is expedient to alter and amend in certain respects the Act No. 8 of 1877, entitled “An Act for the Promotion of Irrigation :” 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 :—

Notice required by section 61 of Act 8 of 1877 need not be published in *Government Gazette*.

I. It shall not be necessary to publish in the *Government Gazette*, or in any other newspaper, the notice provided for by the 61st section of the said Act No. 8 of 1877, but it shall be sufficient to serve the same upon the mortgagees, if any, of the lands in question, personally, and upon every other person who shall to the knowledge of the Commissioner of Crown Lands and Public Works have any estate in or charge upon such lands, and to deposit with the Commissioner of Crown Lands and Public Works a solemn declaration proving such service.

Instalment not exceeding one-fifth of loan may be advanced to applicant.

II. Notwithstanding the provisions contained in section sixty-four of Act 8, 1877, if the Government should think that a loan, in respect of any application under this Act, should be expedient, it shall be lawful for the Commissioner of Crown Lands and

Public Works to advance to the applicant, by way of instalment, a sum not exceeding one-fifth of the entire sum of the approved loan : Provided that no second instalment shall be paid on account of the said loan until the Commissioner of Crown Lands and Public Works shall be satisfied that the sum previously advanced has been expended to the approval of the said commissioner.

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III. The provisions contained in section sixty-five of Act 8 of 1877, regarding the advance by virtue of a certificate under the said Act shall apply to the instalments mentioned in the last preceding section.

Provisions of sec. 65 of Act 8 of 1877 to apply to such advance.

IV. If any owner shall so desire it, the amount of the rent-charge imposed under the provisions of the said Act No. 8 of 1877 may, with the consent of the Commissioner of Crown Lands and Public Works, be increased to such amount as will repay the sum advanced, sooner than the said period of twenty-four years, in the said Act appointed for the payment of such rent-charge ; such increased rent-charge to be calculated according to the schedule A hereunto annexed for that purpose.

Rent-charge may be increased to effect earlier repayment of advance.

V. Any person entitled to and charged with such rent-charge, as in the said Act No. 8 of 1877 provided, shall be at liberty at any time before the expiration of twenty-three years after the commencement thereof, to redeem such rent-charge or any part thereof, not being less than eight pounds annual charge, on payment to the civil commissioner of the district of the arrears thereof (if any), and of such sum as shall be equal to the value of such rent-charge, to be ascertained according to the table in schedule B hereunto annexed for that purpose ; and the said civil commissioner shall issue and deliver to such owner a certificate of such redemption.

Provision for earlier redemption of rent-charge.

VI. The section 59 of Act No. 8 of 1877 is hereby repealed, and the expenses therein mentioned shall henceforth be paid and borne by the Government of this colony.

Repeal of sec. 59 of Act 8 of 1877.

VII. This Act may be cited for all purposes as "The Irrigation Act Amendment Act, 1880."

Short title.

No. 7—1880.

SCHEDULE A.

If the owner shall desire to repay the sum advanced in one year, the rent-charge for one year shall be, per centum ...				£106	0	0
If he shall desire to repay it in two years, the annual rent-charge shall be, per centum ...				54	11	0
If in 3 years, the rent-charge shall be, per centum				37	8	6
”	4	”	”	28	17	6
”	5	”	”	23	15	0
”	6	”	”	20	7	0
”	7	”	”	17	19	0
”	8	”	”	16	2	6
”	9	”	”	14	14	6
”	10	”	”	13	12	0
”	11	”	”	12	14	0
”	12	”	”	11	19	0
”	13	”	”	11	6	0
”	14	”	”	10	15	6
”	15	”	”	10	6	0
”	16	”	”	9	18	0
”	17	”	”	9	11	0
”	18	”	”	9	5	0
”	19	”	”	8	19	6
”	20	”	”	8	14	6
”	21	”	”	8	10	6
”	22	”	”	8	6	6
”	23	”	”	8	3	0

SCHEDULE B.

The present value of every £1 per annum rent-charge shall be:—

For	1 year's rent-charge	...	...	...	£0	18	11
”	2 years'	”	”	”	1	16	9
”	3	”	”	”	2	13	6
”	4	”	”	”	3	9	4
”	5	”	”	”	4	4	3
”	6	”	”	”	4	18	4
”	7	”	”	”	5	11	8
”	8	”	”	”	6	4	3
”	9	”	”	”	6	16	1
”	10	”	”	”	7	7	3
”	11	”	”	”	7	17	9
”	12	”	”	”	8	7	9
”	13	”	”	”	8	17	1
”	14	”	”	”	9	5	11

For 15 years' rent-charge	9	14	3	No. 7—1880.
„ 16 „ „	...	...	...	10	2	2
„ 17 „ „	...	...	...	10	9	7
„ 18 „ „	...	...	...	10	16	7
„ 19 „ „	...	...	...	11	3	2
„ 20 „ „	...	...	...	11	9	5
„ 21 „ „	...	...	...	11	15	4
„ 22 „ „	...	...	...	12	0	10
„ 23 „ „	12	6	1	

Repealed by 1917 Act 26.

No. 8—1880.] AN ACT [July 26, 1880.

To secure in certain cases the Right of Property in
Telegraphic Messages.

WHEREAS it is expedient to secure in certain Preamble.
cases the right of property in telegraphic
messages: 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:—

I. Whenever there shall be received at any Newspaper telegrams protected for 120 hours from time of publication.
office of the telegraph department any message
transmitted by telegraph from any place outside
the colony of the Cape of Good Hope for the
purpose of publication in any newspaper, or other
printed paper within the said colony, no person
shall, without the consent, in writing, of the person
to whom such message shall be addressed, or his
agent thereto lawfully authorised, print or publish,
or cause to be printed or published, such telegraphic
message or the substance thereof, or any extract
therefrom until after a period of one hundred and
twenty hours from the time of the first publication
of such message by some person entitled to publish
the same: Provided that such period shall not
extend beyond one hundred and thirty hours from Period of protection not to exceed 130 hours from receipt of telegram.
the time of the receipt as aforesaid at such office of
such message (Sundays excepted): Provided Publication of part or substance to be deemed publication of telegram.
further that the publication of the whole or any
part of such telegraphic message, or of the

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substance thereof, or (excepting the publication of any similar message in like manner, sent and lawfully received by the person publishing the same, of the intelligence therein contained, shall be deemed to be a publication thereof.

Penalties.

II. If any person print and publish, or cause to be printed and published, any matter contrary to the provisions of this Act, he shall, upon conviction, be liable to a penalty of not exceeding twenty pounds sterling, and every person who shall be convicted of any subsequent offence against this Act shall be liable to a penalty of not exceeding forty pounds sterling.

Protected telegrams to be headed "by telegraph."

III. Every telegraphic message published under the protection of this Act shall be printed with the heading "by telegraph," and shall state the day and hour of its said receipt and publication respectively, and such statement shall be *prima facie* evidence of the time of the receipt and publication respectively of such message.

Penalty for transmitting telegrams during period of protection.

IV. During the period of one hundred and thirty hours hereinbefore mentioned no intelligence protected by this Act shall be transmitted by telegraph to any person by or on behalf of any person other than the person who, under the provisions of this Act, shall be entitled to the exclusive use of such intelligence, and any person contravening the provisions of this section shall, upon conviction as in the second section mentioned, be liable to a penalty of not exceeding twenty pounds sterling for the first offence, and not exceeding forty pounds sterling for any subsequent offence.

Evidence of protected telegrams.

V. In any prosecution under this Act the production of any document which purports to be such a telegraphic message as is by this Act protected, and which purports to have been delivered to some person lawfully entitled to receive the same by the telegraph department, shall be *prima facie* evidence that such message is a message within the meaning of this Act.

Imprisonment in case penalties not paid.

VI. Any person convicted under the provisions of this Act may, in default of payment of the penalty imposed upon him, be imprisoned for any period

not exceeding three months, unless such penalty be sooner paid. No. 8—1880.

VII. This Act may be cited as “The Telegraphic Messages Copyright Act, 1880.” Short title.

No. 9—1880.] AN ACT [July 26, 1880

To alter and amend in certain respects Act No. 38 of 1879, entitled “An Act to empower the Governor to raise a sum not exceeding £60,000 for the purpose of Constructing certain Lines of Telegraph.”

WHEREAS by the Act No. 38 of 1879 it was, Preamble.
amongst other things, enacted that it should be lawful for the Governor to raise and take up, upon debentures or stock, or partly on debentures and partly on stock, such sum or sums of money, not exceeding in the whole the sum of £60,000 sterling, for the purpose of constructing three lines of telegraph in the schedule to the Act mentioned : And whereas the last line of telegraph in such schedule mentioned is a line from Piquetberg Road Station to Calvinia, *via* Porterville, Piquetberg, and Clanwilliam : And whereas it is desirable to substitute another line in place of such last-mentioned line : 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 the House of Assembly thereof, as follows :—

I. So much of the schedule to Act No. 38 of 1879 as is inconsistent with the provisions of this present Act is hereby repealed. Repeal of inconsistent schedule of Act 38 of 1879.

II. In lieu and instead of the line of telegraph being No. 7 in the schedule to the Act No. 38 of 1879 mentioned, there shall be substituted the line in the schedule to this present Act mentioned ; and the amount authorised by the aforesaid Act to be expended on the said line No. 7 in the schedule Line of telegraph to be recorded to schedule hereto.

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thereto mentioned, shall be expended on the line substituted for the same by the provisions of this Act.

And whereas there is a clerical error or misprint in the 4th section of the said Act, No. 38 of 1879, and it is desirable to correct the same: Be it therefore further enacted as aforesaid:

Correction of misprint
in Act 38 of 1879.

III. For the words "Act No. 8 of 1877," contained in the 4th section of Act No. 38 of 1879, shall be substituted and read the words "Act No. 6 of 1877."

Short title.

IV. This Act may be cited as "The Telegraph Loan Amendment Act, 1880."

SCHEDULE.

Malmesbury to Calvinia, *via* Piquetberg and Clanwilliam.

No. 10—1880.] AN ACT [July 29, 1880.

For constituting the Town of Graaff-Reinet a Municipality.

Preamble.

WHEREAS it is expedient to repeal so much of the Ordinance No. 9 of 1836, entitled "An Ordinance for the Creation of Municipal Boards in the Towns and Villages of this Colony;" of the Ordinance No. 2 of 1844, entitled "An Ordinance for amending Ordinance No. 9 of 1836;" of the Ordinance No. 3 of 1848, entitled "An Ordinance for enlarging in certain respects the Powers of Municipal Commissioners in regard to the Common Pasture Lands of the Municipality;" and of the Ordinance No. 5 of 1852, entitled "An Ordinance to enable Municipal Commissioners appointed under Ordinance No. 9 of 1836 to Purchase or Hire Immovable Property for Municipal Purposes;" and the Act 13 of 1864, intituled "An Act to amend the Ordinance No. 9 of 1836;" in so far as such Ordinances and Act, severally and respectively, shall

apply to the municipality of Graaff-Reinet, together with so much of any other law as shall be repugnant to or inconsistent with the provisions of this Act, and to make other provisions in lieu thereof: 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:—

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I. The said Ordinances No. 9 of 1836, No. 2 of 1844, No. 8 of 1848, and No. 5 of 1852, and Act 13 of 1864, in so far as the same are applicable to the municipality of Graaff-Reinet, shall continue to be of legal force and operation as heretofore, until after the first election of councillors as provided for in and by this Act; and immediately upon and after the declaration of the names of the said councillors shall have been published as hereinafter provided, the said ordinances, law, and act, together with so much of any other law as shall be repugnant to or inconsistent with the provisions of this Act, in so far as the same apply as aforesaid, shall be and are hereby repealed.

Former enactments to apply until this Act is enforced.

II. The municipality of Graaff-Reinet shall comprise the town of Graaff-Reinet, and the common pasture lands thereof (as shown by the title signed by Lieutenant-Governor Wynyard, and dated the 2nd day of July, 1860).

Boundaries of the municipality.

III. There shall be in the said municipality a body corporate, which shall take and bear the name of "the mayor and councillors of Graaff-Reinet," and by that name shall have perpetual succession, and shall have a common seal, and shall by that name sue and be sued, and shall, by the council thereof, do all acts, and have and enjoy all the rights and privileges which bodies corporate, as such, may in this colony do and have.

Title of municipal body.

IV. The council of the said municipality shall consist of fourteen councillors, one of whom shall be the mayor.

Constitution of the municipality.

V. The said municipality shall be divided into seven wards, to wit:—

Wards of the municipality.

No. 1. An area bounded north by Caledon-

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street, east by Stockenstrom-street, south and west by Sunday's River ; including all erven from No. 71 to No. 125, and No. 101 to No. 78.

- No. 2. An area bounded north by Caledon-street, east by Bourke-street, south by Sunday's River, and west by Stockenstrom-street ; including all the erven from No. 137 to No. 169, and No. 112 to No. 100.
- No. 3. An area bounded north by Somerset-street, east by Bergh-street, south by Sunday's River, and west by Bourke-street ; including all the erven from No. 175 to No. 204, and No. 246 to No. 188.
- No. 4. An area bounded north by Caledon-street, east by Market-square, south by Somerset-street, and west by Bourke-street ; including all the erven from No. 170 to No. 192, and No. 201 to No. 174.
- No. 5. An area bounded north by the north-eastern entrance to the town and the hill, east and south by Sunday's River, and west by Market-square and Bergh-street ; including all the erven from No. 39 to No. 231, and all the erven situated east of Dry River.
- No. 6. An area bounded north by Sunday's River, east by Bourke-street, Ryneveld-square, and the hill, south by Caledon-street, and west by Plasket-street and Sunday's River ; including all the erven from No. 70 to No. 23, and from No. 23 to Nos. 17 and 16 and letter "K."
- No. 7. An area bounded north by the powder magazine hill, east by Market-square and the north-eastern entrance to the town, south by Caledon-street, and west by Bourke-street; including all the erven from letter "F," to No. 31, from No. 31 to No. 37, No. 37 to No. 38, and No. 38 to letter "Y" ; all the above descriptions Nos. 1 to 7 being in reference to the general plan of the town.

VI. The said council shall from time to time, if they shall think fit, alter the boundaries of the said wards: Provided that the council shall, before making any such alteration, give in the *Government Gazette* and one or more of the newspapers published in Graaff-Reinet, public notice of the intention to make such alteration, and of the particular alteration intended to be made, which notice shall be published for not less than thirty-one days before any such alteration shall be made, and a copy of the same shall also be posted in some conspicuous place upon or near the town hall.

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Power to alter boundaries of the wards.

VII. Two councillors shall be elected for each ward in manner hereinafter mentioned.

Two councillors to each ward.

VIII. Every person of full age, who is the owner or occupier of any immovable property in any ward of the municipality, in regard to which property no municipal rate shall, at the time of any election of councillors, or a councillor, of such ward, be due and in arrear, shall be qualified and entitled to vote at such election in respect of such ward: Provided that his name shall appear as a ratepayer in the assessment roll of such ward which shall have been made next or latest before the election at which such person shall be elected: Provided, also, that the assessment roll in existence at the time of the taking effect of this Act shall be deemed and taken to have been framed under this Act, and that all municipal rates assessed before the taking effect of this Act, and then due and in arrear, shall be deemed and taken to have been assessed under this Act.

Qualification of voters

IX. The following persons shall be disqualified from voting at any such election:—

Disqualification

Persons who have been convicted of treason, murder, rape, theft, fraud, perjury, or forgery, and who shall not have received a free pardon.

X. Every male person of full age who shall have been the owner of immovable property of the value of five hundred pounds (£500) sterling and upwards, or the occupier paying a yearly rental of not less than seventy-five (£75) sterling, within the limits of the said municipality for a period of not less

Qualification of councillors.

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than twelve months next before such election, and in regard to which property no municipal rate shall at the time of election be due and in arrear, shall be eligible to be elected a councillor: Provided that different premises or properties owned or occupied in immediate succession shall satisfy this section as fully and effectually as if they had been one and the same premises or properties.

Requisitions to be sent to councillors.

XI. No person shall be deemed a candidate at any election, nor qualified to be elected a councillor for any ward, until he shall have been invited to become such candidate, by a requisition signed by at least five qualified voters of such ward, and shall have transmitted such requisition, with his acceptance thereof, addressed to the town clerk, and delivered at his office between the hours of ten a.m. and three p.m., at least fourteen days before such election is appointed to take place.

Requisitions to be published.

XII. The town clerk shall, at least ten days before the day appointed for the election in each ward, cause the names of the candidates for election thereat, together with the names of the persons who have signed such requisition, to be published in manner hereinafter mentioned.

When elections to take place.

XIII. On the second Wednesday in the month of December in every alternate year, an election shall take place for councillors of the said municipality, the first election, however, to be on the second Wednesday in the month of December after this Act shall have been passed.

How poll to be taken.

XIV. The poll in every ward shall be taken by some person to be appointed for that purpose by the mayor, or in case of the first election, by the chairman of the municipality: Provided that as often as the number of candidates nominated for any ward shall not exceed the number of councillors to be elected for such ward, no poll shall be deemed necessary for such ward, but the candidate or candidates so nominated shall be deemed and taken to be duly elected: Provided also that the said chairman of the municipality or mayor, as the case may be, shall be the returning officer of the said municipality.

XV. Every candidate may, if he thinks fit, appoint a scrutineer to see that the votes are fairly taken and recorded. No. 10—1880.
Scrutineers.

XVI. The election shall take place in the following manner:—Every ratepayer, qualified as aforesaid, may vote for any candidate or candidates for his ward, not being more than the number to be elected for the ward, by delivering to the polling officer a voting paper, containing the christian and surname of the candidate or candidates for whom he votes, and signed by the person voting, or by the polling officer at his request, and stating his place of abode and occupation: Provided that no voter shall be capable of giving to any one candidate more than one vote. Number of votes allowed to each voter.

XVII. The polling officer shall receive such voting paper, and register the vote. Vote to be registered.

XVIII. The poll shall commence at eight o'clock in the forenoon, and shall finally close at twelve o'clock noon of the same day. Duration of poll.

XIX. No inquiry shall at any election be permitted to be made as to the right of any person to vote, except as follows: that is to say, the polling officer may, of himself, or at the request of any qualified householder, put to any voter the following questions, or either of them, and no other:— Inquiries to be made of voters.

1st. Are you the person whose name appears as A. B. on the roll of assessment of ward No. —, and in the voting paper now delivered in by you?

2nd. Has the last municipal rate assessed upon the immovable property now occupied or owned by you been paid?

XX. If any person shall wilfully make a false answer to either of these questions, he shall be liable to a penalty not exceeding ten pounds (£10), to be recovered in the court of the resident magistrate, and in default of payment may be imprisoned for any period not exceeding one month. Penalty for false answers.

XXI. The polling officer shall, at the close of the election, transmit in a sealed envelope the voting papers given for each candidate to the returning Duty of polling officers after close of election.

- No. 10-1880. officer, who shall ascertain the number of the votes given for each candidate, and so many candidates, being equal to the number to be chosen, as shall have the greatest number of votes shall be declared duly elected; and such returning officer shall forthwith cause a list thereof, with the numbers of the wards for which such persons are elected, to be published in manner hereinafter mentioned.
- In case votes are equal. XXII. In case of an equality of votes at any election of councillors, the returning officer shall cause to be determined by lot which of the persons for whom an equal number of votes shall have been given shall be elected, in case such persons cannot be both or all of them elected.
- Rules for first election XXIII. At the first election of councillors under this Act, the ratepayers shall elect, in manner hereinbefore provided, two councillors for each ward, who shall enter upon their office on the first day of January following, and shall hold office as such councillors until the expiration of two years from the said date.
- If councillor resign, die, &c. XXIV. If any councillor shall die, resign, become insolvent, assign his estate for the benefit of his creditors, or shall be absent without leave from the ordinary meetings of the council for a period of three calendar months, his office shall be declared vacant, and another councillor shall be elected in his place and stead, in manner hereinbefore provided, who shall hold office until the next biennial election.
- Election of mayor. XXV. The councillors shall, at the first meeting of council in January following each general election, elect from among themselves by a majority of votes the mayor of the municipality, who shall hold office for two years from the date of the councillors entering upon their office: Provided that in case of an equality of votes at any election of mayor, the question between the candidates so equal shall be determined by lot.
- Resignation of mayor. XXVI. It shall be lawful for the mayor to resign his office, provided that he shall give to the council not less than one calendar month's notice of his intention so to do.

XXVII. If any mayor shall die or resign, or shall become insolvent, or compound with his creditors, or assign his estate for the benefit of his creditors, or shall be absent from the municipality, without the permission of the council, for one calendar month, or shall neglect to attend the meetings of the council for the period of three calendar months, without leave, such mayor shall be held to have vacated office, and the council shall forthwith elect out of their own number a successor for the remainder of the term of office.

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Provision in case of resignation, &c., of mayor.

XXVIII. At the first meeting of every newly elected council, two auditors from among the rate-payers shall be appointed for the municipality by the councillors, who shall continue in office until the next general election.

Auditors.

XXIX. No person shall be eligible as an auditor who shall be a councillor, treasurer, clerk, or other officer of the municipality.

Disqualification of auditor.

XXX. If any auditor shall die, resign, or be declared insolvent, or shall assign his estate for the benefit of his creditors, another auditor shall be elected in his stead, on a day to be fixed by the mayor.

Resignation, &c., of auditor.

XXXI. No councillor or person holding any office in the gift or disposal of the council shall, directly or indirectly, have any share or interest in any contract made by or with the council otherwise than as a shareholder in any bank with which such council may transact business. And any person contravening the provisions of this section shall, if a councillor, be deemed to have *ipso facto* vacated office, and if a person holding any office in the gift or disposal of the council, he may be summarily dismissed from such office without notice, and without any claim for compensation for loss of office.

Councillors and officers not to be contractors.

XXXII. The council shall have power and authority to do the following acts: To make and keep in repair the roads, streets, dams, sewers, drains, and bridges, within the limits of the municipality; to excavate, construct, and lay water-

Powers of the council.

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courses, water-pipes, conduits, sluices, dams, reservoirs, aqueducts, and other works for supplying the municipality with water, and to keep the same in repair, or to grant leave to any person or company of persons to lay down pipes, or to execute any other like works; to take order for the prevention and extinguishment of fires, and for that purpose to provide and keep fire-engines with pipes and utensils; to establish markets, and to have or purchase any land, and to erect or purchase and keep in repair any building for the same; to assize weights and measures and appoint an officer for that purpose; to grant permits and licences, and to levy tolls and dues as hereinafter provided; to regulate the time and places for slaughtering sheep and cattle, and the state and condition of slaughter-houses, tanneries and woolwashing establishments; to appoint one or more competent persons to examine meat and other provisions exposed for sale, and who, in case such meat or other provisions be found unfit for food, shall be empowered to cause the same to be destroyed; to prevent and abate nuisances, and generally to devise and carry out all such measures as shall appear to be to the advantage and convenience of the municipality; to make regulations for the management of the common pasture lands of the municipality, and for fixing the number and description of cattle which each ratepayer shall be allowed to depasture on such lands; to establish and provide for the management of tolls and public pounds: Provided that no toll due, or fee, or charge for any permit or licence, or any punishment or penalty, shall be imposed by reason of anything in this section contained, unless the same shall have been imposed by some such municipal regulation as is in the thirty-sixth section mentioned: And provided also, that no regulation shall diminish the rights of commonage of proprietors or occupiers as to the number of stock to be allowed to be depastured below that stated in the seventy-first section of the Graaff-Reinet municipal regulations in force on the first day of May, 1879, viz.:—“Every

proprietor or occupier of a house or erf of the undermentioned value shall be allowed to depasture on the common pasture lands of the municipality the following number of cattle, being his *bonâ fide* property, viz.:—1st class, from £25 and under £200, five sheep or goats, three horses, mules, or other cattle, or so many of each as will not exceed three in the whole; 2nd class, from £200 and under £500, ten sheep or goats, fourteen horses, mules, or other cattle, or so many of each as will not exceed fourteen in the whole; 3rd class, from £500 and upwards, fifteen sheep or goats, sixteen horses, mules, or other cattle, or so many of each as will not exceed sixteen in the whole.

XXXIII. The provisions of Act No. 16 of 1875, Water supply. entitled “An Act for enabling the Commissioners of the Municipality of Graaff-Reinet to Procure a Better and Purer Supply of Water for the Inhabitants of such Municipality,” shall apply to the municipality constituted under this Act, and all powers and duties therein vested in or given to the commissioners for the municipality of Graaff-Reinet are hereby vested in and given *mutatis mutandis* to the councillors elected under this Act.

XXXIV. The distribution of water shall be Distribution of water. regulated according to the division thereof made by the late board of landdrost and heemraden of Graaff-Reinet on the 19th November, 1827; but whereas, in certain cases, no provision has been made in the said water distribution with respect to the water commonly called “afloop water,” it shall be lawful for the council, and it is hereby empowered, to dispose of the said water, and to apportion it in such a manner and to such erven as it shall consider just and equitable. The strength of the streams in the various furrows from which the erven in town are irrigated shall be regulated in manner as follows: that is to say, the whole of the water brought into the town, both by the upper and lower furrows, shall, for the purpose of distribution, be divided into five equal streams. The erven irrigated from the lower furrow, and those on the eastern side of the Dry River, shall be each

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entitled to one of those streams : that is to say, to a volume equal to one-fifth of the whole brought into the town.

The strength of the stream to supply the erven understood to be supplied from the upper furrow, but not including those on the eastern side of the Dry River, shall be one-half of the strength of the stream supplying the lower furrow erven, or one-tenth of the whole.

The strength of the stream to irrigate the erven entitled to special supplies of water shall be in strict accordance with the rules adopted by the said late board of landdrost and heemraden on the 19th November, 1827 ; and if the water-overseer shall fail in his duty to make the distribution accordingly, he shall be liable to a fine not exceeding five pounds sterling.

Water tax.

XXXV. In the month of January in each year a water tax shall be paid to the council by the proprietors or occupiers of erven, according to the following scale :—For an allowance of two hours of a single stream of water, twice a week, the sum of nine shillings sterling ; for the same allowance of a double stream or more, the sum of eighteen shillings sterling ; and so in proportion for every longer or shorter time : Provided that all erven having an allowance of less than one hour twice a week of a single stream, or less than half-an-hour of a double stream, shall pay four shillings and sixpence sterling ; And provided, also, that for each and every house, tenement, or other building on any of the erven above referred to, other than the dwelling-house belonging to such erf, which shall have been let during any part of the year, the proprietor or occupier shall pay the sum of three shillings sterling.

Power to frame regulations.

XXXVI. It shall be lawful for the council, at any meeting at which two-thirds of the members shall be present, to frame, from time to time, all such municipal regulations as may seem meet for the good rule and government of the municipality : Provided that all municipal regulations in force in the municipality of Graaff-Reinet at the time of the taking effect of this Act shall be of the same force

and effect as if they had been duly framed, approved, and published under this Act, and shall continue to be in force and operative until such time as the same shall be altered or new ones published under this Act.

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XXXVII. No municipal regulation framed by the council shall be of force to subject any person to any fine, penalty, or payment, until it shall have been submitted to the Governor by the council, and shall have been approved of by him, with the advice of the Executive Council, and published in the *Government Gazette*.

Regulations to be approved of by Governor in Council.

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

No proof required of published regulation having been duly made.

XXXIX. It shall not be competent, by means of any municipal regulation, to punish the contravention thereof in any higher or more severe manner than by a fine not exceeding five pounds: Provided that it shall be competent for any such municipal regulation to provide that, if the person convicted of contravening the same shall not forthwith pay the fine imposed upon him, he shall be liable to be imprisoned, with or without hard labour, for any period prescribed by such regulation: Provided, moreover, that such period shall not exceed three months.

Limitation of penalties for contravention of regulations.

XL. All property which shall at the time of the taking effect of this Act be vested in the commissioners for the municipality of Graaff-Reinet, elected under and by virtue of Ordinance No. 9 of 1836, and the Amended Municipal Act No. 13 of 1864, shall, from and after the taking effect of this Act, become and be vested in the council elected under this Act, upon the like trusts and purposes for which the same was originally granted or transferred; and in like manner all liabilities, debts, contracts, or engagements incurred, made, or entered into by the said commissioners, or their predecessors in office, on behalf of the municipality of Graaff-Reinet, shall be taken over by the council.

Vesting of municipal property.

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Power to sell such
property under cer-
tain restrictions.

XLII. The council elected under this Act may, with the consent of the Governor of this colony, testified by any writing under the hand of the Colonial Secretary, sell by public sale any of the land or property in the last preceding section mentioned for any purpose of a municipal nature which the council shall deem desirable and the said Governor shall approve of: Provided that the said council shall, before applying to the said Governor for his consent, give public notice of not less than twenty-one days in the manner hereinafter mentioned of their intention to apply for such consent, in which notice so published shall be given a full and clear statement of the situation, nature, and extent of the land or property proposed to be sold, and of the object or purpose for which the money to arise from the sale is required: Provided also, that when and as often as any land or property shall be sold under and according to the provisions of this section, then such land or property shall be subject to such servitudes, conditions, and provisions as shall be inserted in the transfer deed of the land or property so sold: Provided, further, that the said council may, with such consent as aforesaid, alienate any of the land or property aforesaid in exchange for other land or property, but such council shall not, except with such consent, alienate any such land or property; and the provisions of this section in regard to the notice to be given before applying for a consent to sell shall extend to any application for a consent to an exchange.

Power to mortgage
property.

XLIII. The council elected under this Act may, with the consent of the Governor aforesaid, testified as aforesaid, raise by way of mortgage of any land or property vested in the said council, or by debentures or other securities charged upon such land or property, any sum of money which shall be required for any purpose of a municipal nature which the said council shall deem desirable and the said Governor shall approve of: Provided that the provisions of the last preceding section requiring the publication of notice of an intended sale shall, *mutatis mutandis*, apply to the case of an intended mortgage or issue

of debentures: Provided also, that as often as the said council shall raise money by the issue of debentures, to be charged upon any such land or property as aforesaid, the council shall execute to and in favour of any person or persons in trust for the holders of the debentures so issued, which holders shall, according to their respective amounts and interests, rank *pari passu* upon the proceeds of the land or property comprised in such mortgage.

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XLIII. The sum of money to be raised under the last preceding section in any one year, reckoned from the first day of January till the thirty-first day of December, shall not exceed double the amount which shall be estimated as the probable sum to be yielded by the municipal rate assessed, or to be assessed, in manner hereinafter mentioned, for that year: Provided that no mortgage granted or debentures issued under the said last preceding section shall be invalidated or affected, either wholly or in part, by reason that the sum secured by such mortgage or debentures shall prove to have exceeded the sum which, under and according to the provisions of this section, ought to have been raised.

Limit of amounts to be raised on mortgage.

XLIV. The council may, for any such purpose as is in the forty-second section described, mortgage or charge by debentures the municipal rates of the said municipality in security for any sum of money to be borrowed by the said council: Provided that no sum of money shall be capable of being borrowed under the provisions of this section, unless with the previous consent of a majority of the ratepayers of the said municipality present at a meeting to be convened by the council, upon a notice of not less than twenty-one days, to be published in the manner hereinafter mentioned: And provided that it shall not be lawful for the said ratepayers to sanction, or for the said council to borrow upon security of the said rates, any sum or sums exceeding at any one time the sum of three thousand pounds sterling.

Municipal rates may be charged with money borrowed.

XLV. Every mortgage aforesaid or power of attorney for authorising the execution of a mortgage of any land or property under this Act shall

Mortgages, &c., to be under seal of municipality.

No. 10--1880.

be under the common seal of the corporation, and shall be executed by two councillors, and be countersigned by the town clerk, and every debenture issued under this Act shall be executed in the same manner.

Fresh mortgages or debentures to redeem those falling due.

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

power of leasing.

XLVII. The council may lease with the consent of the Governor any portion of the common pasture lands belonging to the municipality for the purpose of erecting woolwashing establishments, for building, and for any other purpose, for a period not exceeding thirty-three years: Provided that no such lease shall be granted by the council until a notice in writing of the proposal of the council to grant such lease shall have been posted for general information at some conspicuous place of public resort, within the municipality, for a period of not less than twenty-one days, and shall cause the same to be published in a local paper for the same period, which notice shall in some part thereof describe the part or portion of land proposed to be leased, and the object, terms, and conditions of the proposed lease, and shall require any person objecting to the proposed lease to lodge with the council, within

twenty-one days from and after the posting and publication of such notice, his objection thereto in writing, whereupon the council shall receive and consider the objections, if any, and shall grant or refuse the said lease as they shall think fit: Provided also, that all such leases shall first be put up at auction to public competition, and shall contain a power to re-enter for non-payment of rent or non-performance of covenants.

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XLVIII. The council may, by public sale or tender, lease the privilege of working any mines or quarries belonging to the corporation. Lease of mines.

XLIX. No lessee of any such land, or of any mines or quarries, shall assign or sub-let the same without the previous consent of the council, testified in writing, first had and obtained. Sub-letting.

L. In case the said council shall require to take or use any land, with or without the buildings, if any, erected thereon, for the purpose of making, widening, or improving any street, market, or public building, or to dig out or carry away any materials belonging to any person or persons within the said municipality, then, and in that case, it shall be lawful for the said council, and it is hereby authorised and empowered to treat and agree with every such person or persons for the purchase or hire, as the case may be, of any such land, buildings, or materials as aforesaid, and generally to enter into such contract or contracts for the obtaining of any such land, buildings, or materials, upon such terms and conditions as the said council shall deem expedient, and in case any such person or persons and the said council shall not agree upon the purchase-money, or hire, or other recompense to be respectively given by the one party and accepted by the other, then the said council shall cause to be served upon such person or persons a written notice, offering as recompense or compensation whatever sum of money it shall deem sufficient, and requiring such person to state in writing to the said council, or to some person by it appointed, within twenty-one days from the service of the said notice, whether he or they are willing Power to appropriate lands under certain restrictions, and for certain purposes.

No. 10—1880.

to accept the sum therein mentioned or not; and in case the person shall refuse to accept the sum offered, or shall neglect to reply to the said notice, then the said council shall, by another notice in writing, call upon such person or persons to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said council, and for that purpose to transmit to the said council, within a certain reasonable time, to be specified in the said last-mentioned notice, the name of some person whom he shall select to be an arbitrator upon such arbitration, and the said council, upon receiving the name of the person so selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed on behalf of the said corporation by the town clerk for the time being, and by the person or persons claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, together with a power to the said arbitrators, in case of a difference of opinion, to call in an umpire, whose decision shall be final; and the award of such arbitrators or umpire, as the case may be, shall be made a rule of the supreme or any circuit court of this colony, or of the court of the eastern districts, and shall be binding and conclusive, and may be pleaded in bar to any action or proceeding at law brought for, or on account of, the same subject matter; and in case such person as aforesaid, claiming such recompense or compensation, shall neglect or refuse to name such person to be such arbitrator as aforesaid, or to sign the said deed of submission, then it shall be lawful for the said council, and it is hereby authorised, to lodge in some joint-stock bank in the colony the sum of money offered by it as aforesaid in its first notice in this section mentioned, for or on account, and at the risk, of such person as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his absolute property; and the said council, upon so lodging the said sum, shall be authorised and entitled to take or use the said land,

buildings, or materials in question, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been an order by the arbitrators or umpire under the provisions of this section, and as if all acts by law required for vesting in the said council a sufficient title to the use of or property in the land, buildings, or materials aforesaid had been duly done and performed.

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LI. In case the said council shall require to take or use any of the land, with or without the buildings, if any erected thereon, or to dig or carry away any of the materials in the last preceding section mentioned, of which land the owner or owners shall be absent from the colony, and not represented by any agent duly accredited, or shall not be discoverable, then it shall be lawful for the said council, and it is hereby authorised, to cause a notice to be inserted in the *Government Gazette*, and one or more newspapers published in the town of Graaff-Reinet, for three months, describing as accurately as may be the materials, land, or buildings which are required to be taken or used, and calling by name on the owner or owners of the said land, buildings, or materials, if known, to take notice that the said council is ready and willing to treat with the owner or owners, or any persons duly authorised by him or them, for the recompense or compensation to be made or paid by the said council for the said land, buildings, or materials, and requiring such owner or owners to apply, within six months from the date of such notice, which shall be the day of its publication, to the said council, stating the recompense or compensation claimed; and if the owner or owners shall so apply within the said period, then the like proceedings in regard to the agreeing for, or otherwise determining, the recompense or compensation to be respectively given and received, shall in all respects be had and taken which are prescribed in the last preceding section, precisely as if the said owner or owners had from the first been in actual occupation; and in case such owner or owners

In case of appropriation of lands of absent owners.

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shall not apply to the said council within the same period, then it shall be lawful for the said council to appoint some competent person, to be approved of by the civil commissioner of the division, to appraise the value of the land, buildings, or materials required, and such person shall make oath, before some justice of the peace, that he hath, to the best of his judgment, fairly appraised such value ; and thereupon it shall and may be lawful for the said council to pay whatever sum such person shall have valued the land, buildings, or materials in question at into the guardians' fund, to the credit of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th of July, 1833, in regard to moneys placed in the said fund belonging to persons absent from the colony ; and the said council, upon so paying the said sum, shall be authorized and entitled to take or to use the land, buildings, or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all acts by law required for vesting in the said council sufficient title to the use of, or property in, the said land, buildings, or materials aforesaid, had been duly done and performed.

Quorum of council.

LII. At all meetings of the town council five members of the council shall form a quorum : Provided that nothing herein contained shall extend to alter or affect the provisions of the thirty-sixth and sixty-first sections of this Act.

Ordinary meetings
once a fortnight.

LIII. An ordinary meeting of the council shall take place at least once in every fortnight, and all such ordinary meetings shall be open to the public.

Special meetings.

LIV. The mayor or any two councillors may at any time call a special meeting of the council, provided that he or they cause a notice of the time and place of such intended meeting, specifying the object thereof, and signed by him or them, or by the town clerk, to be notified to every councillor, either personally, or at his usual place of abode, twenty-four hours at least before such meeting.

LV. At every meeting of the council, the mayor, No. 10—1880.
 if present, shall preside; in case of his absence, Mayor to preside.
 the councillors present shall elect a chairman from
 amongst themselves.

LVI. In all cases of an equality of votes, the Castling vote.
 mayor or chairman shall have a second or casting
 vote.

LVII. Minutes of the proceedings of every Minute book of meet-
 meeting shall be entered in a book to be kept for ings.
 that purpose, and shall be read at the next succeed-
 ing meeting, and signed by the person presiding
 thereat.

LVIII. It shall be lawful for the council to Committees to be
 appoint out of their own body such and so many formed.
 committees, either of a general or special nature,
 and consisting of such number of members as may
 seem fit, for any purpose which, in the judgment
 of the council, would be better managed by means
 of a committee: Provided always, that the pro-
 ceedings of every such committee shall be submitted
 to the council for its approval; the mayor to be
 ex-officio member of all such committees.

LIX. It shall be lawful for the council, from time Clerk, treasurer, and
 to time, to appoint fit persons (not being members other officers.
 of the council) to be town clerk and treasurer, and
 also to appoint such other officers as they shall
 think necessary for enabling them to carry into
 execution the provisions of this Act, and to pay all
 the officers so to be appointed such salaries as the
 council shall deem reasonable; and, unless it shall
 be otherwise stipulated in the contract of service,
 to remove all such officers, upon a notice of not
 less than three months, or in case of misconduct,
 without any notice.

LX. The said council are hereby empowered from Streetkeepers and con-
 time to time to appoint and employ such number of stabiles.
 able-bodied streetkeepers, location constables,
 policemen, overseers, labourers, and others as shall
 be required for the protection of the inhabitants
 and property, streets and public places, within the
 municipality, by day and by night, and for other
 purposes; and to provide all such streetkeepers,
 constables, and policemen with such clothing, arms,

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ammunition, and weapons, and shall appoint to them such duties and hours or times of duty, and shall also make such rules, orders, and regulations, relative to such streetkeepers, constables, policemen, and others and their duties, as shall be deemed fit.

Power to levy rates.

LXI. For the purpose of raising the means of making new roads, streets, market-places, bridges, drains, sewers, watercourses, reservoirs, aqueducts, and other waterworks; for the purchase of such lands or erection of such buildings as may be required in or about the execution of the powers hereby given to the council; for the purchase of waterpipes, fire engines and appurtenances; and for the effecting of all other permanent public works and improvements within the municipality; for the purpose of raising the means for effecting the repairs of all such works as the council are hereby empowered to make or to have made; for the maintaining of waterworks, fire engines, police establishments, markets, and pounds; for the payment of salaries and all other ordinary current expenses required to be borne by the municipality, the council shall have the power to impose, levy, and recover all such market dues, water rates, and pound fees as shall be deemed necessary and reasonable; and shall also have the power, as often as shall be deemed necessary, to make and levy in manner hereinafter provided, rates or assessments upon all immovable property within the municipality, the value of such property to be ascertained in manner hereinafter provided: Provided that no rate shall be made or levied by the council unless there shall be present at the meeting, at which such rate shall be imposed, at least nine members of the said council; And provided also, that no rate or assessment, excepting water rates, shall be imposed upon any almshouses, botanical gardens, or hospitals, nor on any buildings appropriated for public worship, nor upon burial grounds, nor upon buildings solely appropriated to the purposes of education.

Appraisers to be appointed.

LXII. Within three months after the promulgation of this Act, the council shall appoint one or

more competent appraisers, not being members or officers of such council, for the purpose of valuing all and singular the immovable property situate within the municipality.

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LXIII. As soon as any valuation as aforesaid shall be completed, it shall lie in the office of the town clerk for the inspection of every owner or occupier of any property included therein, who may, upon all lawful days, and at reasonable times, inspect the same and take extracts therefrom, and the council shall, by public notice, announce for general information, that it will, upon some day and at some hour and place to be fixed by such notice, hold a court, at which, at least, a quorum of members shall be present, for the purpose of hearing and determining objections to such valuation: Provided that the notice shall be published fourteen days at least before the day appointed therein for the holding of such court: And provided also that it shall not be necessary in any suit or action for the recovery of any rate to prove anything further, in the nature of due notice of any such valuation as aforesaid, than the publication of the notice aforesaid in one or more of the local newspapers.

Valuations may be inspected.

Court for hearing objections.

LXIV. Upon the day and at the place and hour mentioned in such notice, the council shall hold a court, and shall hear all objections which may be urged to any valuation by any owner or occupier, or other person on his behalf, and shall inquire into the merits of such objections, and shall confirm or correct any valuation objected to: Provided that the said court may be adjourned from time to time upon the application of any person objecting, who shall show reasonable grounds for not being ready with the proofs, or for the purpose of obtaining further evidence in regard to any case which shall have been partly heard.

How objections to valuations to be heard.

LXV. The decision of the said court upon any objection to any valuation shall be final and conclusive, and shall not be capable of being reviewed or reversed by any court or proceeding whatever.

No appeal or review.

LXVI. The council shall annually, in the month

Rates to be assessed and notice thereof.

No. 10—1880.

of December, make an estimate of the amount of money required for municipal purposes in the next ensuing year, and shall assess a rate accordingly upon all immovable property liable thereto, and give public notice thereof in one or more of the newspapers of the municipality, and shall in like manner, if any further or unforeseen expenditure shall become necessary during the same year, make a supplementary estimate thereof, and assess a second or further rate, whereof they shall give public notice in like manner: Provided that it shall not be

Limitation of rates.

lawful for the council in any one year to levy any rate or rates amounting in the aggregate to more than one penny in the pound on the value of the immovable property subject to such rates, without obtaining the consent of the majority of the ratepayers present and entitled to vote, according to the eighth section of this Act, at a public meeting to be called for the purpose of considering such rate or rates; of the object and time and place of holding such meeting, at least seven days' notice shall be given by publication in one or more of the Graaff-Reinet newspapers; and all rates assessed under the provisions of this Act shall be recoverable against the owner or occupier thereof.

When rates payable.

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

Collection of rates.

LXVIII. As soon as any rate or rates shall have been assessed as aforesaid, the same shall be payable, and the council shall appoint under the corporate seal one or more fit person or persons to collect such rate or rates, which shall, on non-payment thereof, be recoverable at the suit of any such collector, by action in the court of the resident

magistrate of Graaff-Reinet, or in case any person liable for any rate shall not reside within the district of Graaff-Reinet, in the court of the resident magistrate of the district in which such ratepayer shall reside.

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LXIX. In case by reason of the non-payment of any rate, it shall be necessary to sue for the same as in the last preceding section mentioned, the council may, through its collector, and it is hereby authorised, to sue the owner or the occupier, either separately or both of them in one and the same action, each for the whole rate: Provided, however, that the occupier of any property who shall not at the same time be the owner thereof, and who shall not have entered into such occupation in pursuance of a contract or agreement for becoming the owner of the same shall, in the absence of any written agreement to the contrary, be entitled to retain or recover from such owner the amount of any rate as aforesaid which such occupier shall have paid.

Power to sue for rates.

LXX. The council may once in every year publish in one or more of the newspapers of the municipality a statement of every sum in arrear, and of the property in respect of which the same is due.

Publication of rates in arrear.

LXXI. The first valuation to be made, as aforesaid, for the purposes of this Act, shall subsist and be in force for three years from the date of the first assessment under this Act; 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 is hereinbefore directed with regard to the first valuation.

Valuation to be made every three years.

LXXII. In case any new buildings shall be erected on any property during any such period of three years, increasing the value of such property, it shall be lawful for the council to proceed to have the land and such buildings thereon valued or revalued as the case may be, in the same manner as is hereinbefore provided with regard to the first valuation; and after such valuation is completed, the property so valued or revalued shall be in the

New buildings to be valued within the three years.

No. 10—1880.

same plight and condition as to future rates as if it had been included in the first or then preceding general valuation.

Tolls.

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

Exemption from toll

LXXIV. No toll shall be payable by any officer or soldier, or member of any colonial or imperial military forces on duty, or by any member of any police force appointed under the Divisional Police Act, 1873, or any other Act, or any judicial or civil officer, mail-carrier, or other Government servant, whilst travelling on public duty ; and further, that no more than one toll shall be payable in any one day, to be computed from twelve o'clock on one night until twelve o'clock in the next succeeding night, for and in respect of the same vehicle or animal.

Treasurer's accounts.

LXXV. The treasurer of the said municipality shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters in respect whereof each sum shall have been received and paid ; all such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance sheet thereof, shall yearly, at such time as the council shall appoint, be handed by him to the auditors and to such members of the council as the mayor shall name, for the purpose of being examined and audited ; and such abstract of balance sheet, when found correct, shall be signed by the auditors, and shall be forthwith published by the treasurer in one or more of the newspapers published within the municipality.

Notices of public meetings to be published.

LXXVI. Every notice calling a public meeting of the ratepayers, and every notice or other document

or thing required by this Act to be published, shall (except when otherwise provided), be so published by causing a copy thereof to be inserted in one or more of the newspapers within the municipality, and a copy of the same shall also be affixed in some conspicuous place, upon or near the town hall: Provided always that the mayor shall call a meeting on receiving a requisition to that effect signed by not less than twenty-five duly qualified ratepayers.

No. 10—1880.

LXXVII. All fines and penalties imposed by this Act, or by any municipal regulations made by virtue thereof, shall be prosecuted for in any competent court by the council in the name of the "municipal council of Graaff-Reinet," and all such fines and penalties, when recovered, shall be paid to the treasurer of the municipality for municipal purposes: Provided that no such prosecution as aforesaid shall be commenced later than three months from and after the date of the act of omission or commission upon which such prosecution shall be founded: And provided also that in all such prosecutions the town clerk may appear on behalf of the council.

How fines to be recovered.

LXXVIII. The storing of kerosene, gunpowder, or other explosive material shall not be permitted, except in such places as may be approved of and licensed by the said council for that purpose.

Gunpowder regulations.

LXXIX. It shall be competent for the town council to set apart any part or portion of the municipal land for burial grounds or cemeteries, and to prohibit burials in any other part within the municipality, and any person or persons causing any interment to be made elsewhere than in the part or parts so set apart, shall be liable to a fine not exceeding fifty pounds, to be recovered in any competent court.

Burial grounds.

LXXX. This Act may, for all purposes, be cited as "The Graaff-Reinet Municipality Act, 1880."

Short title.

Repealed by 1892 Act 32.

No. 11—1880.]

AN ACT

[July 29, 1880.]

To provide for the Better Maintenance of Discipline
in certain Colonial Corps while on Active
Service.

Preamble.

WHEREAS it is necessary for the safety of the colony that discipline and good order should be maintained in the colonial forces when called out for active service in time of warfare or disturbance of the public peace, and that mutiny, desertion, and other disgraceful offences should be rigorously dealt with: And whereas the means which at present exist for maintaining such discipline and good order in various of the colonial forces are wholly inadequate for the purpose, and it is desirable to render such means more effectual: 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:—

Offences in schedule to be tried by resident magistrate or board of officers.

I. All members of mounted yeomanry regiments, all volunteers, all burghers, all members of colonial commissariat or transport forces attached to a field force, and all members of native levies, when called out for active service within this colony or beyond the borders thereof, who may be charged with any of the offences in the schedule hereto, shall be tried by and before the court of the resident magistrate of the district in which such offence has been committed, or a board of officers as hereinafter provided, and shall, upon conviction, be liable to a fine not exceeding £10, and in default of payment thereof to be imprisoned, with or without hard labour, for any period not exceeding six months unless such fine be sooner paid, or to be imprisoned without the infliction of any fine for any period not exceeding six months, with or without hard labour, or to both such fine and imprisonment.

Penalties.

Members charged with offences to be reported to officer commanding district.

II. Upon any member of any of the said forces being charged with having committed any of the said offences, the charge shall be forthwith reported to the officer in command of the district within which

the offender shall be serving, or in his absence to the senior officer of the forces with which the offender shall be then serving, and such officer shall, having regard to the nature and magnitude of the offence, direct in writing whether the said offender shall be proceeded against before the said court of resident magistrate or board : Provided that nothing herein contained shall prevent the said officer to whom such report shall be made as aforesaid from ordering the discharge from custody of any prisoner in case it appears to him that there are not sufficient grounds for putting such prisoner upon his trial ; and if the proceedings are directed to be before a court of resident magistrate as aforesaid, they shall be in all respects the same as in the case of an ordinary offender or supposed offender against the law, and the said offender shall be in the same plight and condition as any other person charged with any criminal offence.

No. 11—1880.

Power of commanding officer to order discharge of accused.

III. The board hereinbefore mentioned shall consist of not less than three officers, or in case the offender be under the rank of a commissioned officer, of not less than two officers and one non-commissioned officer, who shall be selected and summoned by the officer in command of the district within which the offender shall be serving, or in his absence by the senior officer of the forces with which the offender shall be then serving. The senior officer amongst the members of the board so selected and summoned as aforesaid, shall be the president of such board, and the decision of the majority of the members of such board shall be deemed to be the decision of such board : Provided that, in case the members of the said board shall be equally divided in opinion, the decision of the president shall be deemed to be the decision of the board : Provided, further, that if there be any officer, or in case the offender be under the rank of a commissioned officer as aforesaid, any non-commissioned officer of the branch of the colonial forces to which the offender belongs, who, without delay or detriment to the service, may be selected and summoned as aforesaid to act upon such board, such

Constitution of board of officers.

No. 11—1880.

officer or non-commissioned officer, as the case may be, shall, unless he be the person making the charge, or be summoned as a witness at the hearing of such charge, form one of the said board, and if no such officer or non-commissioned officer be available as aforesaid, or if every such officer or non-commissioned officer shall have made the charge or be summoned as a witness as aforesaid, then the president of the said board shall report that circumstance specially in the proceedings.

Mode of proceeding
at trial.

IV. The proceedings before and at any trial by a board as aforesaid, shall, as near as may be, be the same as those from time to time prescribed as to criminal cases in a court of resident magistrate; and all the evidence which may be given before such board shall be taken down in writing by the president thereof, by whom also the witnesses shall be duly sworn; and, any person so sworn who shall wilfully and corruptly give false evidence before any such board shall be deemed to be guilty of the crime of perjury, and, upon conviction thereof, shall suffer any punishment by law provided for that crime.

How attendance of
witnesses to be com-
pelled.

V. Every person who may be required to give or produce evidence in any case pending before any such board shall be summoned, in writing, by any officer of the forces with which the offender shall be then serving; and all witnesses so duly summoned who shall not attend, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or not produce the documents under their power or control required to be produced by them, or to answer all such questions as the said board may legally demand of them, shall be liable to be dealt with by such board in like manner as if such witness had been a witness duly summoned to appear before a resident magistrate in a criminal case pending in the court of such resident magistrate.

After sentence, pro-
ceedings to be trans-
mitted to supreme or
eastern districts court.

VI. When and as often as any such board as aforesaid shall sentence any offender under this Act to be imprisoned, with or without hard labour, for any period exceeding seven days, or to pay a

fine exceeding five pounds, the president of such board shall forthwith, after pronouncing such sentence, transmit the original proceedings in the case, together with such remarks, if any, as he may desire to append, to the registrar of the supreme court, or if the trial has taken place within the jurisdiction of the eastern districts court, to the registrar of that court; and the provisions of the 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, *mutatis mutandis*, extend and apply to such proceedings as if the same had been proceedings in a case decided by a court of resident magistrate which, under the said forty-seventh section, would have had to be sent for review by a judge of one of the superior courts.

No. 11—1880.

VII. All offenders arrested for any offence under this Act, and all offenders sentenced to imprisonment by any board as aforesaid, may be imprisoned in any building set apart as a guard-room or prison by order of the officer commanding: Provided that, in case the sentence shall exceed fourteen days' imprisonment, with or without hard labour, the person convicted shall be removed to the nearest public goal, there to undergo such sentence, and when so removed he shall be in the same plight and condition as if the sentence had been a sentence of one of the ordinary courts of law of this colony: And provided also, that so long as any man shall be imprisoned in any guard-room or prison as aforesaid, the same shall, as to such offender, be deemed to be a public goal, and the prisoner shall be deemed to be a prisoner confined therein within the meaning of the Ordinance No. 24 of 1847, intituled "Ordinance for improving the Goals of this Colony;" but every board aforesaid and the resident magistrate of the district shall have the like jurisdiction and powers as to offences committed by any such prisoner while imprisoned in any such guard-room or prison as by the Ordinance aforesaid are given to the resident magistrate

Where offenders to be imprisoned.

No. 11—1880.

This Act not to be a bar to other legal proceedings.

of the district as to the public goals within his district.

VIII. Nothing in this Act contained shall prevent any offender from being prosecuted otherwise than under the provisions of this Act in all cases in which he would by law, without this Act, be liable to such prosecution; but no member of any of the said forces acquitted or convicted of any crime or offence under the provisions of this Act, shall be liable to be again tried for the same crime or offence: Provided that nothing herein contained shall prevent a member of any of the said forces who has been acquitted or convicted from being dismissed from the said force or reduced in rank therein.

Sentences and other proceedings to be valid beyond the colonial border.

IX. Whenever it shall be necessary to enforce enactments, provisions, and regulations in this Act mentioned, in any place situate beyond the borders of this colony, the sentences, fines, and penalties which shall be pronounced and inflicted for the purpose of such enforcement shall be as valid and effectual, and shall be carried into effect in the same manner as if the same had been pronounced or inflicted within this colony.

Short title.

X. This Act may be cited as "The Colonial Forces Discipline Act, 1880."

SCHEDULE OF OFFENCES REFERRED TO IN THIS ACT.

1. Beginning, inciting, causing, or joining in any mutiny or sedition.
2. Being present at any mutiny or sedition, and not using his utmost endeavour to suppress the same.
3. Conspiring with any other person to cause a mutiny or sedition.
4. Knowing of any mutiny or sedition, and not without delay giving information thereof to his immediate commanding officer.
5. Striking or offering violence, or using threatening language to a superior officer in the forces, being in the execution of his duty.

6. Disobeying the lawful command of a superior officer in the force.

7. During the period for which he shall be engaged in active service in any of the said forces deserting from the same, or refusing to serve therein, or being absent without leave, or advising or persuading any other member of the said forces to desert from the same, or knowingly receiving and entertaining any deserter, and not immediately on discovery giving information to his commanding officer, or taking other means to cause such deserter to be apprehended.

8. Misbehaving before the enemy, or shamefully abandoning or delivering up any fort, post, camp, station, or guard committed to his charge, or which it was his duty to defend, or inciting any other person so to do.

9. Discharging any firearms, making any signal, or by other means whatsoever, intentionally occasioning false alarm in action, camp, or quarters.

10. Casting away his arms in presence of the enemy.

11. Being, while a sentinel, found sleeping on his post, or leaving the same before being regularly relieved.

12. Disclosing, verbally or in writing, the numbers, position, or preparations of the force or forces to which he is attached, and by such disclosure producing effects injurious to the service to which he belongs.

13. Being in the command of a guard, piquet, or patrol, and without proper authority releasing any prisoner committed to his charge or suffering him to escape.

14. Being found drunk on any duty under arms.

15. Malingering, feigning, or producing decease or infirmity, or wilfully maiming or injuring himself or any other member of the force, whether at the instance of such other member or not, or causing himself to be maimed or injured by any other person, with intent thereby to render himself or such other member unfit for service.

16. Taking any bribe or gratuity whatever with reference to any duty imposed upon him.

17. Selling, pledging, wilfully damaging, destroying, or otherwise disposing of any horse, saddle, bridle, gun, clothing, or ammunition, or other article of equipment, which by the regulations of the said force for the time being he shall be required to keep and possess.

Repealed by 1896 Act 35.

No. 12—1880.]

AN ACT

[July 29, 1880.

To amend in certain respects Act No. 39 of 1877
and Act No. 5 of 1879.

Preamble.

WHEREAS it was provided by Act No. 39 of 1877 that, from and after the annexation of the province of Griqualand West to the colony of the Cape of Good Hope, the supreme court of the said colony shall consist of one chief justice and five puisne judges, the recorder of Griqualand West being one of them: And whereas it was further provided by the said Act that appeals from the decisions of the high court of Griqualand West, or of any circuit court within the said province, shall be made in the first instance to the supreme court of this colony, and that appeals from the land court of Griqualand West may, by consent of parties, be removed into the said supreme court: And whereas, by the subsequent Act No. 5 of 1879, it was provided that the supreme court shall consist of one chief justice and five puisne judges, the said recorder not being included among the said five judges: And whereas, by the said last mentioned Act, a court of appeal in criminal as well as in civil cases was established in respect of decisions of the eastern districts court, and from the circuit courts of this colony, and certain provisions were made in respect of the mode of procedure to regulate such appeals: And whereas it is expedient, in view of the future annexation of the said province to the said colony, that the said first mentioned Act should be amended in such a manner as to provide one and the same court of appeal for the united colony, to render the mode of procedure in all appeals uniform, and in other respects to make the provisions of the first mentioned Act consistent with Act No. 5 of 1879: Be it enacted by the Governor of the Cape of Good Hope, by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Repeal of inconsistent enactments.

1. So much of the Royal Letters Patent, commonly called "The Charter of Justice," of the Act No.

39 of 1877, of the Act No. 5 of 1879, and of any other law in force in this colony at the time of the taking effect of this Act, as shall be repugnant to or inconsistent with the provisions of this Act, shall be, and the same is hereby repealed.

No. 12—1880

II. From and after the annexation of the said province to the said colony, the supreme court of the said colony shall consist of one chief justice and six puisne judges instead of five as heretofore, the additional judge being the recorder for the time being of Griqualand West.

After annexation of Griqualand West, supreme court to consist of seven judges.

III. In lieu of any right of appeal which may, under and by virtue of the 10th and 11th sections of the said Act No. 39 of 1877, exist at the time of such annexation as aforesaid to the supreme court of this colony, such appeal shall be made, in the first instance to the court of appeal of this colony instead of the said supreme court, and all and singular the provisions of the said Act No. 5 of 1879, contained in the sections numbered eleven to twenty-nine inclusive, shall apply, *mutatis mutandis*, to the said high court, precisely as if the said high court had been therein mentioned instead of the eastern districts court.

Appeal to be to court of appeal.

IV. The 24th section of the said Act No. 5 of 1879 shall be read and construed as if the word "hereinbefore" had been written for the word "hereinafter" in the said section.

"Hereinbefore" to be read for "hereinafter" in sec. 24 of Act 5 of 1879.

No. 13—1880.] AN ACT [July 29, 1880.

To provide for the Detention within the Colony of certain Prisoners of War.

WHEREAS the persons named in the schedule to this Act have from time to time been captured in arms against Her Majesty the Queen, and have, since such capture been, and now are, detained as prisoners of war: And whereas it is necessary for the preservation of the tranquillity of South Africa, and for the general safety, that the

Preamble.

O

No. 13—1880.

said persons should continue to be detained and kept in custody as herein after provided ; and that all due precautions should be taken to prevent them from joining and using their influence with the tribes to which they respectively belong : 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 :—

Authority to detain prisoners of war named in schedule.

I. It shall and may be lawful for the Governor for the time being to detain and keep as prisoners of war the persons named in the schedule to this Act, or any of such persons during the pleasure of the said Governor, in the custody of such officer or officers, in such place and under such restrictions as to the said Governor from time to time shall seem meet.

Means for safe custody, &c., to be provided.

II. It shall and may be lawful for the said Governor to provide sufficient means for the safe custody and maintenance as prisoners of war of the said persons and each of them during such time as the said Governor shall deem it desirable that such persons or any of them shall be detained and kept in custody as aforesaid.

Place of detention to be fixed by proclamation.

III. The place of detention shall be defined and fixed by proclamation, to be published in the *Government Gazette*, but may, from time to time, by like proclamation, be changed and altered as may be found expedient.

Regulations to be made.

IV. It shall be lawful for the said Governor from time to time to make such regulations as may be considered necessary, in order to secure the safe custody and detention of such persons and each of them during the time they or he shall be detained and kept in custody for the purposes aforesaid, and to regulate the communication with the said persons and each of them

Prisoners going beyond limits to be apprehended, &c.

V. In case the said persons, or any of them, shall, during the time they or he shall be detained and kept in custody as aforesaid, proceed beyond the limits of the said place of detention without the permission, in writing, of the Secretary for Native Affairs, or in case they or any of them shall con-

travene any regulation which may be made as aforesaid, it shall be lawful for any person, with or without warrant, to apprehend them or him; and thereupon it shall be lawful for the said Governor to take such steps as may be considered necessary for the further and more effectual safe custody of the said offender or offenders during the remainder of the term of their detention and custody as aforesaid.

13—1880.

VI. Every person who shall rescue or attempt to rescue, or aid or incite the said persons, or any of them, to escape, or attempt to escape, beyond the limits of the said place of detention, or shall knowingly harbour the said persons, or any of them, when they have so escaped, shall, on conviction before any competent court, be liable to imprisonment, with or without hard labour, for any term not exceeding one year.

Penalties or attempt to rescue, or assist in escape of prisoners.

VII. The said Governor and the commander or commanders of Her Majesty's naval or military forces for the time being, and all persons acting under them or any or either of them, shall be, and they are, hereby jointly and severally indemnified, freed, and discharged from and against all actions, suits, and prosecutions whatsoever, whether criminal or civil, which might be brought or instituted in any of the courts of this colony for, or on account, or in respect of, any acts, matters, and things whatsoever done by the said Governor or the said commander or commanders of Her Majesty's naval or military forces, or by any person or persons acting under them or any or either of them respectively in any command or capacity, civil or military, in bringing or conveying the said persons, or any of them, within the limits of this colony, and in detaining and keeping them, or any of them, in custody therein prior to the taking effect of this Act: Provided that all such acts, matters, and things shall have been done *bona fide* and properly in furtherance and execution of bringing or conveying the said persons, or any of them, within the limits of this colony, and detaining and keeping them, or any of them, in custody therein as

Indemnity clause.

No. 13—188

aforesaid : Provided also, that every such act, matter, or thing shall be presumed to have been done *bonâ fide* and properly, until the contrary shall be made to appear by the party complaining.

SCHEDULE.

Ngubo.
 Nxito.
 Joey.
 Stock Tyali.
 Jacobus Afrikaaner.
 Klaas Pofadder.
 John Adams.
 Jan Kop or Kok (*alias* Sanagab or Zenekop).
 Titus Lynx.
 Piet Rooy.
 David Diederick.
 Carl Ruyter.

No. 14—1880.] AN ACT [July 29, 1880.

To amend, in certain respects, Act No. 29 of 1868, being "An Act for the Organization and Regulation of a Police Force for the Northern Border of the Colony."

*See Act.
 13/12 § 45
 = 14/12 § 2.*

Preamble.

WHEREAS doubts have arisen as to whether there exists any legal power to try and determine offences committed by members of the police force acting on the northern border of this colony in cases where the offence shall be committed outside the limits of the colony : And whereas it is expedient to remove such doubts and to confer jurisdiction in respect of such offences, as well as of all others created by the Act No. 29 of 1868, upon the officer duly appointed to exercise jurisdiction for the better protection of Her Majesty's subjects on the northern frontier of this colony : Be it enacted by the Governor of the Cape of Good Hope, acting by and with the advice and consent of the Legis-

lative Council and House of Assembly thereof, as follows:—

No. 14—1860.

I. Section XIII. of Act No. 29 of 1868 is hereby repealed. Repeal of sec. 13 of Act 29 of 1868.

II. All the offences created by the said Act No. 29 of 1868 shall be cognisable, triable, and punishable by any resident magistrate having jurisdiction in the place where such offence shall be committed, or by the officer appointed under the third section of Act No. 27 of 1868, to exercise jurisdiction for the better protection of Her Majesty's subjects on the northern frontier of this colony, who is hereby authorised and empowered to try and punish offenders against the said Act in all cases, whether the offence be committed within the limits of his local jurisdiction or elsewhere, the true intent and meaning of this Act being to confer upon the officer last mentioned power and jurisdiction to try and punish persons guilty of offences created by the said Act No. 29 of 1868, although such offence shall not have been committed within the limits of his local jurisdiction or within this colony. Jurisdiction in cases of offences under such Act.

No. 15—1880.]

AN ACT

[July 29, 1880.

To provide for the Establishment and Regulation of a Force to be called "The Cape Field Artillery."

Cape Field Artillery amalgamated in C.M.F. and ceased to exist as a separate corps on 1/7/1884. See Gazette Notice of the 11.9.1884.

WHEREAS it is expedient that the defensive forces of the colony should be strengthened by the establishment of a sufficient force of field artillerymen, and that efficiency and discipline should be maintained in such force when established as aforesaid: 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:—

I. The Governor shall cause such number of fit and able men as Parliament shall from year to year Power to embody field artillery.

No. 15—1880.

provide for, to be embodied to serve as a field-artillery force within the said colony or beyond the borders thereof, as occasion may require.

Name of force.

II. The force so embodied shall be called "The Cape Field Artillery."

Officers to be appointed by Governor.

III. It shall and may be lawful for the Governor, as occasion shall require, to appoint and issue commissions to a sufficient number of officers of such rank as may be required for the purposes of such force, and all such officers shall be under and subject to the orders of the commandant-general of the forces of this colony.

Oath of allegiance, &c., to be taken.

IV. Every person who shall be enrolled in the said force shall be bound to serve for five years; and shall, upon enrolment, be required to pass a medical examination, and take the following oath, or make an affirmation to the same effect, before some duly authorised person, that is to say:—
"I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law, and that I will faithfully serve in the Cape Field Artillery for five years, unless I shall be sooner discharged. So help me God." Provided always that such members of the Cape Mounted Riflemen as shall be embodied in the said force shall not be bound to serve, unless by special agreement, for a longer period than the residue of the period for which such persons may be bound to serve in the force called "The Cape Mounted Riflemen."

Necessary arms and equipments to be provided.

V. It shall and may be lawful for the Governor, from time to time, as occasion shall require, to provide pieces of artillery and other arms, ammunition, and all necessary equipment for the said force, and to procure for such force all necessary barrack and store accommodation.

Regulations to be made.

VI. It shall and may be lawful for the Governor, from time to time, to make such regulations respecting the training, arms, accoutrements, ammunition, clothing, and equipment of such force, and respecting all other matters connected therewith, as may be required for promoting the discipline and efficiency thereof.

VII. All and singular the provisions of section nine, and every subsequent section of Act No. 9 of 1878, and the schedule to the said Act shall, *mutatis mutandis*, apply to the force by this Act constituted: Provided always, that the words "then commanding officer" shall be substituted for the words "field officer" or "field officers of the wing," wherever such words occur in the said Act No. 9 of 1878: Provided, further, that officers of the Cape Mounted Riflemen shall be eligible to be members of boards of officers under this Act.

No. 15—1880.
 Certain sections of
 Act 9 of 1878, *mutatis
 mutandis*, to apply.

VIII. This Act may be cited for all purposes as "The Cape Field Artillery Act, 1880." hort title.

No. 16—1880.] AN ACT [July 29, 1880.

To indemnify certain Persons in regard to Acts done in carrying out recent Military Operations against Enemies and Rebels in Basutoland and upon the Northern Border of this Colony.

WHEREAS it has heretofore been necessary to prosecute and carry out military operations against certain enemies of Her Majesty the Queen beyond the borders of this colony, and against certain rebels against the authority of Her Majesty the Queen within that portion of the colony known as Basutoland, and also upon and within the northern border of the said colony: And whereas during the prosecution and conduct of such military operations by the volunteer, burgher, and other colonial forces of this colony, within certain districts of the colony, and beyond the borders thereof, it became and was necessary for His Excellency the Governor and the Commander of the Forces for the time being, and for other persons acting under them respectively, to do and perform, within the colony and beyond the borders thereof, certain acts, matters, and things, which were not justifiable by the strict rules and forms of law, but which were

Preamble.

No. 16—1880.

necessary for the public safety : And whereas it is just and fitting that the said Governor, the said Commander of the Forces for the time being, and all other persons acting under them respectively, should be indemnified in respect of all acts, matters, and things by them respectively done in the prosecution of the aforesaid military operations : Be it therefore enacted by the Governor of the Cape of Good Hope, by and with the consent of the Legislative Council and the House of Assembly thereof, as follows :—

Governor, Commander of Forces, and others indemnified for acts done in military operations in Basutoland, &c.

I. The said Governor and the said Commander of the Forces for the time being, and all persons acting under them, or either of them, in the prosecution and conduct of the said military operations in Basutoland, and upon and within the northern border of this colony, shall be and they are hereby jointly and severally indemnified, freed, and discharged from and against all actions, suits, and prosecutions whatsoever, whether criminal or civil, which might be brought or instituted in any of the courts of this colony, for or on account or in respect of any acts, matters, and things whatsoever done in the prosecution and carrying out of the aforesaid military operations against the aforesaid enemies or rebels, whether within the colony or beyond the borders thereof, by the said Governor or the said Commander of the Forces, or by any person or persons acting under them, or either of them, respectively, in any command or capacity, civil or military, which such person may have exercised during the prosecution and conduct of the aforesaid military operations : Provided always, and the indemnity hereby granted is upon the supposition and condition, that all such acts, matters, and things shall have been done *bona fide* and properly in furtherance and execution of the objects of the said military operations : Provided also, that every such act, matter, or thing shall be presumed to have been done *bona fide* and properly until the contrary shall be made to appear by the party complaining.

Act not to deprive such persons of any other lawful defence.

II. Nothing herein contained shall be taken or construed so as to deprive any person whomsoever

of any lawful defence, other than this Act, which such person may have or possess against any action or prosecution grounded upon any act done, or alleged to have been done, by him or by his authority, in the prosecution and conduct of the aforesaid military operations.

No. 16—1880.

III. This Act may be cited for all purposes as Short title.
 “The Military Operations Indemnity Act, 1880.”

No. 17—1880.]

Repealed by 1882 Act: 18.

AN ACT

[July 29, 1880.]

To provide for the Management of the Outer or Reserved Commonage of Schietfontein.

WHEREAS on the 16th November, 1860, two Preamble.
 grants of land were made by the Governor of the colony, one granting the then present and future proprietors of erven in the village of Harmsfontein, now called Carnarvon, certain commonage known as the inner commonage of Carnarvon; and the second granting to the Schietfontein and Praamberg Kafir proprietors of certain erven in the village of Harmsfontein certain other commonage, known as the outer or reserved commonage of Schietfontein: And whereas the management of the inner commonage is duly provided for by municipal regulations approved of by the Governor, but no legal provision exists for the management of the outer or reserved commonage: And whereas it is desirable to establish rules for the good management of such commonage: 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. It shall be lawful for the Governor from time to time to make, alter, amend or rescind, as the case may be, all such regulations as may be required for the purposes following:—

Power to Governor to make, alter, and rescind regulations.

- (a) The due and efficient management of the said reserved commonage and the regulation and protection of the rights of pas-

No. 17—1880

turage thereon, including provisions for enabling travellers to outspan upon such commonage at a reasonable rate of payment; for requiring reasonable payment from such individuals or members of the community having right, title to, or interest in such reserved commonage as aforesaid, as shall enjoy more largely or more beneficially than others, rights of commonage as aforesaid, and for impounding all cattle and other animals trespassing on such reserved commonage as aforesaid.

- (b) The proper control and equitable distribution of all streams and springs of water flowing over or rising in the said reserved commonage, or to the use of which the community, having right, title to, or interest in, such reserved commonage as aforesaid, may be entitled.
- (c) The preservation of the health of the said community, and the prevention and removal of nuisances within the limits of the tract occupied by them as aforesaid.
- (d) The preservation of or right to cut and carry away timber and brushwood growing on the said reserved commonage.
- (e) The levying of rates for the purpose of carrying out improvements for the benefit of the said community, and generally for the proper control of the rights attached to the said reserved commonage.

Moneys received to be applied to benefit of community.

II. All moneys received under the first section of this Act shall be applied and administered for the common benefit of such community as aforesaid.

Power to impose penalties for contravention of regulations

III. It shall be lawful for the said Governor, in any rules and regulations framed by him under the authority of this Act, as aforesaid, to provide that persons contravening any such rules or regulations shall, on conviction by the resident magistrate of the district, be liable to imprisonment, with or without hard labour, for any term provided by such rules and regulations not exceeding one month, or to pay

a fine not exceeding five pounds sterling; and, in default of payment thereof, to such imprisonment, with or without hard labour, unless such fine be sooner paid, and all fines so to be levied shall be paid into the public treasury.

No. 17—1880.

IV. All rules and regulations which shall be made in conformity with the provisions of this Act, as well as all alterations, amendments, or rescissions of the same, shall be published in the *Government Gazette*, and shall thereupon have the force of law, for all purposes mentioned therein, and allowed hereby.

Regulations to be published in *Government Gazette*.

No. 18—1880.] AN ACT [July 29, 1880.

To authorize the Municipality of Aliwal North to Borrow a Sum not exceeding Five Thousand Pounds Sterling, for the purpose of Erecting a Town-hall, Market-house, and Offices for the use of the Inhabitants of the Town of Aliwal North.

WHEREAS it is expedient to provide the inhabitants of the town of Aliwal North with a suitable town-hall, market-house, and offices: And whereas, at a public meeting of resident householders convened for that purpose on the 16th day of April, 1880, it was resolved, by the unanimous consent of all such householders then present, that the commissioners of the said municipality of Aliwal North be authorised to carry out the objects before mentioned at a cost not exceeding the sum of five thousand pounds sterling: 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.

I. It shall be lawful for the commissioners of the municipality of Aliwal North to borrow, from time to time, such sum or sums of money, not exceeding

Power to municipality to borrow £5,000.

No. 18—1880.

in the whole the sum of five thousand pounds sterling, for the purposes aforesaid, and to impose, for the purpose of providing for the payment of the interest or principal, or interest and principal of the moneys aforesaid, rates upon the immovable property situate within the municipality, and liable to be rated for municipal purposes; and every rate so imposed by the said commissioners shall be of the same force and effect, and be levied in the same manner, as if it had been a rate imposed under the provisions of Ordinance No. 9 of 1836, section 28.

Interest on loans to be a charge on municipal revenues.

II. As a fund for the payment of the interest upon, and gradual extinction of, the loans to be raised under the authority of this Act, there shall be charged and chargeable upon and set apart out of the annual revenues of the said municipality as aforesaid, an annual sum equal to the interest on the whole amount of such loans, and a further sum equal to one pound per centum on the total amount of the capital sum of such loans, and such sums shall be annually charged upon and payable out of the revenues of the said municipality, so long as any portion of the money to be raised as aforesaid shall remain unpaid and unextinguished.

Capital charged upon municipal rates.

III. The aforesaid sum of five thousand pounds sterling, or such lesser sum as shall have been borrowed for the purposes aforesaid by the said commissioners is hereby charged upon, and made payable out of, the rates and revenues in the first section of this Act mentioned: Provided that it shall be lawful for the said commissioners to apply to the payment of the interest or principal, or interest and principal, of the said debt, any funds or moneys coming to them from any source whatever, and not specially appropriated or required for any other object.

Lender to receive a written acknowledgement, as in schedule.

IV. The commissioners aforesaid shall grant to the party, or parties, or company, society, or co-partnership, from whom they shall borrow such money as aforesaid, a written acknowledgement of or for the moneys borrowed by the said commissioners for the purposes aforesaid, not exceeding in the whole the aforesaid sum of five thousand pounds sterling; which acknowledgment shall in sub-

stance be in the form in the schedule annexed to this Act, and shall be signed on behalf of the said commissioners by the chairman and two of the commissioners for the time being of the said municipality.

No. 18—1880.

V. All moneys borrowed for the purposes of this Act shall be subject to the provisions of the "Public Bodies Debts Act, 1867."

Loans subject to "Public Bodies Act of 1867."

VI. The commissioners 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 in the construction and maintenance of the said town-hall, market-house, and offices: And the said commissioners 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 office of the municipality of Aliwal North, for the inspection, at all reasonable times, of any resident householder of the municipality, an account showing the particulars aforesaid, and giving any other information which the said commissioners shall deem it necessary or expedient to impart: Provided that every such account so to be 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.

Separate accounts to be kept of moneys borrowed.

VII. The necessary costs, charges, and expenses of obtaining this Act and of obtaining suitable plans, drawings, designs, and specifications for the said town-hall, market-house, and offices may be paid by the said commissioners out of the moneys so to be borrowed as aforesaid.

Costs and charge may be paid out of loans.

VIII. This Act may be cited for all purposes as "The Aliwal North Town-hall and Market-house Act, 1880."

Short title.

SCHEDULE.

We, the undersigned, commissioners of the municipality of Aliwal North, do hereby acknowledge that the commissioners, in their said capacity, are indebted to _____ in the sum of _____, for so much money borrowed by the said commissioners for the purposes set forth in "The Aliwal North Town-hall and Market-house Act,

No. 18—1880.

1880;" and certify that the said sum is and stands secured by the said Act in manner and form as by the said Act provided.

And we further covenant and engage for and on behalf of the commissioners, that the interest and principal of the said debt shall be payable and paid in manner following, that is to say (here insert according to the agreement the rate of interest and the times of payment thereof, and the date or dates or other conditions upon which the principal of the debt shall become payable).

Given under our hands, at Aliwal North, this _____ day of _____, 18_____.

A.B., Chairman of Municipality.
C.D., }
E.F., } Commissioners.

Witnesses :

G.H.,
I.K.

No. 19—1880.] AN ACT [July 29, 1880.

To apply a Sum of Money for the Service of the Year ending the 30th day of June, 1881.

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

Revenue charged
with £1,611,826.

I. The public revenue of the colony of the Cape of Good Hope is hereby charged towards the service of the year ending the 30th day of June, 1881, with a sum of one million six hundred and eleven thousand three hundred and twenty-six pounds sterling, in addition to the sum of one hundred and fifty thousand pounds sterling provided for by the Act No. 1 of 1880.

Money to be applied
as in schedule.

II. The money granted by this Act and by the said Act No. 1 of 1880, amounting in the whole to the sum of one million seven hundred and sixty-one thousand three hundred and twenty-six pounds sterling, shall be applied for the purposes and services expressed in the schedule annexed hereto, and more particularly specified and set forth in the colonial estimates and supplementary estimates of the expenditure for the year ending 30th June, 1881,

with the notes to such estimates submitted to and approved by Parliament. No. 19—1880.

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

IV. This Act may be cited for all purposes as as "The Appropriation Act, 1880." Short title.

SCHEDULE

Summary of Recapitulations of Estimates and Supplementary Estimates of Expenditure, 1880-81.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Colonial Secretary	436,419	405,756	842,175	739,769
II. Treasurer of the Colony	39,508	667,435	706,943	28,921
III. Attorney-General	23,385	11,525	34,910	21,355
IV. Commissioner of Crown Lands & Public Works	81,797	802,229	884,026	862,336
V. Secretary for Native Affairs	75,546	51,970	127,516	108,945
Grand Totals ...	656,655	1,938,915	2,595,570	1,761,326
Less Amount provided for by Act No. 1 of 1880	...	...	...	150,000
Total required to be voted	...	...	...	1,611,326

To provide for the Voluntary Registration of Births
within the several Divisions of this Colony.

Preamble.

WHEREAS it is expedient to provide for the voluntary registration of births within the several divisions 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 House of Assembly thereof, as follows:—

Civil commissioners
to keep "Births
Registration Books."

I. From and after the first day of September, 1880, there shall be kept at the office of every civil commissioner within this colony, a book, to be called the "Births Registration Book," in which shall be entered and registered by such civil commissioner, or other person lawfully deputed by him for that purpose, in manner and form hereinafter provided, the particulars of all such births occurring within the division for which he shall act as such civil commissioner, as the parents, or in case of their decease or inability to act, the next of kin of, or other person interested in, the child or children so born, shall desire to have so entered and registered.

Particulars therein as
in schedule.

II. The "Births Registration Book" aforesaid shall contain the particulars and be in the form set forth in the first schedule to this Act annexed.

Births to be regis-
tered within two
calendar months.

III. Every such registration as aforesaid shall take place within two calendar months from the date of the birth of the child so desired to be enregistered: Provided that after the expiration of the said period of two calendar months such registration may still take place upon payment of double the amount of fee payable as is in the fifth section hereof hereinafter provided for or in respect of every such registration made within the said period of two calendar months: Provided, also, however, that after the expiration of twelve calendar months from the date of birth, no registration thereof shall upon any pretence be made except in such cases as are in the seventh section hereof hereinafter provided for.

Solemn declaration
as in schedule.

IV. Before making any such registration as aforesaid, the civil commissioner, or his deputy as afore-

said, shall require the person desiring such registration to make and subscribe before any justice of the peace the solemn declaration set forth in the second schedule to this Act annexed, and such declaration shall be filed in the office of the said civil commissioner.

No. 20—1880.

V. There shall be payable to the said civil commissioner in respect of every such registration as aforesaid, by the person desiring the same, a fee of one shilling (except in cases where as is in the third section hereof hereinbefore provided for the same shall be double that amount), and at the time of such registration the said civil commissioner shall furnish such person with a certificate thereof, signed by the said civil commissioner, in the form set forth in the third schedule to this Act annexed, which certificate shall, on production, either before any court of justice or elsewhere, be deemed and taken to be *prima facie* legal evidence of the birth, the due registration of which is therein certified to.

Fees of registration.

VI. It shall be competent for any person at any time after the said first day of September, 1880, and during ordinary office hours, to inspect the said "Births Registration Book," and also for any person, upon payment of a fee of one shilling, to obtain from the said civil commissioner (or his deputy as aforesaid) a certificate signed by the said civil commissioner (or his deputy as aforesaid) of any entry contained therein, and such certificate shall be similar in all respects to that granted at the time of the making of such registration, and for all purposes of evidence shall be deemed and taken to be of the same force and effect as such original certificate so granted as aforesaid.

Right to inspect registration books.

Fees for inspection and certificates

VII. And be it further enacted, anything in the third section hereof contained to the contrary notwithstanding, that within six calendar months from the said first day of September, 1880, it shall be lawful and competent for any person to obtain, upon payment of the aforesaid fee of one shilling, in the same manner and subject to the same requirements (in so far as the same are applicable), in all respects as hereinbefore mentioned, the registration

Births of children born not more than six years prior to 1st September, 1880, may be registered.

No. 20—1880.

of the birth of any child not exceeding on the said first day of September, 1880, the age of six years, and to obtain the certificate of such registration in manner hereinbefore provided for, which certificate or any duplicate thereof which may be obtained as is hereinbefore also provided for, shall be of the same force and effect in all respects as if such registration had taken place within two calendar months from the date of the birth, the due registration of which is therein certified to.

ees by stamps.

VIII. All fees payable under this Act shall be discharged by affixing a stamp or stamps of the value of such fee to any certificate by this Act required.

Short title.

IX. This Act may be cited for all purposes as "The Voluntary Births Registration Act, 1880."

FIRST SCHEDULE.

BIRTHS REGISTRATION BOOK.

Division of _____

No. of Entry.		Date of Registration.	Name, in full.	Sex.	Declared Day of Birth.	Parents' Names, in full. Father. Mother.	Abode of Parents at time of Child's Birth.	Quality, Trade, or Profession of Father.	By whom Declaration of Birth made.	By whom Registered.

SECOND SCHEDULE.

No. 20—1894.

Voluntary Births Registration Act, 1880.

FORM OF DECLARATION.

Name of child in full _____.
 Date of birth _____.
 Name in full of mother _____.
 " " of father _____.
 Abode of parents at time of child's birth _____.
 Quality, trade, or profession of father _____.

I, _____, of _____, do solemnly and sincerely declare that the particulars above set forth respecting the birth of the said _____, are within my own knowledge and are true and correct. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the Ordinance No. 6 of 1845, intituled "An Ordinance for Substituting Declarations in the place of certain Oaths, and for the Suppression of Voluntary and extra-judicial Oaths and Affidavits."

Declared at _____, this _____ day of _____, 18_____.

Before me _____.

THIRD SCHEDULE.

EXTRACT FROM THE BIRTHS REGISTRATION BOOK FOR THE DIVISION OF _____.

No. of Entry.	Date of Registration.	Name, in full.	S. x.	Declared Day of Birth.	Parents' Names, in full.		Abode of Parents at time of Child's Birth.	Quality, Trade, or Profession of Father.	By whom Declaration of Birth made.	By whom Registered.
					Father.	Mother.				

I hereby certify the above to be a true extract from the Births Registration Book for the Division of _____.

Dated at _____, this _____ day of _____, 8—

_____, Civil Commissioner.

No. 21—1880.] AN ACT [July 30, 1880.

To authorise the Governor to Borrow a Sum not exceeding Forty-one Thousand Two Hundred and Thirty-seven Pounds, for the purpose of completing certain Bridges over the Orange River.

Preamble.

WHEREAS it is expedient to incur certain expenditure, in addition to the expenditure already authorised by Act No. 26 of 1874, for the construction of certain bridges over the Orange River: And whereas it is necessary to provide the money required for such purpose: 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:—

Authority to raise the sum of £41,237.

I. For the purpose of carrying out the works hereinbefore mentioned, it shall be lawful for the Governor to raise from time to time, either by debentures or stock, or partly by debentures and partly by stock, a sum of money not exceeding the sum of £41,237 (forty-one thousand two hundred and thirty-seven pounds) sterling, to be applied as follows, that is to say:

(a) For the works of the said bridges over the Orange River, in addition to the amount provided by Act No. 26 of 1874, the sum of £40,000 (forty thousand pounds).

(b) For discount and charges of raising loan, the sum of £1,237 (one thousand two hundred and thirty-seven pounds).

Borrowing powers.

II. The several borrowing powers and other provisions contained in sections two to eight inclusive of Act No. 6 of 1877 shall, *mutatis mutandis*, apply to all sums of money borrowed under the authority of this Act.

Short title.

III. This Act may be cited as “The Additional Orange River Bridges Loan Act, 1880.”

No. 22—1880.] AN ACT [July 30, 1880.

Repealed by 1916 Act 22.

To enable the Governor to Borrow a Sum not exceeding Three Hundred and Forty-nine Thousand Five Hundred and Fourteen Pounds Ten Shillings and Ten Pence (£349,514 10s. 10d.) for the purpose of completing certain Railway Works ; and the further Sum of One Hundred and Eighty-one Thousand Nine Hundred and Eighty-five Pounds One Shilling and Three Pence (£181,985 1s. 3d.) to cover the Expenditure authorised to be incurred by Act No. 13 of 1879.

WHEREAS it is necessary to incur the expenditure of a sum of three hundred and forty-nine thousand five hundred and fourteen pounds ten shillings and ten pence (£349,514 10s. 10d.) in the construction and equipment of certain railways in excess of the sums already appropriated for that purpose : And whereas, by Act No. 13 of 1879, the expenditure was authorised of a sum not exceeding one hundred and eighty-one thousand nine hundred and eighty-five pounds one shilling and three pence (£181,985 1s. 3d.) for the construction and equipment of certain lines of railways, but no power or authority was given to the Governor to borrow such last-mentioned sum, or any part thereof : And whereas it is necessary to provide for the raising upon loan of both the aforesaid sums : 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 :—

I. The expenditure of a further sum not exceeding three hundred and forty-nine thousand five hundred and fourteen pounds ten shillings and ten pence (£349,514 10s. 10d.) sterling, in addition to the sums already authorised for the construction

Expenditure of
£349,514 10s. 10d.
authorised

No. 22—1880.

and equipment of railways, is hereby authorised as follows :—

- (a) For the Wellington and Worcester railway, a sum of two thousand five hundred and five pounds sixteen shillings and seven pence (£2,505 16s. 7d).
- (b) For the Worcester and Beaufort West railway, a sum of fifty-three thousand four hundred and ninety-eight pounds (£53,498).
- (c) For the Malmesbury and loop line railway, a sum of three thousand three hundred and thirty pounds one shilling and five pence (£3,330 1s. 5d.)
- (d) For the Castle and Docks railway, a sum of four hundred and three pounds twelve shillings and two pence (£403 12s. 2d.)
- (e) For the Port Elizabeth and Bushman's River railway, a sum of three thousand four hundred and forty-four pounds and eight pence (£3,444 0s. 8d.)
- (f) For the East London and Queen's Town railway, a sum of two hundred and twenty-five thousand pounds (£225,000).
- (g) For the terminal works, Cape Town, a sum of ten thousand five hundred and seventy-six pounds (£10,576).
- (h) For additional rolling stock for Western railways, a sum of thirty-four thousand eight hundred and twelve pounds (£34,812).
- (i) For discount and charges of raising loans, a sum of fifteen thousand nine hundred and forty-five pounds (£15,945).

Borrowing powers to provide for the above sum, and for money authorised to be spent by Act 13 of 1879.

II. For the purpose of carrying out the works in the last preceding section mentioned, and for the purpose of providing for the expenditure authorised to be incurred by Act No. 13 of 1879, it shall be lawful for the Governor to raise from time to time, either by debentures or stock, or partly by debentures and partly by stock, a sum not exceeding the sum of five hundred and thirty-one thousand four hundred and ninety-nine pounds twelve shillings

and one penny (£531,499 12s. 1d.), to be applied as follows, that is to say:—A sum not exceeding the sum of three hundred and forty-nine thousand five hundred and fourteen pounds ten shillings and ten pence (£349,514 10s. 10d.) for the purposes in the first section of this Act mentioned; and a sum not exceeding the sum of one hundred and eighty-one thousand nine hundred and eighty-five pounds one shilling and three pence (£181,985 1s. 3d.) for the purposes in Act No. 13 of 1879 mentioned and provided for.

No. 22—1880.

III. The several borrowing powers and other provisions contained in sections 2 and 3 of Act No. 6 of 1877 (together with the several sub-sections of such last-named section) shall, *mutatis mutandis*, apply to all sums of money borrowed under the authority of this Act.

Borrowing powers of Act 6 of 1867 to apply.

IV. An account showing the amount of all stock and debentures issued from time to time under the authority of this Act, and of the moneys realised by the issue and sale thereof, and of the expenditure of all such moneys, or of so much thereof as shall have been expended, and an account of the amount of such stock and debentures for the time being outstanding, vouched for by the controller and auditor-general, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and the like accounts within fourteen days after the commencement of each succeeding session thereof.

Accounts to be laid before Parliament.

V. This Act may be cited as "The Additional Railway Works Loan Act, 1880."

Short title.

No. 23—1880.] AN ACT [July 30, 1880.

For the Incorporation of the Municipality of East London.

WHEREAS it is expedient that the municipality of East London should be incorporated and shall have perpetual succession, and possess, exer-

Preamble.

No. 23—1880.

cise, and enjoy all the rights and privileges which municipal corporation can or may possess, exercise, or enjoy 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 thereof, as follows :—

Repeal of certain statutes.

I. The Ordinances No. 9 of 1836, No. 2 of 1844, No. 8 of 1848, No. 5 of 1852, and the Act No. 13 of 1864, in so far as the same are applicable to the municipality of East London, shall continue to be of legal force and operative as heretofore, until after the first election of councillors, as provided for in and by this Act ; and immediately upon and after the names of the councillors shall have been published, as hereinafter provided, the said Ordinances and Act, in so far as the same apply as aforesaid, and also so much of the Act No. 8 of 1877, or any other law as is inconsistent with this Act, shall be and the same are hereby repealed : Provided that the municipal regulations in force at the time of taking effect of this Act shall continue to be in force and operation until such time as the same shall be altered or new ones published under this Act : And provided also, that the commissioners and officers of the municipality who may be in office at the time of the taking effect of this Act shall, until after the first election of councillors under this Act, remain in office, and exercise all such powers and authorities as previous to the taking effect of this Act were vested in them : And provided also, that all municipal rates assessed before the taking effect of this Act, and then due and in arrear, shall be deemed and taken to have been assessed under this Act, and the assessment roll in use at the time of the taking effect of this Act shall continue to be used until a new one shall be completed under this Act.

Existing rules to be in force till new ones are framed.

Boundaries of the municipality.

II. The municipality of East London shall comprehend the town and township of East London, including all common lands and property within the area formed by the boundaries hererinafter more particularly mentioned and described, to wit :—

West Bank of the Buffalo River.—From the mouth of the spruit which bounds sections 2, 1, 4, and 5, following that spruit to its eastern source at the Fort Grey Road; thence along that road to the continuation of the south-eastern boundary of section 8; thence along that boundary to the Buffalo River; thence down that river to the sea; thence along the coast line to the spruit as aforesaid.

East Bank of the Buffalo River.—From the mouth of the spruit in the bend of the Buffalo River above the said spruit to the common beacons of lots 112 and 113; thence along the south-eastern boundary of the said lot 113; thence along the southern boundary of lots 67 and 68 to the Amalinda River; thence up that river to the south-west corner beacon of lot 74; thence along the south-eastern boundaries of lots 74, 73, 72, 23, and 70, to the most easterly corner of lot 70; thence in a direct line to the south-easterly corner beacon of lot 24 (Tapson's lot) on Mr. Griffith's plan of survey; thence to the western corner beacon of lots 2 and 3 (German immigrant lots); thence along the western boundaries of sections 3, 25, 26, 43, and 44, to the south-western corner beacon of 44; thence following the southern line of lot 44, the western and southern boundaries of lot 50, the south-western boundary of lot 51, and the southern boundary of lots 53, 54, 55, 56, and 57 to the East London and Maclean Road; thence following that road to the I'hlanza River; thence as indicated on the sketch plan, framed by Mr. A. E. Murray, Government surveyor, dated 14th June, 1876, down the I'hlanza River aforesaid to a point near its mouth, marked A on said plan; thence in a straight line to a point marked F; thence in a straight line to a point marked C; thence in a straight line to a point on the west side of the Inkyanza River, marked D; thence in a straight line to a point on the Limekiln Spruit, marked E; thence down that

No. 23—1880.

spruit to its mouth, marked F ; thence following the coast line to the harbour works fence, marked G ; thence along that fence to its northern corner, marked H ; thence along the same fence to its junction with the Guigney River ; thence down that river to the Buffalo River ; thence up the Buffalo River to the point first named.

Creation of body corporate and its title.

III. There shall be in the said municipality a body corporate, which shall take and bear the name of "the mayor, councillors, and townsmen of East London," and by that name shall have perpetual succession, and sue and be sued, and shall have a common seal ; and shall, by the council thereof, do all acts, and have and enjoy all the rights and privileges which bodies corporate, as such, may do and have.

Constitution of municipal council.

IV. The council of the said municipality shall consist of twelve members, one of whom shall be the mayor.

Division of the municipality into wards.

V. The said municipality shall consist of three wards, as follows :—

Ward No. 1.—That portion of the municipality which is situate on the west bank of the Buffalo River.

Ward No 2.—That portion of the municipality which is situate between the east bank of the Buffalo River and Union-street, or a line drawn either way to points on the Buffalo River and sea beach respectively in continuation thereof, being the whole of the township hitherto known as East London East.

Ward No. 3.—The whole of the remaining portion of the municipality not included in either of the foregoing wards.

Boundaries of wards may be altered.

VI. The said council may, from time to time, if they think fit, alter the boundaries of all or any or either of the said wards, and extend the limits of the town or municipality, and may purchase and hold adjoining properties for the purpose of extending the common pasturage lands : Provided that the council shall, before making any such alteration, increase, extension, or purchase, give, in one or more of the newspapers published in East London, public notice of the alteration, increase, extension,

or purchase intended to be made ; which notice shall be published for not less than thirty-one days before any such alteration, increase, extension, or purchase shall be made ; and a copy of the same shall also be posted in some conspicuous place upon or near the municipal office or market place ; and in case six townsmen or more or any other person who may consider that his right will be interfered with by the proposed alteration, increase, extension, or purchase shall, within the time aforesaid, object to the same in writing, or to the objects, terms, and conditions thereof, the notice and the objections shall be forwarded to the Governor for his consideration and consent ; and on such consent being obtained, but not otherwise, the council may complete the proposed alteration, increase, extension, or purchase aforesaid.

No. 23—1880.

VII. Four councillors shall be elected for each ward in manner hereinafter mentioned.

Four councillors to each ward.

VIII. Every person of full age who is the owner or occupier of any immovable property in any ward of the municipality of the yearly value of not less than ten pounds sterling, in regard to which property no municipal rate shall at the time of any election of councillors, or a councillor of such ward, be due, and in arrear, shall be qualified and entitled to vote at such election, in respect of such ward : Provided that his name shall appear in the list of voters to be framed as hereinafter mentioned, and as a ratepayer in the assessment roll of such ward, which shall have been made next or latest before the election at which such person shall be elected : Provided also that the assessment roll in existence at the time of the taking effect of this Act shall be deemed and taken to have been framed under this Act, and that all municipal rates assessed before the taking effect of this Act, and then due and in arrear, shall be deemed and taken to have been assessed under this Act : And provided further, that for the purposes of this section, the owner and occupier shall not both be entitled to vote in respect of one and the same property, and that the occupier shall be entitled at all times to the vote.

Qualification of voters for councillors.

No. 23—1880.

Qualification of councillors.

IX. Every person of full age who shall have been the owner or occupier of immovable property of the yearly value of twenty pounds sterling and upwards within the limits of the said municipality for a period of not less than twelve months next before such election, and in regard to which property no municipal rate shall at the time of the commencement of election be due and in arrear, shall be eligible to be elected a councillor: Provided that different premises or properties owned or occupied in immediate succession shall satisfy this section as fully and effectually as if they had been one and the same premises or properties.

Requisition to candidates necessary.

X. No person shall be deemed a candidate at any election, nor qualified to be elected a councillor for any ward until such person shall have been invited to become such candidate by a requisition, signed by at least five qualified voters of such ward, and shall have transmitted such requisition, with the acceptance thereof, addressed to the town clerk, and delivered at his office between the hours of ten a.m. and three p.m., at least fourteen days before such election is appointed to take place.

Case of joint occupiers.

XI. When any property as aforesaid is occupied by more persons than one, each of such co-occupiers shall, subject to the provisions in the preceding sections mentioned, be entitled to vote in respect of such property, or eligible to be elected a councillor: Provided the yearly value of such property when divided by the number of such co-occupiers shall be equal to the sum of ten pounds sterling or twenty pounds sterling respectively for each such co-occupier.

Persons disqualified to be councillors.

XII. The following persons shall be disqualified from voting or being elected as councillors at any election under this Act, viz., persons who have been convicted of treason murder, rape, theft, receiving stolen goods knowing them to have been stolen, fraud, perjury, forgery, or any attempt to commit any of such offences, and who shall not have received a free pardon.

Town clerk to make yearly list of voters.

XIII. On or before the first Saturday in November next after the passing of this Act, and afterwards

on or before the first Saturday in November in every year, the town clerk shall cause a list to be made in alphabetical order for each ward of all persons qualified to vote at the election of councillors for each ward, setting forth the christian and surname of each at full length, the place of abode, and the nature of the qualification of such person.

No. 22—1880.

XIV. The chairman of the commissioners until the appointment of a mayor, and afterwards the mayor, shall forthwith cause such lists to be published by affixing the same to some conspicuous place upon or near the municipal office or market-place: and to every list so published shall be subjoined a notice, signed by such chairman or mayor, that all objections thereto and claims to be inserted therein will be heard and determined at some time and place to be named in such notice, and to be fixed by such chairman or mayor.

Publication of such lists.

XV. The chairman of the commissioners and two commissioners, until the appointment of a mayor and council under this Act, and afterwards the mayor and two councillors, to be selected for that purpose by the commissioners or councillors, as the case may be, shall have the power, after hearing objections and claims in open court, to strike out of any list the names of persons not entitled to be therein, and also to insert in any list the names of all persons entitled to be, but not appearing in, such list.

Provision for hearing objections to lists.

XVI. The list so settled shall be called "The Townmen's Roll of East London," and shall be brought into use on the first day of January in each year, and shall continue to be used until the next succeeding list shall be brought into use.

Title of the lists.

XVII. The chairman of the commissioners, and afterwards the mayor, shall, immediately after the settlement of such roll, publish the same in accordance with the sixty-third section of this Act.

Republication of lists when settled.

XVIII. On the last Saturday in February next after the passing of this Act, an election shall be held in manner hereinafter provided for twelve councillors, being four for each ward, who shall enter upon their office upon the first day of March

Yearly election of councillors.

No. 22—1880.

following, and thenceforth on the last Saturday in February in each succeeding year an election shall take place for three councillors, being one for each ward. All occasional vacancies shall be filled up as hereinafter mentioned.

Times and places of election to be notified.

XIX. The chairman of the commissioners, until the appointment of a mayor under this Act, and thereafter the mayor, shall, at least twenty-eight days before the day appointed for the election of a councillor or councillors, by notice to be published as hereinafter provided, notify the times and places at which and the ward or wards for which the election or elections will be held, and shall, by such notice, require that all requisitions and acceptances thereof under the tenth section of this Act be sent in to him fourteen days at least before the day appointed for such election.

Publication of requisitions to candidates.

XX. The town clerk shall, at least ten days before the day appointed for any election, cause the names of the candidates, together with the names of persons who have signed such requisition, to be published in manner hereinafter mentioned.

Mayor to preside at meetings of council.

XXI. Every meeting for the election of a councillor or councillors shall be presided over by a polling officer, to be appointed for that purpose by the mayor, or, before the appointment of a mayor under this Act, by the chairman of the commissioners. The poll shall commence at ten o'clock in the forenoon, and close at three o'clock in the afternoon of the same day.

Voters in each ward to have as many votes as there are vacancies.

XXII. At every election of a councillor or councillors every person whose name appears on the townsmen's or assessment rolls for any ward then in use (a copy of which shall be furnished to each polling officer for his guidance at such election) shall be entitled to vote in such ward in person for any candidates, not being more than the number to be elected for such ward, but not elsewhere or otherwise.

Voting to be by ballot.

XXIII. The votes shall be taken by ballot in manner following: that is to say, every voter shall, in the polling-booth, in the presence of the polling officer, set his name on a paper provided by the re-

turning officer against the name of the candidate or candidates for whom he intends to vote, and hand the same to the polling officer, who shall forthwith deposit such paper in a locked-up box, to be provided for the reception of such papers, and such box shall not be opened until after the close of the poll, and then only by the chairman of the commissioners, or mayor, as the case may be, in the presence of the polling officer only. No voter shall be allowed to give more than one vote to one candidate.

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XXIV. No inquiry shall at any election be permitted to be made as to the right of any person to vote, except as follows: that is to say, the polling officer may of himself, or at the request of any qualified voter, put to any voter the following questions, or either of them, and no others:—

What questions may be asked of voter.

- 1st. Are you the person whose name appears as A.B. on the townsmen's roll of East London, and on the voting paper now handed in by you?
- 2nd. Have all municipal rates assessed upon the immovable property now occupied (or owned) by you been paid?

And in case it shall be proved to the satisfaction of the polling officer before accepting the voting paper, or of the chairman or mayor, as the case may be, before declaring the poll, that the person has made a false answer to either of such questions, the polling officer shall reject, and the mayor or chairman, as the case may be, expunge the vote of such person.

XXV. If any person shall wilfully make a false answer to either of the above questions, he shall, in addition to the disqualification before mentioned, be liable to a penalty not exceeding ten pounds, to be recovered in the court of the resident magistrate, and in default of payment may be imprisoned for a period not exceeding one month, if such penalty be not sooner paid.

Penalty for false answers.

XXVI. All candidates shall be entitled to be present personally, or to be represented by proxy, in the polling booth (but not at the polling table, which shall be properly isolated) during the time the polling is going on, but shall not interfere in

Candidates may be present at polling.

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any manner in the election. Any person interfering in the election, or holding intercourse in the polling booth with any voter previous to such voter recording his vote, may be forthwith removed from the polling booth and prohibited from entering the same during the hours of election; and any person so interfering and refusing to obey the orders of the polling officer to leave the booth, or re-entering the same during the hours aforesaid, shall for each act of interference be liable to a penalty of not more than five pounds, to be recovered in the court of the resident magistrate.

If number of candidates only equal to vacancies, they are to be declared elected.

XXVII. In the event of the number of duly qualified candidates invited to stand as councillors for any particular ward, and accepting the requisition mentioned in section ten, being not more than the number required to fill the vacancies in the representation of such ward, the mayor, or before the appointment of a mayor, the chairman of the commissioners, shall forthwith declare such candidate or candidates duly elected.

How if votes for two or more candidates equal.

XXVIII. On the opening of the ballot box, as hereinbefore mentioned, the person or persons having the greatest number of votes duly recorded shall be taken to be duly elected, but if at any election the ballot shall, by reason of an equality of votes, be rendered indecisive, the returning officer shall thereupon publicly determine by lot which of the persons for whom an equality of votes has been given shall be elected.

List of elected persons to be published.

XXIX. When the chairman of the commissioners, or the mayor as the case may be, has ascertained the names of the parties so elected, he shall forthwith cause a list thereof, with the names of the wards for which they are respectively elected to be published in one or more of the local newspapers.

Provision for retirement of councillors in rotation.

XXX. Of the persons so elected as beforementioned the councillor who for each ward respectively shall have been elected by the smallest number of votes shall vacate his seat at the expiration of one year, from the first day of March next after the passing of this Act, and the councillor who for each ward respectively shall have been elected by the next

smallest number of votes shall vacate his seat at the end of two years from the said first day of March, and the remaining two councillors who for each ward respectively shall have been elected by the greatest number of votes shall vacate their seats at the expiration of three years from the said first day of March; and upon the retirement of such councillors respectively they shall be succeeded by councillors who shall be elected as hereinbefore provided, so that at every subsequent yearly election there shall be elected one councillor for each ward, except at every such third yearly election when there shall be elected two councillors for each ward, every such councillor so elected entering on his office on the first day of March in each year, and continuing therein for three years thereafter; and every retiring councillor shall be eligible for re-election: Provided that in case by reason of any two or more councillors in any ward having been elected by an equal number of votes, or in the event of the election having been an uncontested one, it shall be uncertain in what rotation they shall vacate their seats, the mayor shall at the first meeting of councillors decide by lot the rotation in which such persons shall retire.

XXXI. At the first ordinary meeting following the first general election of councillors under this Act, the councillors shall choose from among themselves by a majority of votes the mayor of the town, who shall hold office for one year; and thereafter at the first ordinary meeting following every annual election of councillors, the councillors for the time being shall, in like manner, choose from among themselves the mayor of the town for the ensuing year, and such mayor shall forthwith enter upon his office and shall continue therein for the year next ensuing: Provided that the chair at any meeting of the council for the election of mayor shall be taken by some member of the council, chosen by a majority of votes of councillors present, and in case of an equality of votes by lot, who is not a candidate for the office of mayor: And provided also, that any person who may have filled or

Mayor to be elected
by councillors.

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may have held the office of mayor may be re-elected to such office. In case of an equality of votes at any election of mayor, the question between the candidates having such an equal number of votes shall be determined by the presiding councillor by lot.

Also auditors of municipal accounts.

XXXII. At the second ordinary meeting after the annual election of councillors, the council shall appoint from amongst the townsmen two persons to be auditors of the accounts of the council, who shall continue in office until the same day in the following year, subject to the provisions of section thirty-five of this Act: Provided that no person shall be eligible to be an auditor who shall be a councillor, treasurer, clerk, or other officer of the municipality, and in case of an equality of votes at any election of auditors, the mayor shall determine by his casting vote which of the persons for whom an equal number of votes shall have been given shall be elected in case such persons cannot both be elected.

Provision in case office of mayor vacant.

XXXIII. If the mayor or any councillor shall die, resign, become insolvent, or be absent from the ordinary meetings of the council for a period of three calendar months without the leave of the council (such leave in no case to be for more than three months during the year of office), his office shall be declared vacant, and another mayor or councillor, as the case may be, shall be chosen or elected in his place in manner aforesaid, and shall hold office for the remainder of the term for which the mayor or councillor, who has vacated office, would otherwise have remained in office: And provided that the mayor shall in no case resign his office without giving one month's notice to the council.

In case of office of auditor being vacant.

XXXIV. If any auditor shall die, resign, assign his estate, become insolvent or incompetent, or in any way disqualified, his office shall at once become and be declared vacant, and the council shall, at the first ordinary meeting thereafter, appoint another auditor to fill the vacancy.

No councillor to have municipal contracts.

XXXV. No member of the council, or person

holding any office in the gift or disposal thereof, shall, directly or indirectly, have any share or interest in any contract with or employment by the council otherwise than as a shareholder in any bank or fire insurance company with which such council may transact business, or shall receive any fee, reward, or compensation for any vote given or act performed in his capacity as councillor or officer. And such councillor or officer who shall contravene the provisions of this section shall thenceforward cease to be a member of the council or to hold such office as aforesaid, and in case of an officer, shall not be entitled to any pension or compensation for loss of office, and shall further be liable to a penalty not exceeding fifty pounds: Provided that nothing herein contained shall apply to the case of a lease *bona fide* entered into between the council and a councillor or officer, as landlord and tenant, or to the case of an officer of the council receiving the ordinary salary or remuneration for the performance of the duties of his office.

XXXVI. The council shall have power and authority to do the following acts:— Powers of council.

- To make, construct, alter, keep clean and in repair, the roads, streets, dams, furrows, sewers, drains, culverts, and bridges within the limits of the municipality.
- To excavate, construct, and lay down within the limits of the municipality water courses, water pipes, conduits, sluices, dams, reservoirs, aqueducts, wells, and other works for supplying the inhabitants of the municipality with water, and to keep the same in repair, or to grant leave to any person, or company of persons, to lay down pipes, or to execute any other like works.
- To establish and retain the sole right to any ferry, pontoon, bridge, or other public means of crossing the Buffalo River.
- To make provisions for the prevention and extinguishment of fires, and for that purpose to provide and keep fire-engines, with hose, pipes, and all necessary utensils, and to establish and to maintain a fire-brigade.

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To establish, alter, regulate, and maintain markets and fairs, and to set apart places for these purposes.

To light or provide for the lighting of the streets.

To hold, occupy, lease, or purchase any land, and to erect, lease, or purchase, maintain, and keep in repair any building or buildings for any municipal requirement or purpose.

To lease, purchase, or erect and maintain such school buildings and manage such schools as the council shall, from time to time, think proper, and the exigencies of the times may render necessary and advisable, 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 schools should be required under any Act which may now be or may hereafter be in force for this purpose: Provided, always, that the ordinary revenue of the town be not used in the lease, purchase, erection, or maintenance of any school buildings.

To cause all buildings which shall be certified in writing by any three master builders to be unsafe to the public to be placed in a state of security, and, if necessary, removed at the expense of the owners of such buildings: Provided that notice in writing shall have been first given by the council to the owner or owners of such buildings that such buildings are in a state of insecurity, and that the same must be removed or placed in a state of security within a reasonable time.

To cause all buildings used by the public capable of containing more than two hundred persons to be provided at the expense of the owner or owners of such buildings with sufficient and proper means of egress in cases of fire or panic: Provided that notice in writing shall have been first given by the council to the owner or owners of such buildings that the existing means of egress is insufficient, and must be made sufficient within a reasonable time.

- To erect and maintain proper weighing machines for ascertaining the weight of wagons and other carriages and their loads.
- To grant permits and licences for any purposes, to be defined by the municipal regulations, and to make such charges for the same as may be so defined.
- To levy tolls and dues, as hereinafter provided.
- To make such provisions for the isolation of cases of dangerous contagious diseases affecting persons or animals within the municipality, and for the suppression and prevention of the same as shall be necessary from time to time, and according to law.
- To define the width and direction of such streets as may be made on private property by the owners thereof; which streets, when so defined, shall thereupon, upon application by the owners of the property, become public streets.
- To make provision for the removal and disposal of all night soil, stable litter, excrement, filth, slops and refuse from public and private premises and from the streets, and to construct and maintain cemeteries, and generally to devise and carry out all such measures as shall appear to the council to the advantage and convenience of the townsmen.
- To establish and provide for the management of public pounds within the said municipal limits.
- To assize weights and measures according to the standard in force.

XXXVII. The provisions of Act No. 15 of 1857, entitled "An Act for enabling Municipalities to obtain Additional Police by contributing towards the Expense thereof," shall, *mutatis mutandis*, continue applicable to the municipality of East London hereby constituted; the words "town council" being read in place of the words "municipal commissioners" or "commissioners."

XXXVIII. It shall be lawful for the council at any meeting at which not less than nine of the members shall be present, and agreeing thereto, to frame by-laws, rules, and regulations as to the

Provisions of Act of 1857 to apply.

Repealed by
1902 Act-32.

What municipal regulations may be framed.

Repealed by
1923 Act-21.

Sec. 27(1) in so far as it relates to natives and native location

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sealed by
 Let 2/Dec. 27 (i)
 far as it
 has to native
 native location

registration of births and deaths within the municipality, as to the compulsory vaccination of all persons residing within the municipality, the inspection of public and private wells, tanks, cisterns, and reservoirs, and the temporary or permanent closing of any such in which the water is so polluted as to be injurious to public health; the inspection, construction, and cleaning of ashpits, privies, cesspools, and middens, and of stables, kraals, and enclosures wherein horses, horned cattle, sheep, goats, pigs, or other live-stock may be stabled, kraaled, or kept; the times and places for slaughtering cattle, sheep, or goats within the municipality, and the state and condition of slaughter-houses or enclosures, skin stores, tanneries, and wool-washeries within the municipality; the confining or killing of dogs, pigs, goats, and fowls; the appointment of one or more competent persons to examine meat and other provisions, milk, spirituous and other drinks offered for sale, and who, in case of such meat, provisions, or drinks being found unfit for human food or drink, shall be empowered to cause the same to be destroyed; the prevention, abatement, and removal of nuisances, and the recovery of the expenses thereby incurred from the person or persons committing or permitting such nuisances; what acts of commission or omission, neglect or refusal, shall be deemed to constitute a nuisance; the weight of loads to be carried through and upon the public streets and roads within the municipality; the undue obstruction of the public streets and footpaths by carriages or otherwise, and securing that the footpaths shall be for the use and enjoyment of foot passengers; as to the registration, rates of charge, and conduct of coolies; to make all such sanitary and other regulations for the preservation of the health of the inhabitants of the town, and of natives and others residing or staying within the native location as may be deemed advisable; as to the management of the common pasturage lands of the municipality, the number and description of cattle which each resident householder (who for the purpose here specified shall be deemed and taken

to be a person occupying immovable property within the municipality of the yearly value of not less than ten pounds) shall be allowed to depasture on such lands ; as to the portion or portions of the commonage upon which carriers and others frequenting or passing through the municipality, or attending the markets thereof, may depasture their stock ; as to the establishment, continuance, management, and regulation of public pounds within the municipality ; the erection of toll-bars and the imposition of tolls for the maintenance and repairs of the public streets and roads within the municipality ; the establishment of one or more ferries, pontoons, bridges, or other public means of crossing the river Buffalo, and levying of tolls in connection therewith ; as to the user, or non-user, of the streets and public places within the municipality for holding of public auctions, and the imposition of reasonable tolls and dues to be paid to the council in respect of such use ; the licensing of any boats, cabs, carriages, or vehicles of any description, not being Government property, plying for hire within the limits of the municipality ; the granting of licences or permits for digging or getting brick, clay, or gravel, or quarrying stone, or cutting firewood on the commonage, and generally as may seem meet for the good rule and government of the municipality, and as may be expedient for the proper working of the powers thereby given, and as may appear necessary for the purpose of carrying out all such measures as shall appear to the council to be for the benefit, convenience, or improvement of the municipality, and of the health and comfort of the inhabitants thereof, with power, from time to time, to alter, vary, or rescind all or any of such by-laws, rules, and regulations, and to frame such others as may from time to time appear expedient : Provided that no such by-law, rule, or regulation, nor any alteration, variation, or rescindment thereof, shall be of force until the same has been published, as is in the sixty-third and sixty-fourth sections of this Act provided, for twenty-eight days (together with a notice calling upon all townsmen who may

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have any objections to the same, to lodge such objections in writing within the period aforesaid), and thereafter shall have been submitted by the council to the Governor (together with the objections, if any, that may have been so lodged), and shall have been approved of by him with the advice of the Executive Council, and published in the *Government Gazette*.

Published regulations
to be deemed duly
made.

XXXIX. After any municipal by-law, rule, or regulation shall have been so published as aforesaid, it shall not be necessary in any proceeding founded upon it, to prove that the required number of members of the council was present at the meeting at which such by-law, rule, or regulation was framed.

Power to impose fines

XL. It shall be competent for the council by any such by-law, rule, or regulation, as aforesaid, to provide for punishing the contravention thereof by a fine not exceeding ten pounds, and in default of payment of such fine to imprisonment, unless such fine be sooner paid, for any period prescribed by such regulation not exceeding three months.

Power to establish
tolls.

XLI. It shall be lawful for the council, by any municipal regulation as aforesaid, to impose such tolls or dues as may be reasonable on all persons making use of any road, street, ferry, pontoon, bridge, or market-place, within the municipality, which the council is hereby empowered to make or maintain, and in case of non-payment thereof, to recover the same by legal process, or in such other manner as may by any such municipal regulation be in that behalf provided; but no toll shall be payable by any officer or private of Her Majesty's forces, or any colonial police, volunteer, or other force, or by any judicial or civil officer, mail-carrier, or other Government servant, while travelling on public duty, or by any person or persons, who, under or by virtue of the provisions of a certain agreement, bearing date the first day of October, 1874, and made between the divisional council of East London and the municipal commissioners of East London, are exempt from payment of such toll: Provided that no more than one toll shall be

payable in any one day, to be computed from twelve o'clock in one night to twelve o'clock in the next succeeding night, for or in respect of the same vehicle or animal, except such as may be in respect of any ferry, pontoon, bridge, or other means of crossing the Buffalo River.

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XLII. All property and servitudes as heretofore or by this Act vested in the said commissioners, or chairman of the commissioners, and all unsold erven within the municipality's limits, and all municipal pasturage lands, after the taking effect of this Act, and by virtue thereof, are hereby and shall be transferred to and vested in the corporation hereby created, or to and in the mayor respectively, upon the like trusts and purposes for which the same were originally granted or transferred, and, as to such erven and pasturage lands, subject to the provisions for the sale, leasing, or other disposition thereof hereinafter contained; and in like manner all liabilities or debts lawfully incurred and contracts lawfully entered into by the aforesaid commissioners, acting for and on behalf of the said municipality, shall become the liabilities, debts, contracts, and engagements of the said corporation, and all expenses incurred in the passing of this Act shall also in like manner be charged to the corporation herein created.

Lands and servitudes vested in town council.

XLIII. It shall be lawful for the council, by virtue of a resolution to that effect passed at any ordinary meeting at which at least nine members are present and agreeing thereto, by a majority of not less than a two-thirds of those present, and with the consent of the Governor, to be duly certified by writing under the hand of some proper officer, to raise by public sale, or by mortgage of any land or property vested in the said council, or by debentures or other securities charged upon such land or property, any sum of money which shall be necessary to carry on any important public work, or other municipal purpose, which the council shall deem desirable and the Governor shall approve of: Provided that the said council shall, before applying to the Governor for his consent, give continuous public

Power, with consent of Governor, to raise money on mortgage or debentures.

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notice of at least one month of their intention to apply for such consent, in which notice shall be given a full and clear statement of the situation, nature, and extent of the land or property proposed to be sold or mortgaged, or charged by these debentures or other securities, and of the object or purpose for which the money to arise from such sale, mortgage, or issue of debentures, or other securities, is required; and which notice shall further call for objections to such sale, mortgage, or issue of debentures, or to such object or purpose to be lodged with the council in writing; which objections, *mutatis mutandis*, shall be dealt with in manner provided for objections according to section six of this Act.

Debenture holders to rank *pari passu* on municipal property. Debentures to be under municipal seal.

XLIV. As often as the said council shall raise money by the issue of debentures, to be charged upon any land or property as aforesaid, the council shall execute to and in favour of any person or persons whom the said council shall propose, a mortgage of the land or property upon which it is intended that the said debentures shall be charged, to be held by such person or persons in trust for the holders of the debentures so issued, which holders shall, according to their respective amounts and interests, rank *pari passu* upon the proceeds of the land or property comprised in the mortgage. Every mortgage aforesaid, or power of attorney for authorising the execution of a mortgage of any land or property under this Act, and every debenture issued under this Act, shall be under the common seal of the said corporation, and shall be executed by the mayor and countersigned by the town clerk. The debentures herein mentioned shall be as near as is material to form No. 1 annexed to this Act, and all transfers of such debentures shall be registered in the books of the corporation herein created.

Fresh debentures may be issued as old ones fall due.

XLV. As often as any mortgage granted or debenture issued under the two last preceding sections of this Act shall be called up or become payable, it shall be lawful for the said council to raise by fresh mortgage of the same land or property mortgaged, or to raise by the issue of fresh debentures

tures, any sum not exceeding the sum then required to be paid off, and the council may raise upon debentures moneys to pay off mortgages, and conversely, may raise by mortgage moneys required to pay off debentures, so long as the same land and property which were charged by the one form of security and none other shall be charged by the other or substituted form of security: Provided that it shall not be necessary for the council to obtain the consent of the Governor aforesaid for the granting of any mortgage or the issue of any debentures under the provisions of this section.

XLVI. The council, by virtue of a resolution of not less than nine members present at any ordinary meeting, and agreeing thereto by a majority, may from time to time lease any portions of the municipal pasturage land for agricultural, garden, building, or trading purposes, for any period not exceeding fourteen years: Provided that continuous public notice shall have been given of not less than twenty-one days previous to the intended leasing, setting forth the objects, terms, and conditions of the proposed lease, and requiring any person objecting to the proposed leasing to lodge with the council, within fourteen days after the first publication of such notice, his objection thereto in writing; and in case six townsmen or more, or any other person who may consider that his rights will be interfered with by the proposed leasing, shall, within the time aforesaid, object to the same, or to the objects, terms, and conditions thereof, the notice and objections shall be forwarded to the Governor for his consideration and decision, and in case such decision shall be in favour of the council, but not otherwise, the council may enter into such lease notwithstanding such objections.

XLVII. The council may, by public tender, after public notice of not less than twenty-one days, grant from time to time privileges of working any quarries belonging to the council, or beneath the municipal pasturage lands, for any term not exceeding five years, upon such terms as to the council may seem fit.

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Not to be sublet.

Powers of council to appropriate certain lands.

XLVIII. No lessee of any such land, or of any quarries, shall assign or sublet the same without the previous consent of the council testified in writing first had and obtained.

XLIX. In case the said council shall require to take or use any land, with or without the buildings, if any erected thereon, for the purpose of making, widening, or improving any street, market or public building, or to dig out or to carry away any materials belonging to any person within the municipality, then in that case it shall be lawful for the said council, by virtue of a resolution of eight members present at any ordinary meeting, and agreeing thereto, and it is hereby authorised and empowered to treat and agree with every such person for the purchase or hire, as the case may be, of any such land, buildings, or materials as aforesaid, or for the payment of consequential damages, and generally to enter into such contract or contracts relative to the obtaining of any such land, buildings, or materials, upon any such terms and conditions as may be mutually agreed upon between the council and said proprietors, and in case any such person and the said council shall not agree upon the purchase money, hire, or other recompense to be respectively given by the one party and accepted by the other, then the said council may cause to be served upon such person a written notice, offering as recompense or compensation whatever sum of money it shall deem sufficient, and requiring such person to state in writing to the said council, or to some person by it appointed, within fourteen days of the said notice, whether he is willing to accept the sum therein mentioned or not; and in case the person shall neglect or refuse to accept the sum offered, or shall neglect to reply to the said notice, the said council shall, by another notice, in writing, call upon such person to refer to arbitration the amount of recompense or compensation to be paid to him by the said council, and for that purpose to transmit to the said council, within a certain reasonable time to be specified in the said last-mentioned notice, the name of some person whom

he shall select to be an arbitrator upon such arbitration, and the said council, upon receiving the name of the person so selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed on behalf of the said municipality by the town clerk for the time being, and by the person claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, together with a power to the said arbitrators, previous to entering upon the reference, to appoint an umpire, and the decision of the arbitrators, or, in case of difference, the decision of the umpire, shall be final; and the award of such arbitrators or umpire, as the case may be, shall be made a rule of the supreme court of this colony, or of the court of the eastern districts, or of any circuit court, and shall be binding and conclusive, and may be pleaded, in bar of any action or proceeding at law brought for, or on account of, the same subject matter: Provided, however, that unless the amount so settled by the arbitrators or umpire as the value of any property so required by the council, or such hire or other recompense shall not be less than three-fourths of the amount demanded by the owner of such property or materials, the council shall be bound to pay the amount of such owner's demand in full, together with the whole costs of and incidental to the reference: And provided further, that all expenses incurred by such arbitration, fees of arbitrators, and legal assistance of whatever kind, shall, except in the case above provided, be considered costs in the case, and shall be paid by the parties, one or other of them, in such manner as the arbitrators or umpire shall direct; and in case such person as aforesaid claiming such recompense or compensation shall neglect or refuse to name some person to be such arbitrators as aforesaid, or to sign the said deed of submission, it shall be lawful for the said council, and it is hereby authorised, to lodge in some joint-stock bank in the colony the sum of money offered by it as aforesaid, on its first notice in this section mentioned, for and

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on account of and at the risk of such person as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his absolute property, and the said council, upon so lodging the said sum, shall be authorised and entitled to take or use the said land, buildings, or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been an order by the arbitrators or umpire under the provisions of this section, and as if all acts by law required for vesting in the said council a sufficient title to the use of, or property in, the land, buildings, or materials aforesaid had been duly done and performed.

In case of the appropriation of lands of absent owners.

L. In case the said council shall, for any purpose in the last preceding section, require to take or use any of the land, with or without the buildings, if any, erected thereon, or to dig or carry away any of the materials in the last preceding section mentioned, the owner of which shall be absent from the colony, and not represented by any agent duly accredited, or shall not be discoverable, it shall be lawful for the said council, and it is hereby authorised, to cause a notice to be inserted in the *Government Gazette*, and in one or more newspapers published in the town of East London, for not less than once in each month for twelve successive months, describing as accurately as may be, the materials, land, or buildings which are required to be taken or used, and calling by name on the owner of the said land, buildings, or materials, if known, or, if not known, upon the owner, whoever he may be, to take notice that the said council is ready and willing to treat with the owner, or any persons duly authorised by him, for the recompense or compensation to be made or paid by the said council for the said land, buildings, or materials, and requiring such owner to apply, within twelve months from the date of such notice, which shall be the day of its publication, to the said council, stating the recompense or compensation claimed, and if the owner shall so apply within the said period, the like proceeding in regard to the agreeing for or otherwise determining the recompense or compensation

to be respectively given and received shall in all respects be had and taken, which are prescribed in the last preceding section, precisely as if the said owner had from the first been in actual occupation, and in case such owner shall not apply to the said council within the said period, it shall be lawful for the said council to appoint some competent person, to be approved of by the civil commissioner of the division, to appraise the value of the land, buildings, or materials required, and such persons shall make oath before some justice of the peace that he hath, to the best of his judgment, fairly appraised such value, and thereupon it shall and may be lawful for the said council to pay whatever sum the said land, buildings, and materials shall have been valued at by such persons into the guardians fund to the credit of the person or persons entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105 of 1833, in regard to moneys placed in the said fund belonging to the persons absent from the colony; and the said council upon so paying the said sum shall be authorised and entitled to take or use the land, buildings, or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all acts by law required for vesting in the said council sufficient title to the use of, or property in, the land, buildings, or materials aforesaid had been duly done and performed.

LI. All acts, matters, and things hereby authorised or required to be done by the council, and all questions that may come before it, shall, except as hereinafter excepted, be done and decided by the majority of councillors who shall be present at any meeting at which not less than seven members of the council shall attend: Provided that nothing herein contained shall extend to alter or affect the provisions of the thirty-eight, forty-third, forty-fifth, forty-ninth, fiftieth, and fifth-ninth sections of this Act. Quorum of council.

LII. The ordinary meeting of councillors following the first general election of councillors under Ordinary meetings.

No. 23—1880.

this Act shall be held on the first Thursday following such election, and all subsequent ordinary and special or extraordinary meetings of the council shall be held as directed by the municipal regulations, and all meetings of the council shall be open to the public.

In absence of mayor
a chairman to be
chosen.

LIII. At every meeting of council, the mayor, if present, shall preside, and, in case of his absence, the councillors present shall elect a chairman from among themselves, who shall thereupon and during such absence have authority to sign all documents and do all such acts as herein is provided shall be done by the mayor. In all cases of equality of votes the mayor or chairman, as the case may be, shall have a second or casting vote.

Minute book to be
kept.

LIV. Minutes of the proceedings of every meeting of the council shall be regularly entered in a book to be kept for that purpose, and shall be read and confirmed at the next succeeding meeting, and signed by the person presiding thereat. All such minutes shall be deemed and taken to be original minutes, and such books shall and may be produced and read as *prima facie* evidence of all the proceedings therein recorded in any proceeding, civil or criminal, in any court.

Committees may be
formed.

LV. It shall be lawful for the council from time to time to appoint out of their own body such and so many committees, either of a general or special nature, and consisting of such number of members as may seem fit, for any purpose which, in the judgment of the council, would be better managed by means of a committee: Provided always that the proceedings of every such committee shall be regularly entered in a minute book and submitted to the council for its approval, and the mayor shall *ex officio* be a member of all such committees.

Town clerk and
treasurer to be
appointed; also other
necessary officers.

LVI. It shall be lawful for the council from time to time to appoint fit and proper persons (not being members of the council) to be town clerk and treasurer; and also to appoint such other officers as they shall think necessary for enabling them to carry into execution the provisions of this Act, and to pay all the officers so to be appointed such

salaries or remuneration as the council shall deem reasonable, and to demand of all such officers such security as the council may deem sufficient; and, unless it shall otherwise be stipulated in the contract of service, to remove all such officers upon notice of not less than three months, or, in case of misconduct, without any notice.

No. 23—1880.

LVII. The said council are hereby empowered, from time to time, to appoint and employ such number of streetkeepers, policemen, and special constables as shall be required for the protection of the inhabitants and property, streets, and public places within the municipality by day and by night; and to provide all such streetkeepers, policemen, and special constables with such clothing, arms, ammunition, and weapons, and appoint to them such duties and hours or time of duty, and shall make such rules, orders, and regulations, relative to such streetkeepers, policemen, and special constables and their duties as shall be deemed fit. All such streetkeepers and policemen shall act as constables within the municipality while in the execution of their duties under this Act, and are hereby invested with and shall have and enjoy the like powers, authorities, privileges, and immunities, and shall be subjected to such and the like penalties and forfeitures as ordinary constables are invested with, or shall or may have or enjoy, or are or may be subject or liable to by law.

Streetkeepers, police,
and others.

LVIII. For the purpose of raising the means for making new roads, streets, market-places and conveniences, bridges, drains, sewers, watercourses, reservoirs, aqueducts, and other waterworks; for the purchase of such lands, or the 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 waterpipes, fire-engines and appurtenances; for the effecting of all other public works and improvements within the municipality; for lighting the streets and public places in the municipality, and for providing proper and necessary plant for the same; for the purpose of raising the means for effecting the repairs of such works as

Purposes for which
rates may be imposed.

R

26-1880.

the council is empowered to make or to have made ; for the maintaining of waterworks, fire-engines, police establishments, markets, and pounds ; and for the payment of salaries and all other ordinary current expenses required to be borne by the municipality, the council shall have power to impose, levy, and recover all such market dues, water rates, dog and carriage tax, and other fees and license moneys as shall be deemed necessary and reasonable, and shall be authorised by any such municipal regulation as aforesaid ; and shall also have the power, as often as shall be deemed necessary, to make and levy a rate upon all immovable property within the municipality, the value of such property to be ascertained as hereinafter provided : Provided that no rate shall be made or levied by the council unless there shall be at least nine members of the council present at the meeting at which such rates shall be imposed, and consenting thereto by a majority : And provided also that no rate except a water rate or rate levied for the purpose of raising funds to meet interest or other expenses connected with the construction at any time of a bridge across the Buffalo River shall be imposed upon any immovable property belonging to Her Majesty the Queen or to Her Colonial Government (other than such property as may be from time to time occupied for the purpose of a railway station, railway stores and workshops, or residences for the employés on any railway, or which may be occupied by any person or persons on his or their individual capacity) ; nor on public prisons or police stations, almshouses, or hospitals ; nor on any buildings solely appropriated to the purposes of gratuitous education ; nor upon any building solely appropriated to public worship, nor upon any burial grounds : Provided the exemption last mentioned shall not be construed to extend to any separate or adjoining building or buildings in which the teacher or teachers, or his or their family, or any other person or persons, dwell, or which he or they occupy, but shall solely apply to such buildings as are especially appro-

riated for the education and use of the pupils ; and all persons owning or occupying property within the limits of the municipality, except such property exempted, shall be liable to be rated on account of such property to any municipal rate in such manner and to such extent as is in this Act provided ; but nothing in this Act contained shall be taken to authorise the assessment of a rate both upon the owner and the occupier of any one property in respect of such property.

No. 23—1880.

LIX. The council shall annually, in the month of February, make an estimate of the amount of money required for municipal purposes, and shall assess the rate accordingly, and give public notice thereof in one or more of the newspapers published in the municipality ; and shall, in like manner, if any further or unforeseen expenditure shall become necessary during the year, ending on the last day of February next following, make a supplementary estimate, and assess a second or further rate, whereof they shall give public notice in like manner : Provided that it shall not be lawful for the council in any one year, ending on the day aforesaid, to levy any rate or rates amounting in the aggregate to more than three pence in the pound on the value of the immovable property, subject to such rates, without obtaining the consent of the majority of the townsmen present and entitled to vote, according to the eighth and eleventh sections of this Act, at a public meeting to be called for the purpose of authorising such rate or rates, of the object and the time and place of holding which meeting at least seven days' notice shall be given, as provided in the sixty-third and sixty-fourth sections of this Act.

Estimates of revenue and expenditure to be published.

LX. The mode of valuing the immovable property within the municipality for rating purposes ; of objecting to the valuation ; of conducting and hearing of appeals against the valuation ; the time during which any valuation shall be in force, and how often the same shall be renewed, and the effect of the valuation, shall be as directed by any municipal regulations to be from time to time made in conformity with the powers hereinbefore contained.

How property to be valued, &c.

No. 23—1880.

Enforcement of pay-
ment of rates.

LXI. Every rate assessed by the said council shall become due and payable upon a certain day, to be fixed by the council, of which day, and the amount of which rate, the said council shall give at least twenty-one days' notice in one or more of the local newspapers; and when any such notice shall have been given, it shall be incumbent upon all persons liable to such rate to pay the amount thereof to any person whom the council may have authorised to receive the same, on or before the day fixed in the said notice for the payment of the same, on pain of being forthwith liable to legal proceedings, at the suit of the town clerk, for the recovery of the amount, and in any suit of proceeding for the recovery of any rate, the valuation roll of the municipality for the time being shall be *prima facie* evidence of the value of the property rated, and it shall not be necessary to prove anything further as to the due assessment of the rate and of due notice thereof having been given than the publication of the notice in the commencement of this section mentioned. The town clerk may, in suing for the recovery of any rate proceed against the owner, or, in case of his absence from the municipality, his agent, or the person receiving the rents for him, or against the occupier, either separately or both of them in one and the same action, each for the whole rate, in the court of the resident magistrate for the district of East London, and recover the same by the judgment and process of such court: Provided that no occupier of any immovable property shall be liable for any rate which became due and payable thereon at any time before he entered on the occupation thereof: And provided, further, that any person who, as occupier, may have become liable for any rate as aforesaid shall continue to be so liable, although he may have ceased to occupy the property in respect of which the rate has been imposed: And provided, also, that any occupier who shall have paid any such rate shall be entitled to recover the same from the owner, unless there be an agreement to the contrary.

Treasurer to lodge
moneys in a bank.

LXII. The treasurer of the said municipality

No. 23—1880.

shall be bound, within a reasonable time, to lodge with some joint-stock bank within the municipality, to be ordered by the council, all moneys from time to time entrusted to him or received by him, and shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters in respect whereof such sums shall have been received and paid ; all such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance sheet thereof, shall yearly, on the last day of February, or at such other times as the council shall appoint, be handed by him to the auditors and to such members of the council as the mayor shall name, for the purpose of being examined and audited ; and such abstract or balance sheet, if found correct, shall be signed by the auditors, and shall be forthwith published by the treasurer in one or more of the newspapers published within the municipality : Provided always, that in no case shall any payment of municipal moneys be made to any person or persons whomsoever, without a warrant in that behalf being first granted under the hand of the mayor, which warrant shall be in substance and form according to the schedule hereto annexed, marked No. 2.

How payments to be made.

LXIII. Every notice calling a public meeting of the townsmen, and every notice or other document or thing required by this Act to be published, shall, where no other mode is prescribed, be published by causing a copy thereof to be posted or affixed in some conspicuous place upon or near the municipal office or market-place, and, when practicable, in one or more of the local newspapers.

How notices to be published.

LXIV. All public meetings of townsmen shall be called by the mayor of the town by notice under his hand, published in accordance with the sixty-third section of this Act ; and no public meeting of townsmen shall be so called by the mayor, except upon a resolution of the council to that effect, and at all public meetings called by the council the mayor, if present, shall preside : Provided, always, that the mayor, upon receiving a requisition, signed by

How public meetings to be called.

No. 23—1880.

not less than twenty-five townsmen, shall call such public meeting within a reasonable time: And provided, further, that the expenses incurred by the council through the mayor or any of its officers in calling such meeting shall be defrayed by the persons signing the requisition, unless it shall appear to the council that such meeting was purely connected with municipal purposes, or its object of such a character as, in the opinion of the council, would warrant it in charging the same expenses to the municipality.

Licence to store gunpowder, &c.

LXV. The storing of gunpowder, or other explosive material, shall not be permitted within the municipality, except in such places as may be approved of and licensed by the council for that purpose.

Burial ground.

LXVI. No burial ground shall be established within the municipality without the permission of the council; and so soon as any burial ground within the municipality, or any portion thereof, shall become, either from overcrowding or from any other cause, in the opinion of the council, dangerous to the public health, the council shall be empowered to give six months' notice that the burials therein must either wholly or partially cease, and after the expiration of such six months it shall not be lawful to continue burials, except such as may be authorised by the council, in such grounds, and any person, after the expiration of such period, who shall, without such authority, inter, or cause any interment to be made therein, shall be liable to pay a fine not exceeding fifty pounds, to be recovered in any competent court, and in default of payment of such fine, to imprisonment for not exceeding six months: Provided that, whenever any such burial ground shall be so closed as aforesaid, it shall be incumbent upon the council to provide (at the option of the council), either by means of a new burial ground or by the allotment of the use of a portion of any existing or new public burial ground, sufficient accommodation to meet the requirements of any religious denomination whose burial ground shall have been so closed.

LXVII. All fines and penalties imposed by this Act, or by any municipal regulations made by virtue thereof, shall and may be prosecuted for in any competent court, and in the name of the mayor, councillors, and townsmen, and shall, when recovered, be paid to the treasurer of the municipality for municipal purposes: Provided that no such prosecution shall be commenced later than three months from and after the date of the act or omission upon which the same shall be grounded.

No. 22—1880.
How fines and penalties to be sued for.

LXVIII. Every warrant and power of attorney, deed, contract, or other document to be given, made or entered into by the said council, shall, when no other mode is prescribed, be under the common seal of the corporation, to be affixed thereto by the mayor, and countersigned by the town clerk. And the said common seal of the corporation shall be and remain in the care and custody of the mayor of the town for the time being.

Municipal documents to be under common seal.

LXIX. This Act may be cited as “The East London Municipality Act, 1880.”

Short title.

ANNEXURES.

(SCHEDULE No. 1.)

Municipality of East London.—Debenture Certificate.

No. _____.

£ _____.

This is to certify that the town council of East London is indebted to _____ in the sum of _____ for so much money borrowed for the purpose of (here state the object for which the loan has been raised) under and by virtue of the provisions of the East London Municipality Act of 1880, and that the said money is secured by mortgage on (here state the nature of the mortgage or security as contemplated in the forty-third and forty-fourth sections of the said Act); and further that the said debt will be payable and paid by the said town council to the said _____ or assigns in the manner following, that is to say (here insert the rate of interest, time of payment, and other conditions agreed upon).

No. 23—1880.

Given under my hand and the seal of corporation, at
East London, this _____ day of _____ 18 ____.

(C. D.),

(A.B.),

Town Clerk.

Mayor.

(SCHEDULE No. 2.)

The treasurer of the municipality of East London is hereby authorised to pay to _____ the sum of _____, being for (here state the object of the payment), which money was voted by the council at its meeting on _____ (or being for fixed salary, as the case may be).

East London, _____ day of _____, 18 ____.

(A.B.),

No. _____.

Mayor.

No. 24—1880.] AN ACT [July 30, 1880.

To empower the Governor to raise a Sum of not exceeding One Hundred and Thirty-three Thousand Three Hundred and Seventy-six Pounds Sterling for the purpose of Liquidating certain Liabilities of the Province of Griqualand West.

Preamble.

WHEREAS the province of Griqualand West is about to be annexed to this colony, and whereas it is expedient that the Governor should be empowered to raise a sum of not exceeding one hundred and thirty-three thousand three hundred and seventy-six pounds sterling, in addition to and over and above the moneys he is empowered to raise under and by virtue of Act No. 40 of 1877, in order to pay off certain liabilities of the Government of the said province, as in the schedule hereto annexed: Be it enacted by 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. It shall be lawful for the Governor to raise and take up upon the security of the public revenue of this colony, either by debentures or stock, or partly by debentures and partly by stock, such sum or sums of money not exceeding in the whole the sum of one hundred and thirty-three thousand three hundred and seventy-six pounds sterling, in addition to and over and above the moneys he is empowered to raise under Act No. 40 of 1877, as shall from time to time seem to him fit and necessary, for the purpose of liquidating the debts and liabilities in the preamble of this Act mentioned.

No. 24—1880.

Power to raise on stock or debentures, £133,376.

II. In case the Government of the Orange Free State shall, on or before the 13th day of July, 1881, establish a line of railway to connect with the Natal railway, or with any line of railway made or constructed, or to be made or constructed within this colony, it shall be lawful for the said Governor to raise and take up in manner provided by the first section of this Act, a further sum of fifteen thousand pounds sterling, which sum shall be paid to the said Government of the Orange Free State, in aid of the expenditure incurred by that State in making or constructing within the territory of the said State the line of railway so connecting with the Natal railway, or any line of railway within this colony as aforesaid.

In case Free State before 13th July, 1881, establish a certain railway, further sum of £15,000 to be raised in aid thereof.

III. In so far as the said borrowing shall be upon debentures, the following provisions shall be observed:—

Provision as to debentures.

Such debentures shall be issued in this colony or in England, or partly in this colony and partly in England, for sums not exceeding five hundred pounds nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained, and the interest to accrue thereon shall be charged upon and made payable out of the general revenue of this colony.

IV. In so far as the said borrowing shall be upon stock, the following provisions shall be observed:—

As to stock.

1. Such stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be kept for that purpose

- by the treasurer of the colony, such credit to be given in the first instance upon production and delivery to the said treasurer, by such purchaser, or by his order, of a scrip certificate for the amount of stock for which such credit shall be claimed, such certificate being signed by the colonial secretary, and countersigned by the said treasurer, and by the controller and auditor-general, and which scrip certificate shall be kept in the office of the said treasurer.
2. Such stock shall bear interest after the rate of four pounds and ten shillings per centum per annum, on the nominal amount of such stock, from the 15th day of April, or the 15th day of October next preceding the issue of the said scrip certificate, which shall last happen, and such interest shall be payable thereafter half-yearly, on the 15th day of April, and the 15th day of October in each year; the first of such payments to be made on the half-yearly day which shall happen next after the opening of such credit in the books of the said treasurer as aforesaid, and shall be paid on such days, respectively, or so soon thereafter as demand shall be made therefor, by the lawful holder for the time being of such stock, to such lawful holder or his duly authorised attorney, at the office of the treasurer in Cape Town.
 3. Such stock, together with the interest from time to time to accrue thereon, shall be and is hereby charged upon and made payable out of the general revenue of this colony; and the Governor shall from time to time pay such interest, and may also out of such revenue, or any moneys to be appropriated for that purpose, from time to time, buy up and cancel such stock or any part thereof.
 4. Such stock shall be transferable by transfer in the books of the said treasurer, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the

said treasurer a receipt or certificate, stating the amount of such stock standing to his credit in such books.

5. There shall be paid into the treasury upon every transfer in the said books, of any sum of such stock, a sum of two shillings and sixpence upon every hundred pounds to be transferred in such books, and on every other sum so transferred in the like proportion: Provided that instead of any fractional part of a penny, which would, under this provision, be payable, a full sum of one penny shall be payable, and no transfer shall be actually made in such books as aforesaid, unless and until such sum as shall be payable as aforesaid shall be paid.
6. All 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 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.
7. The moneys realised by the issue and sale of such stock shall be carried to a separate account, and shall be expended, so far as shall be necessary, for the purposes mentioned in the preamble of this Act.

V. As a fund for the payment of the interest Fund for paying interest. upon, and for the gradual extinction of, the debt to be raised upon debentures under authority of this Act, there shall be charged and chargeable upon, and set apart out of the annual revenues of this colony, an annual sum equal to the interest on the whole amount of such debentures as shall from time to time be issued under authority of this Act, and a further sum equal to one pound sterling per centum on the total amount of the principal or capital sum which shall from time to time be raised upon debentures under the authority of this Act;

No. 24—1880.

and such sum shall be annually charged on and payable out of the revenues of the colony so long as any portion of the debt to be raised under the authority of this Act upon debentures or any interest thereon shall remain unpaid and unextinguished, and such annual charge shall, so soon as such debt and interest shall have been all paid and extinguished, cease and determine.

Fund for paying capital.

VI. Such portion of the fund which shall, under the last foregoing section, be charged and chargeable annually on the revenues of this colony, as shall not be required for the payment of the interest for the time being due upon the debentures to be issued under the authority of this Act, shall be applied in redeeming and cancelling such debentures in such manner and form as shall be provided by the terms and conditions whereon and whereunder such debentures shall be issued.

Cancellation of debentures.

VII. All debentures which shall be redeemed under the authority of this Act shall, immediately on the receipt thereof, be cancelled by or on behalf of such treasurer, and shall be duly advertised as so cancelled.

Master of supreme court authorised to purchase stock.

VIII. Notwithstanding anything herein contained, it shall be lawful for the Governor to dispose of to the master of the supreme court, in his capacity of administrator of the guardians' fund, and the said master is hereby authorised to invest any unemployed moneys belonging to such fund in so much of any such stock and so many of any such debentures as he may apply for, on such terms as may be mutually agreed upon: Provided that every such investment shall be made with the same advice, or upon the same authority, as if such investment were a loan upon mortgage.

Accounts of stock and debentures to be laid before Parliament.

IX. An account showing the amount of all stock and debentures issued from time to time under the authority of this Act, and of the moneys realised by the issue and sale thereof, and of the application of all such moneys or of so much thereof as shall for the time being have been applied, and an account of the amount of such stock and debentures for the time being outstanding and of all such

sums thereof as shall from time to time be bought in and cancelled (if any), vouched by the controller and auditor-general, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof, and like accounts within fourteen days after the commencement of every succeeding session thereof.

No. 24—1880.

X. This Act may be cited as "The Griqualand West Loan Act, 1880," and shall commence and take effect from and after the annexation of the said province of Griqualand West to this colony, and not sooner; and so soon as this Act shall take effect the Ordinance of Griqualand West No. 1, 1877, shall stand repealed.

Short title.

When Act to take effect.

SCHEDULE.

1. To be paid to local savings banks, a sum not exceeding	...	...	...	£10,390	0	0
2. To be paid to Standard Bank for overdrafts, a sum not exceeding	...	...	...	50,246	0	0
3. To be paid to Crown Agents, a sum not exceeding	...	...	...	16,673	0	0
4. To be paid to the Government of the Cape of Good Hope:						
For balance of account	£8,567	0	0			
For post office money orders cashed	...	7,000	0	0		
For ocean postage	...	500	0	0		
				16,067	0	0
5. Settlement of the claim of the London and South African Exploration Company	...	...	...	40,000	0	0
Total	...	...	...	133,376	0	0

Spent.

No. 25—1880.] AN ACT [July 30, 1880.

For applying a Sum not exceeding Five Hundred and Eighty-seven Thousand Four Hundred and Three Pounds Sixteen Shillings and Four Pence sterling, for the purpose of meeting and covering certain Unauthorised Expenditure and a certain Deficiency existing in the Public Tréasury.

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 the sum of five hundred and thirty-seven thousand seven hundred and ninety-two pounds and seven shillings sterling, in addition to and beyond the sums voted and authorised by the Legislature to be so expended : And whereas there has for some time existed and still exists a deficiency in the public treasury of this colony, amounting to the sum of forty-nine thousand six hundred and eleven pounds nine shillings and four pence sterling : And whereas it is expedient to legalise such unauthorised expenditure and to provide for and make good such deficiency : 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 :—

Revenue charged with
£587,408 16s. 4d.

I. The public revenue of the colony is hereby charged with a sum not exceeding five hundred and eighty-seven thousand four hundred and three pounds sixteen shillings and four pence sterling, which sum shall be applied in the manner following, that is to say :—

Application of charge

For unauthorised expenditure for the year 1875, in addition to the expenditure authorised by Acts No. 27 of 1877, No. 16 of 1879, and No. 24 of 1879, the sum of one thousand four hundred and thirty-five pounds eight shillings and nine pence sterling.

For unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended 30th June, 1879, the sum of one hundred and forty-six thousand five hundred and seventy pounds one shilling and three pence sterling.

For unauthorised expenditure beyond the amount provided for by the "War Expenses Loan Act, 1878," the sum of three hundred and eighty-nine thousand seven hundred and eighty-six pounds and seventeen shillings sterling.

To supply and make good the deficiency now existing in the public treasury of the colony, the sum of forty-nine thousand six hundred and eleven pounds nine shillings and four pence sterling.

II. This Act may be cited as the "Unauthorised Expenditure and Treasury Deficiency Act, 1880." Short title.

Superseded by 1884 Act 13.

No. 26—1880.] AN ACT [July 30, 1880.

To alter in a certain respect the Customs Duties payable in this Colony.

WHEREAS the use of spirits distilled from molasses has greatly increased, and is still increasing within this Colony: And whereas by reason of the said molasses being imported into this colony before the process of distillation takes place, such spirits are not subject to the customs duties payable upon imported spirits, and the receipts on account of such duties may be diminished accordingly: 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. In lieu and instead of the duties of customs now leviable upon molasses under any Act heretofore in force, there shall be raised, levied, collected, and paid into the revenues of this colony upon all molasses imported or brought into any part of the

Preamble.

Molasses to pay duty of 8s. per 100 lbs.

No. 26—1880.

colony of the Cape of Good Hope, on and after the first day of October next, the duty of customs of eight shillings sterling for every hundred pounds weight of such molasses, anything contained in Act No. 1 of 1866-67, or in the table of customs thereto annexed, to the contrary notwithstanding.

Short title.

II. This Act may be cited as "The Molasses Customs Duty Act, 1880."

No. 27—1880.] AN ACT [July 30, 1880.

To prevent the Introduction of the Phylloxera Vastatrix into the Vineyards of this Colony.

Repealed
Act 11/11/81
Preamble.

WHEREAS serious and destructive ravages have been committed in the vineyards of various parts of Europe, America, and elsewhere, by the insect known by the name of Phylloxera Vastatrix: And whereas there is reason to fear the introduction into this colony of the said insect, and it is desirable to prevent by every possible means the occurrence of such a calamity: 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:—

Power to Governor to prevent importation of grapes, vines, &c.

I. It shall be lawful for the Governor, with the advice of the Executive Council, by proclamation to be published in the *Government Gazette*, either to prohibit absolutely the introduction, or to make such regulations as may, from time to time, be deemed expedient, concerning the introduction into this colony, from places beyond the boundaries thereof, of all grapes, vines, or cuttings, or portions of vines, trees, plants, tubers, roots, bulbs, or any portion or portions thereof respectively; and also, at the discretion of the said Governor, of all articles or things of any sort or description whatsoever, by means of which the said insect might be introduced into this colony.

II. It shall be lawful for the Governor from time to time to revoke or alter any such proclamation as aforesaid, and also in and by any such proclamation as aforesaid to provide that persons contravening the same or anything therein contained shall, on conviction, forfeit any sum not exceeding £500 sterling, and in default of payment thereof shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years, unless the fine be sooner paid.

No. 27—1880.
To impose penalty for contravention of proclamation.

III. It shall be lawful for any person duly authorised in that behalf under the hand of the principal officer of customs at any port, or the resident magistrate of any district, to seize and detain, and, if necessary, to destroy, any article or thing introduced or attempted to be introduced into this colony after the publication of any such proclamation as aforesaid, and in contravention thereof; and any person who shall obstruct or impede any person so authorised in or about such seizure, detention, or destruction shall, on conviction, forfeit any sum not exceeding one hundred pounds sterling, and in default of payment thereof shall be liable to be imprisoned, with or without hard labour, for any period not exceeding six months, unless the fine be sooner paid.

Articles attempted to be introduced to be seized and destroyed.

Persons obstructing liable to penalty of £100.

IV. In case the said insect *Phylloxera Vastatrix* shall at any time make 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 all such other means as he may be advised for the purpose of eradicating such insect, and preventing the spread of disease among the vines through its ravages.

Power to destroy vines suspected of being infected.

V. In case the said insect shall be suspected to have made its appearance in any vineyard in this colony, it shall be lawful for any person or persons authorised in that behalf, by writing under the hand of the Colonial Secretary or Under Colonial Secretary for the time being, to enter into and inspect

Power to inspect vineyards.

No. 27—1880.

Penalty for obstructing inspection.

such vineyard, and to adopt all necessary means to ascertain the existence or non-existence of such insect in the said vineyard, and anyone obstructing or preventing the person or persons so authorised from entering into and inspecting such vineyard, or in any way interfering with such person or persons in the prosecution of their investigations, shall be liable, on conviction, to pay a fine not exceeding one hundred pounds sterling, or to imprisonment for a term not exceeding six months, unless such fine be sooner paid.

Indemnity for proclamation already published, and proceedings thereunder.

VI. And whereas the Governor of this colony, by a certain proclamation, published in the *Government Gazette*, numbered 14 of 1880, and bearing date the 26th day of January, 1880, and purporting to be issued by virtue of the powers vested in him by Act No. 9 of 1876, did absolutely prohibit the introduction into this colony of all grapes, vines, or cuttings, or portions of vines, plants, tubers, roots, bulbs, or any portion or portions thereto respectively, from any places beyond the limits of the said colony whatsoever: And whereas doubts have arisen, or may hereafter arise, as to the legal authority of such proclamation or the power of the Governor to issue the same, and it is expedient to remove such doubts: Be it therefore further enacted by the authority aforesaid:

The proclamation of the Governor, published in the *Government Gazette*, being No. 14 of 1880, and bearing date the 26th day of January, 1880, shall be taken and deemed, and is hereby declared to be of the same legal force and effect, and all acts done by any officers of the Government under and by virtue of the same shall be taken, and are hereby declared to have been as lawfully and properly done as if the said proclamation had been issued, and such acts done thereunder, after the passing of this Act and in pursuance of the provisions hereinbefore contained.

Short title.

VII. This Act may be cited as "The Vineyards Protection Act, 1880."

No. 1—1881.] ACT [April 20, 1881.

To Provide for the Expenses of Carrying out Military Operations within and beyond the Boundaries of the Colony.

WHEREAS it is expedient to provide for the expenses incurred in carrying out military operations against enemies and rebels within and beyond the boundaries of the colony, and to raise the necessary funds for that purpose: 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. It shall be lawful for the Governor to expend a sum of money not exceeding two million pounds sterling for the purpose of paying the expenses which have been, or may be, incurred as aforesaid.

Preamble.

Expenditure of £2,000,000 authorized.

II. For the purpose aforesaid it shall be lawful for the Governor to raise the sum of two million pounds sterling from time to time as he may deem expedient, either by debentures, or stock, or partly by debentures and partly by stock.

Sum to be borrowed on debentures or stock.

III. In so far as the said borrowing shall be upon debentures the following provisions shall be observed: such debentures shall be issued in this Colony or in England, or partly in this Colony and partly in England, for sums not less than one hundred pounds sterling, and for any multiple of one hundred pounds, upon the best and most favourable terms that can be obtained, and the interest to accrue thereon shall be charged upon and payable out of the general revenue of this Colony.

Debentures to be not less than £100 each, and in multiples of £100.

IV. The sections of Act No. 6 of 1877, numbered respectively two, three (with the several sub-sections to such last mentioned section), four, five, six, seven and eight shall, mutatis mutandis, be deemed and taken to apply to the borrowing authorized under this Act.

Sections 2, 3, 4, 5, 6, 7 and 8 of Act 6 of 1877 to apply.

V. This Act may be cited as the "War Expenses Loan Act, 1881."

Short title.

Repealed by 1893 Act 27.

No. 2—1881.] ACT [May 21, 1881.

For Preventing the Spread of Contagious and Infectious Diseases among Cattle and other Animals.

WHEREAS it is necessary to make provision against the introduction and spread of contagious and infectious dis-

Preamble.

No. 2, 1881.

eases among cattle and other animals: 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:—

Any animal affected with contagious disease to be isolated. Notice of such isolation to be given to resident magistrate, field-cornet, nearest justice of the peace, and inspector of native location.

I. Every person having in his possession or under his charge any animal affected with rinderpest or cattle plague, redwater, pleuro-pneumonia or lung-sickness, glanders, farcy, or any other contagious or infectious disease, shall keep such animal separate from all animals not so affected, and shall forthwith give notice to the resident magistrate of the district or the field-cornet of the ward in which such animal is, to the nearest justice of the peace, or inspector of native location, and also to all the occupiers of all contiguous lands not being lands situated within the limits of any town or village, that such animal is so affected. Every field-cornet, justice of the peace, or inspector of native location, receiving such notice shall forthwith give information thereof to the resident magistrate of the district.

Resident Magistrate, field-cornet, justice of the peace, or inspector of locations with two land-owners to inspect affected animal, and may order such animal to be destroyed or isolated.

II. Whenever any such notice or information shall have been received by any resident magistrate, field-cornet, justice of the peace, or inspector of native location, or it shall otherwise have come to the knowledge of any such person, that any animal in his district, ward, or location, is affected as aforesaid, he shall, with all convenient speed, call to his assistance any two farmers, being landowners, who are hereby authorised and required, upon being so called upon, to render such assistance; and he shall, together with such farmers forthwith proceed to inspect such animal, and to hold an inquiry into the circumstances of the case, and if they, or any two of them, shall be of opinion that such animal is affected with any such disease as aforesaid, and that there is danger of such disease spreading, they shall forthwith cause such animal to be destroyed or isolated, or dealt with in such other manner as they, or any two of them, may deem expedient in order to prevent the spread of such disease. The carcasses of all animals destroyed under the provisions of this Act shall be forthwith buried or burnt by the owner thereof, and such owner shall not be entitled to any compensation for any animals destroyed under the provisions of this section.

Carcasses of animals destroyed to be buried or burnt.

No compensation to owner.

Magistrate, &c., on suspicion may cause inspection to be held.

III. Whenever it shall be made to appear to any resident magistrate, field-cornet, justice of the peace, or inspector of native location that there is good reason to suspect that any animal in his district, ward, or location is affected as aforesaid, it shall and may be lawful for any such person to cause such inspection or inquiry or investigation to be made as may be necessary in order to ascertain whether such animal is so affected.

IV. If, upon any inquiry such as is provided for in the second section of this Act, the three persons therein mentioned shall unanimously be of opinion that it is necessary, in order to prevent the spread of any such disease as aforesaid, to destroy, isolate, or deal in any other manner with any animal not known to be actually affected with any disease, it shall be lawful for the said persons to deal with such animals as if the same were actually affected with some such disease as aforesaid; and in case any such animal shall be destroyed under the provisions of this section, it shall be lawful for the three persons aforesaid, or any two of them, if they think fit, to direct that the owner of such animal shall be paid such compensation for the same as they may under the circumstances deem fair and equitable, and such compensation shall be payable out of the public revenue: Provided, however, that no animal shall be destroyed under the provisions of this section without the authority of the commissioner of crown lands and public works first had and obtained.

No. 2, 1831.

Provisions of Section 2 may apply to animal not actually affected. Compensation allowed if animal is destroyed under authority of Commissioner of Crown Lands.

V. Whenever any such disease as aforesaid is known to exist among animals in any district or districts, the Governor may, if he think fit, by proclamation in the Government Gazette, declare such district or districts, or any area embracing or forming part of such district or districts, to be an infected district or area, and may by such proclamation, order and direct that it shall not be lawful to remove from or bring into such district or area any such animals as shall in such proclamation be named, whether the same are or are not affected with any disease: Provided, however, that it shall be lawful for the Governor in such proclamation to make such exceptions as he shall think fit, with regard to the removal from or taking into such district or area of any animals not affected with any such disease as aforesaid.

Governor may by proclamation declare district or area infected.

VI. It shall be the duty of every resident magistrate, whenever it shall come to his knowledge that any such disease as aforesaid exists among animals in his district, forthwith to make report thereof to the commissioner of crown lands and public works.

Duty of Resident Magistrate.

VII. Whenever it shall be shown to the satisfaction of the Governor that contagious and infectious diseases have ceased to exist among animals in any district or area with regard to which any such proclamation as is in the fifth section hereinbefore mentioned shall have been issued, it shall be lawful for him, if he think fit, at any time after the expiration of fourteen days after the cessation of such diseases to repeal such proclamation by another proclamation in the Government Gazette, and to declare such district or area to be no longer infected.

Withdrawal of proclamation by Governor.

No. 2, 1881.	VIII. Any person who shall bring into this colony, or remove from one part thereof to another, any animal which shall be to his knowledge affected with any such disease as aforesaid, shall be guilty of an offence against this Act, and shall be liable on conviction to the punishment in the next succeeding section mentioned.
Offence under this Act.	
Penalty.	IX. Any person contravening any of the provisions of this Act, or of any proclamation issued under the provisions thereof, or wilfully obstructing any person in the due execution of any of the said provisions, shall be deemed to be guilty of an offence against this Act, and shall, upon conviction thereof before the court of the resident magistrate of the district within which such offence shall have been committed, be liable to a fine not exceeding £50, and in default of payment to imprisonment with or without hard labour for any period not exceeding three months, unless such fine be sooner paid.
This Act not to apply to foot and mouth disease and scab.	X. Nothing in this Act contained shall be deemed as taken to apply to the diseases known as foot and mouth disease among cattle and sheep, and scab among sheep and goats.
Expenses incurred to be paid out of general revenue.	XI. All expenses incurred in carrying into effect the provisions of this Act shall be borne by and paid out of the general revenue, according to such tariff as shall from time to time be framed in that behalf by the commissioner of crown lands and public works.
Act not to alter or repeal Ord. 5, 1844, Ord. 1, 1853, Act 10, 1868.	XII. Nothing in this Act contained shall have the effect of altering or repealing any of the provisions of Ordinance No. 5 of 1844, Ordinance No. 1 of 1853, Act No. 20 of 1868, or of any other law relating to diseases among animals.
Construction of "animal."	XIII. The word "animal" in this Act shall be taken to mean any horse, gelding, mare, mule, ass, bull, ox, cow, heifer, calf, sheep, goat, pig, or ostrich.
Short title.	XIV. This Act may be cited as the "Animals Diseases Act, 1881."

No. 3—1881.] ACT [June 6, 1881.

To Amend and add to the provisions of certain Loan Acts.

Preamble.

WHEREAS certain Acts of Parliament, hereinafter mentioned, do not contain sufficient provisions for the creation of funds for the payment of the interest upon, and the gradual extinction of, the debts raised or to be raised upon debentures under the authority of such Acts respectively :

And whereas it is desirable that such provisions 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 House of Assembly thereof, as follows:—

No. 3, 1881.

I. In addition to the annual interest charged upon the several sums of money raised or to be raised by debentures under the authority of the following Acts, that is to say:— No. 25 of 1875, No. 26 of 1875, No. 12 of 1876, No. 17 of 1878, No. 22 of 1878, No. 14 of 1879, No. 15 of 1879, No. 34 of 1879, No. 35 of 1879, No. 38 of 1879, and No. 22 of 1880, there shall be charged and chargeable upon, and set apart out of the annual revenues of this colony, an annual sum equal to one pound sterling per centum upon the total amount of the principal or capital sum which has already been or may hereafter be raised upon debentures under the authority of the said recited Acts respectively, and such sum shall continue to be charged and payable out of the said revenues so long as any portion of the said debt, or any interest thereon, shall remain unpaid and unextinguished, and no longer.

Besides interest on loans raised under certain Acts a sum of £1 per cent. on the capital to be annually set aside.

II. The fund charged and chargeable under the last preceding section shall be applied in redeeming and cancelling such debentures as aforesaid, in such manner and form as shall have been or shall be provided by the terms and conditions whereon and whereunder such debentures shall have been or shall be issued.

Sinking fund so provided to be applied in redemption of debentures.

III. All debentures which shall be redeemed under the authority of this Act shall, immediately on receipt thereof, be cancelled by or on behalf of the treasurer of the colony, and shall be duly advertised as so cancelled.

Redeemed debentures to be cancelled by treasurer.

IV. This Act may be cited as the "Loans Amendment Act, 1881."

Short title.

No. 4—1881.]

ACT

[June 16, 1881.]

To enable the Governor to grant titles to certain Crown Lands at Mostert Bay.

WHEREAS certain persons have, for considerable periods of time, occupied certain erven or plots of crown land adjoining the sea shore at Mostert Bay, in the Division of Stellenbosch, and have from time to time erected buildings thereon without having received any title to such lands, but without having been interrupted by the Govern-

Preamble.

No. 4, 1881.

ment in such occupation, or in the erection of such buildings: And whereas it is desirable that the Government should receive authority to grant to such of the occupiers of the said erven or plots of land as it may deem expedient titles thereto, upon such terms as to the said Government may, in each case, seem equitable: And whereas it is further desirable that land should be reserved and set apart as commonage for the use and benefit of the inhabitants of Mostert Bay 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:—

Governor may grant quitrent titles to occupiers.

I. It shall be lawful for the Governor to grant, upon perpetual quitrent, to such of the several occupiers of ground in the preamble to this Act mentioned as he may deem fit, the whole or any portion of the erven or plots heretofore occupied by them respectively upon such terms as to the said Governor may seem in each case equitable.

Conditions of such grants.

II. All such grants shall state therein the quitrent payable, and shall further be subject to the condition that all existing roads and thoroughfares shall remain free and uninterrupted, unless the same shall be closed or altered by competent authority, and shall also be subject to the several conditions and servitudes contained in the sub-sections to section 10 of Act No. 14 of 1878, marked c, d, e, and f respectively.

Expenses to be paid by grantee.

III. The expenses of survey, erection of beacons, and of the title deed, shall be paid by each grantee to the civil commissioner of the district at the time of the issue of title.

Commonage may be set aside.

IV. It shall be lawful for the Governor to set aside and proclaim as commonage for the use of the occupiers of erven at Mostert Bay aforesaid, and of the public frequenting that watering place, so much of the crown lands lying between Mostert Bay and Fish Hoek Bay, as he may deem necessary for that purpose, subject, however, to such regulations as may be made from time to time, with the approval of the Governor, and to the right of the said Governor to sell at any future time such parts of the commonage, in small lots or erven, as to the said Governor may seem fit and reasonable to satisfy any further demand for the purchase of such lots.

Sec. 6 of Act 14, 1878, to apply to grants.

V. The provisions of the sixth section of the said Act No. 14, 1878, shall extend and apply to any grants made under the authority of this Act.

Short title.

VI. This Act may be cited as the "Mostert Bay Crown Lands Act, 1881."

No. 5—1881.]

ACT

[June 16, 1881.

To authorise the Construction of a Railway from Graham's Town to Port Alfred.

WHEREAS the House of Assembly did, on the 23rd ^{Preamble.} day of July, 1880, resolve as follows:—"That this House is prepared to recommend a grant of £50,000 to any company or individual who shall construct a railway similar in all respects to the railway lines already constructed in this colony, on a gauge of not less than three feet six inches, and at a gradient of not more than one in forty, between Port Alfred and Graham's Town within a period of five years, to be paid upon the completion of the said railway in a condition fit for traffic:" And whereas the Legislative Council did, on the 24th day of July, 1880, assent to and concur in such resolution: and whereas it is necessary and expedient to empower the Governor to carry out the said resolution: and whereas it is necessary to confer upon any individual or company who may construct such railway, the powers of expropriation of land and other powers necessary for the purpose of such construction: 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:—

I. It shall be lawful for the Governor to contract and agree with any individual or joint-stock company willing to construct the railway in the preamble to this Act mentioned, at his or their own expense, to pay to him or them the sum of £50,000 upon the completion of the said railway within the term of five years from the entering into of any such contract, according to the conditions mentioned in the said preamble. ^{Governor may give £50,000 to persons making the railway.}

II. Such individual or company as aforesaid (hereinafter in this Act styled "the contractor") shall, upon the completion of such contract with the Governor, be and is hereby authorized and empowered to construct and work a railway between Port Alfred and Graham's Town, according to plans to be submitted to the Governor, and referred to in such contract, and to erect and work a telegraph along the line, subject to the provisions of the Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs." ^{Authority of contractor to construct railway.}

III. The contractor 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 ^{Power of entry on lands for purposes of survey.}

No. 5, 1881.

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.

Contractor may enter
on Crown land free
of charge.

IV. The contractor may, subject to any limitation contained in the contract with the Government, enter upon and take possession of and hold and retain for the purposes of this Act, free of charge, so much of any crown land as shall be required for the construction and maintenance of the said railway, or any other purposes relating to the execution of this Act, and also enter upon any crown land lying convenient to the said railway, and dig for, excavate, and carry away all stones, clay, or other material required for the purposes of the said railway free of charge: Provided that nothing in this Act contained shall establish any servitude in favour of the contractor upon any such land which may hereafter be sold or leased by the colonial government to any purchaser or lessee thereof.

Powers conferred by
Road Act 9 of 1858
given to contractor.

V. 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, or of any works in connection therewith, are hereby bestowed upon the 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 if any land or materials belonging to any person who shall be absent from the colony, or whose place of residence shall be unknown to such contractor, shall be required for the making or maintaining of the said railway, then it shall not be necessary to serve the several notices required by the eleventh and twelfth sections of the said Act No. 9, 1858, upon such proprietor, but the publication of any such notice in the Government Gazette shall be deemed and taken to be a sufficient notice to such proprietor: Provided also that it shall not be necessary before the exercise of any such powers as aforesaid that any proceedings shall be taken to settle the amount of compensation or recompense to be paid for or in respect of such land or materials, but it shall be lawful for such contractor to enter upon, take possession of, and use any land or materials which may be required for the purpose of the said railway, leaving all questions as to the recompense or compensation to be paid for or in respect of such land or materials to be settled afterwards in manner provided by the twelfth and thirteenth sections of the said Act No. 9, 1858: Provided, further, that no brick-field,

garden, orchard, plantation, or ground ornamentally planted, shall be used for the purpose of depositing or excavating soil without the consent of the owner thereof: and provided, lastly, 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, fencing, and stations and approach roads thereto, and that in so doing as little damage as possible shall be done to such lands as aforesaid.

No. 5 1881.

VI. The provisions of the fifty-sixth and fifty-seventh sections of the said Act No. 9 of 1858, relative to injuries done, whether wilfully or carelessly, to the main roads of the colony, and to any buildings and works connected therewith, shall, mutatis mutandis, extend and apply to injuries done to the said railway and any buildings connected therewith.

Also protection of Sections 56 and 57 of same Act.

VII. At all places where the line of the said railway or any deviation thereof shall intersect or cross the line of any street or road, it shall be lawful for the contractor to make and carry the said railway across such street or road either by means of a level crossing or by means of a convenient and sufficient bridge or viaduct over or under the said street or road; and such contractor shall be bound to make all such cuttings, embankments, and approaches with all such culverts 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.

Provisions in cases where railway crosses any street or road

VIII. 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 as little damage and inconvenience as possible shall be caused to the said railway by such crossings.

Streets or roads may be made crossing railway.

IX. It shall be lawful for the contractor to exercise all and singular the powers by this Act conferred upon such contractor, by or through an agent in this colony, duly appointed; provided that notice of every appointment of any such agent, and of his name and address in this colony, shall from time to time be published in the Government Gazette, and in one or more newspapers published in Graham's Town.

Contractor may act by duly appointed Agent.

X. The said railway 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,

Railway not to be opened until certificate of Government officer obtained.

No. 5, 1881.

and the cost of obtaining such certificate shall be borne by the contractor.

After 20 years' traffic Government may purchase the railway.

XI. At any time after the expiration of twenty years after the date of opening of traffic of the said railway, or of any section thereof, the colonial government shall have the right, if so disposed, to purchase from the proprietor or proprietors of the said railway, and such proprietor or proprietors shall be bound, if required so to do, to sell to such government the said railway with all fixed property appurtenant thereto, lying within the limits of deviation aforesaid, and all rolling stock, engines, carriages, plant, machinery, and every matter or thing belonging to or connected with the said railway, together with the telegraph and apparatus, upon such terms as may be agreed upon. If the said government and the said proprietor or proprietors cannot agree upon the terms upon which such purchase shall be made, all questions in dispute between them with reference thereto shall be submitted to three arbitrators, one to be nominated by the said government, one by the said proprietor or proprietors, and the third to be selected by the two arbitrators so nominated; and if the two first mentioned arbitrators shall not agree on the selection of such third arbitrator within thirty days of their being nominated as aforesaid, then it shall be competent for the supreme court or court of the eastern districts, on application made by either party to the dispute, to appoint such third arbitrator, and the award of such arbitrators or the majority of them on all questions submitted to them shall be final and conclusive, and shall be made a rule or order of the supreme court or court of the eastern districts: provided that the said government shall not purchase the said railway or take any proceedings under this section without the consent of both Houses of Parliament first had and obtained.

Arbitration.

Regulation of Act 19 of 1861 to apply to this railway.

XII. Upon the completion of the said railway the individual or company which shall have constructed the same 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."

Short title.

XIII. This Act may be cited as the "Graham's Town and Port Alfred Railway Act, 1881."

No. 6—1881.] ACT [June 25, 1881.

To Authorise the Commissioners of the Municipality of the Paarl to borrow a further Sum of Money for Improving the Water Supply and Erecting a Town House.

WHEREAS by “The Town of the Paarl Water Act (No. 8) of 1869,” provision was made for enabling the commissioners of the town of the Paarl to borrow a sum not exceeding fifteen hundred pounds sterling for the purpose of increasing the water supply for the town of the Paarl: And whereas by the “Town of the Paarl Water Act, 1879,” the said commissioners were authorised to borrow a further sum of money not exceeding three thousand five hundred pounds sterling for the purpose of further increasing the water supply of the said municipality: And whereas it is expedient to authorise the said commissioners to borrow a further sum of money not exceeding three thousand five hundred pounds sterling for the purpose of further increasing and improving the said water supply, and a sum not exceeding four thousand pounds for the purpose of building a Town House in the said town.

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:—

I. It shall be lawful for the commissioners of the municipality of the Paarl to borrow, and take up such sum or sums of money not exceeding in the whole the sum of seven thousand five hundred pounds sterling in addition to the sums previously borrowed under the provisions of the aforesaid Acts, as shall be required for the purposes following, that is to say: for the purpose of further increasing and improving the water supply of the said municipality, a sum not exceeding three thousand five hundred pounds, and for the purpose of building a Town House in the said Town of the Paarl, a sum not exceeding four thousand pounds.

Power to borrow £7,500.

II. The provision of the first section of the said Act No. 8 of 1869, as to the assessment of rates for providing for the payment of principal as well as interest, and the provisions of the third, fourth, fifth, and sixth sections thereof, shall apply to the money borrowed under this Act precisely as if the same were, mutatis mutandis, herein repeated.

Provision of former local Acts to apply.

III. This Act may be cited for all purposes as the “Town of Paarl Loan Act, 1881.”

Short title.

No. 7—1881.]

ACT

[June 25, 1881.]

See 1892 Act 32
 " 1893 " 4

To organise, establish and regulate a Force for the better Defence of the Colony, to be called "The Cape Infantry."

Preamble.

WHEREAS it is expedient that the permanent armed force for the defence of the colony should be increased: 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 embody sufficient number of men.

I. The Governor, with the advice of the Executive Council, shall cause such a sufficient number of fit and able men as Parliament shall from year to year provide for, to be enrolled and embodied and serve as an armed force, who shall be sworn before a justice of the peace to act as a military force for the defence of the colony.

"The Cape Infantry."

II. The force so embodied shall be called "The Cape Infantry."

Enlistment for 5 years and option of enlisting for 3 years further.

III. Every person so enrolled as in the first section of this Act provided, shall be enlisted and bound to serve in the said force for the term of five years: and at the expiration of such period of service, it shall be competent for any such person, with the approval of the officer commanding such force, to re-enlist, and be bound to serve therein for a further period of three years.

How force to be commanded.

IV. The said force shall be under the command of a competent field-officer to be styled lieutenant-colonel, one or more other field-officers to be styled majors, and officers to be styled captains, lieutenants, and second-lieutenants respectively, and such other officers as may from time to time be found necessary to the discipline, training, and efficiency of the said force, and all such officers shall be under and subject to the orders and command of the Commandant-General of the Forces of this colony, to whom such field-officers shall from time to time as occasion may require, or whenever they shall be called upon so to do by the Commandant-General, report on the condition of the force under his command, and on all matters of importance connected therewith; and shall consult with and be guided by the advice of the said Commandant-General in respect of the subjects of such reports.

Governor to appoint officers.

V. The Governor shall, with the advice aforesaid, by warrant under his hand, appoint the several officers in the preceding section mentioned, and may from time to time displace and remove such officers and appoint others in their place as to him shall seem meet.

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VI. It shall be lawful for the commanding officer of the said force to appoint such number of sergeants, corporals and buglers as the Governor may from time to time authorise to be appointed: Provided always that the said commanding officer, acting upon the judgment of a board of officers constituted as hereinafter mentioned shall have the power to displace or reduce to a lower rank such sergeants, corporals and buglers respectively.

Commanding officer
to appoint non-com-
missioned officers

VII. The Governor, acting as aforesaid, shall from time to time make such regulations respecting the training, arms and accoutrements, clothing and equipment, of such force, and respecting all other matters connected therewith, as may be required for promoting the discipline and efficiency thereof; and shall also direct the employment and distribution of the said force, within or without the colonial boundary, as to him shall seem meet.

Governor to make
certain Regulations.

VIII. It shall be the duty of the field and other officers of the said force, to suppress all tumults and riots, in any part of the colony where they may be on duty, and to assist in the defence of the colony, and to discharge military duties in connection therewith.

Duties of the offi-
cers.

IX. Every person who shall be enrolled, or who shall re-enlist in the said force shall, upon such enrolment or re-enlistment, be required to pass a medical examination and take the following oath, or make an affirmation to the same effect, before some duly authorised person, that is to say:—

Persons enrolled to
pass medical exami-
nation and take oath
of allegiance.

“I, A. B., do swear that I will bear true and faithful allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law, and that I will faithfully serve in the Cape Infantry of the Colony of the Cape of Good Hope, for———years unless I shall be sooner discharged.”

X. The Governor shall provide from time to time as occasion may require, arms, ammunition and all necessary equipments and camp equipage for persons enrolled in the said force.

Governor to provide
arms and accoutre-
ments.

XI. Any member of the force who may be charged with the offence of contravening any regulation which may be made, under and by virtue of this Act, or any of the offences in the schedule hereinafter mentioned, may be tried by and before:—1. Any of the superior courts of law in this colony within the jurisdiction of which such offence shall have been committed. 2. The court of the resident magistrate of the district in which such offence has been committed; or 3. A board of officers as hereinafter mentioned. And shall, upon conviction be liable to be punished as follows:—

How offenders
against regulations
to be tried.

1. If the conviction, shall be before any of the said superior courts, such court may sentence the offender to be imprisoned with or without hard labour for a period not exceeding five years, or to pay a fine not exceeding

Punishments.

No. 7, 1881.

twenty pounds, and, in default of payment thereof, to be imprisoned with or without hard labour for any period not exceeding one year; or to both such fine and such imprisonment.

2. If the conviction shall be before a court of resident magistrate, such court may sentence the offender to pay a fine not exceeding ten pounds, and in default of payment thereof, to be imprisoned with or without hard labour for any period not exceeding six months; or to be imprisoned as aforesaid without the infliction of any fine; or to both such fine and such imprisonment.
3. If the conviction shall be by a board of officers, such board may sentence the offender as mentioned in the last preceding paragraph.

Power to stop pay of offenders and to pass certain sentences.

XII. In case any non-commissioned officer or private shall offend against any such regulation as aforesaid, it shall be lawful for any officer commanding a company, or any officer commanding a detachment of the said force, to stop from the pay of such offender any sum not exceeding one pound, or to sentence him to imprisonment with or without hard labour for any period not exceeding fourteen days, or to sentence him to such punishment as may be provided on that behalf in any such regulation as aforesaid, or such officer may take proceedings for the purpose of such offender being tried under the eleventh section of this Act; provided that such offender shall, if he so request, have a right to have such proceedings taken instead of being tried by such officer; and provided also that any officer who shall try any offender under the provisions of this section shall forthwith after such trial forward the proceedings in, and full particulars of, the case to the field-officer commanding the said force.

Cases not dealt with under last section to be reported to commanding officer.

XIII. Upon any member of the force being charged with any of the offences in this Act mentioned, the charge, in case the offence shall not have been summarily dealt with under the last preceding section, shall be forthwith reported to the officer in command of the company or detachment to which such offender is then attached, who shall thereupon forthwith report the particulars of the case to the officer in command of the force, who shall having regard to the said particulars and the nature and magnitude of the offence, direct whether the offender shall be proceeded against before a board of officers as aforesaid, before the court of resident magistrate having jurisdiction in the case, or (as to offences in the eleventh section hereof mentioned) before a superior court as aforesaid: Provided that nothing herein contained shall prevent either of such officers from ordering the discharge of any prisoner in case it appears to him that there are not sufficient grounds for putting such prisoner upon his trial; and if the

proceedings are directed to be before a superior court, or before a court of resident magistrate, they shall be the same in all respects as in the case of an ordinary offender or supposed offender against the law, and the said offender shall be in the same plight and condition as any other person charged with any criminal offence.

No. 7, 1881.

XIV. The board of officers hereinbefore mentioned shall consist of not less than three officers of the said force, of whom the field-officer commanding may be one; and the said officers shall be selected and summoned by the said field-officer. The said field-officer, if present, and if not, the senior officer present, shall be the president of such board, and the decision of the majority of the members of such board shall be deemed to be the decision of such board; Provided that, in case the members of the said board shall be equally divided in opinion, the decision of the president shall be deemed to be the decision of the board.

Constitution of Board of officers.

XV. The proceedings before and at any trial by a board of officers shall, except otherwise herein mentioned, as near as may be, be the same as those from time to time prescribed as to criminal cases in a court of resident magistrate; and all the evidence which may be given before such board shall be taken down in writing by the president thereof, by whom also the witnesses shall be duly sworn; and any person so sworn, who shall wilfully and corruptly give false evidence before any such board, shall be deemed to be guilty of the crime of perjury, and upon conviction thereof, shall suffer any punishment by law provided for that crime.

Form of proceeding before such Board.

XVI. Every person who may be required to give or produce evidence in any case pending before any such board of officers shall be summoned, in writing, by any officer of the said force; and any witness so duly summoned who shall not attend, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or shall not produce the documents under his power or control required to be produced by him, or to answer all such questions as the said board may legally demand of him, shall be liable to be dealt with by such board in like manner as if such witness had been a witness duly summoned to appear before a resident magistrate in a criminal case pending in the court of such resident magistrate.

Summoning witnesses.

XVII. When and as often as any such board of officers as aforesaid shall sentence any offender under this Act to be imprisoned, with or without hard labour, for any period exceeding fourteen days, or to pay a fine exceeding one pound, the president of such board shall forthwith, after pronouncing such sentence, transmit the original proceedings in the case, together with such remarks, if any, as he may desire to append, to the registrar of the supreme court, or if

When proceedings to be transmitted for review and to what Courts.

B

No. 7, 1851.

the trial has taken place within the jurisdiction of the eastern districts court, or of the high court of Griqualand West, to the registrar of such courts respectively, and the provisions of the 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, mutatis mutandis, extend and apply to such proceedings, as if the same had been proceedings in a case decided by a court of resident magistrate which, under the said forty-seventh section would have had to be sent for review by a judge of one of the superior courts.

Where imprisonment to take place.

XVIII. All offenders arrested for any offence under this Act, and all offenders sentenced to imprisonment by an officer or board of officers as aforesaid, may be imprisoned in any building set apart as a guard-room or police prison by order of the field-officer commanding: Provided that in case the sentence shall exceed fourteen days' imprisonment with or without hard labour, the person convicted shall be removed to the nearest public gaol, there to undergo such sentence, and when so removed he shall be in the same plight and condition as if the sentence had been a sentence of one of the ordinary courts of law of this colony: And provided also, that so long as any man shall be imprisoned in any guard-room or prison as aforesaid, the same shall as to such offender be deemed to be a public gaol, and the prisoner shall be deemed to be a prisoner confined therein within the meaning of the Ordinance No. 24 of 1847, intituled "Ordinance for improving the Gaols of this Colony," but every board of officers aforesaid and the resident magistrate of the district shall have the like jurisdiction and powers as to offences committed by any such prisoner while imprisoned in any such guard-room or prison as by the ordinance aforesaid are given to the resident magistrate of the district, as to the public gaols within his district.

Term of imprisonment not to reckon as part of service.

XIX. No period during which any offender shall be imprisoned for any offence for which he shall be afterwards convicted, or during which he shall be imprisoned under a sentence of any court or board as aforesaid, shall be reckoned for any purpose as part of the period of the service of such offender unless the court or board aforesaid ordering such imprisonment shall otherwise direct.

Provisions of Act not to interfere with prosecutions under the ordinary law.

XX. Nothing in this Act contained shall prevent any offender from being prosecuted otherwise than under the provisions of this Act in all cases in which he would by law, without this Act, be liable to such prosecution; but no member of the said force acquitted or convicted of any crime or offence under the provisions of this Act, shall be liable to be again tried for the same crime or offence: Provided that

nothing herein contained shall prevent a member of the said force who has been acquitted or convicted from being dismissed from the said force or reduced in rank therein. No 7, 1881.

XXI. It shall be lawful for the said field-officers commanding the said force to suspend or dismiss from his employment any non-commissioned officer or private whom they shall think remiss or negligent in the execution of his duty, or otherwise unfit for the same; and when any such non-commissioned officer or private shall be so dismissed, or shall otherwise cease to belong to the said force, all powers and authorities vested in him by virtue of this Act shall cease and determine: Provided, however, that no sentence of dismissal shall take effect unless and until the same be confirmed by the Commandant-General of the Colonial Forces. Power of field officers to suspend or dismiss non-commissioned officers.

XXII. The several sections of Act No. 9 of 1878, being the "Cape Mounted Riflemen Act, 1878," numbered consecutively from 20 to 35, including both of such sections, together with the schedule of offences annexed to the said Act shall, mutatis mutandis, be taken to apply to the several members of the force intended to be embodied and enrolled under this Act, and shall be read as if, mutatis mutandis, they had been inserted herein and formed part of the provisions of this Act. Certain Sections of Act No. 9 of 1878 to apply.

XXIII. This Act may be cited as the "Cape Infantry Act, 1881." Short Title.

Repealed by 1897 Act 27.

No. 8—1881.] ACT [June 25, 1881.

"To Increase the Powers of the Municipal Council of Port Elizabeth.

WHEREAS certain powers were conferred on the council of the municipality of Port Elizabeth by the Act No. 14 of 1868, entitled "An Act for constituting the town of Port Elizabeth a Municipality:" And whereas it is found desirable to increase those powers and to authorize and enable the said council Preamble.

- a. To establish a town improvement fund and to vote moneys out of the revenues of the town towards such fund;
- b. To purchase or acquire land and buildings for the purposes of town improvement;

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- c. To erect buildings, and to sell, lease, or otherwise deal with land or buildings ;
- d. To provide for the better ordering of streets and thoroughfares ;
- e. To provide for the better protection of property from fire, and to recover from the owners or tenants of property all expenses incurred in saving life or property from fire, or in extinguishing fires :

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

Establishment of
Town improve-
ment fund.

I. The council of the municipality of Port Elizabeth shall be, and is, hereby authorized to establish a fund to be called "the town improvement fund."

Fund vested in
Mayor.

II. The said town improvement fund and all property acquired under this Act shall be vested in the mayor of the municipality of Port Elizabeth for the time being as trustee, and all the accounts thereof shall be kept separate and distinct from any other funds of the municipality.

Sums to be invested
in fund to be placed
on Municipal esti-
mates.

III. The said council is hereby authorized to place on the estimates of any year any sum of money to be invested in the said town improvement fund, and on the same being duly voted by the council shall pay over such sum out of the revenues of the municipality to the said trustee.

Accounts to be pub-
lished.

IV. The said council shall cause to be published in one or more of the local papers, during the months of January and July in each year, an audited account made up to the 31st December and 30th June respectively, showing the details of income and expenditure ; and also annually, in the month of January, a statement of the assets and liabilities of the said fund.

Power to purchase
land.

V. The said council is hereby authorized and empowered for the purposes of town improvement to purchase or acquire any land or buildings subject to the provisions hereinafter contained.

Notice to be given of
proposal to pur-
chase.

VI. When it is desired to acquire any land or buildings under this Act, notice of motion shall be given by a councillor to that effect at an ordinary meeting of the said council. Such motion shall be decided at the next ordinary meeting of the council, at which two-thirds of the councillors shall be present, and if agreed to by a majority of the councillors then present shall be advertised in the Government Gazette and one or more of the local papers, not less than twice a week during four consecutive weeks, and such advertisement shall appoint a day at or after the expiration of the said four weeks, before which objections may be sent in to the said council by any owner of such property or by any ratepayer, all whose municipal rates at the time have been duly paid.

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VII. Should no objections be handed in to the council by any such owner or ratepayer, the vote or resolution passing the motion in the last preceding section hereof mentioned shall be binding and of full force and effect.

In absence of objections purchase to be made.

VIII. Should any objection be sent in to the council by any such owner or ratepayer within the time limited as aforesaid, the council shall advertise in the local paper a date not earlier than one month from such objections being received on which the council will sit to hear such objections, and the council shall be and is hereby constituted a court for the consideration of such objections, and its decision thereon shall be binding. Always provided that such decision shall not be binding on the owner of any property in so far as may relate to the amount of money or other consideration to be given to such owner for such property.

Proviso for hearing objections.

IX. On the council arriving at a decision to purchase or acquire any such property it shall be lawful for the council, and it is hereby authorized and empowered, to exercise in regard to such property all the powers and authorities set forth in the fifty-second section of the said Act No. 14 of 1868.

Purchase being decided on 52 Sec. of Act 14 of 1868 to apply.

X. In case the said council shall in the exercise of the powers conferred on them by this Act determine to purchase or acquire any land or buildings, the owner or owners whereof shall be absent from this colony and not represented by any agent duly accredited, or shall not be discoverable, then the said council shall take the same proceedings in respect thereof as are set forth in the fifty-third section of the said Act No. 14 of 1868.

In cases of absent proprietors of lands to be purchased.

XI. In all cases in which the said council shall acquire any property by virtue of the ninth and tenth sections of this Act, or by virtue of the provisions of the fifty-second and fifty-third sections of the Act No. 14 of 1868, if the said council shall be unable by reason of the absence or refusal of the owner or owners of such property or their lawful representatives to obtain transfer thereof in the usual form, the following proceeding shall be taken :

Mode of proceeding in case of Council being unable to obtain transfer by reason of absence or refusal of owners.

- a. A certified copy of the original grant and diagram of the particular piece of ground required as aforesaid, and in case such land shall be a sub-division, a diagram in duplicate prepared by a government land surveyor, shall be lodged and remain in the municipal office for inspection of all persons concerned during the whole time of the several advertisements and other proceedings in connection therewith prescribed by this Act.

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- b. Such diagram shall contain all such information as is required by the rules of the office of the registrar of deeds, and shall be subject to examination in accordance with those rules.
- c. On completion of all the proceedings required for the acquisition of the said property, it shall be lawful for the said council to apply under the provisions of the "Titles Registration and Derelict Lands Act, 1881," for an order upon the registrar of deeds to transfer to the said council the property so acquired.

When Council may close streets, &c., lying between properties purchased.

XII. Should any property acquired by the said council under the provisions of this Act or otherwise include or constitute the whole of the properties on both sides of any street, lane, or passage, the council is hereby invested with authority to close such street, lane or passage, provided that no such street, lane, or passage shall be closed until a notice shall have been published for the period, in the manner and for the purpose hereinbefore in the sixth section provided; and thereupon the like proceedings shall be had and taken as are in the seventh and eighth sections provided: and provided further that any person aggrieved by the decision of the council, may within three months thereafter apply to any competent court for relief, and failing any such application the decree of the council shall be final and binding and conclusive as against all persons; and the council shall have full authority to deal with such ground as hereinafter provided, as though no street had previously existed thereon.

When Council desires to sell or lease lands.

XIII. When the council desire to sell, let, lease or otherwise deal with any property acquired by them under this Act, including any such street, lane or passage, as in the last preceding section mentioned, or to erect any buildings thereon, notice of motion shall be given by a councillor stating the precise manner in which it is proposed to act.

Quorum of Members to decide any motion under this Act.

XIV. No motion relating to any matter arising under the provisions of this Act shall be decided at any meeting of the council at which there shall be less than two-thirds of the members thereof present. As often as the required number of members shall not be present, and as often as the votes shall be equal, such motion shall and may be postponed from time to time until decided. And upon every such motion the Mayor or person presiding at any meeting shall not, in case of an equality of votes, have a second or casting vote, anything in the said Act No. 14, 1868, to the contrary notwithstanding.

No motion to be repeated in the same year.

XV. No motion which has been negatived shall be repeated in the same year of our Lord, but after the first of January of the ensuing year any matter that has been nega-

tived in the previous year may be revived after due notice. No. 8, 1881.

XVI. The said council is hereby authorised upon the passing of any motion to that effect in manner hereinbefore provided, to sell, let, or lease any property acquired by them under this Act, or to remove buildings or erect new buildings thereon; or to mortgage the same, or to issue debentures on account thereof for any sum not exceeding the cost thereof, including the cost of any buildings that may be erected thereupon by the council. Upon motion passed, power to sell lease. &c.

XVII. After payment of the interest on such mortgage or debentures and the due payment of all repairs or other charges on such property, the rent or other proceeds derived from any letting, leasing, or other use of any such land or buildings acquired or erected under this Act, as also the proceeds of any such land or buildings as may be sold, after payment of the cost thereof, shall be paid into the town improvement fund. Rent, &c., after payment of incumbrances to be paid into town improvement fund.

XVIII. Over and above the claim on the said property by virtue of any such mortgage, the holder of such mortgage or of any debentures issued under this Act shall be entitled to the full benefit of the provisions of the Public Bodies' Debts Act, 1867. Public Bodies' Debts Act 1867 to apply

XIX. All transfers to and from the said council, and all mortgages passed by them under the provisions of this Act, shall be made in favour of or by the mayor for the time being as trustee. Transfer and mortgages to be in name of the Mayor.

XX. The said mayor as trustee shall, in all matters relating to the town improvement fund or any property acquired under this Act, obey the instructions of the council as expressed and recorded from time to time in the minutes of the said council, and copies of all such minutes shall be forwarded to the mayor, in writing, by the town clerk immediately after the same have been passed. Mayor to obey instructions of Council.

XXI. The mayor as such trustee shall not by acting on any minutes or instructions so received from the council through the town clerk incur any personal responsibility whatever, nor shall he be answerable for any irregularity or error in the passing or recording of such minutes, nor for any act, negligence, or omission on the part of the council or its officers. Mayor not to be personally responsible.

STREETS AND THOROUGHFARES.

XXII. All persons who may be desirous of selling lands within the said municipality in sub-divisions, shall submit a plan of the same for the approval of the said council, and no transfer of any such land sold in subdivisions after the taking effect of this Act shall be passed in the office of the registrar of deeds until a certificate shall be produced to the Persons desirous of selling lands to Municipality to submit plans.

No. 8, 1881

said registrar under the hand of the mayor or town clerk certifying that the plan of such subdivisions has been submitted to and approved by the said council.

Drainage to be provided for.

XXIII. It shall be the duty of the said council to see that due provision is made in every plan so submitted for the efficient drainage thereof; that the streets or passages reserved are of sufficient width to accommodate the traffic that may be expected thereon, and that all streets or thoroughfares shall be clear throughout and open into existing streets or thoroughfares.

Owners of property to make streets.

XXIV. The owners of such property shall before the sale thereof, form and level the proposed streets or thoroughfares, and shall make over the same to the council in proper condition for use, and the council shall thereafter be bound to keep and maintain the said streets and thoroughfares.

Agreement may be made with council for special paving, water and gas supply, &c.

XXV. When the ratepayers in any ward, district or street desire to have special paving or other works effected therein, or to have a larger proportion of police, sanitary, or other officers employed therein, or a larger supply of gas or other light or water or other service than can be allotted to such ward, district, or street, out of the general rates of any year, such ratepayers or any number of them may propose and conclude any agreement with the said council whereby, in consideration of certain additional payments over and above the ordinary rates, such works or services may be supplied.

For the purposes in last section mentioned, meetings to be called and special rates assessed.

XXVI. In the event of any of the owners of property in any such ward, district, or street desiring such special works or services of a nature chargeable on the landlords' rate, the said council shall on requisition of not less than ten of such owners call a meeting of all the owners of rateable property in such ward, district, or street by notice to be published in one or more local papers for not less than twice a week during two successive weeks immediately preceding the day appointed for such meeting; and if it be decided at such meeting by the votes of such owners who are entered in the valuation roll of the municipality as owners of not less than two-thirds of the aggregate value of the assessed property in such ward, district, or street, that a rate shall be passed for the purpose of defraying the cost of such works or services, such rate as they may agree upon, not exceeding one penny in the pound on the assessed value of the property in the said ward, district, or street, shall be binding upon the whole of the owners of such property, and shall be levied as provided in the Act No. 14 of 1868, for the levying and collection of the landlords' rate, and in like manner the said council shall and may, by similar notice, convene a meeting of the tenants or occupiers of rateable pro-

erty in any such ward, district, or street, on requisition of not less than ten of such tenants, for the purpose of voting a rate for any such special works or services of a nature chargeable on the tenants' rates, and if at such meeting it shall be decided by the votes of persons who are entered in the valuation roll of the municipality as tenants or occupiers of property to the extent of two-thirds of the aggregate annual value or rental of the assessed property in such ward, district, or street, that a rate shall be passed for the purposes aforesaid, such rate as they shall agree on, not exceeding sixpence in the pound on the assessed annual value or rental of all the property in such ward, district, or street, shall be binding upon all the ratepayers in such ward, district, or street, and shall be recoverable as provided in the said Act No. 14, 1868, for the levying and collection of the tenants' rate.

No. 8, 1881.

XXVII. The word "district" in the last two preceding sections of this Act shall mean any group of streets or thoroughfares, the principal owners or tenants whereof may desire to co-operate in the demand for such extra works or services, and on application from such persons it shall be the duty of the council to define in any agreement as in the twenty-sixth section hereof mentioned, or in the notice convening any meeting as provided in the twenty-seventh section hereof, the precise boundaries of such district.

Meaning of word "district."

FIRE.

XXVIII. In addition to the powers conferred on the said council by the Act No. 14, 1868, 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 these purposes.

Power to acquire stations for fire engines.

XXIX. The council shall engage and organize 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 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.

Fire Brigade to be organized.

XXX. The council may by by-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

Power to frame regulations for such brigade.

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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 by-laws shall be made, approved of, and confirmed in manner directed by the Act No. 14, 1868.

Powers given to officers in charge of the brigade in case of fire.

XXXI. 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 to assist Brigade

XXXII. All police constables shall be authorized 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 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.

Indemnity against damage caused in execution of duty.

XXXIII. 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 to property in the execution of their duties.

Charges to be made for services of Brigade.

XXXIV. In every case of fire the council shall be authorized to charge on every shop, store, warehouse, station, hotel, manufactory, timber or storeyard, 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 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 council shall be authorized to charge the sum of five pounds sterling for the

services of the fire brigade, 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.

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XXXV. 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 council in the court of the resident magistrate or any court of law having jurisdiction.

By whom to be paid.

XXXVI. 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 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 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.

Expenses incurred may be recovered.

XXXVII. 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, as in the next succeeding section provided.

Town Clerk to ascertain value of properties dealt with in order to proportion payment of expenses.

XXXVIII. 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 the arbitration of three persons, whereof the council shall appoint one, the persons objecting to the town clerk's distribution or a majority of them shall appoint another, and these two shall nominate a third. These three arbitrators shall sit and take all such evidence as may be tendered, and frame a distribution account and award, which, when signed by the arbitrators or any two of them, shall be final and binding on all parties concerned, and recoverable from the respective persons therein named by action in the court of the resident magistrate or any other court having jurisdiction.

Arbitration in case of dispute.

No. 8, 1881.

What shall be deemed "loss or damage by fire."

XXXIX. 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 or occupiers of property under this Act, including the charges mentioned in section thirty-four 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.

Interpretation of terms.

XL. In the several clauses of this Act the word "municipality" shall mean the municipality of Port Elizabeth; the words "mayor," "council," "councillors," and "town clerk," shall respectively mean the mayor, council, councillors and town clerk of the said municipality; and the words "insurance company" shall include any persons corporate or unincorporate or any person carrying on the business of fire insurance.

Short title.

XLI. This Act may be cited for all purposes as the "Port Elizabeth Town Improvement Act, 1881."

Repealed by 1916 Act 13 Sec. 32.

except as to carrying on by Victoria College Council of a Preamble. school for boys.

No. 9—1881.] ACT [June 25, 1881.
For Regulating the Stellenbosch Undenominational College and Public Schools.

WHEREAS it is expedient to provide means for the superintendence and direction of the affairs of the Stellenbosch College or Arts Department, the Undenominational Public School for Boys, otherwise known as the Stellenbosch Gymnasium, and such preparatory or branch departments as now are or may hereafter be 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:—

Direction of College affairs to be vested in a Council.

I. The general superintendence and direction of the affairs of the Stellenbosch College or Arts Department, the Undenominational Public School for Boys, otherwise known as the Stellenbosch Gymnasium, and such preparatory or branch departments as now are, or may hereafter be connected therewith, shall for the future be vested in a Council of nine members, of whom three shall form a quorum, and the said Council shall be called the Council of the Stellenbosch Undenominational College and Public Schools.

THE STELLENBOSCH UNDENOMINATIONAL COLLEGE AND 275
PUBLIC SCHOOLS ACT.

No. 9, 1881.

II. One of the members of the Council shall be appointed by the Governor, one shall be elected by the Divisional Council of Stellenbosch, one shall be elected by the Commissioners of the Municipality of Stellenbosch, and the other six shall be elected jointly by the Guarantors, Life Governors and Past Students, as in the succeeding section defined.

How members of the Council to be appointed.

III. The term "Guarantor" shall mean every person who at the time of any election by Guarantors, Life Governors, and Past Students as in the last section provided for, shall be furnishing a guarantee in connection with any of the Institutions to which this Act applies, under the provisions of Act No. 13 of 1865; the term "Life Governor" shall mean every person who shall have contributed by way of donation not less than £10 sterling to the funds of the said Institutions, or any one or more of them; and the term "Past Student" shall mean all former students of the said College who shall have matriculated or graduated in the University of the Cape of Good Hope, or become graduates of any University recognized by the said University of the Cape of Good Hope, provided such persons shall have studied in the ordinary course for a period of two years at least in the said College, and shall have paid to the funds of the said Institutions, or any one or more of them a sum of £5 sterling; provided further that it shall not be competent for any Guarantor, Live Governor, or Past Student to exercise, in more than one of the capacities mentioned in this section, the right conferred by this Act, of voting at any election.

Interpretation of certain terms used in the Act.

IV. The Reverend John Murray, M.A., the Reverend Nicolaas Jacobus Hofmeyr, the Reverend Johannes Henoch Neethling, Cornelis Smuts, M.D., the Reverend Johannes Izaak Marais, Henry Edward Richard Bright, Petrus Wilhelmus Jacobus Bosman, George Lodewyk Meiring, Gideon Johannes Krige, shall become the first Council of the Stellenbosch Undenominational College and Public Schools, as by this Act provided.

Names of first members of the Council.

V. The said first Council shall at their first meeting after the passing of this Act, and thereafter the Council from time to time being, shall annually elect a President of the Council for the ensuing year, and such first Council shall at their such first meeting, also fix, by ballot, on three of their number, who shall retire on the 31st December, 1881; upon three of their number who shall retire on the 31st December, 1882; and the remaining three members shall retire on the 31st December, 1883.

Mode of electing a President of the Council.

VI. The said President shall preside at the meetings of the said Council, when present, and, in his absence the said

President or Chairman to preside at meetings.

No. 9, 1881.

Council shall elect a Chairman, and such President or Chairman, as the case may be, shall have a casting vote in addition to his ordinary vote.

How vacancies in the Council to be filled up.

VII. The vacancies created in the manner by the fifth section provided shall be filled up as follows:—On or before the 31st day of December, 1881, the Governor of the Colony shall appoint one member, and the body of Guarantors, Life Governors and Past Students, shall elect two members to supply the vacancies so occurring on the 31st of December, 1881; in like manner before the end of December, 1882, the Divisional Council of Stellenbosch shall elect one member, and the body of Guarantors, Life Governors and Past Students shall elect two members to supply the vacancies so occurring in the end of December, 1882; and in like manner before the end of December, 1883, the Commissioners of the Municipality of Stellenbosch shall elect one member, and the body of Guarantors, Life Governors, and Past Students shall elect two members to supply the vacancies so occurring in the end of December, 1883; and thereafter annually on or before the 31st of December, in each year the three members who have been longest in office shall retire from office, and the vacancies so arising shall be filled up by the persons or bodies having the right to appoint or elect in a similar rotation, provided that all members retiring from office as aforesaid shall be eligible for re-election.

Professors, &c., ineligible as Councillors.

VIII. No Professor, Lecturer, or Teacher, connected with the Institutions to which this Act applies, or any of them, shall be eligible for a seat at such Council.

Names of persons elected or appointed to be communicated to Council.

IX. Whenever any appointment or election shall take place under this Act, the Governor, in case of appointment, or the persons or bodies electing, in case of election, shall forthwith communicate to the said council the name or names of the person or persons appointed or elected as aforesaid: provided, however, that no neglect or delay on the part of the said Governor, or persons, or bodies in so doing, shall in any way invalidate the proceedings of the said Council.

Proceedings when election has to be made.

X. Whenever it shall fall to the general body of Guarantors, Life Governors and Past Students to elect any member or members of the said Council, a general meeting of the said Guarantors, Life Governors and Past Students for such purpose, shall forthwith be held in the College Buildings, or in some other convenient place; and the said meeting shall be called by the Council by notice specifying the time, place, and object of the meeting, which shall be published in the Government Gazette and in one or more newspapers circulating in the locality, not less than three weeks before the time fixed for such meeting, which notice shall give the names of the

members of Council then retiring; and the President of the Council for the time being, or failing him, some one to be elected by the said meeting shall preside as Chairman at said meeting; and every Guarantor, Life Governor, and Past Student, shall be entitled to one vote for every member of the said Council then to be elected, and the election shall be by ballot or otherwise as such meeting shall determine, and the members who shall have the greatest number of votes shall be declared duly elected: provided that in case of an equality of votes the President or Chairman aforesaid shall have a casting vote in addition to his ordinary vote.

XI. Any member of the Council who shall be absent from the meetings of the Council during six consecutive months, except with leave of the Council, or who shall become insolvent, or incapacitated by mental or bodily infirmity, shall *ipso facto* vacate his office.

How office of Councilor vacated.

XII. Whenever any member of the Council shall die, or resign, or shall otherwise vacate office before the period for which he was appointed or elected shall have expired, the Secretary of the Council shall, without delay, give notice of such vacancy to the Governor, or to the persons or bodies by whom the member whose seat has become vacant, was elected, as the case may be, and thereupon the Governor, in case such member shall have been appointed by him, or the persons or bodies, by whom such member was elected, as the case may be, shall forthwith proceed to appoint or elect his successor; and the person so appointed or elected shall hold office only during the unexpired period of the term for which the person in whose room he shall be appointed or elected had been appointed or elected.

Proceedings to be taken on occurrence of vacancy.

XIII. Should any member or members of the first Council die, or resign, or otherwise vacate office before the period for his or their so vacating office in accordance with the rotation aforesaid shall have arrived, the vacancy or vacancies so arising shall be filled up in the following manner: The first thereof shall be filled up by the Governor; the second thereof by the Guarantors, Life Governors and Past Students, as aforesaid; the third thereof by the Divisional Council of Stellenbosch; the fourth thereof by Guarantors, Life Governors and Past Students; the fifth thereof by the Commissioners of the Municipality of Stellenbosch; the sixth thereof by the said Guarantors, Life Governors, and Past Students, and so on in a like rotation.

By whom vacancies to be supplied.

XIV. At all elections of members of the Council, Guarantors, Life Governors and Past Students, who shall reside at a greater distance than ten miles from Stellenbosch, and every female Life Governor shall be entitled to vote by

Voting by proxy.

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PUBLIC SCHOOLS ACT.

No. 9, 1881. proxy, which proxy shall be in the following form:—

I, (name and designation) do hereby authorise and appoint _____ of _____ to record my vote for (specifying name or names) at the election of a member or members of the Council of the Stellenbosch Undenominational College and Public Schools, to take place on the day of _____ Dated this _____ day of _____

(Signature here.)

In case vacancy not supplied by Government or by election.

XV. If at any time upon the occurrence of any vacancy or vacancies in the said Council, there shall be a failure on the part of the said Governor to appoint, or on the part of any of the said persons or bodies to elect, a member or members to fill the said vacancy or vacancies at the time hereinbefore provided, the remaining members of the said Council shall thereupon elect a member or members to fill such vacancy or vacancies, as the case may be.

Voter's book to be kept by Secretary.

XVI. The Council shall cause a book to be kept by its Secretary, in which shall be registered alphabetically the names of all Guarantors, Life Governors, and Past Students, qualified to vote as aforesaid, and the registry aforesaid of the names of any persons in such book, shall be conclusive evidence of the right of such persons to vote for the purposes of this Act.

All College property to be vested in Council.

XVII. All property movable and immovable of every sort and description belonging to the Institutions to which this Act is applicable or any of them, or to which the said Institutions, or any of them, shall become entitled, and all claims for moneys payable thereto shall be vested in, and become the property of the said Council for the time being, in trust for the purposes of the said Stellenbosch Undenominational College and Public Schools; and the said Council shall have power to buy and sell, and take and give transfer or delivery of property movable and immovable, and grant and take leases of property and pledge or mortgage such property, and generally become and be owners and administrators in trust for the said Stellenbosch Undenominational College and Public Schools; provided, however, that no immovable property vested in the said Council shall be sold or mortgaged without the consent of the Governor first had and obtained.

Power to lease, mortgage, and sell.

Council to provide necessary buildings.

XVIII. The Council shall provide the necessary buildings apartments, and other requisites for the said Institutions to which this Act is applicable, and shall administer the grants of money received from the public revenue for educational purposes in accordance with the regulations laid down by law with regard to appropriation of grants of public money for educational purposes.

XXIX. The right and duty to appoint and dismiss professors, lecturers, and teachers, in the said Institutions, or any of them shall be in the said Council, but no such appointment or dismissal shall take effect without the consent first had and obtained of the officer or department directing the public education of the colony for the time being; and the said Council shall also regulate and fix the fees to be paid by the students and scholars and how the same shall be appropriated.

Appointment and dismissal of Professors, &c., to be vested in Council.

XX. The Council shall from time to time as occasion may require, appoint a secretary and treasurer and such other officers as shall be deemed necessary on such terms and with such instructions as the said Council shall deem expedient.

Secretary and other officers to be appointed.

XXI. The Council shall from time to time frame such rules and by-laws for their own guidance, and for the better regulation of the affairs of the said Institutions or any of them, the discipline and instruction therein, and the conduct of the students and scholars thereof as the said Council shall find expedient; and all such rules and by-laws shall be in force and have effect until cancelled or amended by the said Council, provided the same be not repugnant to any of the provisions of this Act.

Power to make by-laws and regulations.

XXII. The Council shall cause true and correct records to be kept of all its proceedings, and true and correct accounts of all moneys received and paid on behalf and account of the said Institutions respectively, and shall once in each year transmit to Government a report of the proceedings and management thereof, together with a statement of the revenue and expenditure during the preceding year.

Records and accounts to be kept.

XXIII. One of the members of the Council nominated thereto by the Council shall, together with the Professors of the College, form a Senate in which shall be vested the superintendence and regulation of the discipline and instruction of the several departments and classes of the College, in accordance with regulations to be passed for that purpose by the said Senate, and approved of by the Council.

Formation of Senate.

XXIV. The senate shall annually, in the month of July, elect one of their number to be Chairman, who shall hold office for one year, and, in the event of a vacancy, shall elect another to hold office during the remainder of the year. The Chairman shall, when present, preside at all meetings, and when absent from any meeting the Senate shall elect a member to be Chairman thereof. The Chairman presiding at any meeting, at which the votes of members are equal, shall have a casting vote in addition to his ordinary vote.

Senate annually to elect a Chairman.

XXV. The Senate may, from time to time, frame, or alter, or amend, rules for regulating the holding and proceeding- its meetings.

- No. 9, 1881. ings of its meetings, and for the due discharge of the duties appertaining to the Senate.
- How Council to sue and be sued. XXVI. All actions and other proceedings at law to be instituted by or against the Council of the Stellenbosch Undenominational College and Public Schools shall be so instituted and proceeded in by or against the secretary to the said Council for the time being.
- Short title. XXVII. This Act may be cited as "The Stellenbosch Undenominational College and Public Schools Act, 1881."

No. 10—1881.]

ACT

[June 25, 1881.

For the "Conversion of Lease Lands into Grants under the Crown Lands Act No. 14 of 1878.

Preamble.

WHEREAS it is desirable that certain lessees of land, under the provisions of Act No. 19 of 1864, shall be allowed to participate in the benefits intended to be conferred on purchasers of crown lands, under the provisions of Act No. 14 of 1878, entitled the Crown Lands Act: 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:—

Certain lessees of Crown Lands entitled to purchase a term or to get quitrent titles.

I. In case any lessee of crown land, holding a lease for a term of or exceeding five years under the Act No. 19 of 1864, shall have caused to be ascertained the price at which the land as leased may be purchased by him under the provisions of the Act No. 5 of 1870, it shall be lawful for him either to purchase such land as provided in such last-mentioned Act, or to obtain a perpetual quitrent title thereto in manner hereinafter provided.

How quitrent to be calculated.

II. If such lessee shall not be desirous of purchasing such land under the provisions of the said Act No. 5 of 1870, it shall be lawful for him, after the price of the said land shall have been ascertained as aforesaid, to claim a perpetual quitrent title thereto, paying annually as quitrent, redeemable at twenty years' purchase, a sum equal to six per centum upon the amount of such price; and upon the issue of such title all and singular the provisions of the sixth section of the Act No. 14 of 1878, regulating the redemption of quitrent, shall mutatis mutandis become applicable thereto.

Short title.

III. This Act may be cited as the "Lease Lands Conversion Act, 1881."

No. 11—1881.]

ACT

[June 25, 1881.]

To provide for the Construction and Maintenance of a Bridge across the Vaal River in this Colony, at or near the Township of Barkly, Griqualand West.

WHEREAS it is expedient that a bridge should be Preamble.
erected across the Vaal River within this Colony, at or near the township of Barkly, Griqualand West: and whereas one Moritz Unger, of Kimberley, is prepared to construct such bridge, upon condition that he the said Moritz Unger, his heirs or assigns, shall be entitled to demand and receive reasonable tolls to be levied at such bridge for a term of twenty-one years: and whereas it is expedient and desirable for the public interest to authorise and empower the said Moritz Unger to construct the said bridge upon the terms and conditions hereinafter set forth: 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:—

I. Subject to the conditions hereinafter contained, it shall be lawful for the said Moritz Unger to construct a Power to Moritz Unger to construct a bridge over the Vaal River.
bridge across the Vaal River, within the Colony of the Cape of Good Hope, at a point near where the main road from Kimberley to Barkly crosses the said river, the said bridge to rest on the south side upon a portion of the farm Pniel, belonging to the Berlin missionary society, and on the north side upon a portion of the commonage of the township of Barkly aforesaid.

II. It shall be lawful for the said Moritz Unger, his heirs, or assigns, and he and they are hereby permitted and authorised, to levy tolls upon such bridge at either end thereof, or on the approaches thereto, such tolls not to exceed the rates set forth in the schedule hereto annexed, estimated in current coin of Great Britain and Ireland, and all such tolls as shall be so authorised shall become and be payable by all persons crossing such bridge, save that all persons actually travelling across the said bridge on the immediate service of the government of this colony, and all vehicles actually the property of Her Majesty or of such government, and employed on the service thereof, and all mails passing across Exemptions from liability to toll.
such bridge, to or from, or in route to any place within or beyond this colony, forwarded by the said government, and the vehicles carrying the same, and the drivers or carriers respectively thereof shall, when carrying such mails or driving such vehicles as aforesaid, be toll-free, as well as the beasts drawing or carrying the same respectively.

No. 11, 1881.

Tolls may be levied on persons crossing the Vaal within twelve miles of bridge.

III. It shall be lawful for the said Moritz Unger, his heirs or assigns, and he or they are hereby permitted and authorised, from and after the opening of such bridge for public traffic, to levy upon persons, beasts, and vehicles crossing or going through the said Vaal River at any place within a radius of twelve miles from the said bridge, the like tolls as would be leviable upon the same persons, beasts, and vehicles crossing the said bridge, saving the like exemptions as are in the second section hereof provided, and all tolls which shall be so authorised shall be payable in like manner as the tolls authorised under the said second section hereof: Provided, however, that the provisions of this section shall not be held to apply to any persons residing upon any farm or commonage which in the original extent thereof is immediately abutting upon the said Vaal River, within the said radius of twelve miles from the said bridge nor to any railway bridge constructed by the Colonial Government or company authorised on their behalf.

No boat or pontoon to ply for hire within twelve miles of bridge.

IV. From and after the opening of the said bridge for public traffic no boat or pontoon shall ply for hire or reward of any kind across the said Vaal River, within a radius of twelve miles from the said bridge, and it shall not be lawful for the Governor of the Colony of the Cape of Good Hope or for any divisional council to enter into any contract with any private person or persons, joint-stock company, or other co-partnership, under and by virtue of the provisions of the Act No. 25 of 1864, for the construction of any bridge or bridges across the said Vaal River within the said radius of twelve miles from the site of the bridge authorised to be constructed under this Act, during the said twenty-one years, except as in the last preceding section provided.

Powers and privileges given to Moritz Unger.

V. The powers and privileges hereinbefore granted unto the said Moritz Unger, his heirs or assigns, shall be subject to the terms and conditions following:—

1. That the said Moritz Unger, his heirs or assigns, shall commence the construction of the said bridge within a period of twelve months after the promulgation of this Act, and shall complete and open the same for public traffic within a further period of three years after the expiration of the said twelve months; and shall construct the same in a workmanlike and substantial manner, to the satisfaction of an inspector, to be appointed by the Governor of the Colony of the Cape of Good Hope, and all working drawings and specifications necessary for the erection of the said bridge shall be submitted to and approved of by the chief inspector of public works in this colony or by a consulting

engineer in England to be named by the crown agents before the construction of such bridge be commenced.

No. 11, 1881.

2. That the said Moritz Unger, his heirs or assigns, shall give proper security to the satisfaction of the Governor of the said colony, to maintain the said bridge in a good and substantial state of repair, and subject to such penalties as may be required by the said Governor; and any question of good and substantial repairs of the said bridge shall be determined by the judgment of two inspectors, one to be appointed by the Governor of the said colony and the other by the said Moritz Unger, his heirs or assigns, and they shall have the power of nominating an umpire in case of disagreement between them, whose judgment shall be final.
3. That the said Moritz Unger shall within three months after the taking effect of this Act deposit with the Colonial Government a sum of two thousand pounds sterling (£2,000), or provide approved security for the payment of the said sum, and that if the said bridge be not begun before twelve months from the taking effect of this Act, the said security shall be forfeited and remain the property of the Colonial Government and this Act shall thenceforth be void and of no effect.

VI. In case any land belonging to the Crown or any private person or persons, company or society, shall be required for the necessary building and maintenance of the said bridge, and of the toll-houses and other buildings (if any), or for the construction of roads or approaches from the said main road to the said bridge, the said Moritz Unger, his heirs or assigns, shall be entitled to purchase, and the owner or owners of the said land shall be bound to sell the same; and in case of any difference of opinion between the said parties as to the value of the land so required, such value shall be determined by the arbitration of three persons, one to be appointed by the said Moritz Unger, his heirs or assigns, another by the owner of the land aforesaid; and the third to be chosen by the persons so appointed before proceeding in the reference; and if the two first-mentioned arbitrators shall not agree to the selection of such third arbitrator within thirty days after their being nominated as aforesaid, then it shall be competent for the Supreme Court or the High Court of Griqualand West, on application made by either party to the dispute, to appoint such third arbitrator, and the award of such arbitrators, or any two of them, shall be binding upon all parties concerned.

Conditions under which he may take lands public or private.

No. 11, 1881.

Bridge to have some protection against injury as a public road.

Tariff of tolls authorised.

Power of Governor to purchase bridge at the expiration of 21 years.

VII. The said bridge shall as regards its protection against injuries, whether malicious or through carelessness, be deemed to be in law a main road or part or portion thereof: and the tariff of tolls authorized by this Act to be taken at the said bridge, as contained in the schedule hereto annexed, is hereby declared to be legal and valid; and the provisions of the fourteenth, fifteenth, sixteenth, and eighteenth sections of the Act No. 9 of 1858, shall extend and apply to the toll-bar and tolls at or connected with the said bridge.

VIII. It shall be lawful for the Governor of the Colony of the Cape of Good Hope, and he shall be entitled to buy the entire property in the said bridge, and the tolls and rights therein of the said Moritz Unger, his heirs or assigns, at any time after the period of twenty-one years shall have expired, from the day on which the said bridge shall have been first opened for public traffic, upon a notice being published in the Government Gazette not less than six months before the time to be fixed for such purchase, notifying the intention of the Governor to purchase the same for any sum not exceeding the capital sum, which at the rate of five pounds per centum would produce a yearly income equal to the average for the three years next before the day of publication of this notice to purchase aforesaid, of the net receipts arising from the tolls of the said bridge, after deducting therefrom the costs of repairs and maintenance of the said bridge, its approaches, toll houses and bars, and of the collection of the said tolls, and all other necessary expenses incidental to the earning of such receipts; and upon the payment of the purchase money to be agreed upon between the Governor and the said Moritz Unger, his heirs or assigns, or, in default of such agreement, on payment of such sum as hereinbefore fixed as the maximum price, to the said Moritz Unger, his heirs or assigns, the said bridge and the tolls and rights belonging thereto by virtue of this Act, and any undertaking or agreement to be made thereunder, theretofore the property of the said Moritz Unger, his heirs or assigns, shall vest in the Governor of the said Colony, to be held by him for the benefit of Her Majesty in her colonial government: Provided, however, that if at the expiration of such twenty-one years no such purchase shall be made by the Governor it shall not be lawful for the said Moritz Unger, his heirs or assigns, to levy or charge any higher toll-rates at the said bridge than are by this Act authorised to be levied or charged.

Short title.

IX. This Act may be cited for all purposes as "The Vaal River Bridge (Barkly) Act, 1881."

SCHEDULE.

No. 11, 1881

Toll Rates payable at the Bridge over the Vaal River, constructed under the Regulations of this Act.

	£	s.	d.
Upon each loaded buck-wagon drawn by any sort of animals, not exceeding sixteen in number	0	17	6
Upon each buck-wagon carrying not more than 500lb., drawn as above	0	7	6
And upon each animal, over and above sixteen, drawing such vehicle	0	1	0
Upon each loaded tent or other wagon, not being a buckwagon, drawn by any sort of animals, not exceeding twelve in number . .	0	12	6
Upon each wagon, carrying not more than 500lb., not being a buck-wagon, drawn as above . .	0	5	0
And upon each animal, over and above twelve, drawing such wagon	0	1	0
Upon each travelling cart, spider, wagon, or other conveyance, drawn by not more than two animals	0	5	0
And upon each animal, over and above two, drawing such vehicle	0	1	0
Upon each saddle-horse	0	1	0
Upon each loose or led horse, mule or ass, and upon each head of cattle	0	0	6
Upon sheep or goats or other animals, for every head up to 250, one half-penny, and one farthing per head on excess			
Upon each person of twelve years of age and upward, on foot, not engaged in driving or leading any wagon or animals upon which tolls are payable	0	0	3

No. 12 of 1881.] ACT [June 25, 1881.

To amend in certain respects Act No. 23 of 1880, intituled "An Act for the Incorporation of the Municipality of East London."

Preamble.

WHEREAS it is expedient to amend in certain respects the Act No. 23 of 1880, intituled "An Act for the incorporation of the Municipality of East London:" 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 of Section 8 of Act 23 of 1880.

I. The eighth section of the said Act shall be read and construed as if the words, "And provided further that for the purposes of this section the owner and occupier shall not both be entitled to vote in respect of one and the same property, and that the occupier shall be entitled at all times to the vote," at the end of the said section had not been inserted therein, but had been entirely omitted therefrom.

Of 18th Section of same.

II. The eighteenth section of the said Act shall be read and construed as if the words, "excepting in every third year, when such election shall be for six councillors, in terms of the thirtieth section of this Act," had been inserted therein after the words, "being one for each ward."

Of 22nd Section.

III. The twenty-second section of the said Act shall be read and construed as if the word "roll" had been inserted therein, in place of the words "or assessment rolls" after the word "townsmen's."

Of 38th Section.

IV. The thirty-eighth section of the said Act shall be read and construed as if the words "by a majority" had been inserted therein after the words "and agreeing thereto," and also as if the words "the distribution of water to all such persons" had been inserted therein after the words "residing within the municipality," and also as if the words "the provisions of the sixtieth section of this Act as well as all the other provisions of this Act and" had been inserted therein after the words "for the purpose of carrying out."

Of 43rd Section.

V. The forty-third section of the said Act shall be read and construed as if the words "not less than two-thirds of those present" had been substituted therein for the words "not less than a two-thirds of those presents," also as if the words "or of any municipal rates" had been inserted therein after the words "property vested in the said council," and also as if the words "or rates" had been inserted therein after the words "upon such land or property."

Of 44th Section.

VI. The forty-fourth section of the said Act shall be read and construed as if the words "or rates" had been inserted therein after the words "debentures to be charged upon any land or property."

VII. The fifty-eighth section of the said Act shall be read and construed as if the words "the same" had been substituted therein for the word "a" after the words but "nothing in this Act contained shall be taken to authorise the assessment of." No. 12, 1881.
Of 58th Section.

VIII. The fifty-ninth section of the said Act is hereby repealed, and the following shall be read and substituted in its place, that is to say:—The council shall annually in the month of February make an estimate of the amount of money required for municipal purposes, and shall assess such rate or rates accordingly as to the council shall seem fit upon either the owners or occupiers of immovable property, or one or more of such rates upon the owner or owners and one or more upon the occupier or occupiers, provided that any such occupiers' rate as aforesaid shall be assessed only upon such persons as are bonâ fide tenants of immovable property and not merely boarders or temporary lodgers therein: And the council shall give public notice thereof in one or more of the newspapers published in the municipality, and shall in like manner, if any further or unforeseen expenditure shall become necessary during the year ending on the last day of February next following, make a supplementary estimate, and assess a second or further rate, whereof they shall give public notice in like manner: Provided that it shall not be lawful for the council in any one year ending on the day aforesaid to levy any rate or rates amounting in the aggregate to more than threepence in the pound on the value of the immovable property subject to such rates without obtaining the consent of the majority of the townsmen present and entitled to vote according to the eighth and eleventh sections of this Act at a public meeting to be called for the purpose of authorising such rate or rates, of the object and the time and place of holding which meeting at least seven days notice shall be given as provided in the sixty-third and sixty-fourth sections of this Act: And provided that in case of a rate being so levied as aforesaid upon the occupiers of immovable property the owners shall in all cases in which such properties shall be unoccupied or occupied by the owners thereof, be deemed to be the occupiers thereof within the meaning of this Act and liable to the payment of such rate notwithstanding the payment by them of any other rates levied upon the owner or owners in respect of the same property. Repeal of 59th Section.

Substitution of new Section.

IX. The sixty-first section of the said Act shall be read and construed as if the word "or" had been inserted therein in place of the word "of" after the word "suit," and also as if the words "assessed upon the owner or owners of immovable property," and the words "assessed upon either owner or occupier of immovable property," and the words Interpretation of 61st Section.

No. 12, 1881.	“ assessed upon the owner as aforesaid ” had been respectively inserted therein after the words “ the town clerk may in suing for the recovery of any rate,” “ become liable for any rate,” and “ shall have paid any such rate ” respectively.
Interpretation of 65th Section.	X. The sixty-fifth section of the said Act shall be read and construed as if the word “ paraffine ” had been inserted therein after the words “ the storing of.”
Moneys borrowed subject to provisions of “ Public Bodies’ Debts Act.”	XI. All moneys borrowed and debts lawfully incurred by the said council under the provisions and for the purposes of the said Act or of this Act shall be subject to the provisions of the “ Public Bodies Debts Act, 1867.”
Interpretation.	XII. The word “ municipality ” used in this Act shall mean the municipality of East London as created by the said Act No. 23 of 1880, and the word “ council ” the municipal Council of East London.
Short title.	XIII. This Act may be cited for all purposes as the “ East London Municipality Amendment Act, 1881.”

No. 13—1881.] ACT [June 25, 1881.

To authorize the Divisional Council of Prince Albert to borrow Money upon security of Road Rates and Tolls, for the construction of a Road over the Zwarteberg between the Village of Prince Albert and the Cango.

Preamble. **W**HEREAS on the 29th day of July, 1880, the House of Assembly resolved that “ The Government should be authorized to proceed with the construction of a road over the Zwarteberg, between the village of Prince Albert and the Cango, on the pound for pound principle, the amount to be expended by the Government not to exceed £12,000 : ”

And whereas it is expedient to authorize the divisional council of Prince Albert to borrow money upon the security of the road rates, tolls, and other revenues of the said division, for the purpose of contributing towards the cost of constructing the said road :

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

Power to council to borrow £8,000. I. It shall be lawful for the said council from time to time to borrow and take up at interest such sum of money not exceeding eight thousand pounds in the whole as may be

required in addition to the amount to be contributed by the colonial government and the divisional council of Oudtshoorn, for the construction of the said road over the Zwarteberg, between the village of Prince Albert and the Cango. No. 13, 1881.

II. For the due payment of the money to be raised by the divisional council as aforesaid and the interest thereof, the rates, tolls and other revenues of the said council are hereby charged and hypothecated. Rates and tolls to be security.

III. The council shall grant written acknowledgments of or for such sums of money as may be borrowed as aforesaid, which acknowledgments shall be as near as is material in form annexed to this Act, and shall be signed on behalf of the said council by one or more of its elected members thereto duly authorized by resolution of the said council. Council to grant such acknowledgments as in schedule.

IV. As a fund for the payment of the interest upon and gradual extinction of the loans to be raised under the authority of this Act, there shall be charged and chargeable upon and set apart out of the annual revenues of the said council as aforesaid, an annual sum equal to the interest on the whole amount of such loans, 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 be annually charged upon and payable 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. Sinking fund provided for.

V. Such portion of the fund charged and chargeable annually on the revenues of the said council under the last preceding section, as shall not be required for payment of the interest for the time being due upon the loans raised under the authority of this Act, shall be paid to a separate account, to be kept in a bank to be chosen for that purpose by the council, and shall be applied in redeeming and cancelling the obligations or acknowledgments of the said council for money borrowed under the authority of this Act, in such manner and form as shall be provided by the terms and conditions whereon such obligations or acknowledgments shall respectively have been granted, and all moneys so paid into the bank for the purpose aforesaid shall be drawn out by cheques to be signed by some member or members thereto specially authorized by resolution of the said council. After paying interest, fund to be applied in paying off capital sum.

VI. 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 preceding. Separate accounts to be kept of borrowed money.

VII. The accounts in the last preceding section mentioned shall be audited and examined by the auditors to be from To be audited under the "Divisional Councils Act, 1885."

No. 13, 1881.

time to time appointed, under the provisions of the "Divisional Councils Act, 1865," and the provisions of the eighty-third and eighty-fifth sections of the said Act shall extend and apply to all accounts, books, and papers connected with the said loan.

Subject to "Public Bodies Debts Act 1867."

VIII. Every debt, liability, and obligation created by virtue of this Act shall be subject to the provisions of the "Public Bodies Debts Act, 1867."

Expenses to be paid out of loan.

IX. It shall be lawful for the said council to pay the necessary costs, charges, and expenses of obtaining this Act and carrying the provisions thereof into effect, out of the money to be raised under the provisions hereof.

In case of Willowmore being created a fiscal division.

X. When and as soon as the district of Willowmore shall, by any proclamation, to be issued under the provisions of the second section of the "Fiscal Divisions Extension Act, 1879," become and be a division for fiscal purposes, so much of the present division of Prince Albert, as shall be included in and form part of the division of Willowmore shall cease to be liable for any charge by this Act created upon or in respect of the said division of Prince Albert.

Short title.

XI. This Act may be cited for all purposes as the "Prince Albert Divisional Council Loan Act, 1881."

SCHEDULE.

PRINCE ALBERT DIVISIONAL COUNCIL LOAN ACT, 1881.

Acknowledgment for loan of £——.

We, the undersigned members of the divisional council of Prince Albert, duly authorized thereto by resolution of the said council, do hereby acknowledge that the divisional council of Prince Albert is indebted to —— in the sum of —— for so much money borrowed for the purposes mentioned in the "Prince Albert Divisional Council Loan Act, 1881," 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 principal and interest of the said debt shall be payable and paid by the said council in manner following, that is to say (here insert the rate of interest, times of payment, and other conditions agreed upon).

Given under our hands at Prince Albert,
this —— day of ——, 188——.

} Members of the Divisional
} Council of
} Prince Albert.

Entered

Secretary.

No. 14—1881.] ACT [June 25, 1881.

To provide for Constructing, Equipping and Working Certain Railways.

WHEREAS it is expedient that certain railways, in ad- Preamble.
dition to the railways already constructed, should be
constructed, equipped, maintained, and worked, that is to say:

1. From Queen's Town to Aliwal North, via Burghersdorp.
2. From Beaufort West to Hope Town, with a view to its ultimate extension to Kimberley.
3. From Cradock to Colesberg.
4. From Wynberg to Kalk Bay.
5. 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:

And whereas it is expedient to raise the necessary funds for the aforesaid purposes: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:

I. The Governor shall, as soon as may seem to him ex- Governor to provide for construction and equipment of railways mentioned in preamble.
pedient after the passing of this Act cause to be constructed
and equipped, either under contract for each separate line of
railway or otherwise, the several railways in the preamble
of this Act mentioned, and shall cause the same to be main-
tained 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 pur-
poses.

II. For the several purposes in the preceding section Sections 2, 3, 4 and 5 of Act 19 of 1874 to apply.
mentioned, the several powers and provisions given and con-
tained 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.

III. For the purpose of constructing and equipping Governor may expend on the railways thus provided for £3,954,636.
the said railways in the preamble of this Act mentioned, it
shall be lawful for the Governor to expend a sum not exceed-
ing three million nine hundred and fifty-four thousand six
hundred and thirty-six pounds (£3,954,636) as follows, that
is to say:

1. For the purpose of constructing and equipping the said railway from Queen's Town to Aliwal North, a sum not exceeding one million one hundred and seventy thousand pounds (£1,170,000).

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2. For the purpose of constructing and equipping the said railway from Beaufort West to Hope Town, a sum not exceeding one million five hundred and twenty-four thousand nine hundred and thirty pounds (£1,524,930).
3. For the purpose of constructing and equipping the said railway from Cradock to Colesberg, a sum not exceeding six hundred and fifty-seven thousand seven hundred and six pounds (£657,706).
4. For the purpose of constructing and equipping the said railway from Wynberg to Kalk Bay, a sum not exceeding fifty-two thousand pounds (£52,000).
5. For the purpose of constructing and equipping the said 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, a sum not exceeding five hundred and fifty thousand pounds (£550,000).

Such sum to be raised
by debentures or
stock.

IV. For the several purposes aforesaid it shall be lawful for the Governor to raise a sum of three million nine hundred and fifty-four thousand six hundred and thirty-six pounds (£3,954,636) 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.

Sections 8, 9, 10, 11,
12, and 14 of Act 19
of 1874 to apply.

V. The sections of Act No. 19 of 1874, numbered respectively 8 and 9 (with sub-sections) 10, 11, 12, and 14, shall, mutatis mutandis, be deemed and taken to apply to the borrowing authorized under this Act.

Short title.

VI. This Act may be cited as the "Railway Extension Act, 1881."

No. 15—1881.]

ACT

[June 25, 1881.

For enabling the Commissioners of the Municipality of Beaufort West to borrow a further Sum of Money for the purpose of repaying certain Moneys already borrowed and expended in further strengthening, repairing, and otherwise improving the "Beaufort Reservoir."

WHEREAS by Act No. 4 of 1866-67, intituled "An ^{Preamble.} Act for enabling the commissioners of the municipality of Beaufort to secure a supply of water for the inhabitants of such municipality," provision was made for enabling the said commissioners to secure to the Cape of Good Hope savings bank society certain moneys lent and to be lent by the said savings bank society to the said commissioners, not exceeding in the whole the sum of two thousand pounds, for the purpose of constructing a reservoir capable of storing such supply of water: And whereas by Act No. 5 of 1869, provision was further made for enabling the said commissioners of the municipality of Beaufort to borrow a further sum of money not exceeding in the whole the sum of two thousand pounds sterling, for the purpose of strengthening and otherwise improving the said reservoir, and for securing to the lender thereof the said further sum of two thousand pounds sterling to be borrowed by the said commissioners under the said last mentioned Act, and for rendering the said sum of two thousand pounds sterling secured by the aforesaid Act No. 4 of 1866-67, and the interest payable thereon a first and preferent charge upon all and singular the revenues of every description which are by the said last mentioned Act made liable to the payment thereof, and for rendering the said moneys borrowed under the said Act No. 5 of 1869, and the interest payable thereon a second preferent charge upon the said revenue: And whereas by Act 20 of 1875, intituled "the Town of Beaufort Water Loan Act of 1875," provision was further made for enabling the said commissioners of the municipality of Beaufort to borrow a further sum of money not exceeding in the whole the sum of six thousand pounds sterling, for the purpose of reconstructing, strengthening, and improving the reservoir aforesaid, and for paying off the moneys already raised under Acts No. 4 of 1866-67 and No. 5 of 1869, and for rendering the said moneys borrowed under the said Act No. 20 of 1875, and the interest payable thereon, a third preferent charge upon the said revenue: And whereas it was thereafter found absolutely necessary to further strengthen, repair, and other-

No. 15, 1881.

wise improve the said reservoir, and whereas the commissioners of the municipality of Beaufort West borrowed upon credit the further sum of four thousand pounds, necessary for further strengthening, repairing, and improving the said reservoir, and expended the same in so further strengthening, repairing, and improving it: And whereas it is just and right that the sum of four thousand pounds sterling so borrowed upon credit and expended, should be repaid by the municipality of Beaufort West: And whereas to this end it is expedient to empower the commissioners of the said municipality to borrow and take up such moneys as may be required for the purpose of repaying the amount already borrowed upon credit and expended as aforesaid, but not exceeding in the whole the sum of four thousand pounds sterling:

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

Power to municipality to borrow £4000.

I. It shall be lawful for the commissioners of the municipality of Beaufort to borrow and take up such sum or sums of money not exceeding in the whole the sum of four thousand pounds sterling, as shall be required for repaying the moneys already borrowed and expended as aforesaid in further strengthening; repairing, and improving the Beaufort reservoir.

First 10 sections of Act 4 of 1866-67 to apply.

II. The first ten sections of the Act aforesaid, No. 4 of 1866-67, shall apply to the money to be borrowed under this Act, by whomsoever the same shall be lent, whether by the said savings bank society or by some other society, or by some company or co-partnership or individual precisely as if the said sections were, *mutatis mutandis*, herein again set forth.

Order of preference in loans raised under different Acts.

III. The sum of two thousand pounds secured by the Act aforesaid No. 4 of 1866-67, and the interest payable thereon, shall be a first and preferent charge upon all and singular the revenues of every description which are by the said Act made liable to the payment thereof; and the moneys borrowed and secured under the said Act No. 5 of 1869, and the interest payable thereon shall form a second preferent charge upon the said revenues; and the moneys borrowed and secured under the said Act No. 20 of 1875, and the interest payable thereon, shall form a third preferent charge upon the said revenues, until such time as the moneys secured and borrowed by the Acts aforesaid, No. 4 of 1866-67 and No. 5 of 1869, shall have been repaid and satisfied, when the moneys borrowed and secured under the said Act No. 20 of 1875, and the interest payable thereon shall form a first preferent charge upon the said revenues, and the moneys to be borrowed

under this Act and the interest payable thereon shall form a second preferent charge upon the said revenues. No. 15, 1881.

IV. Nothing in the "Public Bodies Debts Act of 1867" shall interfere with the preference over the revenue to arise from the said reservoir, given by this and the said Acts No. 4 of 1866-67, No. 5 of 1869, and No. 20 of 1875, nor with the powers given by the fourth to the eighth clause, inclusive, of the said Act 4 of 1866-67 to assess a rate for payment of the money borrowed under the said Acts, in case the revenue from the said reservoir shall be unequal to the repayment thereof; but on the contrary, the provisions of the said sections shall be applicable to the money to be borrowed under this Act: Provided that if in the course of any proceedings under the "Public Bodies Debts Act of 1867," at the instance of any creditor of the municipality of Beaufort, the supreme court shall make an order under the fourth section of the said Act, directing the master of the said court to enquire whether any, and if so what, debts other than the debt then in question are due by the said municipality, then and in that case the creditors under the said Acts No. 4 of 1866-67, No. 5 of 1869, and No. 20 of 1875, and under this Act, may appear and prove their debts respectively.

V. This Act may be cited for all purposes as the "Town of Beaufort Water Loan Act of 1881." Short Title,

No. 16—1881.] ACT [June 25, 1881.

To Declare the Terms and Conditions applicable to Loans authorized to be raised by the Government of the Cape of Good Hope, and to provide for the creation of Cape of Good Hope Consolidated Stock.

WHEREAS it is expedient to define in one Act the terms and conditions applicable to all loans hereafter authorized to be raised by the Parliament of the Cape of Good Hope, and whereas it is expedient to provide for the creation of Cape of Good Hope Consolidated Stock, and to enable this colony to take advantage of the provisions of an Act of the Imperial Parliament, intituled "The Colonial Stock Act, 1877:" Preamble.

D

No. 16, 1881.

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:—

Loans to be raised by debentures or "Colonial Stock," or by "Cape of Good Hope Consolidated Stock."

I. As often as by any Act passed during the present or any future session, authority shall be given to raise any sum of money for the purposes mentioned in such Act, the Governor may from time to time, as he may deem expedient, raise such sum either by debentures or stock issued in this colony (hereinafter referred to as "Colonial Stock"), or by Cape of Good Hope Consolidated Stock, or partly by debentures, partly by colonial stock, and partly by consolidated stock.

Debentures to be for not more than £500 nor less than £100.

II. When the borrowing shall be upon debentures, such debentures shall be issued in this colony or in England, or partly in this colony and partly in England, for sums not exceeding five hundred pounds, nor less than one hundred pounds each, upon the best and most favourable terms that can be obtained.

Provisions when borrowing is on Colonial Stock.

III. When the borrowing shall be upon colonial stock, the following provisions shall be observed:

1. Such stock shall be issued by crediting the purchaser thereof, for such sum thereof as he shall purchase in books to be kept for that purpose by the Treasurer of the colony, such credit to be given in the first instance upon production and delivery to the said Treasurer, by such purchaser, or by his order, of a scrip certificate of the amount of stock for which such credit shall be claimed, such certificate being signed by the Colonial Secretary and countersigned by the said Treasurer and by the Controller and Auditor-General, and which scrip certificate shall be kept in the office of the said Treasurer.
2. Such stock shall bear interest at a rate to be specified in the said scrip certificate, and such interest shall be payable half-yearly on the 15th day of April and 15th day of October in each year, the first of such payments to be made on the half-yearly day which shall happen next after the opening of such credit in the books of the said Treasurer as aforesaid, and shall be paid on such days, respectively, or so soon thereafter as demand shall be made therefor by the lawful holder for the time being of such stock, to such lawful holder or his duly authorized attorney, at the office of the Treasurer in Cape Town.
3. Such stock shall be transferable by transfer in the books of the said Treasurer, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such

transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the said Treasurer a receipt or certificate stating the amount of such stock standing to his credit in such books.

4. 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 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.

IV. When borrowing shall be upon consolidated stock, such stock shall be issued in England under the provisions of the Act of the Imperial Parliament, intituled the "Colonial Stock Act, 1877," upon the best and most favourable terms that can be obtained, and on such other conditions, subject to the provisions of this Act, as the Governor, with the advice of the Executive Council, may, before the issue thereof, from time to time determine.

On Consolidated Stock provisions of Imperial "Colonial Stock Act, 1877," to apply.

V. In case provision be made for the gradual extinction of any loan to be raised under the authority of any such Act by the terms and conditions upon which such loan shall be raised, there shall be charged and chargeable upon, and set apart out of the annual revenues of this colony, an annual sum equal to the interest on the whole amount of the principal or capital sum of such loan, and a further sum equal to one pound sterling per centum on such whole amount; and such sums shall be annually charged on and be payable out of the revenues of the colony so long as any portion of such loan or any interest thereon shall remain unpaid and unextinguished, and no longer.

In case of sinking fund one per cent. beyond annual interest of loan to be charged on revenues.

VI. Such portion of the fund which shall under the last foregoing section be charged and chargeable annually on the revenues of the colony as shall not be required for the payment of the interest, for the time being, due upon any such loan as is in the last section mentioned, shall be applied in redeeming the loan in such manner and form as shall be provided by the terms and conditions whereon and whereunder the debentures or stock certificates for the same, as the case may be, shall have been issued.

Portion of such fund not required for interest to be applied in extinguishing the debt.

VII. All debentures or stock certificates which shall be redeemed as aforesaid, shall, immediately on the receipt thereof, be cancelled by or on behalf of the said Treasurer, and shall be duly advertised as so cancelled.

Cancellation of redeemed debentures.

No, 16, 1881.

Special accounts to be kept, and submitted to Parliament

VIII. An account showing the amount of all stock and debentures issued from time to time under authority of any Act, and of the moneys realized by the issue and sale thereof, and of the expenditure of all such moneys or of so much thereof as shall for the time being have been expended, and an account of the amount of such stock and debentures for the time being outstanding, and of all such sums thereof as shall from time to time be bought in and cancelled, if any, vouched by the Controller and Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of every session thereof.

Powers and authorities given to the Governor.

IX. The Governor, with the advice of the Executive Council, shall have and may exercise the following powers and authorities, or any of them:—

- (1) He may from time to time declare all or any of the existing loans of this colony, whether in the form of debentures or colonial stock, to be convertible into consolidated stock of such denominations and on such conditions as he may before the creation thereof from time to time determine.
- (2) He may authorize the creation and issue of such an amount of consolidated stock in exchange for the securities held for such loans as may be necessary.
- (3) He may authorize the creation and sale of any such consolidated stock for the purpose of raising money for redeeming any outstanding loans, and of paying any expenses in the creation of consolidated stock, and otherwise carrying out the provisions of this Act, on such conditions as he may determine.
- (4) Any conversion so authorized may be effected either by arrangement with the holders of existing securities, or by purchase thereof out of moneys raised by the sale of new consolidated stock, or partly in one way and partly in the other.

Any power by this section conferred on the Governor may be exercised from time to time, and he may alter any conditions as often as occasion shall require, provided that no contract or engagement previously entered into shall be prejudicially affected thereby.

Capital of loan not to be increased.—Exception.

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

XI. All loans raised under the authority of any such Act as is in the first section mentioned, and all existing loans converted into consolidated stock, and interest thereon, and all charges and expenses incurred in carrying out the provisions of this Act, or any agreement made in pursuance thereof, shall be chargeable upon and payable out of the revenue of this colony.

No. 16, 1881.

Loans chargeable on the Colonial revenue.

XII. The Governor, with the advice of the Executive Council, may from time to time enter into such agreement with the Crown Agents, or any bank, or any person or persons, as to the Governor may seem fit, providing for all or any of the following things:—

What agreement the Governor may enter into in regard to loans.

- (1) For inscribing consolidated stock in the books of such agents, bank, person, or persons.
- (2) For managing the creation, inscription and issue of consolidated stock.
- (3) For effecting the conversion of loans into consolidated stock, and managing transfers thereof.
- (4) For paying interest on consolidated stock.
- (5) For issuing consolidated stock certificates to bearer, and as often as occasion shall require, re-issuing or re-inscribing consolidated stock, and re-issuing consolidated stock certificates.
- (6). For receiving from time to time all moneys raised by or on behalf of the colony under this Act.
- (7). For paying such money from time to time into such account, or into such bank as may be duly appointed in that behalf.
- (8). For issuing scrip for deposits on loans.
- (9). For paying off capital of loans and generally conducting all business connected with such loans.
- (10). And for the protection and remuneration of such agents, person, or persons, or bank, in respect of any such agreements.

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

Such agreements as valid as if embodied in this Act.

XIV. The Governor, with the advice of the Executive Council, shall have and may exercise the powers following:

Powers the Governor may exercise.

- (1) He may from time to time appoint an agent or agents in England for the purposes of this Act, and may empower such agent or agents to exercise all or any of the powers by this Act exercisable by the Governor.
- (2) He may at any time remove or accept the resignation of any agent, and appoint another or others.

XV. The short title of this Act shall be "The Cape of Good Hope General Loans Act, 1881."

Short title.

No. 17—1881.]

ACT

[June 25, 1881.

Repealed by 1916 Act 22.

To authorise the raising of a Further Sum of Forty
Thousand Pounds sterling to improve the Kowie
Harbour.

Preamble.

WHEREAS by the Act No. 13 of 1876, power is given to the Governor to raise and take up on the terms in the said Act mentioned, the sum of £150,000, for the purposes in the said Act referred to and set forth : And, whereas such sum of £150,000 is inadequate and insufficient to carry out the said purposes so far as relates to the completion of the harbour works in the said Act mentioned : 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 £40,000

I. It shall be lawful for the Governor to raise a further sum of forty thousand pounds (£40,000) from time to time as occasion may require, for the purpose of further carrying on and improving the harbour works at the Kowie and the works connected therewith.

Short title.

II. This Act may be cited as the “Kowie Harbour Loan Act, 1881.”

No. 18—1881.] ACT [June 25th, 1881.

Repealed by 1916 Act 22.

To authorise the Raising of a further Sum of One Hundred Thousand Pounds Sterling to improve the Harbour of East London.

WHEREAS by the Act No. 22 of 1878, power is given Preamble. to the Governor to raise and take up on the terms in the said Act mentioned, the sum of one hundred thousand pounds (£100,000), for the purposes in that Act referred to and set forth: And whereas such sum of one hundred thousand pounds (£100,000) is inadequate and insufficient to carry out the aforesaid 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:—

I. It shall be lawful for the Governor to raise a further sum Power to raise of one hundred thousand pounds (£100,000) from time to time £100,000. as occasion may require, for the purposes set forth in the said Act No. 22 of 1878, and for the purpose of the further improvement of the harbour of East London and the works connected therewith.

II. This Act may be cited as the “East London Harbour Short title. Loan Act, 1881.”

No. 19—1881.]

ACT

[June 25, 1881.]

To authorise the raising of a Further Sum of Fifty-four Thousand Three Hundred and Fifty-eight Pounds for the purpose of completing certain Lines of Telegraph already authorised, and of improving in certain respects Existing Lines.

Preamble.

WHEREAS it is desirable to complete the construction of certain lines of telegraph already authorised and to improve in certain respects existing lines: And whereas it is desirable that a sum of fifty-four thousand three hundred and fifty-eight pounds (£54,358) sterling shall be raised for the purposes set forth in the preamble: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

Power to raise
£54,358.

I. It shall be lawful for the Governor to raise and take up a sum of fifty-four thousand three hundred and fifty-eight pounds (£54,358) from time to time as occasion may require for the purposes mentioned in the preamble.

Short title.

II. This Act may be cited as the “Telegraph Loan Act, 1881.”

SCHEDULE.

For completion of line from Aliwal North to Maseru	£7,000	0	0
For repayment of advance from Revenue, for construction of lines authorised by Act No. 38 of 1879 :—in excess ..	6,646	0	0
For completion of line between Philips Town and Hope Town	6,500	0	0
For amount of expenditure to be incurred in erecting second wire between Fort Beaufort and Kimberley	8,500	0	0
Cape Town to Worcester: Wellington and Malmesbury Loop	2,400	0	0
Worcester to Beaufort West	4,600	0	0
Beaufort West to Somerset East	4,080	0	0
George to Port Elizabeth	5,000	0	0
Fort Beaufort to Umzimkulu	7,392	0	0
Fort Beaufort to Seymour	1,240	0	0
Private Wires	1,000	0	0
	<hr/>		
	£54,358	0	0

No. 20—1881.] ACT [June 25, 1881.

Repealed by 1916 Act 22.

To authorise the raising of a Sum of Six hundred and Forty-nine Thousand Nine Hundred and Sixty Pounds Sterling, for the purpose of completing, improving and equipping certain Railways.

WHEREAS it is desirable to make provision for the Preamble. completion, improvement and equipment of certain railways already authorised to be constructed, equipped and worked in this colony: And whereas it is necessary to raise a sum of six hundred and forty-nine thousand nine hundred and sixty pounds (£649,960) for such 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:—

I. It shall be lawful for the Governor to raise and take Power to raise- £649,960. up a sum of money not exceeding six hundred and forty-nine thousand nine hundred and sixty pounds (£649,960), to be applied to the several purposes in the schedule to this Act annexed.

II. This Act may be cited as the “Railways Completion Short title. and Equipment Act, 1881.”

SCHEDULE

Western Railways	..	..	£198,926
Midland and North-Eastern Railways	..	..	352,772
East London and Queen's Town Railway	..	..	98,262
			£649,960

No. 21—1881.]

ACT

[June 25, 1881.]

To enable the Borough Council of King William's Town to provide the Inhabitants of that Town with Water, and for that purpose to take Water from the Buffalo River, and to acquire Government and other Lands required for the construction of the necessary Water Works.

Preamble.

WHEREAS the present supply of water to the Town of King William's Town is very defective, and it is desirable that a good and sufficient supply should be obtained, and the borough council of the said town has caused surveys to be made, and are advised that the same can be obtained from the Buffalo River in the division of King William's Town: And it is expedient that the works necessary to accomplish that object should be constructed either by the said council or by a joint-stock company or co-partnership of individuals, or an individual with whom the said council may contract either for the whole or any portion of the said works, or the material therefor: And that to enable the said council to procure the necessary funds, the said council shall be empowered either under the provisions of the Act No. 8 of 1877, entitled "The Irrigation Act of 1877," Act No. 28 of 1879, entitled "An Act to assist Municipalities to carry out Irrigation Works," and the Act No. 7 of 1880, entitled "The Irrigation Amendment Act of 1880," or otherwise as the Council may deem fit, to raise such sum or sums of money not exceeding in the aggregate the sum of thirty-five thousand pounds. And that in order that the said council may be enabled to pay the interest on the said loan the said council should be empowered in each and every year to impose, levy, and collect such a rate or assessment as will produce an amount sufficient to pay such interest as aforesaid:

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

Power to Council to borrow £35,000.

I. It shall be lawful for the said council, from time to time, to borrow and to take up at interest such sum or sums of money, not exceeding in the whole thirty-five thousand pounds sterling as may be required for the purposes of this Act, and to charge the borough rates of the said borough as security for any such sum to be borrowed by the said council.

Power to take water from Buffalo River.

II. The said council shall be empowered to take, impound, divert, appropriate, and convey from the Buffalo

River in the district of King William's Town, such a supply of water of the said river as they may require for the purposes of this Act. And for the purpose of enabling them so to do, it shall and may be lawful for the Governor of this colony, and he is hereby authorised to give and grant to the said council in full and free property on such conditions as may be agreed upon such government land as may seem to him desirable on which the said Buffalo River takes its rise, or all such government land as is situate at or immediately adjoining the point on the said river from whence it is intended that such supply shall be so taken, impounded, diverted, appropriated, and conveyed: Provided, however, that if such taking, impounding, diversion, appropriation, or conveyance, shall deprive any person of any water or any right of water which he may, at the time of the taking effect of this Act, possess or be entitled to in reference to the said Buffalo River, or in any way interfere with, or lessen such water, or right to water, such person shall be entitled to recompense or compensation, to be settled in case of difference, as in the eighth section of this Act provided: Provided, further, that no person to whom any government land shall be sold or leased after the passing of this Act shall thereby acquire any water or right of water for the interference with or lessening of which by the works hereby authorised he shall be entitled to claim any recompense or compensation.

No. 21, 1881.

Governor may grant certain lands to the Council.

Compensation to persons injured by diversion of water, &c.

III. The said council is hereby empowered to construct and make all such works as may, in the opinion of the said council, be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking, or conveying the said water, whether by reservoirs, dams, water-courses, or leadings, pipes, conduits, drains, ditches, or other means, and to erect such buildings as may be deemed requisite for the purposes of the said works, for securing an adequate supply of water for the inhabitants of the said town; and for such irrigation purposes, as the said council may deem necessary and expedient.

Power to make necessary works.

IV. The council is hereby empowered to enter upon, occupy, enclose, take, and use for the purposes of this Act any land belonging to Her Majesty the Queen, commonly called "crown lands," or any land set apart for Church purposes, commonly called "glebe lands," and also to enter upon, occupy, enclose, take, and use any land the private property of any person or persons whomsoever, which may be required for the purposes of this Act, and may agree as hereinafter provided for the purchase or hire of such private land, or may take, carry away, or use for the purposes of the said works any stone, clay, gravel, or other material requisite for carrying out the said works, and may break up

Power to expropriate Crown Lands.

And lands of private owners on conditions provided for.

No. 21, 1881.

or excavate any land for the purpose of laying down, repairing, inspecting, maintaining, or removing any reservoir or reservoirs, pipe or pipes, or other works, and may either compensate the owners of such lands as hereinafter provided, or enter into any contract relative to obtaining such lands or materials, or for laying down any pipe or pipes, or other works, upon such terms and conditions as may be mutually agreed to.

Power to take Crown and other lands to protect sources of the Buffalo River.

V. It shall be lawful for the said council to acquire and take possession in the manner hereinbefore and hereinafter provided of any land whether belonging to Her Majesty the Queen, commonly called "crown lands," or land belonging to private persons, that may be required for the purpose of protecting the sources of the said Buffalo River, or the sources of supply from whence the water may flow into the reservoirs, dams places or place where the said works may take off the water of the said river.

Pipes and conduits may be laid in streets.

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

Right of access along line of works.

VII. It shall be lawful for the said council at all times, by themselves, their engineers, contractors, or workmen, and with carts or carriages, to have free access and right of way to, over, and along the line of works, and to and from all other property of the said council acquired under the provisions of this Act, for the purpose of adding to, repairing, relaying, or supervising the said works, or for any other purpose whatsoever that may be deemed expedient by the said council in or about carrying out the purpose of this Act: Provided, however, that such right of way shall in no case exceed a space of six feet on each side of the line of works.

Arbitration provided for where water or land of private owners expropriated.

VIII. Any person or persons from whom any water or right of water, land, or any stone, gravel or other material, may be required to be taken for the purposes of this Act, such person or persons shall be bound and obliged to send in to the Mayor of the said council his, her, or their claim or claims for the purchase amount, hire, recompense or compensation which he, she, or they shall claim to be entitled to for such water or right of water, land, or any stone, gravel, or other material required, or taken, or which shall be required or taken for the purposes of this Act, within twelve months after any such taking as aforesaid, and for that purpose the necessary plans, specifications and reports in connection with the said works shall lie at the office in King William's Town of the town clerk of the said council, during his usual business hours

for and during the period aforesaid, for the inspection of any person or persons who shall be interested therein: After which said period no further or any claim or claims, which shall not have been sent in, in manner hereinbefore provided for, shall be recognised, nor shall such claimants be entitled to recover the amount of their claims, or any portion thereof from the said council, by any means or proceeding whatever: And in case the said council shall not consent or agree to pay the amount of such or any claim or claims, then the said council shall cause to be served upon the person or persons whose claim they shall reject, a written notice, offering as recompense or compensation whatever sum of money they shall deem sufficient, and requiring such person or persons to state, in writing, to the said council, or to some other person by them appointed, within a certain limited time to be specified in the said notice, being not less than fourteen clear days after the service of such notice, whether he is willing to accept the sum therein mentioned or not; and if such person or persons should refuse the sum offered, or neglect to reply to the said notice, then the said council or other person aforesaid shall, by another notice in writing, call upon such person or persons to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said council or other person aforesaid, and for that purpose to transmit to the said council or other person as aforesaid, within a reasonable time to be specified in the last mentioned notice, the name of some person whom he shall select to be an arbitrator; and the said council or other person as aforesaid, upon receiving the name of the person so selected shall nominate a second arbitrator, and the said two arbitrators shall, before proceeding in the arbitration, choose a third arbitrator, the said three arbitrators to sit together, and the said council or other person as aforesaid shall cause a deed of submission to be prepared, which shall be signed by the said council or other person aforesaid and by the person claiming such compensation or recompense as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, and the award of the said arbitrators or a majority of them shall be binding and conclusive, and may be pleaded in bar of any action or proceeding at law brought for or on account of the matter referred to their arbitration. And if any person as aforesaid claiming such recompense or compensation for land or materials shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, then the said council or other person aforesaid may lodge in some joint-stock bank in the colony the sum of money offered by them as aforesaid in

No. 21, 1881.

their first notice in this section mentioned, for or on account of and at the risk of such person as aforesaid who shall at all times be entitled to draw the same out of the said bank as his absolute property; and the said council or other person aforesaid, upon so lodging the said sum, shall be authorized and entitled to take and use the land or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been awarded by the arbitrators under the provisions of this section, and as if all acts by law required for vesting in the said council or other person aforesaid a sufficient title to the use of or property in the land or materials aforesaid had been duly done and performed.

Proceedings in case
water on land of
minors, absentees
and others expropri-
ated.

IX. In case the said council or other person aforesaid shall require to take or use any water, or land, or to dig out or carry away any materials belonging to any minor or other person under guardianship or curatorship, then the guardian or curator, as the case may be, shall be authorized in his capacity as such guardian or curator to treat and agree with the said council or other person aforesaid for the purchase or hire of the land or materials required, and to execute any contract which may be needful for carrying out any agreement which may be made, and in case of non-agreement to refer the matter in difference to arbitration, as in the last preceding section mentioned. But all moneys which shall either by agreement or by arbitration be payable by the said council or other person aforesaid for or on account of any land or materials in this section mentioned, shall be paid by the said council, or other person aforesaid to the master of the supreme court administering the guardians' fund, who is hereby authorized to receive the same, and to place the same to the credit of the minor or other person entitled to such money, and if in any case any person of full age shall by way of *fidei-commissary* limitation, or any limitation of a like nature, be entitled to a life or other limited interest in any such land aforesaid, in which a minor or other such person aforesaid, under guardianship or curatorship, shall be also interested in remainder or expectancy, then the whole value of the land or materials as fixed by contract or by appraisement shall be paid as aforesaid to the master of the supreme court, and the person who was entitled to the life or other limited interest 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 guardians' fund, the property of minors or persons under disability, are therein administered: Subject, however, at all times to such orders as the supreme court aforesaid may, upon motion of any person having an interest, see fit to make in regard to such money. And in case the said council shall require to take or use any land or materials, as in the last preceding sections mentioned, of which the owner or owners shall be absent from the colony and not represented by any agent duly accredited, or shall not be discoverable, then it shall be lawful for the said council, and it is hereby authorized, to cause a notice to be inserted in the Government Gazette, and one or more local papers for four successive weeks, describing as accurately as may be, the land or materials which are required to be used or taken, and calling by name on the owner or owners of the said land or materials, if known, to take notice that the said council is ready and willing to treat with the owner or owners or any person duly authorized by him or them, for the recompense or compensation to be made by the said council for the said land and materials, and requiring such owner or owners to apply within six months from the date of such notice, which shall be the day of its publication, to the said council, stating the recompense or compensation claimed, and if the owner or owners shall not apply within the said period then the like proceedings in regard to the agreement for or otherwise determining the recompense or compensation to be respectively given and received shall in all respects be had and taken which are prescribed in the last two preceding sections, precisely as if the said owner or owners had from the first been in actual possession. And in case the owner or owners shall not apply to the said council within the said period, then it shall be lawful for the said council to appoint some competent person to be approved of by the civil commissioner of the division to appraise the value of the land or materials, and such person shall make oath before some justice of the peace that he hath to the best of his judgment fairly appraised such value, and thereupon it shall be lawful for the said council to pay whatever sum such person shall have valued the land or materials in question into the guardians' fund to the credit of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th July, 1833, in regard to moneys placed in the said fund belonging to persons absent from the colony: And the said council,

No. 21, 1881.

upon so paying the said sum, shall be authorized and entitled to take or use the land or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all acts by law required for vesting in the said council sufficient title to the use of or property in the land or materials as aforesaid had been duly done and performed.

Penalties for injuring, &c., the works.

X. Any person who shall wilfully injure, damage, disturb, obstruct, or interrupt any building, erection, conduit, reservoir, dam, watercourse, drain, ditch, pipe or pipes, or other work or works, or shall obstruct, hinder, or prevent the forming, constructing, completing, or maintaining the works contemplated by this Act, shall upon conviction, forfeit for the use of the said council a sum not exceeding one hundred pounds sterling, or be imprisoned with or without hard labour for any period not exceeding six calendar months, or to both fine and imprisonment: Provided that nothing in this section contained shall be held or taken to exempt such person from any civil or criminal liability for any of the aforesaid acts to which he would have been subject if this Act had not been passed, but no person shall be prosecuted criminally both under this Act and any other law for or in regard to one and the same act.

Penalties for washing, bathing in, and otherwise defiling the streams.

XI. Any person who shall bathe or wash himself in any dam or reservoir belonging to the said municipal council, or in any stream flowing into such dam or reservoir, by means of any watercourse constructed by the council, or shall wash, throw, or cause to enter therein any dog or other animal, or who shall place or throw any rubbish, dirt, filth, or other noisome thing in any such dam, or reservoir, or stream, or wash or cleanse therein any wool, leather or skin of any animal, or any clothes or other thing, shall for every offence, on being convicted thereof, forfeit for the use of the said council a sum not exceeding five pounds sterling, and in failure of the payment of such fine the party convicted shall be liable to be imprisoned with or without hard labour for any period not exceeding twenty-one days.

Tariff of charges for private waterleadings to be published.

XII. The council are hereby empowered from time to time to make and publish a tariff of charges by which the supply of water by private water-leadings and for the supply to industrial establishments shall be regulated, and the payment for all private water-leadings and for the supply to industrial establishments shall be in accordance with such tariff: Provided, nevertheless, that the said council, or any person duly authorized by them, shall have access at all reasonable times to inspect and regulate all such private water-leadings.

XIII. It shall be lawful for the said council, at any meeting at which a majority of the members shall be present, to frame from time to time such by-laws as they shall deem necessary for regulating the system of water supply to the town, such by-laws to be submitted for the approval of the Governor in manner provided by the Ordinance of British Kaffraria No. 9 of 1864, entitled "The King William's Town Borough Ordinance, 1864."

No. 21, 1881.

Power to frame bye-laws.

XIV. In order to pay the interest on the amount of the said loan and to provide for all other claims arising under this Act, the council shall be empowered and compelled to impose, levy, and collect a sufficient annual rate or assessment over and above what the said council is already empowered to impose and levy upon the immovable property within the limits of the said municipality; and every rate or assessment so imposed and made by the said council shall be of the same force and effect and be levied in the same manner as if it had been a rate imposed under the provisions of the said Ordinance of British Kaffraria No. 9 of 1864, so far as the same are applicable. And all rates so imposed and assessed under the provisions of this Act shall be and be deemed to be a charge upon the property so assessed, and be recoverable against the present or any future owner or occupier thereof: Provided that it shall be lawful for the said council to apply for the payment of interest or principal or interest and principal of the moneys aforesaid any funds or moneys coming to the said council from any source whatever and not specifically appropriated or required for any other object.

Rates may be levied to pay interest on loan and other expenses.

XV. The amounts for assessment entered on the tenants' assessment roll in force within the said municipality for each and every year shall be the amounts on which the rate shall be levied for the purposes of this Act so far as the properties included in such tenants' assessment roll are concerned, but for any or all properties not included in such tenants' assessment roll, and for all properties not liable to assessment under the said Ordinance of British Kaffraria, No. 9 of 1864, the annual value shall be made and determined annually by some competent person to be appointed by the council: Provided that such valuation shall lie open for public inspection at the office of the council for the space of one calendar month from the levying of the said annual rate, and the council shall give notice in one or more of the newspapers published within the said municipality that the same lies open for inspection, and the provisions of the 65th section of the said Ordinance No 9 of 1864 shall apply to the hearing and deciding upon objections to such valuation.

Provisions for proper assessment of properties.

XVI. Every such rate or assessment so made and assessed as aforesaid shall become due and payable upon some certain

When rates payable.

- No. 21, 1881. day, to be fixed by the said council, of which day and of the amount of the rate or assessment so to become payable not less than fourteen days' notice shall be given, and such notice shall be published by causing the same to be inserted in one or more of the newspapers published within the said municipality, and causing a copy of the same to be affixed in some conspicuous place in or near the town-hall.
- Collectors to be appointed. XVII. As soon as any rate shall be assessed as aforesaid the council shall appoint under the corporate seal a person to collect the same, and which rate shall, on non-payment thereof, be recoverable as a separate and distinct rate at the suit of such collector by action in the resident magistrate's court having jurisdiction within the said municipality, or in any resident magistrate's court of the district in which such defaulter shall reside.
- "Public Bodies Debts Act, 1867," to apply. XVIII. All moneys borrowed and debts lawfully incurred by the said council under the provisions and for the purposes of this Act shall be subject to the Public Bodies' Debts Act, 1867.
- Separate accounts to be kept. XIX. The council shall keep or cause to be kept a separate and distinct account of all moneys borrowed under this Act, and of the expenditure of such moneys and of all revenues arising from the waterworks contemplated by this Act, distinguishing sums received for rates imposed under the provisions of this Act, and of all moneys expended upon the construction and maintenance of the waterworks contemplated by this Act: And the said council shall yearly and every year, so long as any part of the debt contracted under the authority of this Act shall be in existence, prepare and deposit in the office of the borough for the inspection, at all reasonable times, of any householder of the borough, an account showing the particulars aforesaid, and giving any other information which the said council shall deem necessary or expedient to impart: Provided that every such account shall be made up to the 31st December in each and every year.
- Such accounts to be accessible to householders. XX. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said council out of the moneys to be so borrowed as aforesaid.
- Costs, &c., may be paid out of loan. XXI. Nothing in this Act contained shall be taken to deprive the said council of any rights and privileges which it may possess, or of which it may be entitled to avail itself, under the provisions of the Acts No. 8 of 1877, entitled "The Irrigation Act, 1877," Act 28 of 1879, entitled "An Act to assist Municipalities to carry out Irrigation Works," and No. 7 of 1880, entitled "The Irrigation Amendment Act, 1880," the true intent and object of this present Act being to add to and increase and in no way to derogate or detract
- Privileges under other Acts not to be affected by this Act.

from such rights and privileges.

XXII. The word "borough" in this Act shall mean the ^{No. 21, 1881.} borough of King William's Town as established by the said ^{Definition of terms.} Ordinance of British Kaffaria No. 9 of 1864; and the word "council" the borough council of King William's Town.

XXIII. This Act may be cited as the "King William's ^{Short Title.} Town Water Supply Act, 1881."

Spent.
No. 22—1881.] ACT [JUNE 25, 1881.

To apply a further Sum of One Hundred and Fifty-six Thousand One Hundred and One Pounds Fifteen Shillings and Threepence Sterling, for the service of the Year ending 30th day of June, 1881.

WHEREAS in consequence of the annexation of the ^{Preamble.} province of Griqualand West, it is necessary to provide for the expenditure of the said province, and also for certain other necessary expenditure incurred and to be incurred during the year ending on the 30th day of June, 1881, in addition to the sums provided by the Act No. 1 of 1880, and the "Appropriation Act, 1880": 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:—

I. The public revenue of the colony of the Cape of Good ^{Revenue charged} Hope is hereby charged towards the service of the year ^{with £156,226 15s. 3d.} ending on the 30th day of June, 1881, with a sum of one hundred and fifty-six thousand one hundred and one pounds fifteen shillings and threepence, sterling (£156,226 15s. 3d.), in addition to the several sums provided for by the Acts No. 1 and 19 of 1880.

II. The money granted by this Act shall be applied to the ^{Short title.} purposes and services expressed in the schedules annexed hereto.

SCHEDULE No. 1.

Schedule of Sums required to cover Expenditure in Excess of the Appropriation, defrayed or to be defrayed during the Year ending 30th June, 1881.

No. 22, 1881.

DIVISION No. I.

Minister—Colonial Secretary.

Accounting Department of Colonial Secretary.

1. HIS EXCELLENCY THE GOVERNOR.

B. Transport,—£3,807 15s. 3d.

** Advance for Travelling Expenses beyond the limits of the Colony of His Excellency Sir H. B. E. Frere, Bart., G.C.B., pending adjustment by the Imperial Government (see the Report of the Controller and Auditor-General on the Appropriation Account of Vote 1 for 1879-80)	£3,798	5	3	
Since made		9	10	0
	<hr/>			£3,807 15 3

17. MISCELLANEOUS SERVICES.

E. Sundries,—£2,020.

Commissions and Committees, Additional	£2,020	0	0
Accounting Department of Legislative Council. Session 1881.			

21. LEGISLATIVE COUNCIL.

B. Contingencies,—£2,900.

Travelling Expenses of Members	£825	0	0	
Personal Allowances of Members	1,440	0	0	
Printing and Book-binding ..	500	0	0	
Extra Messenger and Miscellaneous Expenses	135	0	0	
	<hr/>			£2,900 0 0

Accounting Department of House of Assembly.

Session 1881.

22. HOUSE OF ASSEMBLY.

B. Contingencies,—£9,750.

Miscellaneous Expenses	£1,350	0	0	
Travelling Expenses of Members	2,500	0	0	
Personal Allowances of Members	4,400	0	0	
Printing	1,500	0	0	
	<hr/>			£9,750 0 0

DIVISION II.

Minister: Treasurer of the Colony.

Accounting Department of Treasurer of the Colony.

43. MISCELLANEOUS.

A. Printing and Advertising,—£200.

Advertising in Local Newspapers Additional	£200	0	0
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C. Sundries,—£226.

Expenses incurred under the Proclamation No. 14 of 1880 ("Phylloxera Ves- tatrix")	£79 0 0		
Less on Sale of Cape 4½ per cent. Debentures at Amsterdam	30 0 0		
Deficiency in accounts of late Natham Henry, House Duty Col- lector, Queen's Town	10 0 0		
Authorized Advances 1875, see Report of Controller and Au- ditor-General on Appropriation Ac- counts, 1878, 9, p. iv., 25	107 0 0		
		226 0 0	
			£426

45. INTEREST AND COMMISSION.

A. Interest,—£255.

(d) An average monthly balance of uninvested funds, Government Savings Bank	£255 0 0	
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C. Discount,—£99.

To Tenderers for Loans on pay- ment before due date	99 0 0	
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D. Sundries,—£30.

Interest on overdraft in Standard Bank by G. Woodford, late Engineer, Aliwal North Bridge	30 0 0		
		£384 0 0	

47. STATIONERY OFFICE.

Establishment.

A. Salaries,—£80.

Clerical Assistance	£80 0 0	
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B. Contingencies,—£25

Petty Expenses, Additional	25 0 0	
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C. Stationery under Contract in
England

3,500 0 0

D. Do. do. in Colony	750 0 0	
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E. Do. not under Contract	1,250 0 0	
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F. Freight, Insurance, &c.	100 0 0	
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G. Do. do., Coastwise	100 0 0	
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H. Distribution and Transport	150 0 0	
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£5,955 0 0

No. 22, 1881.

DIVISION No. III.

Minister: Attorney-General.

Accounting Department of Attorney-General.

52. SUPERIOR COURTS.

Establishments.

A. Supreme Court,—£175.

Salaries.

* * Extra Clerks to Master of
the Court £175 0 0

R. Eastern Districts Court,—£875.

* * Mr. Justice Jacobs: Half
Salary 750 0 0Arrears paid during
present financial
year 125 0 0

C. Administration of Justice,—£1,000.

* * Personal and Travelling Ex-
penses of Judges 1,000 0 0

£2,050 0 0

53. HIGH SHERIFF.

B. Administration of Justice,—£600.

Summoning Jurors, Wit-
nesses, &c. £600 0 0

DIVISION No. V.

Minister: Secretary for Native Affairs.

Accounting Department of Secretary for Native Affairs.

81. INSPECTORS AND CONSTABLES.

Establishments.

A. Salaries,—£1,150.

Additional Inspectors of Con-
stables £1,150 0 0

81½. INSPECTORS OF NATIVES—(Griqualand West).

A. Establishments,—£371.

Salaries

Clerk at Kimberley £91 0 0

Inspector of Locations, Bultfon-
tein 63 0 0

Constable 36 0 0

Clerk at Du Toit's Pan 131 0 0

Inspector of Locations, Hay,
Arrear Salary 25 0 0

Allowances.

Protector of Natives, Kimberley,
for Horse 25 0 0

£371 0 0

82. TERRITORY NORTH OF ORANGE RIVER.

Special,—£2,490.

Arrear Expenditure 1879, 1880—

(See Controller and Auditor-

General's Report for that year,

p. 220.) £2,490 0 0

83. MISCELLANEOUS.

Compensation for Arms surren-
dered, Arrears £2,000 0 0Provisions and Clothing for Na-
tive Refugees 5,000 0 0

£7,000 0 0

Total £38,903 15 3

SCHEDULE No. 2.

No. 22, 1881.

Schedule of Expenditure to be defrayed in the Province of Griqualand West, in terms of the "Griqualand West Annexation Act, 1877," for the period between the 15th October, 1880, and the 30th June, 1881.

Minister : Colonial Secretary.

Accounting Department of Colonial Secretary.

Vote 3½	General Administration	£1,402	0	0	
10½	Kimberley Hospital	4,035	0	0	
11½	District Surgeons	463	0	0	
12½	Hospitals and Paupers	375	0	0	
13½	Police and Gaols	32,706	0	0	
16½	Parliamentary	75	0	0	
17½	Miscellaneous	1,402	0	0	
19½	Pensions and Gratuities	5,220	0	0	
20½	Divisional Courts and Offices	8,515	0	0	
					£54,193 0 0

Accounting Department of Commandant-General of Colonial Forces.

30½	Volunteers	£700	0	0	
31½	Border Police	15,000	0	0	
					£15,700 0 0

Accounting Department of Superintendent-General of Education.

33½	Education	£1,125	0	0	
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Accounting Department of Postmaster-General.

36½	Postmasters and Post Office Agents	£1,795	0	0	
37½	Conveyance of Mails	3,408	0	0	
					£5,203 0 0

Minister : Treasurer of the Colony.

Accounting Department of the Treasurer of the Colony.

42½	House Duty	£1,160	0	0	
43½	Miscellaneous	950	0	0	
45½	Interest and Commission	13,210	0	0	
46½	Loans Repaid	1,200	0	0	
47½	Stationery	940	0	0	
					£17,460 0 0

Minister : Attorney-General.

Accounting Department of Attorney-General.

51½	Crown Prosecutor	£1,297	0	0	
52½	Superior Courts	9,544	0	0	
					£10,841 0 0

Minister : Commissioner of Crown Lands and Public Works.

Accounting Department of Crown Lands and Public Works.

61½	Mines	£3,258	0	0	
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Accounting Department of Surveyor-General.

63½	Miscellaneous	£3,750	0	0	
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No. 22, 1881.

Accounting Department of Chief Inspector of
Public Works.

65½ Works and Buildings	£1,388	0	0
66½ Roads and Bridges	375	0	0
68½ Miscellaneous	150	0	0
69½ Rent	231	0	0
			£2,144 0 0

Minister : Secretary for Native Affairs.

Accounting Department of Secretary for Native Affairs.

81½ Inspector of Natives, &c. ..	£1,741	0	0
82½ Adjacent Tribes	783	0	0
83½ Disarmament	1,000	0	0
			£3,524 0 0
Grand Total			£117,198 0 0

Spent.

No. 23—1881.]

ACT

[June 25, 1881.]

For raising a Sum not exceeding One Million Pounds
Sterling for Extraordinary Services during the
Year ending 30th June, 1882.

Preamble.

WHEREAS it is expedient and necessary for the public service that the Governor should be empowered to raise and take up upon loan from time to time such sums of money not exceeding one million Pounds sterling, as may be required to provide for extraordinary services during the year ending on the 30th June, 1882, until adequate provision can be made therefor by Parliament in its next ensuing session: 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:—

Government may
raise by Debentures
Treasury Bills,
£1,000,000.

I. It shall be lawful for the Governor to raise and take up upon debentures or treasury bills to be issued in this Colony or in England, such sum of money as from time to time shall seem to him fit and necessary for the exigencies of the public service, not exceeding in the whole the sum of one million pounds sterling, to be applied as may be needful towards payments to be made for the public service authorized, or to be authorized, by Parliament.

II. Such debentures or treasury bills shall bear interest at a rate to be agreed upon by the Governor, and the capital sum and interest shall be charged and chargeable on and payable out of the general revenue of the Colony. No. 23, 1881.
Rate of Interest.

III. Such debentures or treasury bills shall be payable at par, at such time or times, or after such notice as the Governor shall, before issue thereof, fix and determine. Debentures, &c., payable at par.

IV. An account shewing the amount of all such debentures or bills issued under the authority of this Act, and the moneys realised thereby, and the expenditure thereof, or of so much as shall have been expended, vouched by the Controller and Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof. Accounts to be laid before Parliament.

V. The provisions of an Act passed during the present session, intituled "The Cape of Good Hope General Loans' Act, 1881," shall not be deemed to apply to the Loans authorized by this Act." Provisions of "General Loans' Act, 1881," not to apply.

VI. The short title of this Act shall be "The Temporary Loans' Act, 1881." Short Title

No. 24—1881] ACT. [June 25, 1881.

To Incorporate the City Tramways Company, Limited.

WHEREAS by a deed, bearing date at Cape Town the 26th day of June, 1878, whereof a copy has been deposited in the office of the clerk of the House of Assembly, certain persons did become co-partners together in a certain joint-stock company, called the "City Tramways Company, Limited," for the purpose of constructing and working certain street tramways in Cape Town and district, and from Cape Town to Green Point and Sea Point: and whereas the said company, which has been duly registered in this colony under the provisions of the Act No. 23 of 1861, intituled an "Act to limit the Liability of Members of certain Joint-Stock Companies," is willing to undertake the construction and working of the said tramways: And whereas it is desirable to facilitate the construction, working, and maintenance of the said tramways: and whereas it is expedient to incorporate the said company as constituted under the said deed, in order to carry into effect the objects of the said company: 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.

No. 24, 1881.

Corporate name provided for.

I. The several persons who are, or shall become, shareholders in the said company, under the provisions of the said deed of settlement, their respective executors, administrators, successors and assigns, shall be and are hereby united into one body corporate, under the name and title of "The City Tramways Company, Limited," for the purpose of constructing, maintaining, and working by steam, or other mechanical power, or horse power, or either of them, certain tramways, by this Act authorized, with all necessary sidings, termini, buildings and appurtenances.

Powers and rights of Corporation thus created.

II. The company hereby incorporated by the said name of "The City Tramways Company, Limited" shall have perpetual succession and a common seal, and by such name shall and may from time to time sue and be sued in any competent court, and shall have power to take, purchase, and hold lands, buildings, hereditaments, and possessions, and also all other property, chattels, or effects whatsoever, and such lands or other property subject to any engagements affecting the same, shall be vested in the company by its corporate name, and without the necessity of each individual shareholder being mentioned in the deed or deeds of transfer, grant or grants, or conveyances thereof.

What line of tramway to be maintained and constructed.

III. The said company is hereby authorized to work and maintain, and in so far as not already constructed, to construct, the lines of tramway mentioned in a certain agreement, copy whereof is contained in the schedule hereto, executed on the 23rd day of December, 1879, before the Notary, Henry Mathew Arderne, on behalf of the Town Council of the city of Cape Town of the one part, and the City Tramways Company, Limited of the other part, save and except the single line of tramway set out in paragraph two of the schedule referred to in this Act which shall not come under the operation of the same, and subject to all the terms and conditions in the said agreement expressed and declared.

Further construction authorized.

IV. The said company is also authorized to construct, lines of tramway beyond the limits of the municipality of work, and maintain the following continuations of the said Cape Town,—that is to say:

- a. From Three Anchor Bay along the sea beach, over land vested in the municipality of Green Point and Sea Point, to a spot near the boundary wall of the property formerly belonging to C. Lind, Esq., at Sea Point, according to the route laid down in the plan of the proposed tramways, deposited in the office of the clerk of the Legislative Council: Provided that it shall be lawful for the said company, with the consent of the commis-

sioners of the municipality of Green Point and Sea Point first obtained, to extend, deviate from, and vary the said line.

No. 24, 1881.

b. From the terminal point of the line already completed near the dock gates, within the docks, and to and along the east quay.

V. The roadway between the rails of the said tramway within the limits of the municipality of Green Point and Sea Point shall be maintained in good and efficient repair at the costs and charges of the said company; and all damage done to the main road aforesaid, or to the streets, bridges, sewerage and property of the said municipality by reason of any work or works performed and executed by the said company, shall in like manner, as soon as practicable, be made good at the costs and charges of the said company.

Roadway between rails to be kept in repair by the company

VI. The terms and conditions contained in sub-sections 5^o, 6^o, 7^o, 8^o, and 11^o, of the third section of the Schedule to this Act attached, shall, in as far as they are applicable, apply, *mutatis mutandis*, to such portions of the line as may pass over the property under the management and control of the Table Bay Breakwater and Dock Management Commission, as if an agreement to that effect had been entered into and had been attached to this Act, and as if the commissioners appointed under Act 6 of 1860 had been therein named, instead of the Town Council. And if at any time it shall be found that the said tramways, or any part thereof, passing over the property mentioned in this clause shall interfere with, or be prejudicial to the proper working and management of the docks, or interfere with the carrying out of any alterations that may be made in the construction of the said docks, the aforesaid commissioners may give notice to the Tramway Company to take up the line or such portion of the line as aforesaid, and upon the expiry of three months after such notice shall have been given, the Tramway Company shall take up the line or portion of the line in question, or in case the company shall not do so, the said commissioners shall be entitled to perform the work and charge the expense thereof to the company.

Terms and conditions which are to apply to the part of the line passing over land under management of the Harbour Commission.

VII. If any person or persons shall drive or lead any wagon, cart, carriage, or other vehicle, or any horse or other animal upon the line of the said tramway in such manner as to improperly obstruct and hinder any car or conveyance belonging to the said company, or shall refuse to remove such obstruction, it shall be lawful for any officer of the said company, or any person whom he may call to his assistance, to remove such obstruction; and any person who shall be guilty of such hindrance or obstruction shall for every such offence be liable to a penalty not exceeding forty shillings,

Penalty for obstructing the line.

No. 24, 1881.

and in default of payment to imprisonment with or without hard labour for any term not exceeding one month, unless such fine be sooner paid.

Ordinary traffic of roads and streets not to be interrupted.

VIII. Nothing in this Act contained shall authorize the said company in any manner to obstruct or hinder the safe passage or crossing of the ordinary traffic on any roads and streets in which such tramway shall have been made, but in all cases a sufficient space shall be left at least on one of the sides of the said roads or streets, to allow all carriages, cattle, and passengers to pass the carriages on the said tramway in a safe and convenient manner: Provided, always, that all reasonable rights and facilities shall at all times be enjoyed by the company for their carriages to pass, without obstruction or hindrance, along the several lines of the company; and upon due and sufficient notice being given, by whistle, by the driver or conductor or other person in charge of the said carriages, of the approach thereof, all persons and vehicles upon or near the lines of rails shall as soon as practicable remove, so as to allow the carriages of the company to pass along the said line freely and without obstruction.

Penalty for obstruction of Company's officers in execution of their duty.

IX. Any person who shall wilfully obstruct the officers or servants of the company, or any contractors with the company, in the lawful exercise of their powers in setting out, or making, laying down, repairing or working the tramways authorized by this Act, or who shall be guilty of the obstruction or hindrance in the eighth section of this Act mentioned, shall for every such offence be liable to a penalty not exceeding forty shillings, and in default of payment to imprisonment with or without hard labour for any term not exceeding one month, unless such fine be sooner paid.

Penalty for certain offences.

X. Any person who, without lawful excuse, shall wilfully do any of the following things, namely:—

Interfere with, remove or alter, any part of the tramway, or of the works connected therewith;

Place or throw any stones, wood, or other material on any part of the rails;

Do or cause to be done anything in such a manner as to obstruct any carriage using the Tramway or the horses drawing the same, or to endanger the safety of persons therein or thereon;

Or knowingly aid or assist in the doing of any such thing;

shall for every such offence be liable (in addition to any proceedings by way of indictment or otherwise to which such person may be subject) to pay a penalty not exceeding forty shillings, and in default of payment to imprisonment with or without hard labour for any term not exceeding one month, unless such fine be sooner paid.

XI. The tolls and rates of charge to be taken and made for passengers and goods conveyed on the tramway, shall not exceed the tolls and rates of charge specified in Schedule (B) to this Act. No. 24, 1381.
Tolls as in Schedule B.

XII. All such tolls, fares, or rates for passengers or goods shall be at all times charged, equally to all persons and after the same rate, whether per ton, per mile, or otherwise, in respect of all passengers and of all goods of the same description, and no reduction or advance in any such tolls, fares, or rates of charge shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the said tramway. Tolls to be charged equally to all Person

XIII. The tariff of rates of charge agreed to by the company shall be exhibited in a conspicuous place in each car used for carrying passengers or goods, and shall not be increased except after public notice given in the Government Gazette and two or more of the newspapers published in Cape Town. Tariff of fares to be exhibited in cars and published.

XIV. If any person travelling in any carriage on the tramway shall avoid or attempt to avoid payment of the fare, or if any person having paid the fare for a certain distance, shall knowingly and wilfully proceed in any such carriage beyond such distance, and refuse to pay the additional fare for the additional distance, or attempt to avoid payment thereof, or if any person shall knowingly and wilfully refuse or neglect, on arriving at the point to which such person has paid the fare, to quit such carriage, such person shall for every such offence be liable to a penalty not exceeding ten shillings, and in default of payment to imprisonment with or without hard labour for any term not exceeding three days unless such fine be sooner paid. Penalties for at tempting to evade proper fare.

XV. All such penalties shall be recoverable in the court of the Resident Magistrate of Cape Town, at the suit and for the benefit of the said company. How recoverable.

XVI. In the event of the said tramways or any part thereof being worked by steam or any other power it shall not be lawful for the carriages thereon to proceed at a greater rate of speed than eight miles an hour. In case steam used on line no greater speed than 8 miles an hour.

XVII. A list of all the tolls authorized by this Act to be taken, and which shall be exacted by the Company, shall be published by the same being painted upon one toll board or more in distinct black letters on a white ground, or white letters on a black ground, or by the same being printed in legible characters on paper affixed to such board, and by such board being exhibited in some conspicuous place on the stations of the company, and the company shall have the right to recover, by legal process, in the court of the resident magistrate aforesaid, all such charges from passengers and from List of authorized tolls to be published.

No. 24, 1881.

the owners of goods, articles, or things conveyed by the company, and shall, moreover, have the right of retaining such goods, articles, or things until the charges appertaining to the same have been duly paid: Provided, always, that such tariff of charges may from time to time be altered by the company.

Act to be a public Act.

XVIII. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such, without being specially pleaded.

Short title.

XIX. This Act may be cited for all purposes as the "City Tramways Company (Limited) Incorporation Act."

THE SCHEDULE REFERRED TO.

Know all men whom it may concern,—That on this the twenty-third day of December, in the year one thousand eight hundred and seventy-nine: Before me, Henry Mathew Arderne, notary public, by lawful authority, duly admitted and sworn, residing and practising at Cape Town, in the Colony of the Cape of Good Hope, and in the presence of the subscribed witnesses, personally came and appeared John Anthony Roos as acting for and on behalf of the Town Council of the city of Cape Town, specially nominated, appointed, and authorized to appear and declare as after set forth by minute of meeting of said Town Council, held on the tenth day of December, one thousand eight hundred and seventy-nine (a copy whereof is hereunto appended) of the first part, and John Philip and David Mudie, trustees of and as acting for and on behalf of the City Tramways Company, (Limited), and specially authorized and appointed to appear and declare as after set forth by a minute of meeting of the directors of the said company, held at Cape Town on the fifteenth day of September, one thousand eight hundred and seventy-nine (a copy whereof is hereunto annexed) of the second part.

And these appearers, acting on behalf of their respective constituents, did jointly and severally declare,—

That whereas the said City Tramways Company (Limited) has been constituted for the purpose of laying down certain lines of tramways in certain streets and roads, in and about Cape Town, and of carrying passengers to and fro thereon: And whereas, in order thereto, the said company on the twelfth day of April, one thousand eight hundred and seventy-eight, applied to the Town Council for liberty to lay down, make, and work by horse or steam power certain lines of tramway within the municipal limits of the city of Cape Town:

And whereas the said Town Council acceded to that application on certain terms and conditions, which were signified to the said company by letter dated the fifth June, one thousand eight hundred and seventy-eight: And whereas, relying on the said concession and with the permission of the said Town Council, the said company have commenced to lay down, and have made and are now working certain portions of the said line of tramway:

Now, therefore, this agreement witnesseth that it hath been contracted and agreed as the said appearers acting for and on behalf of their respective constituents, declared jointly and severally to contract and agree, that in consideration of the payment of the yearly sums, and the performance of the stipulations hereinafter mentioned, the said City Tramways Company Limited should be permitted and allowed to maintain and work so far as made, and to continue to make and lay down the following lines of tramway, viz. :—

I. A single line of tramway with the necessary sidings and stations from Alfred-street by way of the dock road, Adderley-street, Darling-street, and Sir Lowry Road to the toll-bar on Sir Lowry road, as shewn upon the plan hereunto annexed marked A.

II. A single line of tramway from the corner of Adderley-street and Darling-street, by way of Adderley-street, Wale-street, Long-street, Orange-street, Annandale-street, Mill-street, and Buitenkant-street, back to Darling-street, the sides of the streets where the rails are to be laid down and the sites of the sidings and stations to be hereafter determined upon by the Town Council.

III. A single line of tramway with the necessary sidings and stations from the bottom of Bree-street by way of the new street reserved in the sub-division of the town and recently sold, and thence across the commonage to the sea side of the beach road, and thence to Three Anchor Bay.

And that the said company shall be permitted to maintain, uphold, and work the said several lines of tramway sidings and stations for the profit of the said company, upon the following terms and conditions, viz. :—

1^o. That the said tramways shall be constructed and maintained by the said company in a good and sufficient manner on a level with the streets, and shall be ballasted between the rails with good iron stone or other approved gravel, and at such crossings as may be considered necessary by the Town Council, paved with stone; and that a stone pavement eighteen inches wide shall be formed on the outside of each rail, and that the whole work shall be executed and maintained in good order and repair to the satisfaction of the Town Council or any competent person whom it may appoint to inspect the same.

No. 24, 1881.

2^o. That the Tramway Company shall be guided by the Town Council in laying down said tramways as regards whether the same shall be laid down in the centre or on either side of the streets and roads traversed; Provided, however, that no route shall be selected which shall necessitate a curve of less than forty feet radius.

3^o. That in carrying the said tramway across the castle moat, the company shall construct a trestle or other sufficient bridge on ground belonging to the War Department, so as not in any way to interfere with the present castle bridge.

4^o. That the Tramway Company shall pay or cause to be paid to the Town Treasurer for the time being, for the benefit of the city funds as the consideration for being allowed to use the said streets for their tramways, the following sums, viz :—

1. The annual sum of fifty pounds sterling as and for the yearly rent of the lines of tramway Nos. I and II above specified, said rent to be reckoned from the first day of October last (1879), and paid in equal half-yearly instalments on the first day of October and the first day of April in each and every succeeding year, during the time for which this agreement shall endure.

2. The annual sum of twenty-five pounds sterling as and for the yearly rent of the line of tramway No. III above specified, said rent to be reckoned from the day on which this line shall be opened for passenger traffic, and to be payable thereafter half-yearly throughout the term of this agreement.

5^o. That all expenses which may be incurred in the removal and replacement of the rails after the same shall have been laid down, either for constructing or repairing sewers, laying down water pipes, and generally all additional expenses which may have to be incurred by the council or municipal works, caused by the concession to the company, shall be borne by the company.

6^o. That all damage that may be done to the streets, roads, sewers, water-pipes, or any other town property, by the construction, maintenance, or working of the tramways shall be made good by and at the expense of the company, and should the company fail to do so within a reasonable time to be named by the council in giving notice of what damage is to be made good, the work shall be done by the council forthwith at the expense of the company.

7^o. That in case the tramways be so constructed, or any part of the same shall be unused for the purpose of traffic by the Tramway Company for a period of six consecutive months, the company shall be bound at its expense to remove the rails and restore the streets or roads to the condition in which they were before the tramways were made: or other-

wise the said Town Council shall, after giving the company six months' notice of their intention to do so, be entitled to remove the rails and restore the streets or roads as aforesaid, and charge the expense of so doing to the said Tramway Company.

8°. Unless the whole lines of tramway shall be completed and in working order within three years from the date of these presents, this concession shall be null and void in respect of whatever portion may then remain unmade.

9°. With regard to the line of tramway from the bottom of Bree-street to Three Anchor Bay, where the same passes the Gallows Hill, it shall be kept outside the land applied for by the Harbour Board, and as close as possible to the Ordnance beacon on the north-east side of the said hill.

10°. The said Town Council for the time being shall have the right to run wagons or trucks over the line from the bottom of Bree-street to Three Anchor Bay, for the purpose of removing town refuse on such terms and at such times as may be arranged between it and the Tramway Company, and failing the council and company agreeing thereon, the same shall be fixed by three arbitrators, one of whom shall be appointed by the Town Council, one by the City Tramways Company, and a third by the two arbitrators first appointed, and on the award of the said arbitrators or a majority of them, shall be binding and conclusive on the parties hereto.

11°. That no deviation of the route of any of the lines mutually agreed upon between the council and the company shall vitiate this agreement or any portion of it.

12°. Further, with regard to the said line of tramway from the bottom of Bree-street to Three Anchor Bay, the said Tramway Company shall at its own cost and expense form a roadway twenty feet wide on the land side of the tramway from Alfred-street to where it reaches the Beach Road.

13°. That if at any time it shall be found that the said tramways or any portion thereof interfere with and prejudice the rights and safety of the public, the Town Council may give notice to the Tramway Company to take up the line or a portion thereof so objected to, and on the expiry of twelve months after such notice shall have been given, the Tramway Company shall take up the line or portion of line in question, or in case the company shall not do so, the Town Council shall be entitled to perform the work and charge the expense thereof to the company.

F

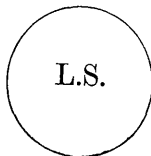
No. 24, 1881.

Thus done and passed at Cape Town aforesaid, the day, month, and year first above written, in presence of the subscribed witnesses.

JNO. A. ROOS,
JOHN PHILIP,
DAVID MUDIE.

As witnesses :

GEO. B. WRIGHT,
W. ANDERSON.
Quod Attestor,
H. M. ARDERNE,
Notary Public.



SCHEDULE B.

Maximum Tolls and Rates of Charge.

PASSENGERS.

1. The maximum rates of charge to be made by the owners of the City Tramway Company for the conveyance of passengers thereon, shall be not exceeding the following, viz. :—

Between the toll-bar on Sir Lowry Road and corner of Adderley-street and Darling-street, or over any portion of the said distance, sixpence.

Between the corner of Adderley-street and Darling-street, and the terminus within the Docks, or over any portion of the said distance, sixpence.

Between the corner of Adderley-street and Darling-street, and the terminus at Green Point, or over any portion of the said distance, eightpence.

2. The foregoing restriction shall not extend to any special carriage or car that may be required to run on the tramway, but shall apply only to express and ordinary carriages or cars appointed from time to time by the owners for the conveyance of passengers and goods on the tramway.

3. Every passenger travelling on the tramway may take with him his ordinary luggage, not exceeding twenty pounds in weight, without any charge being made for carriage thereof. Any excess over the above, if allowed, may be charged for at the usual parcel rates.

Goods.

4. The tolls to be taken by the owners of the tramway in respect of small parcels for carriage thereof on the whole or any part of the line shall not exceed :—

For any parcel not exceeding twenty pounds in weight, threepence.

No. 24, 1881.

For any parcel not exceeding thirty-five pounds in weight, fourpence.

For any parcel not exceeding fifty pounds in weight, sixpence.

For any parcel not exceeding seventy-five pounds in weight, ninepence.

For any parcel not exceeding one hundred pounds in weight, one shilling.

Parcels exceeding one hundred pounds in weight, such reasonable sum as the owners of the tramway may think fit to charge after notice given.

5. It shall be lawful for the owners of the tramway to demand and take, in addition to the tolls and rates of charge hereinbefore authorized, a reasonable sum for delivery and collection of goods and other services incidental to the business of a carrier, where such services respectively shall be performed by the owners of the tramway otherwise than on the premises of the tramway.

Nothing herein contained shall be held to bind the owners of the said tramway to carry goods in carriages on the tramway, until they have given public notice in one or more newspapers in Cape Town of their intention so to do.

Spent

No. 25—1881.]

ACT

[June 25, 1881.]

For Applying a Sum not exceeding Three Hundred and Fifty-one Thousand Eight Hundred and Eighty-nine Pounds Six Shillings and Twopence, for the purpose of meeting and covering certain Unauthorized Expenditure, and for meeting and covering certain Deficits on Votes and Appropriations for the Service of the Financial Year ended 30th June, 1880.

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 three hundred and fifty-one thousand eight hundred and eighty-nine pounds six shillings and twopence, in addition to and beyond the sums voted and authorised by the Legislature to be so expended:

Preamble

- No. 25, 1881. and whereas it is desirable to legalise such unauthorized 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:—
- Revenue charged with £351,889 6s. 2d. I. The public revenue of the colony is hereby charged with a sum not exceeding three hundred and fifty-one thousand eight hundred and eighty-nine pounds, six shillings and twopence, which sum shall be applied in manner following, that is to say:—
- How to be applied. For unauthorized expenditure for the year 1875, in addition to the expenditure authorized by Acts No. 27 of 1877; No. 16 of 1879; No. 24 of 1879; and No. 25 of 1880; the sum of four hundred and fifty-four pounds two shillings and eleven-pence.
- For covering deficits on votes or appropriations for the service of the financial year ended on the 30th June, 1880, the sum of three hundred and fifty-one thousand four hundred and thirty-five pounds three shillings and threepence.
- Short title. II. This Act may be cited as the "Unauthorized Expenditure Act, 1881."

- No. 26—1881.] ACT [June 25, 1881.
Repealed by 1896 Act 36.
 For the Management of the Docks and Breakwater of Table Bay.
- Preamble. WHEREAS it is desirable to provide for the better management of the docks and breakwater of Table Bay: 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 sections of previous Acts repealed. I. The second, third, fourth, and fifth sections of Act No. 22 of 1872, and so much of any other sections of the said Act, or of any other act of parliament, ordinance, or other statutory enactment having the force of law, as may be inconsistent with, or repugnant to, the provisions of this Act are hereby repealed, so far as such inconsistency or repugnance may exist, but not otherwise.
- Present Commissioners to act till new ones appointed. II. The Commissioners appointed under the provisions of the said Act No. 22 of 1872, who shall be in office at the time of the taking effect of this Act, shall remain in office and exercise all powers and perform all duties now exercised

and performed by them, until the first meeting of the Board of Commissioners appointed and elected under the provisions of this Act.

No. 26, 1881.

III. The management of the docks and breakwater in Table Bay, as well as of any further works of construction or maintenance, shall be vested in a board of Commissioners to be appointed and elected under this Act, from and after the date of the first meeting of such board.

Management of Docks and Breakwater vested in board to be appointed under this Act.

IV. The Board of Commissioners, in the last preceding section mentioned, shall consist of seven persons, of whom four shall be appointed by the Governor by proclamation: Provided that the persons so appointed by the Governor may be removed as in the sixth section of the said Act No. 22 of 1872 is provided, and that not more than two of such persons shall be officers holding office of profit under Her Majesty the Queen; and three shall be elected by the constituency, and in the manner hereinafter provided.

Constitution of the Board.

V. The existing Board of Commissioners shall, as soon as may be after the thirtieth day of June next, and the Board by this Act constituted shall as soon as may be after the thirtieth day of June in every succeeding year, cause a true list to be made, in alphabetical order, of all persons being inhabitants of or having their places of business in Cape Town, who shall during the last preceding twelve months have paid such dock dues as are provided by the thirteenth section of the said Act No. 22 of 1872, and setting forth the christian and surname of such person at full length, or the name of the firm (in case the said dock dues shall have been paid by a firm and not by a single individual), the place of his or their business, and the amount of such dock dues which such person or such firm shall have paid during the period aforesaid, and such person or persons shall be entitled to vote in proportion to the amount of dock dues paid by them severally according to the schedule to this act.

List to be made of persons paying Dock Dues.

VI. As soon as the list in the last preceding section shall be complete the said board shall cause the same to be transmitted to the collector of customs, who shall cause copies thereof to be posted in some convenient place, heading such list with the words "List of persons and firms entitled to vote at the election of commissioners of the Table Bay harbour Board."

When such list complete a voters' list to be framed.

VII. In case within one month after the posting of such list, as in the last preceding section mentioned, any complaint shall be made to the collector of customs of the omission therefrom of the name of any person or firm whose name ought to have appeared upon such list, or of the insertion therein of the name of any person or firm which name ought to be expunged from such list, it shall be the duty of the said

Complaints against such list to be investigated by Collector of Customs.

- No. 26, 1881. collector of customs to investigate such complaint, and to add, or remove, any such name to or from such list as to him shall seem just.
- List when settled to be list of Voters for Commissioners. VIII. The persons and firms named in such list, after the additions to or alterations of the same (if any) have been made by the said collector of customs as aforesaid, shall be the voters entitled to vote at the election of the commissioners as hereinafter provided, and as often as a firm shall be named in such list of voters, such firm shall be entitled to vote by one member thereof, and no more, or may by an authority in writing appoint some person to appear and vote for such firm.
- Every Voter qualified to be Commissioner. IX. Every person being a voter, as in the last preceding section provided, and whether he be so individually or as a member of a firm, shall be qualified to be elected a Commissioner of the said Harbour Board : Provided, however, that no such voter shall be competent to be a candidate for the said office unless he shall have received and accepted a requisition to become such candidate signed by not less than five duly qualified voters, and shall have transmitted such requisition, with his acceptance thereof, to the collector of customs at least ten days before any election is appointed to take place.
- On Requisition. X. The collector of customs shall at least seven days before the day appointed for the election cause the names of the candidates for election thereat, together with the names of the persons who have signed such requisitions, to be published in the *Government Gazette* and one or more newspapers published in Cape Town.
- Names of Candidates to be published. XI. Every election under this Act shall take place before the collector of customs, who shall be the returning officer for that purpose, on such day and at such place as he shall appoint, and the poll shall be kept open from nine o'clock a.m. until one o'clock p.m.
- Election to be before Collector of Customs. XII. The poll shall be taken by some officer to be appointed for that purpose by the collector of customs, and the voting at such poll shall be by voting papers.
- Polling Officer. XIII. Every candidate may, if he thinks fit, appoint a scrutineer to see that the votes are fairly taken and recorded.
- Scrutineers. XIV. At the close of the election the returning officer shall ascertain the number of votes given for each candidate ; and so many candidates being equal to the number to be chosen as shall have the greatest number of votes shall be declared by the returning officer to be duly elected.
- Returning Officer to declare result of election. XV. At the first election of Commissioners under this Act, the voters shall elect, in manner by this Act provided, three commissioners, who shall be deemed to enter upon their office on the first Monday following, in conjunction with the four other commissioners appointed by the Governor.
- Three Commissioners to be elected.

XVI. Of the persons so elected as in the last preceding section, the commissioner who shall have been elected by the smallest number of votes shall vacate his seat at the expiration of one year from the date of entering upon his office; and in case from any cause it shall be uncertain which of them shall vacate his seat, the returning officer shall cause such question to be determined by lot; and the remaining two elected commissioners shall vacate their seats in like manner at the expiration of two years and three years respectively; and upon the retirement from office of such commissioners respectively, they shall be succeeded by commissioners who shall be elected as hereinbefore provided, so that at every annual election after the first there shall be elected one commissioner who shall enter upon his office on the first Monday after his election, and continue therein for three years, and every retiring commissioner shall be eligible for re-election.

No. 26, 1881.

Rotation of retirement of Commissioners.

XVII. If any elected commissioner shall die, resign, become insolvent, or assign his estate for the benefit of his creditors, or shall be absent from the ordinary meetings of the board for a period of three calendar months, his office shall become vacant and a commissioner shall be elected in his place and stead, in manner hereinbefore provided, who shall hold office for the remainder of the term for which the commissioner who has vacated office and whom he shall succeed would otherwise have remained in office.

How Office to become vacant.

XVIII. In case of an equality of votes at any election of a commissioner under this Act, the returning officer shall determine by lot which of the persons for whom an equal number of votes shall have been given shall be elected, in case such persons cannot be both or all of them elected.

Provision in case of equality of votes.

XIX. The commissioners present at the first meeting of the board constituted under the provisions of this Act, and at the first meeting held after every annual election respectively, shall elect from amongst themselves a chairman who shall hold such office for the space of one year and who shall, when present, preside at all the meetings of the board: Provided that if at any meeting such chairman shall not be present, the members attending such meeting shall elect from among themselves a chairman to preside at such meeting: and provided also that in case at any election of a chairman under the provisions of this section any two or more commissioners shall have an equal number of votes, it shall be decided by lot which of such commissioners shall be the chairman.

Chairman to be chosen annually.

XX. At every meeting of the board three commissioners shall form a quorum; and in case the votes of the commissioners upon any question before them shall be equally

Quorum.

111

No. 28, 1881.

None to vote who
have interest at stake

divided, the presiding member shall, in addition to his original or deliberative vote, have a casting vote: Provided, however, that no commissioner shall vote on any question in which he shall have any personal or pecuniary interest, directly or indirectly, under a penalty not exceeding one hundred pounds sterling, to be sued for by the attorney-general.

Payment of Commis-
sioners.

XXI. Every commissioner appointed or elected under the provisions of this Act shall be entitled to receive the sum of twenty shillings for each attendance at the meetings of the board: Provided, however, that no commissioner shall receive more than one hundred pounds sterling in any one year in respect of such attendances.

Rights, powers, &c.
of present Commis-
sioners conferred on
new Board.

XXII. All the rights, powers, duties, privileges and authority conferred upon, assigned to, and at present enjoyed or received by, the existing board of commissioners for the management of the dock and breakwater of Table Bay by virtue of any ordinance, act of parliament or other statutory enactment having the force of law, and not repugnant to or inconsistent with the provisions of this Act, shall be, and the same are hereby, conferred upon, assigned to, and continued in, the board of commissioners to be appointed and elected under this Act; and such commissioners shall be designated the "Table Bay Harbour Board," and may by such title sue and be sued and be described in all legal proceedings.

Board may land,
warehouse, and de-
liver goods.

XXIII. In addition to all such existing rights, powers, duties, privileges and authority, it shall be lawful for the board of commissioners under this Act to land, warehouse, and deliver goods and merchandize by themselves or by their duly constituted agents in that behalf; and for the purposes of such landing, warehousing and delivery to construct or hire such railways, tramways, sheds, or warehouses as they may deem necessary, and to enter into contracts or make arrangements with any public company or private individuals for any such construction or hiring.

Interpretation of
"Dock" or "Docks."

XXIV. The words "dock" or "docks" in this or any other Act relating to the harbour of Table Bay shall be taken to mean the docks, basins, and other works connected therewith, which as the Governor shall from time to time by proclamation declare to be a dock for the purposes of such Act.

Short title.

XXV. This Act may be cited for all purposes as the "Table Bay Harbour Board Act, 1881."

SCHEDULE TO THIS ACT.

No. 26, 1881.

VOTES ACCORDING TO DUES PAID IN RESPECT OF EVERY
COMMISSIONER TO BE ELECTED.

Not less than £10, and not exceeding £100,	One Vote.
Exceeding £100, " " £200,	Two Votes.
" £200, " " £300,	Three "
" £300, " " £400,	Four "
" £400, " " £500,	Five "
" £500, " " £600,	Six "
" £600, " " £700,	Seven "
" £700, " " £800,	Eight "
" £800, " " £900,	Nine "
" £900 and upwards	Ten "

Spent.

No. 27—1881.]

ACT

[June 25, 1881.

To Apply a Sum of Money for the Service of the Year
ending the 30th day of June, 1882.

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

I. The public revenue of the colony is hereby charged Revenue charged with £2,070,931.
towards the service of the year ending the 30th day of June,
1882, with a sum of two millions seventy thousand nine
hundred and thirty-one pounds sterling.

II. The money granted by this Act shall be applied for Application thereof.
the purposes and services expressed in the schedule annexed
hereto, and more particularly specified and set forth in the
colonial estimates and supplementary estimates of the expen-
diture for the year ending 30th June, 1882, with the notes
to such estimates submitted to and approved by Parliament.

III. The said aids and supplies shall not be issued or Not to be otherwise applied.
applied to any use, intent, or purpose other than the particular
services to which the said amounts have been granted respec-
tively by this Act, and the aforesaid schedule, estimates, and
supplementary estimates.

IV. This Act may be cited for all purposes as the "Ap- Short title.
propriation Act, 1881."

SCHEDULE.

Summary of Recapitulations of Estimates and Supplementary Estimates.	Establishments.	Services exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Ministerial Department of the Colonial Secretary	539,665	461,572	1,001,237	893,554
II. Ministerial Department of Treasurer of the Colony	44,802	829,067	873,869	43,362
III. Ministerial Department of Attorney-General	31,795	16,050	47,845	34,290
IV. Ministerial Department of Commissioner of Crown Lands and Public Works	103,918	893,425	997,343	975,653
V. Ministerial Department of Secretary for Native Affairs ..	87,661	54,965	142,626	124,072
Grand Totals ..	807,841	2,255,079	3,062,920	2,070,931

No. 28—1881.]

ACT

[June 25, 1881.]

To Provide for the Registration of Title in certain cases, and for the Disposal of certain Derelict Lands.—

Preamble.

WHEREAS it is expedient to repeal the Ordinance No. 97, intituled “An Ordinance for enabling certain persons having respectively the just, lawful and undisputed right to certain lands and houses, to procure the same to be enregistered as their property in the land register,” and to make other provisions in lieu thereof and to make provision for the registration of title to certain lands acquired under powers granted by the legislature to certain persons and public bodies: And whereas it is further expedient to provide for the disposal of certain derelict lands whereon rents, rates, and assessments are due and unpaid

for a number of years, and for the speedy and inexpensive recovery of such rents, rates, and assessments: 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:—

No. 28, 1881.

I. The said Ordinance No. 97 and “The Ordinance No. 97 Perpetuation Act, 1865,” and so much of any other law or ordinance as may be repugnant to or inconsistent with the provisions of this Act shall be, and the same are hereby, repealed.

Repugnant laws repealed.

II. Any person who shall, by prescription, or by virtue of any contract or transaction, or in any other manner, have acquired the just and lawful right to the ownership of any immovable property in this colony, registered in the name of any other person and cannot procure the enregisterment of such property in his name in the land register in the manner and according to the forms for that purpose by law provided, by reason of the death, mental incapacity, insolvency, or absence from the colony, of the person in whose name such property stands enregistered as aforesaid, or of any person or persons through or from whom such right shall have been mediately or immediately derived, or owing to any other cause, may apply to the supreme court by petition to order the registration of the title to such property in his name in the land register of the colony.

Persons having acquired Title to derelict lands may petition Supreme Court to order registration of such Title.

III. As often as by any law now or hereafter to be in force in this colony any person or body corporate or incorporate shall have acquired the right to any immovable property by expropriation and shall be entitled to obtain registration of title to such property, but cannot from any cause obtain such registration in the manner and according to the forms by law provided, such person or body may apply to the supreme court to order registration of title.

Also persons entitled to expropriate land and unable to obtain title in ordinary way.

IV. Whenever there shall remain due and unpaid for the space of ten years, any quitrent or reservation in the nature of quitrent payable to any person or body corporate or incorporate (other than the colonial government) or any rate or assessment payable to any municipality, municipal corporation, divisional council, or other public body, upon any immovable property in this colony, and such property shall be abandoned, deserted and left derelict, and the owner thereof cannot be found, it shall be lawful for the person or body claiming such quitrent, rate or assessment to apply to the supreme court by petition stating the amount claimed to be due and the grounds for applying for relief under the provisions of this Act.

Persons having claim on derelict land may petition Supreme Court for relief.

No. 28, 1881.
 Petitions to be filed and supported by affidavits.
 V. Every petition to the supreme court under the provisions of this Act shall be lodged with the registrar of the said court, and the allegations contained in such petition shall be supported by affidavit and such documents in proof as the petitioner may be able to adduce.

Petition to be laid before Judge in Chambers.
 VI. Every such petition shall be laid before one of the judges in chambers, who shall make such order thereon as to him shall seem fit, and any such judge may order that any matter arising upon any such petition shall be argued before and determined by the full court.

Rule nisi to be granted by Court or Judge.
 VII. Upon considering any petition for registration of title, the court or judge may, if such court or judge shall deem it expedient to do so, grant a rule setting forth the description of the property mentioned in such petition, and calling upon all persons having or pretending to have any right or title to such property to appear and establish their claims to the same upon some day to be named in the rule, or be for ever barred therefrom, and may direct the mode of service or publication of such rule.

Power of Court or judge to order registration of title as prayed.
 VIII. Upon considering any such petition for registration of title, the court or judge may, and upon the return of any such rule granted as aforesaid, and no cause being shewn to the contrary, the court may order the registrar of deeds to enregister the property mentioned in such order as the property of the person therein named, subject to such terms and conditions as may be therein mentioned.

In case of objection, Court or judge may direct trial of issues without pleadings.
 IX. In case any person should appear to shew cause against any rule so granted as in the last preceding section mentioned the court may, if it shall see fit to do so, and without the issue of any summons, require any issue of fact to be tried upon pleadings or may make such order as will in the most speedy and inexpensive manner determine the matter in controversy.

Judge or Court may order property to be attached or sold to satisfy claims.
 X. Upon considering any petition for the sale of immovable property abandoned and left derelict, to satisfy any such claim as is referred to in the fourth section of this Act, the judge before whom such petition is laid, or the court, should such judge, by order or rule granted, refer such petition to the court, may order that the property mentioned in the petition be attached and sold to satisfy such claims as aforesaid thereon.

Subject to such order conventional mortgages not to be affected.
 XI. Subject to the terms of any such order for registration of title as aforesaid, any conventional hypothecation over any immovable property so registered which shall be in existence at the date of such registry shall attach to and upon the said property precisely as it then exists, and all usual and proper entries and endorsements upon or in regard to any deed of transfer issued by the registrar of deeds in obedience to such

order shall be made in the deeds registry before such deed shall be delivered to the person entitled thereto. No. 28, 1881.

XII. Every registration of immovable property made in favour of any person in pursuance of any order granted under the provisions of this Act shall have the effect of vesting such person with a title and right to such property which shall and shall not respectively be liable to be annulled, set aside, limited and affected on every ground and by reason of every and any cause, matter or thing by reason of which the title and right of such person to such property would or would not have been liable to be annulled, set aside, limited or affected if such property had been regularly transferred to and in favour of such person and to and in favour successively of every person through or from whom his right was derived or acquired. Effect of registration of Title under this Act.

XIII. When any order shall have been made under the provisions of this Act directing the registrar of deeds to enregister any property in the name of any person, such person shall be liable to pay such taxes, duties, or stamps in respect of such registration as he would have been liable to pay if such property had been transferred to him directly from the person last enregistered as the proprietor thereof in due form of law, and shall not be liable or required to pay, nor shall the registration directed to be made in his favour be suspended or stayed by reason of the non-payment of any tax, duty, quitrent, or fine, which the person last enregistered as such proprietor, or any other person through or from whom he has mediately or immediately derived his right to such property may have become liable for or incurred, unless he shall by some contract or agreement have specially bound himself to pay such tax, duty, quitrent, or fine: Provided that any person who may have become liable for, or incurred such tax, duty, quitrent, or fine shall be and continue personally liable for the same, notwithstanding that such property shall, by virtue of such order, have been registered as the property of the person therein named. Liability of persons to whom title given under this Act to pay taxes, duties, &c., incurred.

XIV. Upon production to the registrar of deeds of any order granted under the provisions of this Act, and of a certificate of the proper officer of the due payment of the transfer duty, if any, which the person named in the order is liable to pay, the said registrar shall enregister the immovable property as by the said order may be directed, in the form as nearly as is material contained in the schedule to this Act, subject to such conditions and stipulations as would have been contained in a deed of transfer passed in due and customary form to such person from the person last enregistered as the proprietor of such property, and to such other conditions as the said order may direct. Previous owner to remain personally liable.

XIV. Upon production to the registrar of deeds of any order granted under the provisions of this Act, and of a certificate of the proper officer of the due payment of the transfer duty, if any, which the person named in the order is liable to pay, the said registrar shall enregister the immovable property as by the said order may be directed, in the form as nearly as is material contained in the schedule to this Act, subject to such conditions and stipulations as would have been contained in a deed of transfer passed in due and customary form to such person from the person last enregistered as the proprietor of such property, and to such other conditions as the said order may direct. Registrar of Deeds to comply with order made under this Act.

No. 28, 1881.

Registrar of Court
to issue attachment
under Section 10.

XV. Whenever the court or a judge shall have ordered the attachment and sale of any derelict property under the tenth section of this Act the registrar of the court shall issue a writ for the attachment of the property mentioned in such order.

Sheriff to attach.

XVI. The sheriff or his deputy shall attach the property by the writ directed to be attached by giving notice thereof to the registrar of deeds, and upon such notice being lodged with the said registrar the said property shall be deemed to be duly attached and no other proceedings shall be necessary, anything in the twelfth or any other section of Ordinance No. 37 regulating the duties of sheriff, or any rule of court to the contrary notwithstanding.

Rules of Court in
cases of ordinary
attachment to apply.

XVII. Upon such attachment being made as aforesaid the like proceedings shall be had and taken as are by the existing rules of court provided in the case of immovable property attached in execution of any judgment of the court save and except that it shall not be necessary to cause a valuation of the property to be made as provided by rule 110, nor to affix a reserve price as by rule 113 is provided.

Claims to be proved
under rule of Court
105.

XVIII. At the meeting to be held pursuant to rule 105 it shall be lawful for any person or body other than the petitioner at whose instance the property has been attached to appear and prove by affidavit any claim for quitrent or rates due upon or in respect of the same property.

Petitioners' costs to
be first paid out of
proceeds of sale.

XIX. In case the amount realised by the sale of the property attached shall be insufficient, after the payment of the hypothecations on or affecting the same (if any), to pay the claims of the petitioner and others proved as aforesaid, the costs allowed to the petitioner shall first be paid thereout and the balance rateably divided between or amongst the petitioner and the said claimants.

Surplus of proceeds
after payment of all
claims to be paid
into Guardians' fund.

XX. Any sum of money which the court or judge making any order under the provisions of this Act shall find to be due by the person in whose favour such order is made to any other person, and any sum of money which shall remain in the hands of the sheriff as the proceeds of any immovable property attached and sold under any such order, after payment of all claims allowed against such proceeds and all costs allowed and ordered to be paid thereout shall, in case the person to whom such money shall be payable shall be absent from the colony, unknown, or a minor, be paid into the guardians' fund to credit of such person or persons as may be entitled to the same or otherwise as may be ordered by such court or judge.

Costs of order under
this Act to be in
discretion of Court
or Judge.

XXI. The court or judge, as the case may be, making any order under the provisions of this Act may make such

order as to costs, and to and by whom the same shall be paid, as to such court or judge shall seem meet. No. 28, 1881.

XXII. As often as by this Act jurisdiction is given to the supreme court, the court of the eastern districts and the high court of Griqualand West, shall respectively have jurisdiction concurrently with that of the supreme court in regard to all immovable property lying and being within the area over which such courts respectively have jurisdiction. Jurisdiction of Eastern Districts' and Griqualand West Courts.

XXIII. The judges of the supreme court, acting in pursuance of any Act for the time being regulating the making of general rules of court, may from time to time make such rules concerning the form and mode of proceeding under this Act by the court or a judge in chambers as to such judges shall seem meet. Supreme Court may make rules under this Act.

XXIV. All memorials lodged with the secretary of the committee appointed under the provisions of the said Ordinance No. 97, and not reported upon prior to the taking effect of this Act, may be laid before one of the judges in chambers, and shall thereupon be proceeded with precisely as if every such memorial were a petition referred to in this Act. Memorials under Ordinance No 97 not reported upon.

XXV. This Act may be cited for all purposes as the Short title. "Titles Registration and Derelict Lands Act, 1881."

SCHEDULE.

DEED OF TRANSFER.

Know all men whom it may concern,

That in obedience to an order of the supreme court [or of the court of the eastern districts, or of the Honourable Mr. Justice in chambers, as the case may be] under the provisions of the "Titles Registration and Derelict Lands Act, 1881," I, the registrar of deeds, do hereby cede and transfer in full and free property to and on behalf of, his heirs, executors, administrators, and assigns certain (here describe the property) and that by virtue of these presents the said., his heirs, executors, administrators and assigns now is and henceforth shall be entitled thereto, conformably to local custom, government however reserving its right.

In witness whereof I, the said registrar, have subscribed to these presents and have caused the seal of office to be affixed thereto.

Thus done and executed at the office of the registrar of deeds, in Cape Town, Cape of Good Hope, on the day of the month of, in the year of our Lord one thousand eight hundred and

"A.B.," Registrar of Deeds.

No. 29—1881.] ACT [June 25, 1881.

To provide for the Management of Villages and other Communities, not being Municipalities.

Preamble.

WHEREAS it is expedient to provide for the better government of certain towns, villages, and communities not being municipal corporations: Be it therefore enacted by the Governor, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Repugnant laws repealed.

I. The Act No. 10 of 1870, and every other ordinance, act, or other statutory enactment in conflict with, or repugnant to, the provisions of this Act, are hereby repealed so far as such conflict or repugnancy may exist, but not further or otherwise.

Act to apply to communities proclaimed by Governor.

II. The provisions of this Act shall apply to all such communities not being municipalities as the Governor may, by any proclamation in that behalf, published in the Government Gazette, declare to be subject thereto.

Proclamation to fix limits of communities.

III. Every such proclamation as in the last preceding section mentioned shall fix and determine the local limits within which the provisions of this Act shall be in force, and such limits may from time to time be altered by the Governor by proclamation published as aforesaid.

Resident Magistrate to frame list of voters.

IV. As soon as any such proclamation as aforesaid shall have been issued, the resident Magistrate of the division in which the locality named in such proclamation shall be situated shall, from the list of registered voters of the division, frame a list of all such voters as shall be resident within the limits defined by such proclamation, and shall thereafter as often as any fresh registration of voters within the said division shall take place, frame from the new list of such voters a revised list of such voters who are resident as aforesaid.

And to call meeting of voters to elect Board of Managers.

V. As soon as possible after the promulgation of this Act, and the issuing of the proclamation in the second section hereinbefore mentioned, the resident magistrate shall issue a notice, by publishing the same in some local newspaper (if any) and by affixing the same to the door of the court-house and such other public place or places within the limits aforesaid, as he shall deem convenient, calling, at some specified date, within a reasonable time to be mentioned in such notice, a public meeting of the registered voters enrolled upon the list framed by him, as hereinbefore provided, at some place within the limits aforesaid, to be also mentioned in the said notice, for the purpose of electing a board of management for the community: and in each succeeding

year after the year in which the notice aforesaid shall have been given, the said magistrate shall give a similar notice, published in a similar manner, calling a meeting of the registered voters aforesaid, to be held on the first Wednesday of the month of July in every such year for the purpose of electing a new board of management for the twelve months commencing from the first day of August after the date of such meeting.

No. 29, 1881.

VI. At every such meeting as in the last preceding section mentioned, the said resident magistrate shall attend at the time and place named in the notice thereof, and shall preside at such meeting.

Magistrate to preside at meeting.

VII. It shall be lawful for any such registered voter enrolled as aforesaid present at such meeting to nominate some person who shall be either such registered voter resident within the said limits, or duly qualified to be such, and every such nomination shall, before it is submitted to the meeting, be seconded by some other such registered voter present. From the persons so nominated and seconded such meeting shall elect three who shall form and be called the "board of management" for the community resident within the said limits. In case three persons only shall be so nominated and seconded, such three persons shall be declared to be duly elected as such board of management; but in case more than three persons shall be so nominated and seconded, the said resident magistrate shall then and there proceed to take a poll of the registered voters present enrolled as aforesaid (either by ballot or by open voting, as he may decide), and such three persons duly nominated and seconded as shall gain the greatest number of votes at such poll shall then be declared to be duly elected, and shall form the board of management of the community: Provided that if two or more persons who have received the greatest number of votes, and who cannot be both or all elected shall each have received the same number of votes, then the question between such persons shall be decided by lot, to be drawn in presence of the resident magistrate; and provided, further, that every registered voter shall be entitled to give one vote for each of any number of candidates not exceeding the number to be elected.

Qualification of members of Board.

How to be elected.

VIII. The resident magistrate shall, as soon as may be after such election, publish in the Government Gazette the names of the persons so elected, and such persons shall form the board of management of the community until a new board shall be elected in like manner as in the last preceding section provided, on the first Wednesday in the month of July in the following year.

Magistrate to publish names of persons elected.

IX. In case any member of the said board shall leave the limits of the community for the space of three calendar

In case member becomes disqualified, fresh election.

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No. 29, 1881.

months, or shall fail to attend three consecutive meetings of the board, or shall become insolvent or assign his estate for the benefit of his creditors, or die or be incapacitated from acting by reason of mental or bodily disease, such member's seat shall be, *ipso facto*, vacated; and it shall be the duty of the remaining members of the said board to report such vacancy to the resident magistrate, who shall forthwith call a meeting of the registered voters aforesaid, for the purpose of electing another member of the said board; and the proceedings at such meeting shall, *mutatis mutandis*, be the same as those provided for in the seventh section of this Act.

Governor may appoint members if voters fail to elect.

X. If the voters aforesaid shall at any time fail or neglect or refuse to elect such board of management, or to elect a sufficient number of members to form such board, it shall be lawful for the Governor by proclamation to appoint from among the persons qualified to be elected to sit upon such board as aforesaid, three members to constitute such board, or such member or members as shall, together with any members or member duly elected as hereinbefore provided, make up the full number of members of such board; and any board or members so appointed shall be invested with the same powers and be in all respects in the same position as if such board or such members had been duly elected under the provisions of this Act.

Meetings of the Board.

XI. Such board of management shall meet as soon as practicable after election, and shall continue to meet from time to time, not being less than once a month, at such time and place as they shall determine.

Chairman to be chosen.

XII. At the first meeting of the said board the members shall elect a chairman, who shall preside at the meetings of the board (of which two members shall form a quorum) if he be present, and in case of his absence the other two members shall either agree or decide by lot which of them shall, at and with respect to such meeting, perform the duties of chairman.

Quorum.

XIII. The proceedings at the meetings of the said board shall be public, and all questions coming before the meeting shall be decided by the majority of votes of the members present, which votes shall be given openly. But in case two members only shall be present at any meeting and they shall not agree in the decision of any question before them, such question shall stand over until there shall be a full meeting of the said board to decide the same.

Questions to be decided by a majority of those present.

Minutes to be kept.

XIV. Minutes of the proceedings of every meeting of such board shall be regularly entered in a book to be kept for that purpose, and shall be read and confirmed at the next succeeding meeting and signed by the person presiding thereat. All such minutes shall be deemed and taken to be original minutes, and such book shall and may be produced and read

as *prima facie* evidence of all the proceedings therein recorded, in any court, civil or criminal. No. 29, 1881.

XV. The said board of management shall appoint, during pleasure, such fit and proper officers as it shall find necessary for carrying out the purposes of this Act, and shall pay to them such salaries and assign to them such duties as they may think fit. Officers to be appointed.

XVI. It shall be lawful for the divisional council of the division in which any such community is situated, and such divisional council is hereby required, upon the application in writing of the chairman of the board of management, to levy a rate upon all the rateable property within the limits of such community, but no such rate shall exceed threepence in the pound sterling for any one year; and such rate shall be levied and collected by the said divisional council in all respects as if it were a rate lawfully levied by such council for its own purposes; and the proceeds of the rate so levied after deducting ten per cent. for the expenses of levying and collecting such rate shall be paid over as soon as may be after collection thereof at the end of each month by such council to the chairman of the said board of management, who shall grant a receipt for the same; and the amount so received shall be held by the said board of management and devoted to the carrying out of the purposes of this Act. Divisional Council to levy rate at the request of Board.
Limit of Rate.
Application of rates.

XVII. Every board of management shall cause proper accounts to be kept of all moneys received and expended under the provisions of this Act, which accounts shall be open, at all reasonable times, to the inspection of all persons interested therein: and at the end of his term of office the chairman of the board shall render to the resident magistrate of the district a statement of the accounts of the board, which statement shall be certified as correct by a solemn declaration of such chairman made before a justice of the peace; and all the assets, accounts, books, and other property of the said board shall be handed over to the new board so soon as such new board shall have been elected. Accounts to be kept and rendered to Magistrate.

XVIII. No member of any board of management shall receive any salary, fee, or reward of any kind for the performance of the duties of his office, and any member contravening this provision shall, *ipso facto*, vacate his seat on such board; and no member of any board shall contract with such board to perform any of the services which such board may require to be done, and any member so contracting shall, *ipso facto*, vacate his seat on such board; but nothing herein contained shall be construed so as to prevent any member of the board from gratuitously rendering any service, or doing any work which the said board may require to be done. Members of the Board to receive no pay.
Nor to be contractors.

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Duties of the Board.

XIX. It shall and may be lawful for every board of management to cause all public streets, roads, and places within the limits before-mentioned to be at all times kept in good and sufficient order and repair; and to make all necessary furrows, watercourses, drains, sewers, culverts, and bridges within the said limits; and to construct such works and take such lawful measures as to them shall appear necessary for the purpose of providing a proper supply of water for the inhabitants residing within such limits; and it shall further be lawful for such board to frame such regulations as may be required in order to prevent the obstruction of any road, street, highway, or other public place within the said limits; or to prevent vehicles from being kept in any such road, street, or other public place for an unreasonable time; or to prevent any inconvenience to the public from animals being allowed to wander about within such limits; or to provide for the isolation of persons or animals suffering from any dangerous contagious disease, and for the prevention or suppression of such disease; or to provide for the removal and disposal of all night soil, stable litter, excrement, and other refuse and filth from public and private premises and from all streets, roads, and thoroughfares; or to prevent the dangerous or mischievous use of gunpowder or other combustibles within the said limits; or to prevent the making of noises in any street or public place with trumpets or drums, or whips, or by other means; or to prevent or impose restrictions upon the keeping of ferocious or troublesome dogs or other animals within the said limits; or to prevent any building or other structure within the said limits from being kept in a condition dangerous to the public or to the personal safety of any individual; or to provide against the pollution of any water which the inhabitants living within the said limits have a right to use; or to provide for the distribution of water among such inhabitants for purposes of irrigation or for domestic use or otherwise; or to provide for the prevention and extinguishing of fires within such limits; or to provide for the granting of licences or permits for the making of bricks, or the digging or getting of clay or gravel, or the quarrying of stone, or the cutting of firewood, brushwood, or grass upon the common lands, and for the payment of reasonable fees or dues for such licences or permits; or to provide for the management and protection of all common pasture lands and the preservation of all vegetation thereon, and the fixing of the number and description of live-stock any inhabitant shall be allowed to keep and depasture thereon or on any part thereof; or to provide for the granting of temporary grazing rights over the said lands to travellers or carriers or other persons frequenting or passing through the

said locality, and for the payment of reasonable dues in consideration thereof; or to provide for the impounding of all animals trespassing on such common lands; or to prevent damage to any property to which the said inhabitants may have a common right, or to recover compensation for such damage; or to provide for the prevention, removal, or abatement of all nuisances within the said limits which may tend either to injure the health, destroy the comfort, or affect the rights of the said inhabitants at large.

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XX. All regulations framed under the provisions of this Act shall be submitted to the Governor for approval or alteration or amendment, and shall together with such alterations or amendments as the Governor may have seen fit to make therein be published in the Government Gazette, and shall thenceforth have the force of law: Provided, however, that it shall be competent for any such board from time to time to alter or amend any regulations made and published as aforesaid, and thereupon such amended regulations shall be transmitted to the Governor, who may deal with the same in manner hereinbefore in this section mentioned, and such amended regulations after the same shall have been published in the Government Gazette, shall also have the force of law.

Regulations under this Act to be submitted to Governor.

XXI. Any person contravening any of the regulations made and published as in the two last preceding sections mentioned, shall be liable to pay a fine not exceeding five pounds or to be imprisoned with or without hard labour for a period not exceeding thirty days, unless such fine be sooner paid: And all prosecutions for any such contravention may be instituted in the court of the resident magistrate of the district in which the offence was committed, or before any special justice of the peace in respect of any contravention within his jurisdiction, provided that no fine imposed, and no term of imprisonment awarded by any special justice shall exceed the amount and term respectively mentioned in the second section of the Act No. 10 of 1876. And all fines which shall be recovered by means of any such prosecution together with all moneys which shall become payable under and by virtue of the regulations duly framed under the authority of this Act, shall be paid to the said board of management and be applied by them in carrying out the purposes of this Act.

Penalty for contravention of regulations.

Prosecutions under the Act.

XXII. It shall be the duty of every board of management to enforce all regulations made under the authority of this Act and to prosecute all breaches and contraventions of the same, and to use all diligence in carrying out the several provisions and objects of this Act generally.

Board to enforce regulations.

- No. 29, 1881. **XXIII.** It shall be lawful for every board of management to enter into contracts, and to employ labour for the purpose of carrying out any work required to be done, or for doing anything which such board is, by the provisions of this Act, authorized to undertake or to do.
- Board may enter into necessary contracts. **XXIV.** In any action or suit, civil or criminal, which may be brought by or against any such board as aforesaid, it shall be sufficient to describe such board as "The Board of Management of _____," without mentioning the names of any of the members comprising such board.
- How Board to sue and be sued. **XXV.** All necessary costs, charges and expenses incurred in the carrying out of the provisions of this Act and the regulations made thereunder, may be lawfully paid out of any of the funds which shall come into the possession of the board of management.
- Expenses incurred under the Act to be paid out of Board's funds. **XXVI.** As often as any town, village, or community to which this Act has been made applicable (by any such proclamation as in the second section mentioned) shall become a municipality, then this Act and any regulations made in pursuance thereof shall continue to apply only until the first set of municipal regulations for such municipality shall be promulgated and no longer.
- Provision in case any community becomes a municipality. **XXVII.** This Act may be cited as the "Villages Management Act, 1881."
- Short title.
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No. 1—1882.] ACT [May 25, 1882.

To Amend the Constitution Ordinance.

WHEREAS it is expedient to amend the Ordinance Preamble.
 enacted on the third day of April, 1852, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, intituled “An Ordinance for Constituting a Parliament for the said 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:—

I. So much of the Eighty-ninth Section of the said Ordinance as is repugnant to or inconsistent with the provisions of this Act shall be and the same is hereby repealed. Section 89 of Constitution Ordinance repealed.

II. From and after the passing of this Act, all debates and discussions in the Legislative Council and House of Assembly may be conducted either in English or Dutch, but in no other language. Dutch language may be used in Parliament.

III. This Act may be cited as “The Constitution Ordinance Amendment Act, 1882.” Short Title.

No. 2—1882.] ACT [May 25, 1882.

For Enabling the Commissioners of the Municipality of Stellenbosch to borrow Funds wherewith to increase the Water Supply of the said Municipality.

WHEREAS it is desirable to extend and otherwise improve the waterworks of the municipality of Stellenbosch, by making a new and large reservoir and cleaning and renewing the existing water pipes: and whereas it is desirable that the commissioners of the said municipality should be empowered to borrow for such purpose an amount of money which shall not exceed in the whole the sum of three 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:— Preamble.

I. It shall be lawful for the commissioners of the municipality of Stellenbosch to borrow from time to time such sum or sums of money, not exceeding in the whole the sum of three thousand pounds sterling, for the purpose of improving the water supply of the said village, and in order to provide for the payment of the interest or principal of the moneys Sums not exceeding altogether £3,000 may be borrowed on security of rates

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so to be borrowed, to impose rates upon the immovable property situate within the municipality and liable to be rated for municipal purposes; and every rate so imposed by the said commissioners shall be of the same force and effect, and be levied in the same manner, as if it had been a rate imposed under the provisions of Ordinance No. 9 of 1836, and the several Acts amending the same.

Borrowed sums charged on the rates.

II. The sum aforesaid of three thousand pounds sterling, or such lesser sum as shall have been borrowed for the purpose aforesaid by the said commissioners, is hereby charged upon and made payable out of all and singular the rates in the last preceding section mentioned, and the revenues presently arising from the existing waterworks of the said municipality: Provided that it shall be lawful for the said commissioners to apply to the payment of the interest or principal of the said debt any funds or moneys coming to them from any source whatever, and not specifically appropriated or required for any other object: Provided, also, that nothing in this section contained shall be construed so as to impair or affect the provisions of any of the next succeeding sections.

Receipt to be given as in Schedule.

III. The commissioners aforesaid shall grant to the party or parties, or company, society, or co-partnership, from whom they shall borrow such money as aforesaid, a written acknowledgment of or for the moneys borrowed by the said commissioners for the purpose aforesaid, which acknowledgment shall in substance be in the form contained in the schedule annexed to this Act, and shall be signed on behalf of the said commissioners by three of the commissioners for the time being.

“Public Bodies’ Debts Act, 1867” to apply

IV. All moneys borrowed for the purpose of this Act shall be borrowed under the provisions of the “Public Bodies’ Debts Act, 1867.”

Special accounts to be kept of moneys borrowed.

V. The commissioners shall keep, or cause to be kept, a separate and distinct account of all moneys borrowed under this Act, and of the expenditure of such moneys and of all revenues arising from the waterworks contemplated by this Act, distinguishing sums received for private service pipes from sums received from rates imposed under the first section of this Act; and of all moneys expended upon the construction and maintenance of the waterworks contemplated by this Act: and the said commissioners shall yearly, as long as any part of any debt contracted under the authority of this Act shall be in existence, prepare and deposit in their office for the inspection, at all reasonable times, of any resident householder of the municipality, an account shewing the particulars aforesaid and made up to the 31st day of December in each year.

VI. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said commissioners out of the money or moneys so to be borrowed as aforesaid.

No. 2—1882.
 Expenses may be paid out of borrowed moneys.
 Short title.

VII. This Act may be cited for all purposes as “The Municipality of Stellenbosch Water Act, 1882.”

SCHEDULE.

We, the undersigned, commissioners of the municipality of Stellenbosch, do hereby acknowledge that the said commissioners in their said capacity are indebted to—the sum of—for so much money borrowed by the said commissioners for the purposes set forth in “The Municipality of Stellenbosch Water Act, 1882,” and certify that the said sum is and stands secured by the said Act in manner and form as by the said Act provided. And we further covenant and engage, for and on behalf of the said commissioners, that the interest and principal of the said debt shall be payable and paid in manner following, that is to say (here insert as agreed upon, the rate of interest and times of payment thereof, and the date or dates or other conditions upon which the principal shall become payable.)

Given under our hands at Stellenbosch, this—day of —, 188—.

A. B. }
 C. D. } Commissioners of Municipality.
 E. F. }

Witnesses :

G. H.
 I. J.

See 1900 Act-19 and 1902 Act-38.

No. 3—1882.] ACT [May 31, 1882.

To Authorise the Construction of a Railway from Imvani on the East London and Queen’s Town Railway to the Indwe Coal Mines, by a Company or an Individual.

WHEREAS the House of Assembly did on the 23rd day of June, 1881, resolve as follows:—That this House, in consideration of the advantages that would result to the country from the construction of 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, and from the opening and working of the Coal Fields, recommends the grant to any company or individual who shall within two years engage to construct a railway at a gauge and on a gradient to be approved of by the Government, the following that is to say a sum of money equal to

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one-fifth of the cost, according to an estimate to be approved of by the Government, of the construction of the said railway line or lines, together with a right to the said company or individual to select, prospect, and work exclusively a coal-bearing section of land in the vicinity of the Indwe, being Crown Lands of not more than five hundred acres, subject to a royalty of sixpence per ton: provided that such contribution shall only become due and payable on the completion of the said railway to the satisfaction of the Government; and provided, further, that when the earnings of the said railway are sufficient, after defraying working expenses, to pay the proprietors interest or dividend at the rate of five per cent. per annum, the surplus shall be distributed *pro rata* between the proprietors and the Government: And whereas it is expedient to empower the Governor to carry out the said resolution with certain alterations as hereafter mentioned: 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 may contract with persons to construct Railway mentioned in Preamble.

I. It shall be lawful for the Governor to contract and agree with any individual or individuals or joint-stock company willing to construct the railway in the preamble to this Act mentioned at his or their own expense and hereinafter in this Act styled the contractor, to pay or grant, as the case may be, to the contractor upon the completion of the said railways within the term of five years from the entering into of any such contract, to the satisfaction of Government—

50,000 to be paid on completion.

a. A sum of money not exceeding fifty-thousand pounds sterling.

Area of 1,000 acres of coal-bearing land may be granted.

b. An area of not more than one thousand acres of coal-bearing land at the Indwe aforesaid, the site of which shall be settled by mutual agreement between the Governor and the contractor.

25,000 morgen of land may be granted in lieu of the £50,000.

c. In lieu of one moiety of the said sum of money in sub-section A of this clause mentioned, at the option of the contractor, an area not exceeding twenty-five thousand morgen of land at such place or places contiguous to the said line of railway from Imvani aforesaid to the said Indwe Coal Fields as may be agreed upon between the Governor and the contractor.

Powers to construct and work given to contractor.

II. The contractor, upon the completion of such contract with the Governor, shall be and is hereby authorised and empowered to construct, work, (and possess and hold in full and free property subject to the provisions of this Act) a railway between Imvani aforesaid and the said Indwe Coal Fields or any portion or portions of the said Coal Fields according to plans to be submitted to the Governor and

referred to in such contract, and construct and work as also possess and hold a telegraph, along the said line subject to the provisions of the Act No. 20 of 1861 entitled "An Act for the Regulation of Electric Telegraphs."

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III. The contractor may himself or by any person or persons duly authorised in writing by the contractor, for the purpose of constructing the said railway, or preparing therefor, enter upon any land, and inspect, survey, bore, and probe, the same, making full compensation to the occupier of the said land, for any damage thereby occasioned, the same to be recoverable by action in any competent court within threemonths from the date upon which such damage is alleged to have been committed.

Power of entry on land.

IV. The contractor may, subject to any limitation contained in the contract with the Government, enter upon, and take possession of, and hold and retain for the purposes of this Act, free of charge, so much of any Crown land as shall be required for the construction and maintenance of the said railway, or any other purposes relating to the execution of this Act, and also enter upon any Crown land lying convenient to the said railway, and dig for, excavate and carry away, all stones, clay or other material required for the purposes of the said railway free of charge: provided that nothing in this Act contained shall establish any servitude in favour of the contractor upon any such land, not being land reasonably required for the actual working of the said railway, which may hereafter be sold or leased by the Colonial Government to any purchaser or lessee thereof.

Power to take Crown Lands.

V. 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 land 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 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 if any lands or materials belonging to any person who shall be absent from the colony or whose place of residence shall be unknown to such contractor shall be required for the making or maintaining of the said railway, then it shall not be necessary to serve the several notices required by the eleventh and twelfth sections of the said Act No. 9, 1858, upon such proprietor, but the publication of any such notice in the *Government Gazette* shall be deemed and taken to be a sufficient notice to such proprietor: Provided also that it shall not be necessary before the exercise of any such powers as aforesaid that any proceedings shall be taken to settle the amount of com-

Powers given by Public Roads Act, 1858, conferred on contractor.

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pensation or recompense to be paid for or in respect of such land or materials, but it shall be lawful for such contractor to enter upon, take possession of, and use any land or materials which may be required for the purpose of the said railway, leaving all questions as to the recompense or compensation to be paid for or in respect of such land or materials to be settled afterwards in manner provided by the twelfth and thirteenth sections of the said Act No. 9, 1858: Provided, further, that no brickfield, garden, orchard, plantation, or ground ornamentally planted shall be used for the purpose of depositing or excavating soil without the consent of the owner thereof; and, provided lastly, that the extent of the land taken for the railway shall not exceed in width thirty feet for the formation line, and sufficient additional required for the slopes, drainage, fencing, and stations, and approach-roads thereto, and that in so doing as little damage as possible shall be done to such lands as aforesaid.

Provisions of 56th and 57th sections of Public Roads Act to apply to these works.

VI. The provisions of the fifty-sixth and fifty-seventh sections of the said Act No. 9 of 1858, relative to injuries done, whether wilfully or carelessly, to the main roads of the colony, and to any buildings and works connected therewith, shall, *mutatis mutandis*, extend and apply to injuries done to the said railway and any buildings connected therewith.

Crossings of roads, bridges, viaducts, &c., to be made.

VII. At all places where the line of the said railway or any deviation thereof shall intersect or cross the line of any street or road, it shall be lawful for the contractor to make and carry the said railway across such street or road either by means of a level crossing or by means of a convenient and sufficient bridge or viaduct over or under the said street or road; and such contractor shall be bound to make all such crossings, 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 may be made crossing line of railway.

VIII. Nothing in this Act contained shall prevent any street or public roads hereafter to be constructed under lawful authority from being made and carried across the said railway at all requisite and convenient places, provided that as little damage and inconvenience as possible shall be caused to the said railway by such crossings.

Line to be fenced.

IX. The contractor shall be bound as soon as the proposed line of railway or any portion thereof is ready for public traffic when required by the proprietors of lands adjoining such portion to fence the same in a proper manner, and to

erect and maintain in order proper swing gates at each side of the line where there is a reasonable necessity that a passage across the line should be left to such proprietors and where public roads cross the line.

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X. The provisions of the Act No. 37 of 1879 shall apply, *mutatis mutandis*, to opening the said gates or leaving the same unclosed or unfastened whether the same be done by the owners or occupiers of land adjoining the railway mentioned in the last section or by any other person.

Act 37 of 1879 to apply to this line.

XI. It shall be lawful for the contractor to exercise all and singular the powers by this Act conferred upon such contractor, by or through an agent in this colony duly appointed; provided that notice of every appointment of any such agent, and of his name and address in this colony shall from time to time be published in the Government Gazette and in one or more newspapers published in King William's Town, East London and Queen's Town.

Contractor may exercise powers given through duly appointed agent.

XII. The said railway 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 certificate shall be borne by the contractor.

Government officer to certify completion of line.

XIII. Upon the completion of the said railway, 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," save and except the 29th and 30th sections thereof, which shall not apply in the premises.

Privileges and conditions of Act 19 of 1861 to attach to contractor.

XIV. The contractor shall have the full right to excavate and mine for, and to work and remove coal and clays in, upon, and from the said coal-bearing land, and shall be bound to pay to the Government the sum of sixpence sterling upon and for every ton of coal taken from the said coal-bearing land, and for the purpose of this Act a ton shall be taken to mean 2,352 lbs. weight.

Right of contractor to excavate.

XV. The payments aforesaid shall be made quarterly to the civil commissioner of the division in which the said coal-bearing land is situated, or to such other person as the Governor shall from time to time nominate and appoint; and the manager, agent, or other person in charge of, or superintending, the works upon such coal-bearing land, shall, within fourteen days after the expiration of each quarter, make and deliver to such civil commissioner, or other person, a solemn declaration, in the form as nearly as is material in the schedule to this Act, stating the quantity of coal raised from the said land during the then previous quarter.

Royalty payable on coal.

Payments of royalty to be made quarterly.

XVI. The contractor shall be bound to keep a book or books in which shall be duly entered the true quantity of coal

Books to be kept by contractor of coal findings.

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which shall be taken from the said coal-bearing land for the purpose of reckoning the amount to be paid to Government quarterly as aforesaid, and such books shall be open to inspection by the said civil commissioner or any person authorized by him or by the Governor, in writing, to inspect the same at all reasonable times, and for every contravention of the provisions of this section or any of them by the contractor or his servants, and for every declaration delivered by any officer or servant of the contractor to any civil commissioner or other person as in the last preceding section mentioned, which shall contain any false statement as to the quantity of coal taken from such land, the contractor shall be liable to forfeit to the Colonial Government the sum of one hundred pounds sterling to be recovered in any competent court at suit of the Treasurer-General of the colony, together with the amount of loss which the Colonial Government shall have sustained by reason of such default, but the payment of such penalty by the contractor shall not be deemed to exempt the person making any such declaration from prosecution for any wilfully false statement therein contained.

Power of Governor
to take over rail-
way at expiration
of 20 years.

XVII. At any time after the expiration of twenty years from the date of opening for public traffic the said railway or any section thereof, the Colonial Government shall have the right, if so disposed, to purchase from the contractor, on giving six months' notice to this effect by publishing the same as a Government notice in three consecutive issues of the *Government Gazette* of the colony, and the contractor shall be bound six months after date of the first publication of the said notice to sell to the Colonial Government the said railway, and also all buildings and plots of land acquired by the contractor under this Act 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 the said telegraph and apparatus, wire, instruments, and every matter or thing connected with the working therewith in possession of the contractor under this Act upon the following terms, that is to say:—The purchase shall be effected for such an amount as at the rate of five pounds per centum would produce a yearly income equal to the average for the three years next before the day of the first publication of the notice of the intention of the Government to purchase as aforesaid, of the net receipts or profits arising from the working of the said railway after deducting therefrom the working expenses of all kinds of the said railway, during the said term of three years, and also the average yearly cost of maintaining and repairing the said railway during the said term of three years, and upon payment by the Colonial

Terms of purchase.

Government to the contractor of the purchase amount so ascertained, the said railway, together with all buildings and plots of land connected with the working thereof and all rolling stock, machinery, engines, tools, and material of all kinds which shall be upon or in the said railway or the said buildings or plots of ground made use of in the working thereof at the date of the first publication of the intention of the Colonial Government to purchase as aforesaid, and which rolling stock, tramways, engines, tools, and material shall have been brought thither for the purpose of being made use of in or in connection with the said railway, or the working thereof, shall thereupon by virtue of this Act vest in the Colonial Government.

XVIII. In case the Colonial Government and the contractor shall not agree upon a sum as truly representing the net average income during the last three preceding years in the last section of this Act mentioned, the question in dispute between them in reference thereto, shall be submitted to three arbitrators, one to be nominated by the said Government, one by the said contractor, and the third to be selected by the two arbitrators so nominated, and the said contractor shall be bound to give such arbitrators full access to all books, accounts and documents of every kind in his possession, power or custody in any way relating to the beforementioned receipts, profits and expenses during the said three years, and if the said two firstmentioned arbitrators shall not agree upon the selection of the third arbitrator, then it shall be competent for the Supreme Court, or the Court of the Eastern Districts, on application made by either party to the dispute, to appoint such third arbitrator, and the award of such arbitrators, or the majority of them, on all questions submitted to them shall be final and conclusive, and shall be made a rule or order of the Supreme Court or Eastern Districts Court: Provided that the said Government shall not purchase the said railway or take any proceedings under the last preceding section of this Act, without the consent of both Houses of Parliament first had and obtained.

Reference to arbitration in case of difference as to average income of railway.

XIX. Should the contractor fail in completing the construction of the said railway within the said term of five years and in obtaining the certificate in the 12th section of this Act mentioned, the Colonial Government shall be entitled forthwith to take possession of the said railway, together with all rails and sleepers laid down thereon for traffic, and together with all fixed property erected or constructed by the contractor, for the purposes of the said railway, upon ground not previously alienated by Government, and the contractor shall, in such case, have no claim for compensation, for or in respect of the said railway, rails, sleepers, and fixed property,

Power of Government to take possession of line if not completed within 5 years.

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Exception.

or of the labour expended by the contractor in connection therewith: Provided, however, that should the contractor be prevented from finishing the construction of the said railway within the said term of five years by reason of native wars or disturbances, an extension of time, equivalent to the time during which the said construction shall have been so prevented, shall be granted to the contractor, and in such case the completion of the construction of the said railway by the contractor within the said extended term shall be considered and operate for all the purposes of this Act as if the said construction had been completed within the said term of five years, anything hereinbefore to the contrary contained notwithstanding.

Short title.

XX. This Act may be cited as the "Imvani and Indwe Railway and Coal Mines Act, 1882."

SCHEDULE.

I, A. B., [state the capacity of declarant], do solemnly and sincerely declare that the quantity of coal raised from the land worked by [state name or designation of contractor or company] under the provisions of the "Imvani and Indwe Railway and Coal Mines Act, 1882," during the quarter ended on the day of 18
is tons and no more, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Ordinance No. 6, 1845, intituled "An Ordinance for substituting declarations in the place of certain oaths, and for the suppression of voluntary and extra judicial oath and affidavits."

Declared at
this day of
 Before me

No. 4—1882.]

ACT

[June 7, 1882.]

To Amend the Law relating to the Post Office.

WHEREAS it is expedient to amend and consolidate the Law relating to the Post Office: Be it enacted by 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. The several laws mentioned in the first schedule to this Act, and so much of any other law or ordinance as may be repugnant to or inconsistent with the provisions of this

Repeal of repugnant laws.

*Repealed
by Act 107/11
§ 1*

Act, shall be and the same are hereby repealed, except as to any things done, appointments, orders, regulations and contracts made, offences committed, penalties incurred or proceedings instituted previously to the commencement of this Act.

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II. All letters, post cards, packets, and newspapers received at any post office for delivery in this Colony shall be deemed inland letters, post cards, packets, and newspapers; and all letters, post cards, packets, and newspapers received from any place beyond the limits of this Colony, or received at any post office for delivery beyond the limits of this Colony, shall be deemed to be foreign letters, post cards, packets, and newspapers.

What are "inland" letters.

What are "foreign" letters.

III. In the interpretation of this Act, the term "this Colony" shall include all territories under the administration of the Government of the Cape of Good Hope; and in case of doubt the Governor may declare any (1) territory or dependency to be within this Colony for the purposes of this Act; and the words "post office" shall include any pillar box, or wall box, or other place set apart for the reception of letters, post cards, packets, or newspapers, under the authority of the Postmaster-General.

Interpretation of word "Colony."

Of words "Post Office."

IV. The Governor may from time to time make, alter, and repeal regulations for all or any of the purposes following:

Governor empowered to make regulations for purposes mentioned in the subsections.

- (1) For the establishment and management of Post Offices.
- (2) For the receipt, registration, dispatch, carriage, and delivery of letters, post cards, packets, and newspapers.
- (3) For the conduct and guidance of all postmasters and other officers and servants of the Post Office.
- (4) For the charges to be made for the use of private boxes and private bags.
- (5) For the making, issuing, sale, and respecting the use of post cards.
- (6) For providing that certain letters upon the service of Her Majesty the Queen, civil or military, shall be forwarded and received free of postage.
- (7) For regulating the issue of money orders and postal orders; the rate of commission to be received in respect of such money orders and postal orders; the persons by or through whom, and the places where, and the times when, and

(1) Provisions of this Act extended to Basutoland, Transkei and Griqualand East by Proclamation No. 98 of 1st July, 1882; To St. John's River Territory by Proclamation No. 99, and to Tembuland, Emigrant Tambookieland, Bovanaland, and Galekaland by Proclamation No. 100, dated 1st July, 1882.

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the manner and form in which, money orders and postal orders shall be granted; and the persons in favour of whom, and the places where, and the times when, and the manner and form in which, money orders and postal orders respectively shall be paid; and the length of time during which money orders and postal orders shall be current, and after which they shall become void; and the mode of forwarding advices of transmitting moneys; and as to every other matter or thing necessary to be regulated or done for enabling the public promptly and safely to remit small sums of money through the Post Office.

- (8) For conveying small parcels from place to place within this Colony; for limiting the weight of such parcels; for regulating the rates to be paid in respect of the conveyance of such parcels not being more than threepence for every four ounces, or fraction of four ounces, and generally for regulating and controlling the receipt, registration, and delivery of such parcels.
- (9) For the making, issuing, and sale of such postage or impressed or embossed stamps, as may from time to time be deemed necessary for the purposes of this Act; and for authorizing the making and use of such office stamps as may be necessary in the General or any other Post Office,

And by such regulations may impose any penalty not exceeding ten pounds for any offence against any of the same.

Postage payable according to rates mentioned in schedule 2.

V. Except when otherwise specially provided in this or by any Act now or hereafter in force, postage upon, and fees for registration of, every inland and foreign letter, post card, packet, and newspaper respectively shall be levied according to the scale and at the rate set forth in and by the second schedule to this Act; but every letter, post card packet, and newspaper sent by post from any place beyond the limits of this Colony shall be transmitted and delivered free of additional charge within this Colony; except as hereinafter mentioned, and except in cases where it is necessary to collect the postage under any arrangement or convention to be made as hereinafter mentioned, in which case the same and all fees and charges upon such letter, post card, packet, or newspaper may be collected on or before the delivery thereof respectively: Provided, however, that at any time after the expiration of

the Existing Contracts for Conveying the Ocean mails, it shall and may be lawful for the Governor, by Proclamation in the *Government Gazette*, to take effect at such time as may be mentioned therein, to reduce the Postage in the Second Schedule to this Act so far as to provide that the Postage to be levied upon Inland Letters posted for delivery through another Post Office in the Colony shall be One Penny; that the Postage to be levied on Ship Letters, if posted in any other part of the Colony, shall be Fourpence; that the Postage to be levied on Shippers' and Consignees' Letters, if transmitted to any other part of the Colony, shall be One Penny; and the Postage to be levied on each Inland Postal Card, shall be One Halfpenny.

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VI. Inland and foreign letters not exceeding one-half ounce in weight addressed to or forwarded by any writer or schoolmaster, or any seaman on actual service in Her Majesty's navy, or by any bandmaster, army schoolmaster, or schoolmistress, sergeant, corporal, drummer, trumpeter, fifer, or private soldier on actual service in Her Majesty's Imperial or Colonial forces or Royal Marines, shall be charged the sum of one penny in lieu of the postage in the said second schedule mentioned, exclusive of postage (if any) payable in respect of the transmission of any such letter through any foreign territory. But no such letter shall be transmitted or delivered unless such letter relates exclusively to the private concerns of such seaman or soldier, and unless (in case of a letter forwarded as aforesaid) there shall be on the face thereof the name of the writer and his class or description in the vessel, regiment, corps, or detachment to which he belongs, and the signature of the officer having command of such vessel, regiment, corps, or detachment, nor unless (in the case of a letter addressed as aforesaid) there shall be specified on the superscription thereof the vessel, regiment, corps or detachment to which the person to whom it is addressed belongs. This section shall not apply to letters addressed to or forwarded by any commissioned or warrant officer whether in the Imperial or Colonial Forces or in the Navy or midshipman in the Navy.

Certain letters charged with 1d. postage only.

VII. The Governor may from time to time, by notice published in the *Government Gazette*, direct what packets may be sent by post as inland and foreign packets within the meaning of this Act, and upon what terms and conditions the same may be sent; and until such order be made the following, and no others, may be sent by post as inland and foreign packets within the meaning of this Act:

Postal packets defined.

- (1) "COMMERCIAL PAPERS" (in covers open at the ends or sides), under which are comprised all papers or documents written or drawn wholly

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or partly by hand (except letters or communications in the nature of letters, or other papers or documents having the character of an actual and personal correspondence), documents of legal procedure, deeds drawn up by public functionaries, copies of or extracts from deeds under private seal (and whether written or printed on stamped or unstamped paper), way bills, bills of lading, invoices, and other documents of a mercantile character, documents of insurance and other public companies, all kinds of manuscript music, the manuscript of books and other literary works, and other papers of a similar description ;

- (2) "PRINTED PAPERS" (in covers open at the ends or sides), including periodical works, books (stitched or bound), pamphlets, sheets of music (printed), visiting cards, address cards, proofs of printing (with or without the manuscript relating thereto), engravings, photographs (when not on glass or in frames containing glass), drawings, plans, maps, catalogues, prospectuses, announcements, and notices of various kinds, whether printed, engraved, or lithographed, and in general all impressions or copies obtained upon paper, parchment, or card-board by means of printing, lithographing, or any other mechanical process easy to recognize, except the copying press, and anything usually attached or appurtenant to any of the before-mentioned articles in the way of binding, mounting, or otherwise, and anything convenient for their safe transmission by post which shall be contained in the same packet ; also printed, engraved, or lithographed circulars, notwithstanding that such circulars may be letters or communications in the nature of a letter ;
- (3) Packets (in covers open at the ends or sides), containing patterns or samples of merchandize not having a value of their own apart from their mere use as patterns or samples, and either unenclosed or enclosed in bags tied, so as to be easily loosened and refastened.

Definition of a "news paper."

VIII. For the purposes of this Act, any publication coming within the following description shall be deemed a newspaper (that is to say) : Any publication consisting wholly or in great part of political or other news, or of

articles relating thereto, or to other current topics, with or without advertisements, and with or without engravings, prints, or lithographs illustrative of articles in such newspaper, subject to these conditions:—

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That it be published in numbers or parts at intervals of not more than seven days.

That it be printed on a sheet or sheets unstitched.

That it have the full title and date of publication printed at the top of the first page, and the whole or part of the title and the date of publication printed at the top of every subsequent page.

And the following shall be deemed a supplement to a newspaper: A publication consisting wholly or in great part of matter like that of a newspaper, or of advertisements, such publication being in every case published for the first time with the issue of the newspaper of which it purports to be a supplement, and having the title and date of publication of such newspaper: Notwithstanding anything in this section, all literary publications, printed and published in this Colony, shall, when posted for transmission to any place within the same be considered to be newspapers within the meaning of this section.

Newspaper supplements.

IX. Every inland or foreign newspaper shall be sent without a cover, or in a cover open at both ends; and there shall not be in or upon any such newspaper or the cover thereof any communication, character, figure, letter, or number (other than the words “newspaper only” or the printed title of such newspaper, the printed names, occupation, and places of business of the printer, publisher, or vendor thereof, the name, occupation, and address of the person to whom it is sent, and the words aforesaid), nor shall anything be enclosed in or with or accompany such newspaper or cover; otherwise, there shall be charged upon every such newspaper postage at the rate for the time being chargeable upon letters.

How newspapers to be addressed and posted.

X. The *Government Gazette*, when enclosed in a cover, open at both ends, and with the words “On Her Majesty’s Service” printed thereon, together with its title and the imprint of the printer, shall if received at the General Post Office from the office of the printer, but not otherwise, be exempt from postage.

Prohibitions.

Government Gazette exempt from postage if sent by Government printer.

XI. All petitions to Parliament, addressed to a member of either House, and with or without a letter enclosed therein, shall be exempt from postage. Every such petition shall be enclosed in a cover open at both ends or sides, and marked on the outside “Petition to Parliament;” and every such letter shall refer exclusively to the subject of the said petition.

Petitions to Parliament free.

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- What packets may be refused transmission.
- Adhesive stamps to be used.
- When postage may be paid in money.
- Double postage payable on letters, &c., not prepaid.
- Postmasters to see that letters, &c., properly stamped.
- Re-directed letters.
- XII. Every postmaster may refuse to transmit by post any packet exceeding five pounds in weight, or of inconvenient form or dimensions, or containing or suspected to contain articles likely to injure the other portions of the mail, or the person of any officer or servant of the Post Office.
- XIII. Except in the cases in this Act or in any regulations made under the authority of this Act expressly mentioned, the postage upon every inland and foreign letter; packet, and newspaper, and upon every parcel, and all fees (if any) upon such letter, packet, newspaper, or parcel, shall be prepaid by affixing thereon postage stamps not obliterated or defaced, and not being embossed or impressed stamps cut out of or separated from the paper, card, or other material upon which such stamps were embossed or impressed, although not previously used; and in default thereof, there shall be chargeable upon every such letter, packet, or parcel, double the ordinary rate of postage for the time being payable thereon respectively: and every such newspaper may be destroyed: Provided that postage on loose letters received from masters of vessels may be collected in money on delivery.
- XIV. In case any postmaster shall not have any postage stamps of the requisite value for sale, the postage and fees (if any) upon any letter, packet, newspaper, or parcel, may be prepaid in money, and shall be acknowledged by such postmaster on the face or cover of such letter, packet, newspaper, or parcel, anything to the contrary in the last preceding section notwithstanding.
- XV. Any inland letter, inland packet, or inland newspaper, or any parcel posted with an unobliterated postage stamp of any denomination shall be regularly transmitted and delivered although the stamp be insufficient, but before delivery in this Colony there shall be paid in money double the amount of postage omitted to be prepaid, and the sum so to be paid shall be written or stamped on such letter, packet, newspaper, or parcel, by the postmaster who transmits or delivers the same.
- XVI. Except in the cases expressly mentioned in this Act or in any such regulations as aforesaid, every postmaster shall see that every post card and every inland and foreign letter, packet and newspaper, and every parcel, bears either postage stamps or a proper acknowledgment for money respectively equal in value or amount to the postage due thereon.
- XVII. Every letter, post card, packet or parcel re-directed and forwarded shall be charged for postage from the place at which the same shall be re-directed to the place of ultimate delivery, such a rate of postage as the same would be liable to if prepaid.

XVIII. Any person who shall send any letter, post card, packet, newspaper, or parcel by post shall be entitled to have the same registered at the Post Office at which the same shall be posted upon payment of the proper registration fee; but such registration shall not be deemed to render the Government or the Postmaster-General, or any officer of the Post Office, liable for the loss of any such letter, post card, packet, newspaper, or parcel; and all letters, post cards, packets, newspapers, and parcels shall be put into the Post Office, and also be delivered, at or between such hours in the day and under such regulations as the Postmaster-General shall from time to time appoint.

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Registration of letters, &c.

XIX. In any case where it shall come to the knowledge of any postmaster, or officer of the post office, or where any postmaster or officer of the post office has reasonable cause to believe, that any inland or foreign letter or packet not registered under this Act contains any money or other valuable enclosure, such postmaster or officer may register such letter or packet, and charge thereon double the proper fee for registration; and such fee shall be paid in money by the person to whom it is addressed before delivery, unless such person shall before or upon such delivery open the letter or packet in the presence of some postmaster or officer of the post office and it shall be found not to contain money or other valuable enclosure, in which case such fee shall be remitted.

Double registration fee to be charged in certain cases.

XX. Except in the cases in this Act expressly mentioned, no letter, post card, packet, newspaper, or parcel shall be destroyed or returned to the writer or sender thereof without either the consent in writing of the person to whom the same is addressed, or the direction of the Postmaster-General; and no letter, post card, packet, newspaper, or parcel shall be delivered to any person not named in the address thereof without such consent or direction as aforesaid.

How letters may be destroyed or returned.

How delivered to third parties.

XXI. Every postmaster or other officer of the Post Office shall transmit to the returned letter branch of the General Post Office without delay any letter, post card, packet, or parcel, which

What letters &c. must be returned to General Post Office.

- (1) Shall have anything blasphemous, obscene, offensive or libellous written or drawn on the outside thereof.
- (2) Shall have no address or no legible or intelligible address.
- (3) The person to whom it is addressed shall refuse to receive or to pay for when postage is payable.
- (4) Shall be known or reasonably suspected to be posted, or to contain an enclosure, in fraud or

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violation of this Act, or any regulation thereunder, or of any Customs Act, or to contain any obscene enclosure.

And every letter, post card, packet, or parcel as aforesaid, posted at the General Post Office, may be there retained and dealt with as if it had been transmitted as aforesaid.

Power to open letters suspected of being posted in fraud of this Act.

XXII. Any postmaster may (notwithstanding anything in the last preceding section contained) open or unfasten any packet or parcel which he has reasonable ground to suspect to be posted in fraud or violation of this Act or any regulation thereunder, and shall close or refasten any packet or parcel so opened which he shall find not to have been so posted, and shall mark on the cover of every such packet or parcel that the same has been opened, and sign his name thereon.

Time of detention of returned letters.

XXIII. Every letter, post card, packet, newspaper, and parcel (other than those directed to be transmitted to the General Post Office without delay), which shall remain undelivered at the post office to which the same shall have been transmitted for delivery, shall be kept thereat for delivery during not less than two months, and after the expiration of such period the postmaster at every such post office shall (subject to the directions of the Postmaster-General) transmit to the returned letter branch of the General Post Office every unclaimed letter, post card, packet, and parcel, which shall have been kept as aforesaid, and all newspapers undelivered or unclaimed during such period of two months may be destroyed.

What letters &c. may be opened at General Post Office.

XXIV. On the receipt at the General Post Office of any unclaimed letter, packet, or parcel originally posted in this Colony, or of any letter, packet, or parcel posted, or reasonably suspected to have been posted, or to contain any enclosure, in fraud or violation of this Act, or of any Act relating to the Customs, or of any regulation or order made under the authority of this Act, such letter, packet, or parcel may be opened in the General Post Office in the manner hereinafter provided.

Foreign unclaimed letters.

XXV. Every such unclaimed letter or packet originally posted elsewhere than in this Colony shall be transmitted by the Postmaster-General to the proper authorities in the country in which such letter or packet was posted.

Who to open letters at General Post Office.

XXVI. All letters, packets, or parcels which shall be opened under the authority of this Act (except as in the twenty-second section is provided), shall be opened in the presence of the Postmaster-General, or by or in the presence of an officer of the Post Office specially nominated for that purpose by the Postmaster-General.

XXVII. Every unclaimed letter, packet, and parcel which shall be opened under the provisions of this Act (unless such letter, packet, or parcel contains any valuable or saleable enclosure, or shall have been posted, or shall contain any enclosure in fraud or violation of this Act, or of any Act relating to the Customs, or of any regulation or order made under the authority of this Act, or with intent to evade payment of the postage properly chargeable thereon), shall be returned to the writer or sender thereof if the name or address of such writer or sender can be ascertained by examination of such letter, packet, or parcel, but if such writer or sender shall refuse to receive such letter, packet, or parcel, or if his name and address cannot be ascertained, the same may be destroyed.

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Unclaimed letters.

XXVIII. Every letter, packet, or parcel, opened under the provisions of this Act, which shall contain any valuable or saleable enclosure, shall be safely kept, and a list of its contents shall be made and preserved; and the Postmaster-General (unless such contents shall have been posted or shall be in fraud or violation of this Act, or of any Act relating to the Customs or of any regulation or order made under the authority of this Act, or with intent to evade payment of the postage properly chargeable on the letter, packet, or parcel containing them) shall cause notice of such letter, packet, or parcel, and of the said contents to be sent to the person to whom the same is addressed if he be known, or otherwise to the writer thereof if he be known, and upon demand by the person to whom such notice shall have been sent, such letter, packet, or parcel and its contents shall be delivered upon payment of the postage or fees (if any) due thereon. But if neither of such persons can be found or shall make such demand within three months after the sending of such notice as aforesaid, or if the contents shall have been posted or shall be in fraud or violation of this or any Act, regulation, or order, as aforesaid, or with intent to evade payment of postage as aforesaid, the said letter or packet shall be destroyed, and its contents forfeited, unless the Colonial Secretary shall direct the said contents to be restored to the writer or sender. And if the contents aforesaid shall not be money, or a security or order for money payable to bearer, the same may be destroyed, sold or converted into money in such manner as the Postmaster-General may direct, and the proceeds paid into the Treasury.

Letters containing valuables.

XXIX. The sender of any letter, packet, or parcel, which shall be opened under the provisions of this Act, shall on demand pay the postage and fees respectively (if any) due thereon; and in case of refusal shall upon conviction pay a penalty not exceeding twenty shillings, and in any

Sender of opened letter to pay postage.

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Penalty for refusal.

proceeding for the recovery of the said penalty the person from whom such letter, packet, or parcel, shall purport to have come, shall be deemed to be the sender thereof, unless the person proceeded against shall prove that such letter, packet or parcel was not sent by him.

Power of Governor to make postal conventions.

XXX. The Governor may from time to time make and alter arrangements or postal conventions with the Postmaster-General of the United Kingdom, or with the proper authorities of any British possession or foreign country for any or either of the purposes following:—

- (1) For the issue and payment by means of the Post Office of money orders between this Colony and Great Britain, or any British possessions or foreign country.
- (2) For the transmission to any place out of this Colony of letters, post cards, packets, and newspapers, posted in this Colony or received in mails or loose, from masters of vessels on which no postage or insufficient postage shall have been paid, free of postage, or upon such terms as to the amount of postage or fine to be paid on delivery, and as to the application thereof as may be agreed upon.
- (3) For determining the amount and collection of postage and fees or other charges upon letters, post cards, packets, and newspapers conveyed between this Colony and such kingdom, possession or country.
- (4) For the division and mutual accounting for and payment of the money collected under any arrangement.
- (5) For the purposes abovementioned in sub-sections (3) and (4) in the case of letters, post cards, packets, and newspapers transmitted through this Colony or the said kingdom, possession or country to or from any part of the world.
- (6) For the prepayment (in full or otherwise) of the postage due on any letters, packets, and newspapers.

How convention to be promulgated.

XXXI. So soon as any arrangement or postal convention shall have been made under the authority of this Act, the Governor may from time to time issue a proclamation defining a time for such arrangement or convention to come into operation, and from and after such time the rates of postage and regulations therein set forth shall be imposed, paid, and observed.

Conventions so made to be laid before Parliament.

XXXII. Copies of all arrangements or conventions made between the Government of this Colony and the Post-

master-General of the United Kingdom, or the proper authorities of any British possession or foreign country, and copies of all regulations or orders made by the Governor under the provisions of this Act, shall from time to time be laid before both Houses of 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.

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XXXIII. Subject to such regulations as may be made by the Governor under the provisions of this Act, the Postmaster-General may authorize his officers or any of them to issue money orders for sums not exceeding ten pounds, and postal orders for sums not exceeding one pound, and all regulations made by the Governor relating to such money orders, and postal orders shall be binding and conclusive upon all officers of the Post Office, and upon the persons to whom such money orders and postal orders respectively, shall be granted or issued, and the payees thereof and all persons interested through or claiming under them, and upon all other persons whomsoever, and such regulations shall have the same force and effect in all respects as if contained in this Act.

Money orders and Postal Orders.

XXXIV. No letter shall be carried for hire or reward otherwise than by post, and no letter shall be conveyed by any vehicle used for the public conveyance of passengers unless in any post office bag which may be thereby conveyed. Any person who shall send or convey any letter by any such vehicle, or otherwise than by post, or who shall for hire take charge of the same, for such conveyance shall upon conviction be liable to pay a penalty not exceeding ten pounds for every such letter. And every such letter sent, conveyed, or taken charge of to be conveyed, otherwise than by post, shall be deemed to have been so sent, conveyed, or taken charge of for hire or reward unless the contrary be shown by the accused. But nothing herein contained shall extend to any letter concerning goods sent and to be delivered therewith, or containing process of or proceedings or pleadings in any court of justice, or affidavits, or depositions; nor to any letter sent by any person concerning his private affairs, nor to any letter sent or carried to or from any post office.

Restrictions as to mode of conveying letters.

Penalties.

XXXV. If any person shall with intent to defraud remove from any letter, packet, newspaper, or parcel respectively sent by post any stamp which shall have been affixed thereon, or wilfully remove from any stamp which shall have been previously used, any mark which shall have been made thereon at any Post Office, or shall knowingly put off or use any such stamp, he shall upon conviction be liable to a penalty not exceeding forty pounds, or to be imprisoned with or

Penalties for removing stamps from letters posted.

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Penalties for sending
dangerous sub-
stances by post.

without hard labour for any period not exceeding six months; or to both such fine and such imprisonment.

XXXVI. If any person shall enclose in or with any letter, packet, newspaper, or parcel, or shall put into any Post Office, pillar box, or wall box for the receipt of letters, any explosive, dangerous, or destructive substance, or any matter or thing likely to injure any letter, packet, newspaper or parcel, or the person of any officer or servant of the post office, such person shall upon conviction be liable to be imprisoned with or without hard labour for any period not exceeding five years.

List of offences and
penalties.

XXXVII. Any person who shall be guilty of any of the following acts or offences shall, upon conviction, be liable to a penalty not exceeding twenty pounds, or to imprisonment with or without hard labour for any period not exceeding six months; or to both such fine and such imprisonment.

- (1) If he shall, contrary to the provisions of this Act or with intent to defraud, put into any Post Office anything purporting to be a letter, packet, or newspaper, within any of the exemptions by this Act allowed, or any letter purporting to belong to a class in which lower rate of postage is chargeable.
- (2) If he shall put into any Post Office any packet or parcel in or upon which or the cover whereof, there shall be any letter, communication, or intelligence not allowed by law or shall wilfully subscribe on the outside of any packet a false statement of the contents thereof.
- (3) If he shall put into any Post Office any newspaper in or upon which or upon the cover whereof there shall be any communication, character, figure, letter, or number (other than is excepted by the tenth section of this Act) or in or with which anything shall be enclosed, or which anything shall accompany.
- (4) If he shall put into any Post Office any letter, post card, packet, newspaper, or parcel bearing an obscene, profane, or libellous address or signature.
- (5) If he shall wilfully deface, break or injure any pillar box or wall box for the receipt of letters, or place in any such box for the receipt of letters any substance likely to deface any letter, post card, packet, or newspaper.
- (6) If he shall detain, secrete, or keep any letter, post card, packet, newspaper, or parcel which ought to have been delivered to any other

person, or any mail bag, mail box, mail parcel, letter, post card, packet, or newspaper, which shall have been found by the person detaining, secreting, or keeping the same, or by any other person.

- (7) If he shall by any false pretence or misstatement induce any postmaster or any officer or servant of the Post Office to deliver to him any letter, post card, packet, newspaper, or parcel sent by post and not addressed to him.
- (8) If (being a postmaster, master of a vessel, or other person authorised to receive, sort, dispatch, carry, or deliver mail letters, post cards, packets, newspapers, or parcels sent by post) he shall negligently lose, or wilfully omit or delay to dispatch or deliver any such mail, letter, packet, newspaper, or parcel, whether the same shall or shall not afterwards be recovered or delivered (as the case may be).
- (9) If (being the driver of any vehicle used for the conveyance of any mail, or the guard or person in charge of a mail, whether conveyed by such vehicle or on horseback or on foot) he shall become intoxicated, or shall loiter on the road, or wilfully misspend or lose time so as to retard the arrival of the mail at its proper destination within the time limited for its arrival.

XXXVIII. All mails and every loose letter, post card, packet, or newspaper which at the time of the arrival of any vessel in any port of this Colony shall be on board thereof directed to any person in this Colony, shall be delivered on demand to any postmaster or port officer of such port or to any person duly authorised in their behalf by writing under the hand of the Postmaster-General or officer in immediate charge of the Post Office, except letters concerning goods on board such vessel and to be delivered with such goods, or sent by way of introduction only, or concerning the bearer's private affairs. And any person who shall knowingly or negligently detain, or keep in his possession, or shall neglect or refuse to deliver any mail bag, mail box, or mail parcel, or any letter, post card, packet, or newspaper (except as aforesaid) after such demand made as aforesaid, shall upon conviction be liable to pay a penalty not exceeding one hundred pounds.

Letters arriving by ship to be delivered to Post Office.

Penalties for omitting to make such delivery.

XXXIX. The master or person in charge of any vessel arriving at any port in this Colony shall, as soon as practicable after such arrival, sign in the presence of the postmaster or other officer appointed by the Postmaster-General to receive

Masters of ships to sign declaration in schedule 3.

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the same at such port or the town or place nearest thereto, a declaration in the form set forth in the third schedule to this Act, and thereupon such postmaster or officer shall grant a certificate under his hand of the making thereof; and until such certificate shall have been delivered to the proper officer of Customs at such port he shall not permit such vessel to report. And any master or person in charge as aforesaid who shall fail or refuse to make such declaration or who shall make a false declaration shall upon conviction be liable to pay a penalty not exceeding one hundred pounds.

Payments for conveyance of letters by ship.

XL. Every master or person in charge of every vessel about to depart from any port in this Colony who shall receive on board thereof any mail bag, mail box, or mail parcel, for the purpose of conveying the same according to the direction thereof, shall be entitled to demand or receive for the carriage thereof

For every foreign letter and packet contained therein the sum of one penny;

For every inland letter and packet contained therein the sum of one half-penny;

For every newspaper, one farthing;

such master or person giving a receipt for the amount so received by him. But nothing herein contained shall entitle the master or person in charge of any vessel under contract for the conveyance of mails to receive payment for the same as aforesaid.

Shipmasters to give notice to Postmaster of intended departure.

XLI. Every master or person in charge of any vessel not carrying mails under a contract for the carriage thereof, and being about to depart from any port in this Colony, shall, before the clearance of such vessel, give to the postmaster or officer in charge of the post office at the port from which such vessel shall be about to depart, notice, in writing, of the intended time of departure of such vessel. Such notice, in case the destination of the vessel be to any port or place beyond the limits of the Colony shall not be less than twenty-four hours, and in case the destination be to any other port or place within the Colony shall be not less than six hours. And every such notice shall expire between the hours of nine o'clock in the forenoon and three o'clock in the afternoon. And every such master or person in charge shall from time to time give notice of any postponement of such time of departure. And such postmaster or other officer of the post office shall, upon receiving such notice, grant a certificate to such master or person, and until such certificate shall have been given the vessel shall not be cleared. Every master or person in charge who shall omit to give such notice as aforesaid, or who shall depart from the port before the time mentioned in such notice, shall

upon conviction be liable to pay a penalty not exceeding fifty pounds.

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XLII. If any master or person in charge of any vessel about to depart from any port in this Colony, to any port or place within or beyond the same, shall (after being thereto required by any officer of the post office, or by any port officer, or by any person duly authorised in writing in that behalf by the postmaster at such port), refuse or neglect to receive on board such vessel any mail bag, mail box, or mail parcel, or to give a receipt for the same being thereto required by the person tendering or delivering such bag, box, or parcel, or shall refuse or neglect safely to convey the same upon her then intended voyage, such master or person shall for every such offence be liable upon conviction to pay a penalty not exceeding one hundred pounds.

Penalties for refusing to receive mails on board ship.

XLIII. As often as the master or person in charge of any vessel shall have received any mail bag, mail box, or mail parcel for carriage on board such vessel, and such vessel shall not depart on her voyage according to the time fixed for the departure thereof, such master or person as aforesaid shall on demand return to the postmaster, port officer, or other person duly authorised in that behalf, in writing, or to the officer in charge of the post office, such mails, and also any gratuity which may have been paid for the carriage of the same; and in default of so doing, shall upon conviction be liable to pay a penalty not exceeding one hundred pounds.

Master not sailing as notified to return mails and gratuity.

XLIV. Every postmaster and other post officer shall, before the exercise by him of the duties of his office, take and subscribe before a Justice of the Peace a solemn declaration, which every Justice of the Peace is hereby authorised and required to administer, in the form in the fourth schedule to this Act.

Solemn declaration to be made before J.P. by each postal officer.

XLV. Any postmaster or other officer employed in the Post Office or any master of a vessel or other person employed by or under any postmaster, or employed or authorised to receive, sort, carry, or deliver mails, or letters, post cards, packets, newspapers, or parcels sent by post or otherwise employed in the business of the Post Office, who shall offend against or wilfully neglect or omit to comply with any of the arrangements or regulations to be made under the provisions of this Act, or with any of the provisions of this Act (for breach or neglect of which no other penalty is by this Act or by law provided) shall upon conviction be liable to a penalty not exceeding fifty pounds.

Penalty on postal officers, shipmasters & others for breach of provisions of this Act or regulations thereunder.

XLVI. If any person shall be convicted of any of the offences following, he shall be liable to be imprisoned and kept at hard labour for any period not exceeding seven years.

Offences and penalties.

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- (1) If he shall forge, alter, or imitate, or assist in forging, altering, or imitating, any stamp, envelope, or cover, or any money order or postal order, used or made under, the authority, or for the purposes of this Act, or shall use, offer, utter, or dispose of any forgery or imitation of any such stamp, envelope, or cover, or any money order or postal order, knowing it to be forged, or with a fraudulent intent;
- (2) If he shall engrave, or in anywise make upon any plate or material whatever, any Stamp used for the purposes of this Act, without the authority of the Executive Government (the proof of which authority shall lie upon the person accused);
- (3) If he shall make, or cause to be made, or assist in making or have in his custody, or possession, without lawful excuse (the proof whereof shall lie on the person accused) any mould, frame, or other instrument, having thereon any words, letters, figures, marks, lines, or devices, peculiar to paper provided, or used for postage stamps, money orders or postal orders, or if any person shall make or procure to be made, or assist in making, or have in his custody or possession, without lawful excuse (the proof whereof shall lie on the person accused), any paper, in the substance of which shall appear visible any words, letters, figures, marks, lines, or devices, peculiar to paper provided for postage stamps, money orders, or postal orders, and intended to imitate or pass for the same;
- (4) If he shall, without lawful excuse (the proof whereof shall lie on the person accused), sell, purchase, dispose of, or receive, or take, or have in his custody or possession, any paper provided for the purpose of being used for postage stamps, money orders or postal orders, before the same shall have been issued for public use;
- (5) If he shall, for his own gain or purposes, or with intent to defraud, make use of any stamp, die, or plate, provided by any person charged with the duty of providing stamps, dies, or plates, for the purposes of this Act.

Property in letters
posted to vest in
Postmaster - Gen-
eral.

XLVII. In any prosecution for any crime, or offence committed upon or in respect of any mail bag, mail box, or mail parcel, or any letter, post card, packet, parcel or

newspaper, sent by post, or any property, moneys, money order, or postal order, under the management or control of the Postmaster-General, or when any matter or thing shall have been done or committed with any malicious, injurious, or fraudulent design, intent or purpose, relating to or concerning, the Post Office, of any such property, moneys, money order, or postal order, it shall be sufficient to allege the property to belong to, or be in the lawful possession of the Postmaster-General, and any such act, deed, matter, or thing to have been done or committed, with intent to injure or defraud the Postmaster-General, without setting forth his name.

No. 4—1882.

XLVIII. The courts of the resident magistrates, respectively, shall have jurisdiction for the trial of any offence created by this Act in respect whereof the penalty which may be imposed shall not exceed twenty pounds or the period of imprisonment which may be awarded shall not exceed six months.

Jurisdiction of Resident Magistrates.

XLIX. No action or suit shall be capable of being brought against the Colonial Government or against the Postmaster-General by reason of any default, delay, omission or loss in respect of any letter, post card, packet, newspaper, or parcel posted or received for transmission under the provisions of this Act; or for or by reason, or in consequence of payment of the amount of any money order or postal order being delayed.

No actions against Government for delay in transmission of letters &c.

L. The Postmaster-General may, by any notice, to be published in the *Government Gazette* from time to time, define or alter the limits of any city, town, or village within which letters, packets, parcels and newspapers are to be delivered from the Post Office.

Limits of delivery from Post Offices to be defined.

LII. Whenever any penalty shall have been imposed under the provisions of the thirty-eighth, thirty-ninth, forty-first, forty-second, forty-third, and forty-fifth sections, respectively, of this Act, and the person convicted shall not forthwith pay the same, the Court before which such person is convicted may direct that such person be imprisoned with or without hard labour for any period not exceeding twelve months, and such person shall be detained and kept to hard labour accordingly, unless the penalty be sooner paid.

Power to order imprisonment &c. in case fines not paid.

LIII. This Act shall come into operation on the first day of July, 1882, and may be cited for all purposes as the "Post Office Act, 1882."

Short title

No. 4—1882.

SCHEDULES.—FIRST SCHEDULE.

ENACTMENTS REPEALED.

Number and Year.	Title.	Extent of Repeal.
1. Ord.No.1,1846.	Ordinance for the Regulation of the Post Office and Postage.	So much as has not been already repealed.
2. Ord.No.23,1847.	Ordinance for reducing the Postage upon Religious Publications of or under a certain weight.	The whole.
3. ActNo.23,1856.	Act for empowering the Governor to Regulate the Postage of Letters transmitted to and from Countries beyond the Colony.	So much as has not been already repealed.
4. Act No.21,1857.	Act to Amend the Ordinance, No. 1, 1846, entitled "Ordinance for the Regulation of the Post Office and Postage."	The whole.
5. ActNo.15,1858.	Act for Amending the Act No. 21, 1857, entitled "An Act to Amend the Ordinance No. 1, 1846, entitled 'Ordinance for the Regulation of the Post Office and Postage.'"	So much as has not been already repealed.
6. Act No. 2, 1859.	Act for Amending the Act No. 15 of 1858, entitled "An Act for Amending the Act No. 21, 1857, entitled 'An Act to Amend the Ordinance No. 1, 1846,' entitled 'Ordinance for Regulation of the Post Office and Postage.'"	The whole.
7. Act No. 2, 1862.	Act for Amending in certain respects the Regulations of the Post Office and Postage.	The whole.
8. Act No. 3, 1862.	Act to facilitate the Transmission of Books by means of the Post Office.	So much as has not been already repealed.
9. ActNo.30,1864.	Act for Amending the Law relating to the Post Office and Postage.	Ditto.

FIRST SCHEDULE (*continued*).

Number and Year.	Title.	Extent of Repeal.
10. Act No. 6, 1868.	Act for Altering and Regulating certain Rates of Postage.	The whole.
11. Act No 7, 1868.	Act to Amend and Alter in certain respects the Regulations of the Post Office.	Ditto
12. Act No. 9, 1874.	Act to Amend the Law relating to the Post Office and Postage.	Ditto
13. ActNo. 14, 1877.	Act to Regulate the Postage payable in this Colony upon Letters and other matters arriving from certain other places.	Ditto
14. ActNo. 25, 1879.	Act to Alter certain Rates of Postage payable in this Colony.	Ditto
15. Proclamation No. 55, dated 14th Oct., 1872, issued by the local Commissioners of Griqualand West.	Proclamation defining Postal route between Barkly and Hope Town.	The whole.
16. Ordinance No. 11 of 1874 of the Province of Griqualand West.	Ordinance to regulate the Conveyance of Mails and the establishment of Post Offices in the Province of Griqualand West, and also for other purposes.	The whole.
17. All Proclamations issued under the provisions of Section 5 of the last-mentioned Ordinance.		

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SECOND SCHEDULE.

LETTERS.		
INLAND :	Posted for delivery within the same town or village in the Colony.	One Penny.
	Posted for delivery through another Post Office in the Colony.	Two Pence.
SHIP :	To be forwarded by private ship, vessel of war, or other ship (not being a mail packet), direct to any foreign country or British Possession with which a convention for the exchange of such mail matter has not been concluded	
	(a) If posted at the port of the mail's embarkation ;	Four Pence.
	(b) If posted in any other part of the Colony.	Six Pence.
SHIPPERS AND CONSIGNEES :	For owners, charterers, or consignees of vessels arriving in any part of the Colony by such vessel	
	(a) If delivered at the port of arrival.	One Penny.
	(b) If transmitted to any other part of the Colony.	Two Pence.
NEWSPAPERS.		
INLAND :	For each newspaper not exceeding four ounces in weight.	One Half-penny.
SHIP :	For each newspaper not exceeding four ounces in weight.	One Penny.
POSTAL CARDS.		
INLAND :	On each postal card.	One Penny.
PACKETS.		
INLAND :	For every two ounces or fraction of two ounces.	One Penny.

For every half-ounce or fraction of half an ounce.

SECOND SCHEDULE (*continued*).

SHIP :	To be forwarded by private ship, vessel of war, or other ship (not being a mail packet), direct to any foreign country or British Possession with which a convention for the exchange of mail matter has not been concluded, for every two ounces or fraction of two ounces.	One Penny.
.....		
PARCEL POST.		
INLAND :	Each parcel not exceeding four ounces.	Three Pence.
	For each additional four ounces or fraction of four ounces.	Three Pence.
.....		
REGISTRATION.		
	For the registration of every separate article.	Four Pence.

THIRD SCHEDULE :

I, _____, do hereby declare that I have to the best of my knowledge, delivered to _____ every mail bag, mail box, mail parcel, letter, packet, and newspaper that were on board the (name of vessel) at the time of her arrival at the port of _____, except such letters as are exempt by law from such delivery.

Signed in my presence
 on the _____ day of _____
 (S. 5.)

FOURTH SCHEDULE.

DECLARATION

(Made pursuant to the provisions of the 44th Section of the "Post Office Act, 1882.")

I _____ do solemnly and sincerely declare that I will not wittingly or willingly open or delay, or cause, or suffer to be opened or delayed, contrary to my duty, any Letter or any thing sent by the Post, which shall come into my hands or custody, by reason of my employment relating to the Post Office, except by the consent of the Person or Persons to whom the same shall be directed, or except in such cases where the Party or Parties to whom such Letter, or anything sent by the Post shall be directed, and who is, or are, chargeable with the payment of the Postage thereof, shall refuse or neglect to pay the same; and except such Letters or any thing sent by the Post,

Repealed by 1892 Act. 35.

No. 5—1882.

as shall be returned for want of true directions, or when the Party or Parties to whom the same shall be directed, cannot be found; and that I will not in any way embezzle any such Letter or any thing sent by the Post as aforesaid; and I make this solemn declaration conscientiously intending to fulfil and obey the same; and by virtue of the provisions of the Ordinance No. 6, 1845, entitled "An Ordinance for substituting declarations in the place of certain oaths and for the suppression of voluntary and extra-judicial Oaths and Affidavits."

Declared before me, at

this day of

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Spent.

No. 5 of 1882. ACT [June 14, 1882.]

To Authorise the Extension of certain Lines of
Telegraph.

Preamble.

WHEREAS it is desirable to extend certain lines of telegraph already existing or already authorised to be constructed: Be it therefore enacted by the Governor of the Cape of Good Hope, with the consent of the Legislative Council and the House of Assembly thereof, as follows:—

Authorising to spend
£36,365 on tele-
graph extension.

I. It shall be lawful for the Governor to expend the sum of thirty-six thousand three hundred and sixty-five pounds (£36,365) or such portions of such sum as may from time to time be required in the extension of the lines of telegraph in the Schedule to this Act set forth and in the proportions as to each of such lines as in such Schedule also set forth.

Short title.

II. This Act may be cited as the "Telegraph Extension Act, 1882."

SCHEDULE.

	Amount.
Caledon or Swellendam to L'Agulhas, <i>via</i> Bredasdorp	£5,070
Graham's Town to Alexandria.. .. .	2,280
King William's Town to Peddie	2,560
Oudtshoorn to Ladismith, <i>via</i> Calitzdorp	6,000
Queen's Town to Tarkastad	3,200
Kimberley to Barkly—Griqualand West	3,750
Dordrecht to Barkly East	6,000
Uniondale to Willowmoore	4,500
Graaff-Reinet to Aberdeen, <i>via</i> Aberdeen Road	3,005
	£36,365

No. 6—1882.] ACT [14th June, 1882.

For Consolidating in one Act certain Provisions generally contained in Acts authorizing the taking of Lands for Public and other Works, and Settling Compensation by Arbitration.

WHEREAS it is expedient to embody in one Act sundry Preamble provisions generally contained in Acts of Parliament authorizing the taking of lands and materials for public and other works, and for settling the amount of any compensation to be paid, or any matter in difference, by arbitration: Be it enacted by 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. As often as by any Act passed during the present or any future session of Parliament authority is given for the purposes of any work by such Act authorized to be undertaken or constructed, to take and use any land or to dig, get, or carry away any materials belonging to any person who may be entitled to demand compensation for such land or materials as the case may be (such person being in this Act designated “the owner”) the following provisions shall apply:—

Provisions to apply to cases where authority is given to take materials for the purpose of any work.

- (1) In case such land or materials shall be required to be taken by the Government, the Responsible Minister charged with the execution of the work, or some person authorized by him in writing in that behalf, or in case of any corporate body or person, such corporate body or person or the representative of such body or person, may treat and agree with the owner of such land or materials for the purchase or hire, as the case may be, of any such land or materials, and may enter into any contract relative to the obtaining of such land or materials, and for compensation for the use or taking thereof, upon such terms and conditions as may be deemed expedient.
- (2) If the parties, respectively, shall not agree upon the purchase money, hire or other recompense to be respectively given and accepted, the Minister, corporate body, or person acting therein as aforesaid, shall cause to be served upon the owner of the land or materials required to be taken or used a written notice, offering as recompense or compensation, whatever sum shall be deemed sufficient, and requiring such owner to state in writing within

L

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a limited time to be specified in such notice not being less than fourteen days after the date of service thereof, whether he is willing to accept the sum offered or not.

- (3) If such owner should refuse to accept the sum offered, or neglect to reply to such notice within the time specified therein, the matter in difference shall be determined by arbitration under the provisions of this Act.
- (4) In case any land or materials belonging to any owner who shall be absent from the Colony, or whose place of residence, agent, or representative, shall be unknown to the Minister, corporate body or person as aforesaid, shall be required for any work authorized by any such Act as aforesaid, then it shall not be necessary to serve the several notices by this Act prescribed upon such owner, but the publication of any such notice in the *Government Gazette* shall be deemed and taken to be sufficient notice to such owner.
- (5) It shall not be necessary before the exercise of any of the powers conferred by any such Act as aforesaid, that any proceedings shall be taken to settle the amount of compensation or recompense to be paid for, or in respect of the land or materials authorized to be taken, and which may be required for any such work, but it shall be lawful for the Minister, corporate body, or person, as aforesaid, as the case may be, to enter upon, take possession of, and use any such land or materials, leaving all questions as to the recompense or compensation to be paid for or in respect of such land or materials to be settled afterwards in the manner by this Act provided.

How arbitrators to be appointed.

II. As often as by any Act passed in the present or any future Session of Parliament, the amount of any compensation to be paid, or any other matter, is directed to be awarded, or settled by arbitration, then (except where other provision is specially made), unless both parties concur in the appointment of a single arbitrator, each party shall be entitled to appoint an arbitrator to whom the matter shall be referred.

Provisions in regard to cases submitted to arbitration.

III. With respect to arbitrations under this Act the following provisions shall apply:

- (1) Every appointment of an arbitrator shall be in writing, and signed by the party making

- the same, or when made by any public or corporate body shall be executed in such manner as such body is or may be authorized to execute any act or instrument, or as such body may by any lawful resolution direct.
- (2) Every such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration by the parties making the same.
 - (3) After the making of any such appointment, the same shall not be revoked without the consent of both parties, nor shall the death of either party operate as a revocation.
 - (4) If for the space of twenty-one days after any matter authorized or directed by any act to be settled by arbitration has arisen, and notice in writing by one party who has duly appointed an arbitrator has been given to the other party, stating the matter to be referred, and accompanied by a copy of such appointment, the party to whom notice is given fails to appoint an arbitrator, the arbitrator appointed by the party giving the notice shall be deemed to be appointed by, and shall act on behalf of, both parties.
 - (5) If before the determination of any matter so referred, any arbitrator dies or refuses or becomes incapable to act, the party by whom such arbitrator was appointed may appoint in writing another person in his stead; and if such party fails to do so for the space of ten days after notice in writing from the other party the remaining arbitrator may proceed as sole arbitrator.
 - (6) If a single arbitrator dies or becomes incapable to act before making his award, or fails to make his award within thirty days after his appointment, or in the case of more arbitrators than one if such arbitrators fail to make their award within thirty days after the date on which the last of them was appointed or within such extended time (if any) as may have been duly appointed by him or them respectively, for that purpose, the matter referred shall be again referred to arbitration under the provisions of this Act as if no former reference had been made.
 - (7) When there is more than one arbitrator, the

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- arbitrators shall before they enter upon the reference appoint, in writing a third arbitrator, and if the person so appointed, dies or becomes incapable to act, the arbitrators shall forthwith appoint another person in his stead; and if the arbitrators neglect or refuse to appoint a third arbitrator within fourteen days after being requested so to do by any party to the arbitration, then it shall be competent for any Judge in chambers on the application of any such party to appoint such third arbitrator.
- (8) The time for making an award shall not in any case be extended beyond three months from the date of the appointment of the last arbitrator, or in the case of a single arbitrator, the appointment of such arbitrator, unless by consent of the parties to the arbitration.
 - (9) Any arbitrator or arbitrators appointed by virtue of this Act may require the production of such documents in the possession or power of either party as he or they may think necessary for determining the matters referred, and may examine the parties or their witnesses on oath.
 - (10) The costs of and consequent upon the reference shall be in the discretion of the arbitrator or arbitrators.
 - (11) Any submission to arbitration under the provisions of this Act, or any award made thereunder, may be made a rule of any court having jurisdiction on the application of any party thereto.
 - (12) The award of any single arbitrator or of a majority of three arbitrators, as the case may be, shall be final and binding on all parties to the reference.
 - (13) It shall be lawful for any Judge of the Supreme Court, by rule or order to be made for that purpose, to command the attendance and examination of any person as a witness or the production of any documents to be mentioned in such rule or order: and disobedience to any such rule or order shall be deemed to be a contempt of court, if, in addition to the service of any such rule or order an appointment of the time and place of attendance in obedience thereto, signed by the arbitrator, or one of the arbitrators before whom the attendance is

required shall also be served either together with or after the service of such rule or order: Provided that every person whose attendance shall be so required shall be entitled to payment for expenses and loss of time, as for and upon attendance at any trial in the Supreme Court: Provided also that no person shall be compelled to produce under any such rule or order, any writing or other document which such person would not be compelled to produce at a trial.

- (14) In any case where reference shall be made to arbitration any competent court to which application shall be made shall have power at any time, and from time to time, to remit the matters referred, or any of them to the reconsideration and re-determination of the arbitrator or arbitrators, upon such terms as to costs and otherwise, as to such court may seem proper.

IV. As often as any of the persons interested or concerned in any arbitration under this Act shall be a minor or person under curatorship the following provisions shall apply:—

In cases of minors and persons under curatorship.

- (1) All notices required to be given to such minor or other person shall be given to the guardian or curator of such minor or person as the case may be.
- (2) Every such guardian or curator shall have and exercise all the powers, and do and perform all acts, matters and things which the person under disability would, if capable of acting in his own behalf, have and exercise, or be liable to do and perform.
- (3) All moneys which shall in pursuance of any award be payable to any such minor or other person shall be paid to the master of the supreme court administering the guardians' fund, who shall receive and administer the same on behalf of such minor or other person, subject to any order in respect thereof made by the supreme court.
- (4) If in any case any person of full age shall by way of fidei commissary limitation, or any limitation of a like nature be entitled to a life or other limited interest in any land the subject of any such arbitration in which any such minor or other person shall also be interested

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in remainder or expectancy, then the whole compensation as fixed by the award of arbitrators shall be paid to the master of the supreme court in his said capacity, and the person who was entitled to the life or other limited interest in the land shall be entitled for life, or for the other limited period, to draw the interest payable upon the sum so paid in: subject, however, to any order, in respect thereof, which the supreme court may, upon the application of any person having an interest see fit to make.

Short title.

V. This Act may be cited for all purposes as "The Lands and Arbitrations Clauses Act, 1882."

Repealed by 1892 Act 5.

No. 7—1882.]

ACT

[14th June, 1882.

For The Encouragement and Protection of Friendly Societies.

Preamble.

WHEREAS the encouragement and protection of Friendly Societies in this colony for raising by voluntary subscriptions of the members thereof, with or without the aid of public assistance, donations and funds for the mutual relief and maintenance of the said members, and of their wives and children in sickness, old age and infirmity, and for the funeral and other expenses of the same, is likely to be attended with very beneficial effects, by promoting the happiness of individuals, and at the same time diminishing the public burthens: And whereas certain Friendly Societies, having the aforesaid objects, already exist in this colony, being either established here, or being branches of societies established elsewhere, and it is desirable that such last-mentioned societies should also have the right to be protected and encouraged: 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:—

Friendly Societies may be established under this Act.

I. It shall be lawful for any number of persons to form and establish a Friendly Society under the provisions of this Act, for the purpose of raising by voluntary subscriptions of the members thereof, with or without the aid of donations, a fund for any of the following objects:—

Purposes of such societies.

- (1) For insuring a sum of money to be paid on the birth of a member's child, or on the death of a member, or for the funeral expenses of the husband, wife or child of a member.

- (2) For the relief and maintenance of the members, their husbands, wives, brothers or sisters, nephews or nieces, in old age, sickness or widowhood, or the endowment of members or nominees of members at any age.
- (3) For any purpose which shall be authorized by the Governor in Council as a purpose to which the powers and facilities of this Act ought to be extended: provided that no member shall contract for an annuity exceeding £30 per annum, or any other contingency exceeding £200.

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II. If such persons so intending to form and establish such society, or if the governing members of any such society which shall already exist in this colony, shall transmit rules for the government, guidance and regulation of the same to the Attorney-General, and shall obtain his certificate in the form set forth in the schedule to this Act, that the same are in conformity with the provisions of this Act, then the said society shall be deemed to be fully formed and established, or to be entitled to be registered as the case may be, from the date of such certificate.

Rules of societies to be transmitted to Attorney-General.

Certificate by him.

III. Every Friendly Society established or registered under this Act shall, at some meeting of its members, and by a resolution of a majority of the members then present, nominate and appoint one or more person or persons to be a trustee or trustees for the said society, and the like do in any case of vacancy in said office, and a copy of the resolution so appointing such person or persons to the office of trustee, and signed by such trustee or trustees, and by the secretary of the said society, shall be deposited in the office of the Registrar of Deeds.

Trustees to be appointed.

IV. All property whatsoever, movable and immovable, belonging to any society established or registered under this Act, shall be vested in such trustee or trustees for the time being, for the use and benefit of such society and the members thereof; and the movable or immovable property of any branch of such society shall be vested in the trustees of such branch and be under the control of such trustee or trustees, and, upon the removal, resignation, or death of any such trustee or trustees, the same shall vest in the succeeding trustee or trustees for the same estate and interest as the former trustee or trustees had therein, without any cession, transfer, or assignment whatsoever; and in all actions or suits or indictments in any court, the same shall be stated to be the property of the person or persons for the time being holding the said office of trustee, in his or their proper name or names as trustees of such society without any further description.

Property to be vested in Trustees.

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Trustees to bring
& defend actions.

V. The trustee or trustees of any such society are hereby authorized to bring or defend, or cause to be brought and defended, any action, suit, or prosecution, in any court, touching or concerning the property, right, or claim to property of the society for which he or they are such trustee or trustees as aforesaid. And such trustee or trustees shall or may, in all cases concerning the immovable and movable property of such society, sue and be sued in any court, in his or their proper name or names as trustee or trustees without any other description; and no such action, suit, or prosecution shall abate or be discontinued by the death of such person, or his resignation or removal from office of trustee, but the same shall and may be proceeded in, by or against the succeeding trustee or trustees, as if such death, resignation, or removal had not taken place: Provided that every such prosecution shall be commenced under and subject to the law in force respecting private prosecutions.

Liability of Trustees.

VI. No trustee or trustees of any such society shall be liable to make good any deficiency which may arise or happen in the funds of such society, but shall be liable only for the moneys which shall be actually received by him or them on account of such society.

Treasurer to give
security.

VII. The treasurer of every such society, or any other officer who is required by the rules to give security, shall, before he take upon himself the execution of his office, become bound, with one or more sufficient sureties, in a bond as near as may be to the form set forth in the schedule to this Act, in such penal sum as the society or committee of management shall direct and appoint; and every such bond shall be given to the trustee or trustees of the said society for the time being, and shall be, by him or them, duly registered. And if the said bond shall become forfeited, it shall be lawful for such trustee or trustees to sue upon such bond for the use of such society.

Treasurer to render
accounts to Trustees

VIII. Every such treasurer or other officer, at such time as, by the rules of such society, he should render such account as is hereinafter mentioned, or upon being required so to do by the trustee or trustees of such society, or by a majority of the said committee of management, or by a majority of the members present at a meeting of the said society, within seven days after such requisition, shall render to the trustee or trustees of the society, or the said committee of management, or to the members of such society at a meeting of the society, a just and true account of all moneys received and paid by him since his appointment, or since he last rendered an account, and of the balance then remaining in his hands, and of all bonds or securities of such society, which account the said trustee or trustees, or committee of

management, shall cause to be audited by some fit and proper person or persons by them to be appointed; and such treasurer, thereunto required, upon said accounts being audited shall forthwith hand over to the said trustee or trustees the balance which, on such audit, shall appear to be due from him; and shall also, if required, hand over to such trustee or trustees, all securities and effects, books, papers, and property of the said society in his possession or custody; and if he fail to do so, the trustee or trustees of the said society may sue upon the bond aforesaid, or may sue such treasurer in any court having jurisdiction, for the balance appearing to have been due from him, and for all moneys received by him on account of said society and not paid over, and for the securities and effects, books, papers, and properties in his possession or custody, leaving him to set off in such action the sums, if any, which he may have paid on account of said society, and in such action, the trustee or trustees shall be entitled to recover their full cost of suit, to be taxed as between attorney and client.

IX. If any officer, member, or other person being or representing himself to be a member of such society, or the nominee, executor, administrator, or assignee of a member thereof, or any person whatsoever, by false representation or imposition, shall obtain possession of any moneys, securities, books, papers, or other effects of such society, or, having the same in his possession, shall withhold or misapply the same, or shall wilfully apply any part of the same to purposes other than those expressed or directed in the rules of the society, or any part thereof, the person so complained of may upon the complaint or information of the trustees, or any officer or member of the society, be prosecuted before the Resident Magistrate's Court, having jurisdiction over the locality where the offence may have been committed: and if the Magistrate presiding shall determine the said complaint proved against such person, he shall order such person to deliver up all such moneys, securities, books, papers, or other effects to the society, or to repay the amount of money applied improperly, and to pay, if he should think fit, a further sum of money, not exceeding twenty pounds sterling, together with necessary costs, and in default of such delivery of effects, or repayment of such amount of money, or payment of such penalty and costs, the person so convicted may be imprisoned with or without hard labour, for any period not exceeding three months: provided that nothing herein contained shall prevent the said party from being proceeded against by indictment: Provided, also, that no person shall be proceeded against by indictment, if a conviction shall have been previously obtained for the same offence under the provisions of this Act.

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Prosecution of person misappropriating society's funds.

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Rules to be framed
before society regis-
tered under this
Act.

X. Before any Friendly Society shall be established or registered under this Act, the persons intending to establish the same or the governing members of the same if already established shall agree upon and frame a set of rules for the regulation, government, and management of such society; and in such rules they may, amongst other things, make provision for appointing a general committee of management of such society, and delegating to such committee all or any of the powers given by this Act to the members of Friendly Societies formed, established, or registered under or by virtue of the same; and such rules shall set forth:—

- 1st. The name of the society, and place of meeting for the business of the society.
- 2nd. The whole of the objects for which the society is to be established, or for which it exists, the purposes for which the funds thereof shall be applicable; and the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member of such society.
- 3rd. The manner of making, altering, and rescinding rules.
- 4th. A provision for the appointment and removal of a general committee of management, of a trustee or trustees, treasurer, and other officers.
- 5th. A provision for the investment of the funds, and for periodical audit of accounts to be conducted at least once in every year.
- 6th. The manner in which disputes between the society and any of its members, or any persons claiming by or through any member, or under the rules, shall be settled.

And the rules of every such society shall provide that all moneys received or paid on account of each and every particular fund or benefit assured to the members thereof, their husbands, wives, children, fathers, mothers, brothers, or sisters, nephews or nieces, for which a separate table of contributions payable shall have been adopted, shall be entered in a separate account, distinct from the moneys received and paid on account of any other benefit or fund; and also that a contribution shall be made to defray the necessary expenses of management, and a separate account shall be kept of such contributions and expenses.

Power to amend
rules.

XI. After the rules of a Friendly Society shall have been so certified by the Attorney-General as aforesaid, it shall be lawful for such society, by a resolution at a meeting specially called for that purpose, to alter, amend, or rescind

the same, or any of them, or make new rules; and if the said Attorney-General shall find that such alterations, amendments, or new rules are in conformity with law, and this Act, he shall give to the society a certificate in the form set forth in the schedule annexed to this Act; and as against any such member or person such certificate shall be conclusive of the validity thereof: and rules, alterations, and amendments, when so certified as aforesaid, shall be binding on the several members of the said society, and all persons claiming on account of a member or on account of the said rules

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XII. The Registrar of Deeds, upon production of a copy of such rules or amended rules, as the case may be, signed by three of the members or intended members and secretary or other officer, and the said certificate of the Attorney-General shall file such rules or amended rules in his office, and grant a certificate that the same have been filed, and for every such certificate granted by the Registrar of Deeds there shall be paid the sum of two pounds sterling.

Registrar of Deeds
to register rules.

Fee.

XIII. If any person shall give to any member of a Friendly Society established or registered under this Act, or to any person intending or applying to become a member of such society, a copy of any rules, or of any alterations or amendments of the same, other than those certified by the said Attorney-General, with a copy of his certificate appended thereto, under colour that the same are binding upon the members of such society, or shall make any alterations or additions to any of the rules of such society, after they shall have been certified by the Attorney-General, and shall circulate the same, purporting that they have been duly certified under this Act, when they shall not have been so certified, every person so offending shall be guilty of the crime of fraud.

Penalty for falsify-
ing rules.

XIV. All rules of any society established or registered under this Act, and all copies thereof, or extracts therefrom, and all writings and documents relating to a Friendly Society, and purporting to be signed by the Attorney-General shall, in the absence of any evidence to the contrary, be received in all courts without proof of his signature thereto.

Rules signed by
Attorney-General
to be received in
evidence.

XV. The trustee or trustees of every Friendly Society established or registered under this Act, shall from time to time, with the consent of the committee of management of such society, or of a majority of the members of such society present, at a general or special meeting thereof, or in accordance with the rules of such society, invest the funds of such society, or any part thereof, to any account in any bank on deposit or current receipts, or in the purchase of the shares of any bank, or in any incorporated company

Investment of soci-
ety's funds.

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or in mortgage upon immovable property, or on such security as the rules of such society may direct, and not being the purchase of immovable property (save and except the purchase of some house or buildings wherein to hold the meetings or transact the business of such society, and save and except the purchase of land for the purpose of erecting such houses or buildings), and not being personal security, except in the case of a member of one full year's standing at least, and in respect of a sum not exceeding one-half the amount of his assurance on his life; such member providing the bond of himself and two satisfactory sureties for repayment; and in case of such member's death before repayment, the amount of such advance, with interest, may be deducted from the sum so assured, without prejudice, in the mean time, to the operation of such security.

Power of Trustees to subscribe to hospitals, &c.

XVI. The trustee or trustees of any Friendly Society may, out of the funds thereof, subscribe to any hospital, infirmary, charitable or other provident institution, such annual or other sum as may be agreed upon by the committee of management, or by a majority of the members at a meeting called for that purpose, in consideration of any member of such society, his wife, child, or other persons nominated, being eligible to receive the benefits of such hospital or other institution, according to the rules thereof.

Decision of disputes between members and officers of society.

XVII. Every dispute between any member or members of any society established or registered under this Act, or any person claiming through or under a member, or under the rules of such society, and the trustee, treasurer, or other officer, or the committee thereof, shall be decided in manner directed by the rules of such society; and the decision so made shall be binding and conclusive on all parties without appeal.

Arbitration in certain cases.

XVIII. In all Friendly Societies established or registered under this Act, all applications for the removal of any trustee, or for any other relief, order, or direction, or for the settlement of disputes that may arise or that may have arisen in any society, the rules of which do not prescribe any other mode of settling such disputes, or to enforce the decision of any arbitrators, or to hear or determine any dispute, if no arbitrator shall have been appointed, or if no decision shall be made by the said arbitrator within forty days after application has been made by the member or person claiming through or under a member, or under the rules of the society, may be made to a superior court, or to the resident magistrate's court of the district within which the usual or principal place of business of the society in this colony shall be situated; and such superior court, or resident magistrate's court, shall, upon the application of any person interested in the matter

entertain such application; and either of the said courts, as the case may be, may give such relief, and make such order and directions in relation to the matter of such application as may be necessary, and the circumstances of the case may require.

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XIX. The trustees of Friendly Societies established or registered under this Act, or the officer thereof appointed to prepare returns, shall once in every year, in the month of January, transmit to the Registrar of Deeds a general statement of the funds and effects of such society during the past twelve months, and a copy of the last annual report of such society.

Returns to be made yearly to the Registrar of Deeds.

XX. Whenever any ten fully qualified members of a Friendly Society, who shall not be in arrear for contributions or payments payable by them according to the rules thereof, shall represent to the Governor that the accounts and affairs of the said society are in a condition which requires further audit and examination, the said Governor may from time to time appoint some person or persons to examine and audit the accounts and affairs of such society; and the treasurer and officers thereof shall, on fourteen days notice in that behalf, produce and lay before such person or persons, all books and accounts under their control relating to the said society, with all vouchers connected therewith; and thereupon the person or persons so appointed shall conduct the examination and audit that may be necessary, and render to the Governor a full report upon such accounts and affairs, upon the assets and liabilities thereof, and generally as to the state and condition of the said society.

When auditors may be appointed.

XXI. A person under the age of twenty-one may be elected and admitted a member of any society established or registered under this Act, the rules of which do not prohibit such election, and may, and he is hereby empowered, to execute all necessary instruments, and to give all necessary acquittances: Provided that, during minority, he shall not be competent to hold any office of trustee or treasurer of such society.

Minors may be members of society.

XXII. In any society in which a sum of money may be insured, payable on the death of a child under ten years of age, it shall not be lawful to pay any sum for the funeral expenses of such child, except upon production of a certificate signed by a qualified medical practitioner, stating the probable cause of death; and no trustee or officer of any society, upon an insurance of a sum for the funeral expenses of any child shall knowingly pay a sum which shall raise the whole amount receivable from one, or more than one, society for the funeral expenses of a child under ten years to a sum exceeding ten pounds; and any such trustee or

Funeral expenses of child under 10, medical certificate required before payment of.

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officer who shall make any payment otherwise than as aforesaid, shall be liable to a penalty not exceeding ten pounds, upon conviction thereof before the resident magistrate of the district in which such death shall have taken place.

Dissolution of society
—Powers of mem-
bers for

XXIII. It shall be lawful for the members of any society established or registered under this Act, at some meeting of said society, to be specially called in that behalf, to dissolve and determine the said society by consent: Provided that no society established or registered under this Act shall be dissolved or determined, without obtaining the votes or consent of five-sixths in value of the then existing members, and, for the purpose of ascertaining the votes of five-sixths in value of the members as aforesaid, every member shall be entitled to one vote, and an additional vote for every five years that he may have been a member of said society; but no one member shall have more than five votes in the whole; and such society shall not be determined and dissolved, unless all persons then receiving or entitled to receive any relief, annuity, or other benefit from the funds thereof, shall first have testified under their hands that such claim is duly satisfied, or unless adequate provision is made for satisfying such claim. And the intended appropriation or division of the funds or other property shall be fairly and distinctly stated in the agreement for dissolution, prior to such consent being given: and the agreement for such dissolution, accompanied with a declaration by one of the trustees, that the provisions of the Act have been complied with, shall be transmitted to the Registrar of Deeds to be by him filed with the rules in the deeds registry office: and such agreement shall thereupon be an effectual discharge to the trustees, treasurer, and other officers of such society, and operate as a release from all the members of the society to such trustees, treasurers and other officers: and it shall not be lawful in any society to direct a division or appropriation of any part of the stock thereof, except for the purposes of carrying out the general objects declared in the rules, as originally certified, unless the claim of every member is duly satisfied, or adequate provision be made for satisfying such claim, and in case any member of any such society shall be dissatisfied with such provision, it shall be lawful for him to apply to any superior court, upon motion for relief or other order, and such court shall make such order or direction, in relation thereto as the nature of the case may require.

Meaning of "Superior Court" in this Act.

XXIV. The term "superior court" in this Act, shall mean, as to any district for which a circuit court is appointed to be holden, such circuit court; as to the districts over which the court of the Eastern Districts exercises jurisdiction,

the said court of the Eastern Districts; as to the districts over which the High Court of Griqualand exercises jurisdiction, the said High Court; and as to all districts, the Supreme Court.

No: 7—1882.

XXV. This Act may be cited as the "Friendly Societies' Act, 1882." Short Title.

SCHEDULE.

FORM OF CERTIFICATE TO RULES OF FRIENDLY SOCIETIES.

I hereby certify that the foregoing rules (or "the alterations and amendments of rules") of the _____ society at _____ in the district of _____ are in conformity with law, and that the society is duly established (or "is entitled to be registered") from this date, and is subject to the provisions and entitled to the privileges of the provisions of the "Friendly Societies' Act, 1882."

A. B.,
Attorney-General.

FORM OF BOND.

Know all men by these presents, that we A. B. of _____ treasurer (or other officer) of the _____ society established at _____, in the district of _____, and C. D. of _____ (as surety on behalf of the said A. B.) are jointly and severally held and firmly bound to E. F. of _____, and G. H. of _____, the trustees of the said society in the sum of _____ to be paid to the said E. F. and G. H. as such trustees, or their successors, trustees for the time being, or their certain attorney, for which payment to be well and truly made we jointly and severally bind ourselves, and each of us, our heirs, executors, and administrators as well as our and each of our property according to law, renouncing as we hereby renounce all and every exception which may by any law or custom be made by sureties or otherwise.

This done at _____, this _____ day of _____, 18 _____.

A. B.
C. D.

WITNESSES:

I. K.
L. M.

Whereas the above bounden A. B. has been duly appointed treasurer (or other officer) of the _____ society, established as aforesaid, and he, together with the above bounden, C. D., as surety and co-principal debtor, have entered into the above-written bond, subject to the conditions hereinafter contained.

Now, therefore, the condition of the above-written bond is such that if the said A. B. shall do and faithfully execute his office of treasurer (or other officer) of the said society, established

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as aforesaid, and shall make and render a just and true account of the moneys received and paid by him, and shall and do pay over all the moneys remaining in his hands, and assign and transfer, or deliver all securities and effects, books, papers and property of or belonging to the said society, in his hands or custody, to such person or persons as the said society shall appoint, according to the rules of the said society, together with the proper or legal receipts or vouchers for such payments; and likewise shall and do in all respects well and truly perform and fulfil his office of treasurer (or other officer) to the said society according to the rules thereof, then the above-written bond shall be void and of no effect, but otherwise shall be in full force and effect.

A. B.
C. D.

WITNESSES :

I. K.

L. M.

Repealed by 1886 Act 33
No. 8—1882.]

ACT

[14th June, 1882.

To Provide for the Election of a Divisional Council for the Division of Simon's Town, and for other purposes.

Preamble

WHEREAS by a Proclamation bearing date the 1st day of August, 1881, made by the Governor of the Colony under the powers vested in him in that behalf by the second Section of Act No. 36 of 1879, the then district of Simon's Town was constituted a Division of the Colony for fiscal purposes: And whereas it is desirable that the Governor should issue a further Proclamation under the powers given him by the fourth Section of the aforesaid Act, so that such division shall elect its own Divisional Council: and whereas the effect of such Proclamation would be, under the provisions of such Section, to dissolve the existing Divisional Council of the Cape from the date of such Proclamation, by which event both the fiscal divisions of the Cape and of Simon's Town would be left for a considerable period without Divisional Councils: And whereas it is desirable to avert such event by special legislation: 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:—

Divisional Council of the Cape to continue to exist till 31st October, 1882.

I. Notwithstanding the issue of any Proclamation by the Governor under the fourth Section of Act No. 36 of 1879, constituting the fiscal division of Simon's Town a Division for the purpose of electing its own Divisional Council, the existing Divisional Council of the Cape shall not thereby

stand dissolved, but shall continue to exist and exercise all the functions appertaining to it for the period for which it was elected, that is to say, until the 31st day of October, 1882, anything contained in the said fourth section of such Act or in any other Act, Ordinance or other statutory enactment having the force of law, to the contrary notwithstanding.

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And whereas by Act No. 3 of 1857, the toll-gate erected at the entrance to Simon's Town, and the buildings and appurtenances belonging thereto, and the revenue to arise from the tolls levied thereat, were transferred to and became vested in the Divisional Council of the Cape: And whereas it is desirable that such toll-gate, appurtenances and tolls should be transferred to the Divisional Council of Simon's Town so soon as the same shall have been lawfully elected: Be it therefore further enacted:—

II. So soon as a Divisional Council for the Division of Simon's Town shall have been lawfully elected under the provisions of any proclamation issued by the Governor in that behalf, the toll-gate aforesaid at the entrance of Simon's Town and the buildings and appurtenances belonging thereto, and the revenue to arise from the tolls levied thereat, shall stand transferred to and become vested in the Divisional Council of Simon's Town, precisely as if the said toll-gate, buildings, and appurtenances had been originally erected and established by the said Divisional Council in the lawful exercise of the powers and functions vested in it by the twenty-second Section of Act No. 9 of 1858, entitled "An Act to provide for the management of the Public Roads of the Colony."

Toll gate at Simons Town to be transferred to Divisional Council of same.

III. All existing contracts entered into by the Divisional Council of the Cape in regard to the said toll-gate, buildings, appurtenances and tolls with any person, whether for the purpose of letting and hiring the same or otherwise, shall, so soon as such toll-gate, buildings, appurtenances, and tolls have been transferred to and vested in the Divisional Council of Simon's Town under the provisions of the last preceding section of this Act, be deemed and taken to have been ceded by the Divisional Council of the Cape to the said Divisional Council of Simon's Town.

Toll contract to be considered as ceded to same Divisional Council.

IV. This Act may be cited as the "Simon's Town Short Title. Divisional Council Act, 1882."

Magistrate for the marriage of any widower or widow having minor children of a former marriage unless such Resident Magistrate shall be satisfied that the inheritances which have devolved upon such minors have been settled by payment into the Guardians' fund or secured by the customary bond or obligation commonly called a "Kinderbewys" duly registered in the Deeds Registry, or unless it shall be made to appear to such Magistrate by the widower or widow as the case may be, that the value of the estate in question in such case was under one hundred pounds.

No. 9—1882.
Provisions in case of marriage of widowers and widows.

VII. No license shall be granted by any Resident Magistrate for the marriage of any person, not being a widower or widow, under the age of twenty-one years unless and until there be produced to such Magistrate the written consent of the parents or guardians, or other person (if any) whose consent is required by law, or an order of the Chief Justice of the Colony, granted in terms of the seventeenth section of Her Majesty's Order in Council, dated the seventh day of September, 1838.

Consent of parents &c., in case of minors.

VIII. Any Resident Magistrate to whom application shall be made for any such special license as aforesaid, may put to both or either of the parties intending marriage all such questions as shall be relevant and necessary for determining whether there be or be not any lawful impediment to such marriage, and may refuse to grant such license unless satisfactory answers shall be given.

Questions may be put before granting license.

IX. Whoever shall commit any of the following acts or offences, shall, upon conviction, be liable, at the discretion of the Court, to be imprisoned, with or without hard labour, for any term not exceeding five years :—

Offences & penalties.

- (1.) Make any declaration such as is referred to in the fifth section of this Act, for the purpose of obtaining a license to marry, containing any wilfully false statement as to any fact therein alleged.
- (2.) Make any wilfully false statement in answer to any question put by any Resident Magistrate under the provisions of the eighth section of this Act, as to any fact material to be ascertained.
- (3.) Forge or fraudulently alter any consent or writing purporting to be a consent to the marriage of any person being a minor under the age of twenty-one years.
- (4.) Forge or fraudulently alter any license of marriage.

X. This Act may be cited for all purposes as "the Short Title Marriage License Act, 1882."

No. 10—1882.]

THE FIRST SCHEDULE.

MARRIAGE LICENSE ACT, 1882.

It having been made to appear that there does not exist any legal impediment to A.B., of in the district of { Bachelor }
 and C. D., of in the district of { Widower }
 { Spinster }
 { Widow }

being joined in wedlock : License is hereby given to their being united in marriage by any Minister of the Christian religion within the Colony, who could, by virtue of the Order of Her Majesty in Council, bearing date the 7th day of September, 1838, have solemnized such marriage, in case banns thereof had been duly published, or by a Resident Magistrate, or any other duly constituted marriage officer; Provided that such marriage be celebrated within three months from the date hereof.

Given under my hand at
 this day of , 18 .
 Resident Magistrate
 of the District of

THE SECOND SCHEDULE.

I { John Smith } (usual place of residence and occupation)
 { Mary Jones }
 do solemnly and sincerely declare as follows:—

(1.) That I am a { Bachelor or Widower } and am (under or above as the case may be) the age of twenty-one years.

(2.) That I have no knowledge of any just impediment or lawful objection by reason of any kindred relationship, or alliance of any former marriage, or the want of consent of parents or guardians, or any other lawful cause whatever, to my being married to { Mary Jones } of (usual place of residence), and in case of the bride, add: “daughter of John Jones, of

” (usual place of business and occupation), and I make this solemn declaration, conscientiously believing the same to be true, and with full knowledge that any wilfully false statement herein contained will render me liable to imprisonment with hard labour for a term not exceeding five years.

Declared at
 this day of
 Before me,

Repealed by 1892 Act 32.
 No. 10—1882] ACT [June 14, 1882.

For the Regulation of Volunteer Corps.

Preamble.

WHEREAS it is expedient that provision should be made for the formation and maintenance of Volunteer Corps: 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:—

No. 10—1882.

I. The “Volunteer Act, 1878,” shall be and the same is hereby repealed. Repeal of “Volunteer Act, 1878.”

II. All regulations made under the provisions of the “Volunteer Act, 1878,” shall be deemed to be regulations made under the provisions of this Act, and may be varied, altered, or repealed by the Governor. Regulations to continue.

III. The Governor may accept the services of any Corps of Volunteers, Naval as well as Military, upon such terms and conditions as may be deemed fit and proper, and may discontinue the services of and cause to be disbanded any such corps, and dispense with the services of or dismiss any member of any volunteer force. Governor may accept services of Volunteer corps and disband, &c.

IV. In accepting the services of any Corps of Volunteers for Military duties, such acceptance may be for service upon any or either of the conditions following:— Conditions of acceptance.

(1). In any districts to be specified in the Notice of Acceptance and published in the Government Gazette.

(2). For and during any period, and wherever the interests of the Colony may require, within the Colony or beyond the borders thereof, as the Governor may direct.

V. All Corps of Volunteers shall, whenever summoned by Proclamation issued by the Governor, forthwith assemble, and shall be liable to march or embark on board ship or otherwise, according to the terms and conditions upon which such corps respectively engaged to serve: And all such Corps of Volunteers and the members thereof, shall, from the time of the issuing of any such Proclamation as aforesaid, and so long as their services may lawfully be required by the Governor, continue and be subject to the “Colonial Forces Discipline Act, 1880,” or any Act hereafter to be passed for the discipline of Colonial Forces. Discipline.

VI. When any Volunteer Corps shall be assembled or called out for service, the Governor may place such corps under the command of such officer as he may appoint; but such corps shall be led by their respective officers under such command as aforesaid. Governor to appoint commanding officer.

VII. All persons enrolled in any Volunteer Corps when assembled or called out for active service shall be entitled to pay (if demanded) during the period of their being assembled or on such service, at and after such rates according to their respective rank and situations, as the Governor may determine. Pay while on service.

No. 10—1882.

Volunteers may recommend officers for appointment.

Examinations.

When a Volunteer may quit his corps.

Vesting of property belonging to corps.

For what purposes Governor may make rules.

VIII. Every Volunteer Corps may recommend its own Commissioned Officers, under the rank of a Commanding Officer for appointment by the Governor: And all persons so recommended for appointment may be required to pass an examination as to their fitness before such officer or officers as may from time to time be appointed by the Governor.

IX. Any Volunteer may, at any time before the issue of any such Proclamation as is in the fifth section mentioned, quit his corps, upon compliance with the following conditions:—

- (1) If he shall give fourteen days' notice, in writing, of his intention to quit the corps to his commanding officer.
- (2) If he shall deliver up in good order and condition, fair wear and tear only excepted, all arms, clothing, and accoutrements being the property of Government or of the corps issued to him.
- (3) If he shall pay all money due or becoming due by him under any of the regulations of the force, either before or at the time of, or by reason of, his quitting the corps.

X. All money and other property belonging to, or used by, any Volunteer Corps, not being the property of Government or of any individual, shall be vested in the commanding officer for the time being of such corps, for the purpose of all legal proceedings, whether civil or criminal, either before or after the disbanding of any such corps.

XI. The Governor may, from time to time, make rules, orders, and regulations for all or any of the matters or things following, and may vary, alter, or repeal such rules, orders, and regulations:—

- (1) Respecting the enrolment and disbanding of any Volunteer Corps.
- (2) The appointment, promotion, and rank of Volunteer Officers.
- (3) The appointment of Non-Commissioned Officers.
- (4) The relative rank of Volunteer Officers, and of any other Colonial force, now existing or hereafter to be created.
- (5) The requisites necessary to deem a Volunteer an effective.
- (6) The constitution, assembling, and mode of procedure of Courts of Enquiry to receive and examine evidence relating to, and report upon any matter connected with, the Government or discipline of any Volunteer Corps, or on any

charge brought against any officer or member of any such corps.

No. 11—1882.

- (7) The power of arrest and maintenance of discipline.
- (8) The payment and recovery of subscriptions, fines, and penalties.
- (9) The general government, discipline, and management of Volunteer Corps.

And all such regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be then sitting, and if Parliament be not sitting then within fourteen days after the commencement of the next session.

Rules to be laid before Parliament.

XII. Every Volunteer who shall be guilty of contravening any of the regulations or orders made by the Governor shall upon conviction be liable to a penalty not exceeding ten pounds.

Penalty for contravention of rules.

XIII. The cost and charges of carrying out this Act shall be defrayed out of such moneys as Parliament shall provide for that purpose.

Parliament to provide for costs.

XIV. This Act may be cited for all purposes as the "Volunteer Act, 1882."

Short title.

No. 11—1882.]

ACT

[June 14, 1882.]

To Provide for granting Loans to Local Authorities for Public Purposes.

See Act 20 of 1911; Loans not to be made to colleges

BE it enacted by 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.

I. In this Act, save where there is something in the context inconsistent therewith, the following terms shall have the meanings set against them respectively:

Interpretation clause

“The Treasurer,” the Treasurer-General of the Colony.

“The Commissioner,” the Commissioner of Crown Lands and Public Works.

“Local Authority,” any municipality, divisional council, harbour commission or harbour board, water commission, irrigation board, hospital board, or school committee, constituted under the laws in force for the time being for the constitution of municipalities, divisional councils, harbour commissions or harbour boards, water commissions, irrigation boards, hospital boards, or school committees.

Repealed by 1906 Act 32 sec. 2.

No. 11—1882.
 For what purposes Governor may grant loans to local authorities.

II. The Governor may, subject to the provisions of this Act and out of such funds as Parliament shall from time to time provide for that purpose, grant loans to any local authority for all or any of the purposes following :

- (1) The opening and making of new streets and roads, and the diverting, altering or increasing the width of streets and roads.
- (2) The construction, purchase, and establishment of bridges, culverts, ferries, harbour works or jetties.
- (3) The construction, enlargement, and alteration of sewers and drains and works connected with sewerage and drainage, or for sanitary purposes.
- (4) The construction or purchase of waterworks, reservoirs or dams.
- (5) The construction and purchase of works for lighting by gas, electricity or otherwise.
- (6) The construction and purchase of buildings for town halls, municipal offices, divisional council offices, market houses, public schools, or for school purposes.
- (7) For providing baths and washhouses.
- (8) For providing pleasure grounds, botanic gardens, libraries, museums and places of public resort and recreation.
- (9) The construction, establishment, or providing of hospitals, asylums, and other buildings or places for charitable purposes.
- (10) The purchase of land and materials, and making compensation to the owners of any lands or buildings compulsorily taken for any of the foregoing purposes.
- (11) For repaying any loan heretofore raised by any local authority for any purpose herein mentioned.

Purpose of loan to be stated.

III. Every application for a loan under the provisions of this Act shall be in writing addressed to the Commissioner, and shall distinctly state the purpose and object of the proposed loan.

Estimates, plans, &c. may be called for.

IV. The Commissioner may, upon receipt of any such application, call for such estimates, plans, specifications, reports, returns, and other information, and may cause such inspection to be made as he shall deem necessary for the purpose of determining whether the loan applied for is one proper to be granted : and if in any case the local authority shall not have given notice of their intention to apply for

the loan, the Commissioner may require such notice to be given as he may deem necessary.

No. 11—1882.

V. The Commissioner shall, if satisfied that the loan applied for is one proper to be granted, issue his certificate to the effect that in his opinion the requisite conditions prescribed by this Act have been complied with, and that no objection exists to the granting of such loan, and may state therein whether the proposed loan should be advanced in one sum or several sums, and the time or times of such payments respectively.

Commissioner may give certificate in favour of loan.

VI. No application for a loan under this Act shall be submitted to the Governor until the Commissioner shall have enquired into such application and certified as aforesaid.

No uncertified application to be submitted to Governor.

VII. Every loan advanced to any local authority shall, notwithstanding anything to the contrary contained in any Act or Ordinance under which such local authority is authorized to raise money, be subject to the conditions prescribed by this Act, and whenever the word "interest" is used in respect of any loan so authorized to be raised, such word shall be taken to mean and include the half-yearly sums required by this Act, to be paid according to the schedule hereto, as interest upon and in liquidation of such loan.

Loans subject to conditions prescribed by this Act.

VIII. Every loan advanced to any local authority shall, subject to any prior charge or hypothecation, be a charge upon the rates, revenues, and land, of such local authority.

Loan to be a charge on rates, property, &c.

IX. The term of any loan advanced under the provisions of this Act shall not exceed forty years, and shall at or before the granting thereof be determined by the Governor.

No loan for a greater period than forty years.

X. Every such loan shall be liquidated by payment to the treasurer by the local authority on the first days of January and July, respectively, in every year of one moiety of the annual payment required to redeem such loan, according to the scale prescribed in the schedule hereto, and such sum shall continue to be payable until all the moneys advanced from time to time by the treasurer, together with the interest accruing thereon, shall be paid: Provided that the term of such loan shall be deemed to begin on such date, not more than five years after the authorization of the same, as the Governor shall prescribe, but interest calculated at five per centum per annum shall be payable on any sum advanced by the treasurer from the date on which it is advanced.

How loans to be redeemed.

Amended by 1922 Act-38 Sec.3

XI. Every moiety of such annual payment shall be placed to the credit of the local authority making the same, and shall be appropriated by the treasurer in the manner following:—

Appropriation of money paid in redemption of loans.

No. 11—1882.

The proportion of interest included in each such payment shall be paid into the public revenue, and the balance to credit of the Loans to Public Bodies' account.

Statement of loans
to be published in
Government Gazette

XII. The treasurer shall half-yearly, after the first days of January and July respectively, cause to be published in the *Government Gazette* a detailed statement of all loans at the time so advanced to and not repaid by all such local authorities under the provisions of this Act.

How payments may
be enforced.

XIII. If any local authority, having the power to make, levy, and receive rates, or impose dues, shall neglect to pay any moneys required by this Act to be paid for a period of sixty days and upwards after the same shall have become due and payable, the Treasurer may forthwith make and levy a rate or rates of sufficient amount, or collect and receive any dues payable to the local authority, as the case may be, and for that purpose the treasurer shall have and may exercise all the powers vested in or exercised by the local authority for making, levying, and recovering rates upon all rateable property within the jurisdiction of such local authority, or for collecting and receiving such sums as aforesaid; and if, after payment out of the proceeds of any such rates or dues received of the amount due to the treasury, with interest thereon, and the expenses of and incidental to the making, levying, and recovering or receiving such rates or dues there shall remain any balance, such balance shall be paid over to the local authority.

Provisions to apply
to cases of loans
granted upon security
other than
that of rates.

XIV. If any loan shall be advanced under the authority of this Act, to any local authority not having the power to make, levy, and recover rates or impose dues, the following provisions shall apply :—

- (1) Such loan shall be secured by mortgage bond passed by, or by the authority of, the local authority in favour of the treasurer before a registrar of deeds, upon the security of immovable property vested in such local authority.
- (2) In case such local authority shall neglect to pay any moneys required by this Act to be paid for a period of sixty days and upwards after the same shall have become due and payable, the treasurer may take possession of the property hypothecated; and may after notice of not less than thirty days, published in the *Government Gazette*, and in some newspaper (if any) circulating in the neighbourhood, of his intention so to do, cause such

property to be sold publicly to the highest bidder, upon such terms as to credit or otherwise as he may determine.

No. 11—1882.

- (3) Out of the proceeds realized by the sale of such property there shall in the first place be paid the expenses of and incidental to the taking and holding possession and of the sale thereof, and the balance shall be applied to or towards the sum then due by the local authority to the colonial treasury for interest and principal in respect of such loan: And if there be any surplus such surplus shall be paid over to the local authority.
- (4) In case any such property shall be sold as aforesaid, the treasurer is hereby invested with the power and authority to pass transfer in due and customary form to the purchaser thereof: and shall for such purpose be, and be deemed to be, a trustee for such local authority.

XV. Notwithstanding anything in this Act contained, the local authority shall in respect of any loan advanced under the provisions hereof be subject to the provisions of the "Public Bodies Debts Act, 1867." Public Bodies' Debts Act, 1867, to apply.

XVI. This Act may be cited for all purposes as "The Local Works Loans Act, 1882."

Short Title.

[For Schedule see next page.]

No. 12—1882.

SCHEDULE.

Table for the Redemption of Loans, showing the annual sum required to repay a Loan of £100 and interest within the following periods:

Years in which Loan Repayable.	Annual Payment.	Years in which Loan Repayable.	Annual Payment.
	£ s. d.		£ s. d.
2	53 15 8	22	7 12 0
3	36 14 5	23	7 8 4
4	28 4 1	24	7 5 0
5	23 2 0	25	7 1 11
6	19 14 1	26	6 19 2
7	17 5 8	27	6 16 7
8	15 9 6	28	6 14 3
9	14 1 5	29	6 12 1
10	12 19 0	30	6 10 1
11	12 0 10	31	6 8 4
12	11 5 8	32	6 6 6
13	10 12 11	33	6 5 0
14	10 2 1	34	6 3 6
15	9 12 8	35	6 2 2
16	9 4 7	36	6 1 0
17	8 17 5	37	5 19 8
18	8 11 1	38	5 18 8
19	8 5 6	39	5 17 6
20	8 0 6	40	5 16 8
21	7 16 0		

1908 Act 37.
 1911 Act 13/12
 § 45
 + Act 14/12 § 2.

No. 12—1882.

ACT

[June 21, 1882.]

For the Organization and Regulation of a Police Force.

Preamble

FOR the purpose of providing for the Organization and Regulation of a Police Force in this Colony: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

“Police Districts”
 to be defined and
 officers appointed.

I. The Governor may from time to time define certain portions of the Colony to be known as “Police Districts,” and may appoint so many commissioners of police, inspectors, sub-inspectors, and other officers of different grades, and so many sergeants of police as may be deemed necessary, and may also from time to time suspend, reduce, discharge, or dismiss any such commissioner, officer, or sergeant.

II. The commissioners shall, in their respective districts, and subject to the directions of the Governor, have the superintendence and control of the force, and all officers of police shall have the superintendence and control of that portion of the force which may be placed under their charge, subject to the authority by this Act conferred upon the commissioners and to the regulations to be made by the Governor, as is hereinafter provided.

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Commissioners of
Police to superin-
tend the force

III. The Governor may, when circumstances so require, appoint a person to act in the place of any commissioner, and every such acting commissioner shall have all the powers conferred, and shall discharge all the duties imposed by this Act upon a commissioner.

Governor may ap-
point Acting-Com-
missioner.

IV. The commissioners may in their respective districts, from time to time, appoint so many fit persons to be policemen of different grades as the Governor may deem necessary, and the Governor may disallow any such appointment. Such commissioners may from time to time discharge or dismiss any policeman.

Commissioners to
appoint and dis-
miss policemen.

V. Every policeman shall in any district of the colony have such powers, and shall perform all such duties, as any constable or policeman now has or hereafter may have by virtue of any Law, Ordinance or Act now or hereafter to be in force in this Colony.

Powers and duties
of policemen.

VI. The force so to be raised may be armed and mounted, or partly armed and partly not armed, partly mounted and partly unmounted, as to the Governor shall seem fit, and such force shall serve as a police force for preserving the peace and preventing crimes, and apprehending offenders, and perform such other duties as by this Act or any rule or regulation to be made by the Governor may be required.

Force may be armed
or partly armed,
or not.

VII. The Governor may in case of any war or other emergency, employ the force raised under the provisions of this Act, or any part thereof, for the purpose of assisting in the defence of the Colony, either within or beyond the borders thereof, and may place such force, or part thereof as aforesaid, under the orders and directions of such person as he may appoint in that behalf; and while so employed such force shall be subject to the provisions of the "Colonial Forces Discipline Act, 1880," or any Act hereafter to be passed for the discipline of colonial forces.

In case of war force
may be employed in
defence of Colony.

VIII. No member of the force other than a commissioner shall be at liberty to resign his office, or to withdraw himself from the duties thereof, notwithstanding that the period of his engagement shall have expired, unless expressly authorized in writing so to do by the commissioner of the district, or unless he shall give to such commissioner three months' notice of his intention to resign or withdraw; and

Commissioners alone
allowed to resign
without permis-
sion.

No. 12—1882.

no commissioner shall be at liberty to resign or withdraw as aforesaid, without the consent of the Governor.

Powers, &c., conferred, cease on dismissal or discharge.

IX. When any member of the force shall be discharged or dismissed from, or shall otherwise cease to hold and exercise his office, all powers, and authorities vested in him, as a member of the force, shall immediately cease.

Power of Governor to make rules and regulations.

X. The Governor may, from time to time, make rules and regulations for defining the duties of the members of the force, and respecting the training, arms, and accoutrements, clothing and equipment of such force, and as to all matters necessary for making the force efficient for the discharge of their respective duties, and may vary, alter, and repeal any such rules and regulations; and also when it shall appear necessary, may direct the employment and distribution of the said force beyond the limits of the respective police districts, and also within or beyond the colonial boundary.

1.7. 191-104. 1.7.10.

Penalty for contravention of rules, &c.

XI. Any member of the force, not being a commissioner or inspector, 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, be liable to a penalty not exceeding ten pounds.

Duty of serving summonses, &c.

XII. Every sub-inspector, sergeant, and policeman shall obey and execute all lawful summonses, warrants, executions, and other process of any Court or Justice of the Peace, to him directed or delivered, and any summons, warrant, or other process directed or given to any member of the force shall and may be executed and enforced by any other member of the same or any other force, and every such last-mentioned member shall have the same rights, powers, and authorities for and in the execution of such summons, warrant and other process, as if the same had been originally directed to him expressly by name.

Members of the force at 50 and after ten years service may be superannuated.

amended by
'22 Act 38 Sec. 8.

XIII. Any member of the force who has served for a period of not less than ten years, and has attained the full age of fifty years, may, at the discretion of the Governor, be superannuated, and shall on retirement receive, at his option, either a gratuity of one month's pay for each year's service, or a yearly pension according to the following scale:—After ten years' service ten-fiftieths of the pay received by him during the year preceding his retirement, and an increase of one-fiftieth for each additional year's service completed, not exceeding thirty.

If under 50 and after 10 years service may be superannuated on medical certificate.

XIV. Where any member of the force has served for ten years and has not attained the full age of fifty years, if a certificate to the effect set forth in the Schedule to this Act signed by two medical practitioners, to be first approved of by the commissioner of the district, be forwarded to the

Governor by such commissioner, the Governor may superannuate such member, and he shall thereupon be entitled to receive, at his option, the gratuity or pension provided by the last preceding section for members of the force who have attained the full age of fifty years.

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XV. When any member of the force has served for a less period than ten years, if without his own default, and in the discharge of his duty he receive such bodily injury as to incapacitate him for active service, he may retire from the force, and the Governor may grant to such member a gratuity not exceeding one month's pay for each year's service, or a yearly pension not exceeding half the pay received by him during the year preceding his retirement, or in the event of his death before so retiring such gratuity may be granted to his widow and children, or partly to his widow and partly to his children, as the Governor may deem fit.

In case of incapacity through bodily injury.

XVI. When any member of the force has served for a less period than ten years, if a certificate to the effect set forth in the said Schedule shall be granted by two medical practitioners, to be first approved of by the commissioner of the district, such member shall be entitled to his discharge, and to receive a gratuity of one month's pay for each year of service at his then rate of pay.

Discharge and gratuity in certain cases

XVII. No pension shall be granted to members of the force except upon condition that it is liable to be forfeited, and may be withdrawn by the Governor in any of the following cases :---

Conditions of grant of pension.

1. On conviction of the grantee of any crime or offence.
2. On his knowingly associating with suspected persons, thieves, or other offenders.
3. On his refusing to resume his duties in his former office when required to do so by the Governor, in accordance with any regulations made under this Act.
4. If he shall make use of the fact of his former employment in the force, in a manner which the Governor considers to be improper.

XVIII. Any member of the force who has attained the age of forty years, and who has served with diligence and fidelity for not less than twenty years, shall be entitled to retire upon a gratuity at the rate of one month's pay for every year of service.

40 years of age and 20 years service entitled to pension.

XIX. Should any member of the force lose his life in the discharge of his duty, a gratuity or pension equal to what he would have been entitled to if he had reached the age of fifty years, shall be paid to his widow and children,

What pension to widows and children.

- No. 12—1882. or partly to his widow and partly to his children, as the Governor may determine.
- Discharge for misconduct bars claim to pension. XX. Any member of the force who has been discharged or dismissed therefrom for misconduct, shall not be entitled to any pension, gratuity or allowance.
- Members of existing police forces entitled to benefits of this Act. XXI. The Governor may permit the period of service of any member of an existing police force, who shall be appointed to serve in the force by this Act constituted to be reckoned for the computation of pension or gratuity under this Act.
- Rewards for extraordinary services. XXII. The Governor may pay out of the public revenue such sums of money by way of reward to members of the force as shall by extraordinary service have merited the same: Provided that a return showing the amounts and particulars of such payments shall be laid upon the table of both Houses at the next ensuing Session of Parliament.
- How cases of misconduct to be inquired into in cases of sergeants. XXIII. Any commissioner or inspector may examine on oath into any charge of insubordination or misconduct against the discipline of the force preferred against any sergeant, and the evidence taken by any inspector shall be referred to the decision of the commissioner of the district, who may, if he considers the charge satisfactorily proved, impose a penalty not exceeding five pounds, and may recommend such sergeant for reduction, discharge, or dismissal by the Governor.
- How in cases of misconduct of policemen. XXIV. Any commissioner or inspector may examine on oath into any charge of insubordination or misconduct against the discipline of the force preferred against any policeman, and on conviction thereof may sentence such policeman to pay a penalty not exceeding two pounds, and every such sentence, if by an inspector, shall be subject to the approval of the commissioner of the district.
- Power to issue subpoenas to give evidence at such enquiries. XXV. Any commissioner, inspector, or other officer or person appointed by the Governor may issue summonses requiring any persons named therein to appear at a time and place to be therein appointed to give evidence on oath as to all matters and things known to them respecting any charge or complaint preferred against any member of the force as to any neglect or violation of duty, and any person duly summoned as aforesaid who shall not attend in obedience to such summons, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or to answer all such questions as such person may lawfully be required to answer, shall incur and be liable to pay for each offence such penalty, not exceeding five pounds, as such commissioner, inspector, officer, or other person holding such enquiry may direct and adjudge.

XXVI. Any penalty imposed under the three last preceding sections of this Act, or for breach of any regulation made by the Governor, may be recovered, in the case of a member of the force by stoppage from the pay of the offender, and may in any case be recovered in manner and form as provided by the Ordinance No. 6, 1839.

No. 12—1882.
Penalties to be recoverable under Ordinance 6 of 1839.

XXVII. When any inspector, sub-inspector, or officer above the rank of a sergeant, is accused of a breach of duty, or of any conduct rendering it unfit that he should remain in the force, if he deny the truth of such accusation, and if the Governor is of opinion that sufficient cause has been shown for further proceedings, the Governor may appoint three or more fit and proper persons, of whom one only may be a member of the force, to enquire as to the truth of such charge; and such persons shall have authority to hear, receive, and examine evidence on oath, and shall after fully hearing the case, report to the Governor their opinion thereon.

Proceedings in case of alleged misconduct of officers above rank of sergeant.

XXVIII. If any member of the force shall be convicted of any crime or offence, or shall become a hired servant, or shall keep a house for the sale of wine, beer, or spirituous liquors, either in his own or any other name, or shall be directly or indirectly interested in any such house, he may be reduced or dismissed from the force, and if dismissed, shall forfeit all pay, gratuity, or pension to which he may be entitled at the time of such dismissal.

In what cases members of the force may be reduced in rank or dismissed.

XXIX. Any officer, sergeant, or policeman who shall resign his office or withdraw himself from the duties thereof without the previous permission or notice required by this Act, shall upon conviction be liable for every such offence, to pay a penalty not exceeding forty pounds.

Officers, &c., resigning without permission.

XXX. Any member of the force who shall take any bribe, pecuniary or otherwise, either directly or indirectly, to forego his duty, or who shall in any manner aid or connive at the escape, or attempt to escape, of any prisoner in lawful custody, or who shall desert his post or assault his superior in rank in the force, or shall neglect or refuse to obey or execute any process by this Act directed to be by him executed, or shall be guilty of any act of insubordination or misconduct against the discipline of the force, or of any contravention of any rule or regulation made by the Governor, under the provisions of this Act, shall incur and be liable to a penalty not exceeding forty pounds; but nothing herein contained shall exempt such offender from any higher or other punishment to which he may be subject by any other law in force in the Colony.

Penalties for taking bribes.

No. 12—1882.

Penalties for members of force not giving up articles so supplied to them when retiring or being dismissed.

XXXI. If any person who having been a member of the force had been dismissed or who has otherwise ceased to be a member of the force, shall not forthwith deliver up everything which may have been supplied to him for the execution of his office, or which may be in his custody by virtue thereof to such person as may be appointed by any order issued by any commissioner, such last mentioned person shall upon conviction be liable to be imprisoned with or without hard labour for any period not exceeding three months; and any Justice of the Peace may and shall issue his warrant to search for and seize any arms, ammunition, accoutrements, horses, saddles, bridles, clothing, and other things whatsoever which shall not be so delivered wherever the same shall be found.

Desertion or refusal to serve.

XXXII. If any member of the force shall, during the period for which he shall have engaged to serve, and not being duly discharged from the same, desert, or refuse to serve, or absent himself from duty without lawful cause or reasonable excuse, the proof of which shall lie upon him, every such offender shall be liable upon conviction for every such offence to a penalty not exceeding forty pounds.

Obtaining admission to force by false certificates.

XXXIII. Any person who shall, by false certificates or any false representations, obtain admission into the force, or who having been dismissed therefrom shall, by concealing the fact of such dismissal, receive any pay, gratuity, or pension, shall upon conviction be liable to be imprisoned with or without hard labour for any period not exceeding three months.

Licensed victuallers allowing policemen to get intoxicated.

XXXIV. The holder of any license to sell wine, beer, or spirituous liquors, who shall by himself or his servants knowingly permit any policeman to become intoxicated on his premises or to be supplied with liquors while intoxicated, shall for every such offence be liable upon conviction to pay a penalty not exceeding twenty pounds.

Persons found in possession of arms, &c., supplied to members of the force.

XXXV. If any person not being a member of the force shall have in his possession any arms or ammunition, or any clothing, accoutrements, or other thing supplied to any member of the force, and shall not be able satisfactorily to account for his possession thereof, or shall put on or assume the dress, name, designation, or description of any member of the force, or shall give or promise to give any bribe, pecuniary or otherwise, or shall make any agreement with any member of the force to induce him in any way to forego his duty, or shall concert or connive at any act, whereby any rule or regulation made under this Act in relation to the force may be evaded, every such person shall in addition to any other punishment to which he may be

liable for such offence, upon conviction incur and be liable to a penalty not exceeding forty pounds.

No. 12—1882.

XXXVI. No member of the said force shall, without permission of the commissioner of the district first had and obtained, sell, pledge, or otherwise dispose of any horse, saddle, bridle, gun, clothing, ammunition, or other article or equipment which, by the regulations of the said force for the time being, he shall be required to keep and possess; and every sale, pledge, or other disposition of any of the matters aforesaid shall be null and void; and any member of the said force who shall make or attempt to make any sale, pledge, or other disposition as aforesaid, in contravention of this section, shall incur and be liable to a penalty not exceeding twenty pounds sterling.

Horses, accoutrements, &c., not to be sold or pledged without leave.

XXXVII. If any person shall, in consequence of any sale, pledge, or other disposition made by any member of the said force in contravention of the last preceding section, knowingly receive or have any animal, article, matter, or thing in the said section mentioned, such person shall incur and be liable to a fine not exceeding twenty pounds sterling.

Fine for receiving such horses, &c.

XXXVIII. No animal, article, matter, or thing mentioned in the thirty-sixth section of this Act, and therein forbidden to be sold, pledged, or otherwise disposed of, shall be capable of being seized or attached by or under any writ of execution which may be sued out against any member of the said force, nor shall the same pass by or under any order made for the sequestration of the estate of any such member.

Articles forbidden to be sold cannot be seized in execution.

XXXIX. Every member of the said force, when in uniform, whose duty it shall be, in proceeding to or from any place, to pass through any toll-bar, or over any ferry, at or in respect of which the payment of toll shall now be or may hereafter be lawfully demanded, shall be exempted from the payment of any such toll in respect of himself, and of any animal and vehicle that may be required for the performance of the duty on which he may be employed.

Exemption from tolls.

XL. If any person duly authorized to collect tolls in respect of any ferry shall wilfully subject any member of the said force to unreasonable delay or detention in respect to the passage over such ferry, then such person shall be liable on conviction to a penalty not exceeding five pounds, and in default of payment thereof shall be liable to be imprisoned with or without hard labour for any period not exceeding one month.

Penalty for exacting tolls.

XLI. Except where otherwise specially provided, imprisonment with hard labour may in the discretion of the court be substituted in lieu of any pecuniary penalty for any of the offences mentioned in this Act, other than such as are mentioned in the twenty-third, twenty-fourth, and

Imprisonment with hard labour may be substituted for fines.

No. 12—1882.

twenty-fifth sections respectively, provided that such imprisonment shall not exceed one month, in case the penalty which may be imposed shall not exceed five pounds, or three months when such penalty exceeds five pounds, and shall not exceed twenty pounds, or six months when such penalty exceeds twenty pounds. Whenever any penalty shall have been imposed under the provisions of this Act and the person convicted shall not forthwith pay the same, the court may direct that such person be imprisoned with or without hard labour for a period not exceeding one month if the penalty imposed do not exceed five pounds, or not exceeding three months if the penalty be above five pounds and not exceeding twenty pounds, and for a period not exceeding six months if the penalty be above twenty pounds, and such person shall be detained and kept, with or without hard labour as the case may be, unless he shall sooner pay the penalty.

Time of imprisonment not to count as service.

XLII. No imprisonment or confinement of any member of the force shall be deemed to be part of any period for which he shall have engaged to serve in the force.

Resident Magistrates to have jurisdiction.

XLIII. All offences created by this Act, and all fines and penalties to be inflicted under or by virtue of this Act, or for breach of any regulations made by the Governor, may be prosecuted before and imposed by, any resident magistrate, whether the offence be committed within the local limits of his jurisdiction or not, or within or beyond the colony; and in case any such offence shall be committed, within the limits of the district from time to time defined by virtue of the first section of the "Border Protection Act, 1868," the officer appointed to exercise jurisdiction under the said Act shall have and exercise in respect to such offence, jurisdiction concurrently with any resident magistrate.

Exemption of officers from liability to Acts done under Magistrates' warrant.

XLIV. If any action shall be brought against any member of the force for any act done in obedience to the warrant of any magistrate or justice of the peace, such member shall not be liable for any irregularity in the issuing of such warrant, or for want of jurisdiction in the person issuing the same; and upon producing such warrant and proving that the signature thereto is the handwriting of the person whose name is subscribed thereto, and that such person is reputed to be and acts as a magistrate or justice of the peace, and that the acts complained of were done in obedience to such warrant, judgment shall be given against the plaintiff and the defendant shall recover his full costs of suit.

Costs provided for.

XLV. All costs and charges for carrying out this Act shall be paid out of such moneys as Parliament shall provide for the purpose.

XLVI. In the interpretation of this Act the term “the force” shall mean officers and men of the police force constituted under this Act, whether employed upon land or upon water, and the term “member of the force” shall apply to every person employed in the force.

No. 13—1882.
Interpretation
clause.

XLVII. This Act may be cited for all purposes as “The Police Regulation Act, 1882.”

Short title.

SCHEDULE.

We certify that on the _____ day of _____ 18____ we examined _____ a member of the Police force constituted under the “Police Regulation Act, 1882,” and that we believe he is incapable of discharging his duties as a member of the force, from infirmity (of mind or body) and that we believe such infirmity is likely to be permanent, and has not been occasioned by any excess or misconduct on his part.

No. 13 of 1882.] ACT [June 21, 1882.

To Grant Increased Representation in the House of Assembly to the Electoral Division of Kimberley.

WHEREAS it is desirable to amend Act No. 39 of 1877, known as “The Griqualand West Annexation Act, 1877,” by making provision for an increase in the number of the representatives now returned to the House of Assembly for the Electoral Division of Kimberley: 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.

I. So much of the fifth section of Act No. 39 of 1877, known as “The Griqualand West Annexation Act, 1877,” as may be repugnant to or inconsistent with this Act, is hereby repealed.

Repeal of repugnant laws.

II. At the next ensuing general election, and thereafter, the Electoral Division of Kimberley shall be entitled to return to the House of Assembly of the Cape of Good Hope four members.

Kimberley to elect 4 members to Assembly.

III. This Act may be cited as “The Kimberley Increased Representation Act, 1882.”

Short Title.

No. 14—1882.

No. 14 of 1882.]

ACT

[June 21, 1882.

To Alter and Amend the Laws relating to the Pensions of the Widows of Civil Servants.

Preamble.

WHEREAS it is desirable to make better provision for the effectual working of Act No. 22 of 1879, being the "Public Service Widows Pension Act, 1879," and the Act No. 3 of 1880, being the "Civil Service Widows Pension Amendment Act, 1880": Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Repeal of repugnant laws.

I. Such of the provisions of the Acts No. 22 of 1879 and No. 3 of 1880 as may be repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

Deductions from salary yearly in advance, except monthly deductions desired when 2½ per cent. to be added.

II. The deductions from the salaries of the government officers authorised to be made by the second section of Act No. 22 of 1879, shall be made annually in advance, unless any such officer shall desire that the same shall be made, in regard to his salary and allowances, monthly in advance, in which case, however, there shall be added to the deduction made from the first month's salary and allowances, a sum equal to two and a half per centum upon the yearly contribution of such officer to the fund.

Cancelled 31/1/80

Leave of absence not to exclude deductions.

III. No deduction from the sums payable by any government officer under the provisions of the Acts No. 22 of 1879 and No. 3 of 1880 shall be made by reason of such officer having been absent on leave and receiving, during such absence, less than the fixed salary and allowances of his office.

Cancelled 31/1/80

In case of increase or decrease of salary.

IV. Whenever any deduction shall have been made under the provisions of this Act, whether for the whole year or for any portion thereof, and the officer from whose salary such deduction has been made shall thereafter be in receipt of a greater or less salary and allowances than he enjoyed at the time of such deduction, an adjustment of the contribution in proportion to such increased or decreased salary and allowances shall be made by the Treasurer-General.

What officers may take advantage of this Act.

V. Any officer who held an appointment on the fixed establishment of the public service of the Colony at the time of the taking effect of the "Public Service Widows Pension Act 1879," and any officer who came upon such fixed establishment upon the taking effect of the "Griqualand West Annexation Act, 1877," may, within twelve months from the taking effect of this Act, signify to the Treasurer-General his consent that the deduction mentioned in the

second section of such first-mentioned Act shall be made, and the widow of every such officer so consenting shall be entitled to the privileges or benefits conferred by the said Act: Provided that no such officer whose age shall exceed fifty years and who shall not produce a satisfactory medical certificate as to his state of health shall be entitled to take advantage of the provisions of this section.

VI. For the better and more effectual working of the said Acts No. 22 of 1879 and No. 3 of 1880, and of this Act, it shall be lawful for the Governor from time to time to make, alter, or revoke such rules and regulations as to him may seem advisable, and such rules and regulations shall take effect from the date of the publication thereof in the Government Gazette: Provided that until any such rules and regulations shall have been so made, the rules and regulations contained in the Government Notice No. 1,141, dated the 27th October, 1879, published in the Government Gazette, shall be and continue in force.

VII. This Act may be cited as the "Civil Service Short title. Widows Pensions Amendment Act, 1882."

Governor to make
or alter rules and
regulations.

No. 15—1882

rules City of London
dated 29/4/82
W. ...

No. 15—1882.] ACT [June 21, 1882.]

To Enable the Municipal Council of East London to provide the inhabitants of the Town of East London with water, and for that purpose to take water from the Amalinda River and tributaries thereof, and to acquire Government and other lands required for the construction of the necessary Water Works.

WHEREAS it is desirable that the inhabitants of the town of East London should be supplied with good water, and the Municipal Council thereof have caused surveys to be made and are advised that the same can be obtained by the erection and construction of a reservoir with other necessary works in the Amalinda Valley, in the division of East London. Preamble.

And whereas it is expedient that the works, necessary to accomplish that object should be constructed by the said Council or by a joint stock company or co-partnership of individuals or an individual with whom the said Council may contract either for the whole or any portion of the said works or the material therefor. And that to enable the said Council to procure the necessary funds the said Council should be empowered, by the issue of debentures from time to time,

No. 15—1882.

or otherwise, as the Council may deem fit, to raise such a sum or sums of money as may be required, not exceeding in the aggregate the sum of twenty-five thousand pounds. And that, in order that the said Council may be enabled to pay the interest on such sum or sums of money so raised as well as to contribute annually a sum not less than one pound per cent. on the said capital by way of a sinking fund, in order to enable the said Council to pay off the said loan, the said Council shall be empowered in each and every year to impose, levy, and collect such a rate or assessment as will produce an amount sufficient to pay such interest and contribution as aforesaid.

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:—

Power to Council to borrow £25,000.

I. It shall be lawful for the said Council from time to time to borrow and to take up by the issue of debentures or otherwise at interest, such sum or sums of money not exceeding in the whole twenty-five thousand pounds sterling as may be required for the purposes of this Act, and to charge the municipal rates of the said Municipality as security for any such sum so to be borrowed by the said Council.

Power to impound water from Amalinda River and its tributaries.

II. The said Council shall be empowered to take, impound, divert, appropriate, and convey from the Amalinda River and its tributaries, in the division of East London, and from surface area, the drainage from which shall flow into the said Amalinda River or any of its tributaries, 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 of this Colony, and he is hereby authorised to give and grant to the said Council, in full and free property, on such conditions as may be agreed upon, such Government land as may seem to him desirable on which the said Amalinda River or any of its tributaries take their rise, or all such Government land as is situate at or immediately adjoining the point or points on the said river or any of its tributaries, or which may form part of the drainage area from whence it is intended that such supply shall be so taken, impounded, diverted, appropriated, and conveyed: Provided, however, that if such taking, impounding, diversion, appropriation, or conveyance shall deprive any person of any water or any right of water which he may at the time of the taking effect of this Act possess or be entitled to in reference to the said Amalinda River or any of its tributaries, or in any way interfere with or lessen such water or right of water, such person shall be entitled to recompense or compensation to be settled in case of difference as in the eighth section of this Act provided: Provided

further that no person, to whom any Government land shall be sold or leased after the passing of this Act shall thereby acquire any water or right of water for the interference with or lessening of which by the works hereby authorised he shall be entitled to claim any recompense or compensation.

No. 15—1882.

III. The said Council is hereby empowered to construct and make, or cause to be constructed and made, all such works as may in the opinion of the said council be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking or conveying the said water, whether by reservoirs, dams, watercourses, or leadings, pipes, conduits, drains, ditches, or other means, and to erect such buildings as may be deemed requisite for the purposes of the said works for securing an adequate supply of water for the inhabitants of the said town of East London and for the shipping visiting that port, as well as for such irrigation purposes as the said council may deem necessary and expedient.

Power to construct works for carrying out purposes of the Act.

IV. The said Council is hereby empowered to enter upon, occupy, enclose, take, and use for the purposes of this Act any land belonging to Her Majesty the Queen, commonly called "Crown lands," or any land set apart as commonage lands for any place or village not being a municipality at the time of the passing of this Act, and also to enter upon, occupy, enclose, take, and use any land, the private property of any person or persons whomsoever, which may be required for the construction or maintainance of any works aforesaid, for the obtaining of the necessary drainage area or for any of the purposes of this Act, and may agree, as hereinafter provided, for the purchase or hire of such private land, or may take, carry away, or use for the purposes of the said works any stone, clay, gravel, or other material requisite for carrying out the said works, and may break up or excavate any land for the purpose of laying down, repairing, inspecting, maintaining, or removing any reservoir or reservoirs, pipe, or pipes, or other works, and may either compensate the owners of such lands as hereinafter provided, or enter into any contract relative to obtaining such lands or materials, or for laying down any pipe or pipes, or other works upon such terms and conditions as may be mutually agreed to.

Powers of entry on lands.

V. It shall be lawful for the said Council to acquire and take possession, in the manner hereinbefore and hereinafter provided, of any land, whether belonging to Her Majesty the Queen, commonly called "Crown lands," or land set apart as commonage as aforesaid, or land belonging to private persons that may be required for the purpose of protecting the sources of the said Amalinda River or any of its tributaries, the drainage area required for the collection of

Power to acquire Crown Lands, commonage, &c.

No. 15—1882.

water or the sources of supply from whence the water may flow into the reservoirs, dams, places, or place where the said works may take off the water of the said river or any of its tributaries.

To lay down pipes and conduits.

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

Rights of way and access.

VII. It shall be lawful for the said Council, at all times by themselves, their engineers, contractors, or workmen, and with carts or carriages, to have free access and right of way to, over, and along the line of works, and to and from all other property of the said council acquired or to be acquired under the provisions of this Act, for the purpose of adding to, repairing, relaying, or supervising the said works or for any other purpose whatsoever, that may be deemed expedient by the said Council in or about carrying out the purposes of this Act: Provided, however, that such right of way shall in no case exceed a space of ten feet on each side of the line of works.

Arbitration clause.

VIII. Any person or persons from whom any water or right of water, land, or right of way, or any stone, gravel, or other material may be required to be taken for the purposes of this Act, shall be bound and obliged to send in to the Town Clerk his, her, or their claim or claims for the purchase amount, hire, recompense or compensation which he, she, or they shall claim to be entitled to for such water or right of water, land, or right of way, or any stone, gravel or other material required or taken or which shall be required or taken for the purpose of this Act within twelve months after such taking as aforesaid, and for that purpose the necessary plans, specifications, and reports in connection with the said works shall lie at the office in East London of the Town Clerk during his usual business hours for and during the period aforesaid, for the inspection of any person or persons who shall be interested therein. After which said period no further or any claim or claims which shall not have been sent in in manner hereinbefore provided for shall be recognised nor shall such claimants be entitled to recover the amount of their claims or any portion thereof from the said Council by any means or proceeding whatever. And in case the said Council shall not consent or agree to pay the amount of such or any claim or claims then the said council shall cause to be served upon the person or persons whose claims they shall reject a written notice offering as recompense or compensation whatever sum of money they shall

deem sufficient, and requiring such persons to state in writing to the said Council or to some other person by them appointed within a certain limited time to be specified in the said notice, being not less than fourteen clear days after the service of such notice whether he is willing to accept the sum therein mentioned or not; and if such person or persons should refuse the sum offered or neglect to reply to the said notice then the said Council or other person aforesaid, shall by another notice in writing, call upon such person or persons to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said Council or other person aforesaid, and for that purpose to transmit to the said Council or other person aforesaid, within a reasonable time to be specified in the last mentioned notice the name of some person whom he or they shall select to be an arbitrator; and the said Council or other person as aforesaid, upon receiving the name of the person so selected shall nominate a second arbitrator, and the said two arbitrators shall before proceeding in the arbitration choose a third arbitrator, the said three arbitrators to sit together, and the said Council or other person as aforesaid, shall cause a deed of submission to be prepared which shall be signed by or on behalf of the said Council or other person aforesaid, and by the person claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, and the award of the said arbitrators or a majority of them shall be binding and conclusive, and may be pleaded in bar of any action or proceeding at law brought for or on account of the matter referred to their arbitration. And if any person as aforesaid claiming such recompense or compensation for land or materials shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, then the said Council or other person as aforesaid, may lodge in some joint-stock bank in East London the sum of money offered by them as aforesaid in their first notice in this section mentioned for or on account of and at the risk of such person as aforesaid, who shall at all times be entitled to draw the same out of said bank as his absolute property; and the said Council or other person aforesaid upon so lodging the said sum shall be authorized and entitled to take and use the land or materials in question, without being subject to pay or make any further recompense or compensation whatever in respect thereof, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or which had been awarded by the arbitrators under the provisions of this section, and as if all acts by law required for vesting in the said Council, or other person aforesaid a sufficient title to

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the use of, or property in the land or materials aforesaid had been duly done and approved.

In case the lands &c.
of minors and
persons under
curatorship re-
quired to be taken.

IX. In case the said council or other person aforesaid shall require to take or use any water or right of water, land, or right of way, 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 council or other person aforesaid for the purchase or hire of the land, rights, or materials required, and to execute any contract that may be needful for carrying out any agreement which may be made, and in case of non-agreement to refer the matter in difference to arbitration, as in the last preceding section mentioned. But all moneys which shall either by agreement or by arbitration be payable by the said council or other person aforesaid, for or on account of any land or materials in this section mentioned, shall be paid by the said council or other person aforesaid to the master of the Supreme Court administering the Guardians' Fund, who is hereby authorised to receive the same and to place the same to the credit of the minor or other person entitled to such money, and if in any case any person of full age shall, by way of *fidei commissary* limitation, or any limitation of a like nature be entitled to a life or other limited interest in any such land aforesaid, in which a minor or other such person aforesaid under guardianship or curatorship, shall be also interested in remainder or expectancy, when the whole value of the lands as fixed by contract, or by appraisement, or by arbitration, shall be paid as aforesaid to the Master of the Supreme Court, and the person who was entitled to the life or other limited interest therein shall be entitled to draw the interest 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 Guardians' Fund, the property of minors or persons under disability are therein administered, subject however at all times to such orders as the supreme court aforesaid may upon motion of any person having an interest see fit to make in regard to such money. And in case the said Council shall require to take or use any land or materials as in the last preceding sections mentioned

of which the owner or owners shall be absent from the Colony and not represented by any agent duly accredited, or shall not be discoverable, then it shall be lawful for the said Council, and it is hereby authorised to cause a notice to be inserted in the *Government Gazette* and in one or more local papers for four or more successive weeks, describing as accurately as may be the land or materials which are required to be used or taken, and calling on the owner or owners of the said land or materials, if known, to take notice that the said council is ready and willing to treat with the owner or owners, or any person duly authorised by him or them for the recompense or compensation to be made by the said Council for the said land or materials, and requiring such owner or owners to apply within six months from the date of such notice, which shall be the day of its first publication, to the said Council stating the recompense or compensation claimed, and if the owner or owners shall not apply, within the said period, then the like proceedings in regard to the agreement for, or otherwise determining the recompense or compensation to be respectively given and received, shall in all respects be had and taken which are prescribed in the last two preceding sections precisely as if the said owner or owners had been from the first in actual possession; and in case the owner or owners shall not apply to the said council within the said period, then it shall be lawful for the said council to appoint some competent person to be approved of by the civil commissioner of the division of East London to appraise the value of the land or materials, and such person shall make oath before some justice of the peace that he hath to the best of his judgment fairly appraised such value, and thereupon it shall be lawful for the said council to pay whatever sum such person shall have valued the land or materials in question at, into the Guardians' Fund to the credit of the party or parties entitled thereto subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th July, 1833, in regard to moneys placed in the said fund belonging to persons absent from the colony, and the said council upon so paying the said sum shall be authorised and entitled to take or use the land or materials in question without being subject to pay or make any further recompense or compensation whatever in respect thereof, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all Acts by law required for vesting in the said council sufficient title to the use of, or property in the land or materials as aforesaid had been duly done and performed.

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Penalties for injuries
to the works.

X. Any person who shall wilfully injure, damage, obstruct, or interrupt any building, erection, conduit, reservoir, dam or watercourse, drain, ditch, pipe or pipes, or other work or works, or shall obstruct, hinder, or prevent the forming, constructing, completing, or maintaining the works contemplated by this Act or any of them, shall upon conviction, be liable to forfeit for the use of the said Council, for each offence, a sum not exceeding 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 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 bath-
ing, washing, &c.,
in dams or water-
courses.

XI. 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 on being convicted thereof forfeit for the use of the said 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.

Tariff of charges to
be published.

XII. The said Council are hereby empowered from time to time to make and publish a tariff of charges by which the supply of water by private water leadings, and the supply of water to the shipping visiting the port of East London, or to the railway or other Government Departments shall be regulated, and payment for all private water leadings, and for the supply of water to such shipping or to such railway or other Government Departments shall be in accordance with such tariff; provided nevertheless that the said Council or any person duly authorised by them, shall have access at all reasonable times to inspect and regulate all such private water leadings.

Council may frame
rules and by-laws.

XIII. It shall be lawful for the said Council at any meeting at which not less than nine of the members shall be present, and agreeing thereto by a majority, to frame from time to time such regulations or bye-laws as they shall deem necessary for regulating the system of water supply to the

town of East London, such regulations and bye-laws to be framed and submitted for the approval of the Governor in manner provided for in the Act No. 23 of 1880, intituled "The East London Municipality Act, 1880."

No. 15—1882.

XIV. In order to pay the interest on the said loan, and to provide for an annual contribution of not less than one per cent. per annum on the said capital, to provide a sinking fund for the payment thereof, and for all other claims under this Act, the Council shall be empowered and compelled to impose levy and collect a sufficient annual rate or assessment over and above what the said council is already empowered to impose and levy upon the immovable property within the limits of the said municipality: and every rate or assessment so imposed and made by the said council shall be of the same force and effect and be levied in the same manner as if it had been a rate imposed upon owners of immovable property, under the provisions of the said Act No. 23 of 1880, or the No. 12 of 1881, intituled "The East London Municipality Amendment Act, 1881," so far as the same are applicable. And all rates so imposed and assessed under the provisions of this Act, shall be and be deemed to be a charge upon the property so assessed, and be recoverable against the present or any future owner or occupier thereof, provided that when and so soon as a revenue shall be derived from charges fixed for water leadings as aforesaid, the same shall annually, after payment thereof of all working expenses connected with the said supply of water, be applied so far as the same will extend towards payment of the interest on the said loan before the levying of any such rate as aforesaid, and provided that it shall be lawful for the said Council to apply for the payment of interest or principal or interest and principal of the said loan or any part thereof, any funds or moneys coming to the said Council from any source whatever, and not specifically appropriated or required for any other object.

Provision for paying interest and capital borrowed.

XV. The amounts for assessment entered on the assessment roll in force within the said Municipality for each and every year shall be the amounts on which the rates shall be levied for the purposes of this Act, so far as the properties included in such assessment roll are concerned, but for any or all properties not included in such assessment roll, and for all properties not liable to assessment under the said Act No. 23 of 1880, or the said Act No. 12 of 1881, the value shall be made and determined by some competent person appointed by the Council, in the same manner in all respects, and subject to the same provisions in regard to the hearing and determining objections to such value as is provided for by the said Act No. 23 of 1880, or any regulations framed

Assessment roll of municipality to be assessment roll for this Act.

No. 15—1882. thereunder, in regard to the valuation and assessment of such immovable property as under that Act is liable to be valued and assessed for rating purposes.

When rates to be payable. XVI. Every such rate or assessment so made and assessed as aforesaid shall become due and payable upon some certain day, to be fixed by the said Council, of which day and of the amount of the rate or assessment so to become payable, not less than fourteen days' notice shall be given, and such notice shall be published by causing the same to be inserted in one or more of the newspapers published within the said Municipality, and causing a copy of the same to be affixed in some conspicuous place in or near the Town Office.

How to be collected. XVII. As soon as any rate shall be assessed as aforesaid, the same shall be collected in the same manner as any rates duly levied under the provisions of the said Act No. 23 of 1880, or the said Act No. 12 of 1881, and shall on non-payment thereof be recoverable as a separate and distinct rate by action in the Resident Magistrate's Court having jurisdiction within the said Municipality or in any Resident Magistrate's Court in the district in which such defaulter shall reside.

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

Accounts to be kept. XIX. The said Council shall keep, or cause to be kept, a separate and distinct account of all moneys borrowed under this Act, and of the expenditure of such moneys, and of all revenues arising from the waterworks contemplated by this Act. And the said Council shall yearly and every year, so long as any part of the debt contracted under the authority of this Act shall be in existence, prepare and deposit in the office of the Town Clerk, for the inspection at all reasonable times, of any townsman, an account showing the particulars aforesaid, and giving any other information which the said Council shall deem necessary or expedient to impart, provided that every such account shall be made up to the 31st December in each and every year.

Costs of Act, &c. XX. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said Council out of the moneys to be so borrowed as aforesaid.

Provisions of this Act not to affect the rights of the Council under other Acts. XXI. Nothing in this Act contained shall be taken to deprive the said Council of any rights and privileges it may possess, or of which it may be entitled to avail itself under the provisions of the Acts No. 8 of 1877, intituled "The Irrigation Act, 1877," No. 28 of 1877, intituled "An Act to assist municipalities to carry out Irrigation Works," No. 7

of 1880, intituled "The Irrigation Amendment Act, 1880," No. 23 of 1880, intituled "The East London Municipality Act, 1880," and No. 12 of 1881, intituled "The East London Municipality Amendment Act, 1881," or any or either of them; the true intent and object of this present Act being to add to and increase, and in no way to derogate or detract from such rights and privileges.

No. 16—1882.

XXII. The word "Municipality" in this Act shall mean the municipality of East London as established by the said Act No. 23 of 1880, and the word "Council" the Municipal Council of East London.

Interpretation clause.

XXIII. This Act may be cited as "The East London Water Supply Act, 1882."

Short title.

No. 16—1882.]

ACT

[June 21, 1882.]

To Amend the "Resident Magistrates' Courts Act, 1856."

Repealed by Act 37 of 1917

BE it enacted by 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.

I. So much of the Act 20, 1856, the seventh section of the Act No. 9, 1857, and the Act No. 6, 1858, and so much of any other Act or of the rules, orders, and regulations of the courts of resident magistrates as may be repugnant to or inconsistent with any of the provisions of this Act, are hereby repealed.

Repeal of repugnant laws.

II. Where any crime or offence shall be committed on any person or in respect of any property upon any line of railway, or within a distance of ten miles from any line of railway, on either side thereof, such crime or offence may be dealt with, enquired of, tried, determined, and punished by the resident magistrate of any district in or through any part whereof or within such distance from the boundary whereof such line of railway passes, in the same manner as if such crime or offence had been actually or wholly committed in the district of such magistrate.

Jurisdiction of Magistrates in cases of crimes committed on lines of railway or within 10 miles of a line.

Repealed by 1916 Act 22.

III. The Governor may from time to time appoint for any district one or more fit and proper persons to be styled assistant resident magistrates, and every assistant resident magistrate shall, subject to the provisions of this Act, have and exercise all the power and jurisdiction of a resident magistrate in and for the district, or within the local limits for which he shall be appointed to act, in all cases civil and criminal: Provided that nothing herein contained shall pre-

Governor may appoint Assistant Magistrates.

No. 16—1882.

vent the Governor from appointing an acting resident magistrate in and for any district as often as circumstances shall require.

When Assistant-Magistrates may Act as such.

IV. Every assistant resident magistrate shall be subordinate to the resident magistrate of the district, and shall act as such assistant resident magistrate,

- (1.) When so required to act at the stated and ordinary place of holding the court of resident magistrate, by the Governor or by the resident magistrate, whether the resident magistrate be present or not, and such assistant resident magistrate may act in the disposal of any cases assigned to him for disposal by the Governor, or by such resident magistrate, while the resident magistrate shall be acting in other cases.
- (2.) When so required to act at the place for holding any periodical court by the Governor or by the resident magistrate.
- (3.) During the absence of the resident magistrate on leave, duty, or from illness, or other unavoidable cause.
- (4.) At such place, or within such local limits as may be assigned by the Governor.

Presumption in favour of authority.

V. Every assistant resident magistrate shall in every proceeding had before him be deemed to be acting lawfully and by sufficient authority until the contrary be proved.

Governor may direct Magistrates and Assistant Magistrates to hold periodical courts out of their own districts.

VI. The Governor may appoint the resident magistrate or assistant resident magistrate of any district to hold a periodical court in any district other than that in which such resident magistrate or assistant resident magistrate shall have been appointed to act, and such periodical court held before such magistrate, and all proceedings had therein, shall be of the same force and effect as if such periodical court had been held by or before the resident magistrate of the district within which such court shall hold its sitting.

Term "Resident Magistrate" in schedule B to Act 9, of 1857, to apply to assistants also.

VII. The term "resident magistrate," whenever it occurs in Schedule B. to the Act No. 9, 1857, shall be deemed to apply to the resident magistrate or assistant resident magistrate, as the case may be, holding such court, and as often as a periodical court shall be held under the powers of the last preceding section, the said term shall apply to such magistrate or assistant resident magistrate, and not to the resident magistrate of the district within which such court shall be held.

Cases for review to be forwarded by the Magistrates actually holding the court.

VIII. As often as any sentence pronounced at or by a periodical court as aforesaid, shall be a sentence coming under the provisions of the forty-seventh section of the Act No.

20, 1856, the record in such case shall be forwarded to the court of review by the magistrate, by or before whom such court was held, and not by the resident magistrate of the district, and shall, after review, be returned to the magistrate from whom it shall have been received; and in case the court of review should see cause to remit such case with instructions, relative to further proceedings therein, the said case shall be remitted to the magistrate by whom the record was forwarded.

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IX. The term "court of review," in the last preceding section mentioned, shall mean as to the districts over which the Court of the Eastern Districts of the Cape of Good Hope exercises jurisdiction, the said Court of the Eastern Districts, as to the districts over which the High Court of Griqualand exercises jurisdiction, the said High Court, and as to all other districts the Supreme Court.

What shall be the courts of review.

X. Whenever the place appointed for holding any periodical court shall be so near the boundary of any district that the inhabitants of any adjoining district can with ease and convenience resort thereto, the Governor may define any portion of any such adjoining district as an area over which the magistrate, holding such periodical court, shall, for the purposes of such court, have and exercise jurisdiction.

Governor may extend area over which periodical court is held to places beyond actual district.

XI. All persons residing within any such defined area as aforesaid, shall, for all proceedings, civil and criminal, be subject to the jurisdiction of such periodical court, as is in the last preceding section mentioned, as well as to the jurisdiction of the court of the resident magistrate of the district to which such area belongs.

Persons within such areas under the jurisdiction of the court.

XII. The Governor may authorise and appoint, to be held in the same district, and at the same time, any number of courts of resident magistrates, which the convenience of the public shall require, and may appoint for such district more resident magistrates than one, and every magistrate appointed to act at any place other than the stated and ordinary place for holding the court of resident magistrate in any district, shall be styled an additional resident magistrate.

Governor may direct any number of courts of Resident Magistrate to be held in the same district.

XIII. The process of the courts of resident magistrates for summoning any person, whether as a party or a witness in any case, civil or criminal, may be signed by the clerks of such courts, respectively, and shall be of the like force and effect, in all respects, as if the same had been under the hand of the resident magistrate.

How process to be signed.

XIV. This Act may be cited for all purposes as "The Resident Magistrates' Courts Act, 1882."

Short title.

No. 17—1882.] ACT [June 22, 1882.

For Raising the Sum of Two Hundred Thousand Pounds Sterling towards the Extension of the Breakwater and Construction of the Outer Harbour of Table Bay.

Preamble.

WHEREAS it is desirable that the works necessary to form the outer harbour of Table Bay should be forthwith commenced and carried out simultaneously with the extension of the breakwater: and whereas it is necessary to provide the sum of two hundred thousand pounds sterling towards carrying on such works: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Power to raise loan of £200,000.

I. It shall be lawful for the Governor to raise a further sum not exceeding two hundred thousand pounds from time to time as occasion may require; and all moneys so raised shall be applied to the purposes in the preamble to this Act mentioned.

Application of moneys.

II. 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 to such application, have and exercise all the powers conferred upon such Board by any such Act.

Short title.

III. The short title of this Act shall be "The Table Bay Harbour Loan Act, 1882."

No. 18—1882.] ACT [June 22, 1882.

To Provide for the Management of the Reserved Commonage of Carnarvon.

Preamble.

WHEREAS on the 16th November, 1860, two grants of land were made by the Governor of the Colony, one granting the then present and future proprietors of erven in the village of Harmsfontein, now called Carnarvon, certain commonage known as the inner commonage of Carnarvon; and the second granting to the Schietfontein and Praamberg Kafir proprietors of certain erven in the said village of Harmsfontein certain other commonage, known as the outer or reserved commonage of Schietfontein: and whereas the management of the inner commonage is duly provided for by municipal regulations approved of by the Governor, but no legal provision exists for the management of the outer or reserved commonage: and whereas it is

desirable to provide for the good management of such commonage: 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:—

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I. The Act No. 17 of 1880, entitled an “Act to Provide for the Management of the outer or reserved Commonage of Schietfontein,” is hereby repealed.

Repeal of Act 17 of 1880.

II. The proprietors for the time being of such of the erven in the village of Harmsfontein, now called Carnarvon, as are entitled to grazing rights over the said land known as the outer or reserved commonage, shall be entitled to elect from amongst themselves a Committee of Management for the purpose of regulating and controlling the use of the said commonage.

Who to elect a Committee of Management.

III. The said Committee shall consist of five persons, who shall be styled the “Committee of Management of the Carnarvon Outer Commonage” and three of such persons shall form a quorum.

Name of Committee.

IV. Every proprietor of one or more erven having such rights as are in the second section mentioned, shall be eligible to be elected a member of the said Committee, and qualified to hold office as such so long as he shall continue to be such proprietor.

Who eligible to be member of Committee.

V. Every such proprietor shall be qualified to vote at elections for members of the Committee of Management, and in respect of all matters affecting the rights of proprietors which shall be submitted to the decision of any meeting of proprietors duly convened for that purpose.

Qualification of electors.

VI. Every such proprietor shall be entitled to one vote in respect of every erf or lot held by him, not exceeding three, and if two or more persons shall be joint proprietors of any erf or lot, such one of them as may be chosen or deputed for that purpose by the other or others shall appear and vote in respect of such erf or lot.

Proportion of votes.

VII. The election of the first Committee of Management shall take place within three months after the taking effect of this Act, at such time and place as may be appointed for that purpose by the Resident Magistrate of Carnarvon.

When election to take place.

VIII. The members of the Committee of Management shall hold office for a period of three years from the date of their election, and shall then be succeeded by members, who shall be elected and continue in office for a like period, and so on, at the expiration of every successive period of three years: Provided that every retiring member shall be eligible to be re-elected if he shall then be qualified to be elected.

Term of office.

IX. Except as to the qualification of voters and as is otherwise in this Act specially provided, the provisions of the

“Villages’ Management Act, 1881,” incorporated.

No. 18—1882.

“Villages’ Management Act, 1881,” are hereby incorporated, and shall, *mutatis mutandis*, extend and apply to the said outer commonage: and the said Committee of Management shall have and exercise all the powers by the said Act conferred upon a Board of Management elected under its provisions.

Further regulations authorized.

X. In addition to the purposes for which regulations may be made under the provisions of the nineteenth section of the said “Villages’ Management Act, 1881,” it shall be lawful for the said Committee of Management, subject to the provisions of the said Act, to frame regulations for all or any of the purposes following:—

- (1). For the levying and collection of water-rates.
- (2). For improving and collecting grazing dues to be paid by the proprietors of erven and others, in respect of stock depastured upon the said commonage.
- (3). For regulating the use of and providing for the letting of such portion of common lands as is capable of being brought under irrigation and cultivation.
- (4). For defining such parts of the common lands as may be necessary to be allotted to erfholders for building purposes, and for providing for the terms and conditions upon which such allotment may take place subject to the consent of a majority of erfholders present at any meeting of erfholders duly convened for the purpose of considering the propriety of such allotment.
- (5). For carrying out all or any of the conditions contained in or endorsed upon the grants or title deeds of the erven or lots of ground in Harmsfontein, so far as the said conditions relate to the said outer commonage.
- (6). Generally for the control and management of the said commonage, and the preservation and regulation of the rights of the proprietors of erven entitled thereto.

Squatters on commonage: Vagrancy Act to apply to.

XI. The provisions of the ninth section of the “Vagrancy Act, 1879,” shall extend and apply to the said reserved commonage, in respect of any squatters found trespassing thereon.

Short Title.

XII. This Act may be cited as the “Carnarvon Reserved Commonage Act, 1882.”

No. 19—1882.] ACT [June 22, 1882.

To Enable the Commissioners of the Municipality of Aliwal (Mossel Bay) to provide the Inhabitants of the Town of Aliwal (Mossel Bay) with Water, and for that purpose to take Water from Kleinbosch River, *alias* Kleinberg River, and to acquire Government and other lands required for the construction of the necessary Waterworks.

WHEREAS it is desirable that the inhabitants of the Preamble town of Aliwal (Mossel Bay) should be supplied with good water, and the municipal commissioners thereof have caused surveys to be made and are advised that the same can be obtained from the Kleinbosch (*alias* Kleinberg) River in the district of Mossel Bay: and whereas it is expedient that the works necessary to accomplish that object should be constructed by the said commissioners or by a joint-stock company or co-partnership of individuals or an individual with whom the said commissioners may contract either for the whole or any portion of the said works or the materials therefor: And that to enable the said commissioners to procure the necessary funds the said commissioners should be empowered to issue debentures from time to time for any sum or sums of money not exceeding in the aggregate the sum of twenty-four thousand pounds: and that in order that the said commissioners may be enabled to pay the interest on the said debentures, as well as to contribute annually a sum not less than one per cent. on the said capital by way of a sinking fund in order to enable the said commissioners to pay off the said debentures, the said commissioners should be empowered in each and every year to impose, levy, and collect such a rate or assessment as will produce an amount sufficient to pay such interest and contribution as aforesaid:

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:—

I. It shall be lawful for the said commissioners from Commissioners may borrow to extent of £24,000 on rates. time to time to borrow and to take up at interest by the issue of debentures such sum or sums of money not exceeding in the whole the said sum of twenty-four thousand pounds as may be required for the purposes of this Act, and to charge the municipal rates of the said municipality as security for any such sum to be borrowed by the said commissioners.

II. The said commissioners shall be empowered to take, Power to impound certain water. impound, divert, appropriate, and convey from the Klein-

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bosch River, otherwise known as Kleinberg River, in the district of Mossel Bay, such a supply of the water of the said river as they may require for the purposes of this Act: Provided, however, that if such taking, impounding, diversion, appropriation, or conveyance, shall deprive any person of any water or right of water which he may, at the time of the taking effect of this Act, possess or be entitled to, in reference to the said Kleinbosch River, or in any way interfere with or lessen such water, or right to water, such person shall be entitled to recompense or compensation, to be settled in case of difference, as in the eighth section of this Act provided.

To construct all
necessary works.

III. The said commissioners are hereby empowered to construct and make or cause to be constructed and made all such works as may in the opinion of the said commissioners be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking, or conveying the said water, whether by reservoirs, dams, water-courses, or leading-pipes, conduits, drains, ditches, or other means, and to erect such buildings as may be deemed requisite for the purposes of the said works, for securing an adequate supply of water for the inhabitants of the said town of Aliwal (Mossel Bay), and for the shipping visiting that port; and it shall and may be lawful for the Governor of this colony, and he is hereby authorised to give and grant to the said commissioners in full and free property all such Government land as is situated on and along the line of the said works, and necessary to be acquired for the purposes thereof.

To take Government
and other lands,
or to hire lands,
&c.

IV. The commissioners are 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," for any land set apart for church purposes, commonly called "Glebe Lands," and also to enter upon, occupy, enclose, take, and use any land the private property of any person or persons whomsoever which may be required for the purposes of this Act, and may agree, as hereinafter provided, for the purchase or hire of such private land, or may take, carry away, or use for the purposes of the said works, any stone, clay, gravel, or other material requisite for carrying out the said works, and may break up or excavate any land for the purpose of laying down, repairing, inspecting, maintaining, or removing any reservoir or reservoirs, pipe or pipes, or other works, and may either compensate the owners of such lands as hereinafter provided, or enter into any contract relative to obtaining such lands or materials, or for laying down any pipe or pipes, or other works, upon such terms and conditions as may be mutually agreed to.

V. It shall be lawful for the said commissioners to acquire and take possession in the manner hereinbefore and hereinafter provided of any land, whether belonging to Her Majesty the Queen, commonly called "Crown Lands," or land belonging to private persons, that may be required for the purpose of protecting the sources of the said Kleinbosch River, or the sources of supply from whence the water may flow into the reservoirs, dams, places or place where the said works may take off the water of the said river.

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To take land necessary to protect sources of impounded water.

VI. The said commissioners are hereby further empowered to lay down pipes or construct conduits under or along any public road, or street, or any bridge or under or along any ground set apart in the diagram or conditions of sale of any sale of land as a street or thoroughfare, without making or being liable to make any compensation in respect thereof, and to construct and maintain a telegraphic line along their works for the purpose of such works and to erect such telegraph stations as shall be necessary.

To lay down pipes and conduits.

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

To have right of access to the works.

VIII. If any person or persons from whom any water or right of water, land, or any stone, gravel, or other material may be required to be taken for the purposes of this Act, and the said commissioners shall not agree upon the purchase money, or hire, or other recompense to be respectively given and accepted, then the said commissioners shall cause to be served upon such person or persons a written notice, offering as recompense or compensation whatever sum of money they shall deem sufficient, and requiring such person or persons to state, in writing, to the said commissioners or to some other person by them appointed, within a certain limited time to be specified in the said notice, being not less than fourteen clear days after the service of such notice, whether he is willing to accept the sum therein mentioned or not, and if such person or persons shall refuse the sum offered, or neglect to reply to the said notice, then the said commissioners or other person aforesaid shall, by another notice in writing, call upon such person or persons to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said commissioners or other

Arbitration clause.

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person aforesaid, and for that purpose to transmit to the said commissioners or other person as aforesaid within a reasonable time to be specified in the last mentioned notice, the name of some person whom he shall select to be an arbitrator, and the said commissioners or other person as aforesaid, upon receiving the name of the person so selected shall nominate a second arbitrator, and the said two arbitrators shall before proceeding to the arbitration, choose a third arbitrator, the said three arbitrators to sit together, and the said commissioners or other person as aforesaid shall cause a deed of submission to be prepared, which shall be signed by the said commissioners or other person aforesaid, and by the person claiming such compensation or recompense as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, and the award of the said arbitrators or a majority of them shall be binding and conclusive, and may be pleaded in bar of any action or proceeding at law brought for or on account of the matter referred to their arbitration. And if any person as aforesaid claiming such recompense or compensation for land or materials shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, then the said commissioners or other person aforesaid may lodge in some joint-stock bank in the colony the sum of money offered by them as aforesaid in their first notice in this section mentioned, for or on account, and at the risk of such person as aforesaid, who shall at all times be entitled to draw the same out of the said bank as his absolute property; and the said commissioners or other person aforesaid, upon so lodging the said sum, shall be authorized and entitled to take and use the land or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been awarded by the arbitrators under the provisions of this section, and as if all acts by law required for vesting in the said commissioners or other person aforesaid a sufficient title to the use of or property in the land or materials aforesaid had been duly done and performed.

In case of lands &c.
belonging to minors
and persons
under curatorship.

IX. In case the said commissioners or other person aforesaid shall require to take or use any land or to dig out or carry away any materials belonging to any minor or other person under guardianship or curatorship, then the guardian or curator, as the case may be, shall be authorized in his capacity as such guardian or curator to treat and agree with the said commissioners or other person aforesaid 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 either by agreement or by arbitration be payable by the said commissioners or other person aforesaid for or on account of any land or materials in this section mentioned, shall be paid by the said commissioners or other person aforesaid to the master of the supreme court administering the guardians' fund, who is hereby authorized to receive the same, and to place the same to the credit of the minor or other person entitled to such money, and if in any case any person of full age shall by way of fidei-commissary limitation, or any limitation of a like nature, be entitled to a life or other limited interest in any such land aforesaid, in which a minor or other such person aforesaid, under guardianship or curatorship, shall be also interested in remainder or expectancy, then the whole value of the land or materials as fixed by contract or by appraisalment shall be paid as aforesaid to the master of the supreme court, and the person who was entitled to the life or other limited interest shall be entitled to draw the interest payable on the sum so paid in: Provided, however, that if any such person shall desire to have his share of such sum apportioned and paid out, it shall be lawful for him to apply by motion to the supreme court for an apportionment of such sum, and such court shall in a summary manner, upon hearing the parties interested, apportion the said sum and order the share of the applicant to be paid out to him, leaving the share of the minor or other person under disability in the hands of the said master, to be administered in the like manner as moneys in the guardians' fund, the property of minors or persons under disability, are therein administered: Subject, however, at all times to such orders as the supreme court aforesaid may, upon motion of any person having an interest, see fit to make in regard to such money. And in case the said commissioners shall require to take or use any land or materials, as in the last preceding sections mentioned, of which the owner or owners shall be absent from the colony and not represented by any agent duly accredited, or shall not be discoverable, then it shall be lawful for the said commissioners, and they are hereby authorized, to cause a notice to be inserted in the Government Gazette and one or more local papers for four successive weeks, describing as accurately as may be the land or materials which are required to be used or taken, and calling by name on the owner or owners of the said land or materials, if known, to take notice that the said commissioners are ready and willing to treat with the owner or owners or any person duly authorized by him or them, for the recompense or compensation to be made by the said commissioners for the said land and materials, and requiring

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such owner or owners to apply within six months from the date of such notice, which shall be the day of its publication, to the said commissioners stating the recompense or compensation claimed, and if the owner or owners shall not apply within the said period then the like proceedings in regard to the agreement for or otherwise determining the recompense or compensation to be respectively given and received shall in all respects be had and taken which are prescribed in the last two preceding sections, precisely as if the said owner or owners had from the first been in actual possession. And in case the owner or owners shall not apply to the said commissioners within the said period, then it shall be lawful for the said commissioners to appoint some competent person to be approved of by the civil commissioner of the division to appraise the value of the land or materials, and such person shall make oath before some justice of the peace that he hath to the best of his judgment fairly appraised such value, and thereupon it shall be lawful for the said commissioners to pay whatever sum such person shall have valued the land or materials in question at into the guardians' fund to the credit of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105, bearing date the 5th July, 1833, in regard to moneys placed in the said fund belonging to persons absent from the colony: And the said commissioners, upon so paying the said sum, shall be authorized and entitled to take or use the land or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all Acts by law required for vesting in the said commissioners sufficient title to the use of or property in the land or materials as aforesaid, had been duly done and performed. .

Penalties for injuring the works.

X. Any person who shall wilfully injure, damage, disturb, obstruct, or interrupt any building, line of telegraph, erection, conduit, reservoir, dam, watercourse, drain, ditch, pipe or pipes, or other work or works, or shall obstruct, hinder, or prevent the forming, constructing, completing, or maintaining, the works contemplated by this Act, shall, upon conviction, be liable to forfeit for the use of the said commissioners a sum not exceeding one hundred pounds, 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 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 pro-

secuted both under this Act and any other law for or in regard to one and the same act.

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XI. No cattle enclosure or kraal shall be constructed or allowed alongside the said river for the space of a thousand yards above the intake of the said works, or nearer the banks of the river within the said space than five hundred yards, and any person who shall bathe or wash himself in any dam or reservoir belonging to the said municipality, or in any stream flowing into such dam or reservoir, or shall wash, throw, or cause to enter therein any dog or other animal, or who shall place or throw any rubbish, dirt, filth, or other noisome thing in any such dam, reservoir, or stream, or wash or cleanse therein any wool, leather, or skin of any animal, or any clothes or other thing, or shall allow any drainage from any enclosure or kraal to flow into any such dam or stream, shall for every such offence, on being convicted thereof, be liable to forfeit for the use of the said commissioners a sum not exceeding ten pounds, and on failure of the payment of such fine, the party convicted shall be liable to be imprisoned with or without hard labour for any period not exceeding twenty-one days.

No kraal &c. allowed within 1000 of intake or within 500 yards of stream.

XII. The commissioners are hereby empowered from time to time to make and publish a tariff of charges by which the supply of water by private water-leadings and the supply of water to the shipping visiting the port of Mossel Bay shall be regulated, and the payment for all private water-leadings and for the supply of water to the said shipping shall be in accordance with such tariff: Provided, nevertheless, that the said commissioners or any person duly authorized by them, shall have access at all reasonable times to inspect and regulate all such private water-leadings.

Tariff of charges to be published.

XIII. It shall be lawful for the said commissioners, at any meeting at which a majority of the members shall be present, to frame from time to time such by-laws as they shall deem necessary for regulating the system of water supply to the town of Aliwal (Mossel Bay), such by-laws to be submitted for the approval of the Governor in manner provided by the Ordinance No. 9 of 1836, and the various Ordinances and Acts amending the same or referring thereto.

Power to make by-laws.

XIV. In order to pay the interest on the said loan and to establish the sinking fund hereinafter mentioned, and to provide for all other claims arising under this Act, the commissioners shall be empowered and compelled to impose, levy and collect a sufficient annual rate or assessment over and above what the said commissioners are already empowered to impose and levy upon the annual rental, or if no rental be paid then upon the estimated annual value of the whole of

How interest and principal of borrowed money to be paid.

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the immovable property within the limits of the said municipality; and every rate or assessment so imposed and made by the said commissioners shall be of the same force and effect and be levied in the same manner as if it had been a rate imposed under the provisions of the Ordinance No. 9 of 1836, section 28, or under the provisions of section eleven of Act 13 of 1864, so far as the same are applicable. And all rates so imposed and assessed under the provisions of this Act shall be and be deemed to be a charge upon the property so assessed, and be recoverable against the present or any future owner or occupier thereof: Provided that it shall be lawful for the said commissioners to apply for the payment of interest or principal or interest and principal of the moneys aforesaid any funds or moneys coming to the said municipality from any source whatever and not specifically appropriated or required for any other object.

Assessment roll.

XV. The amounts for assessment entered on the assessment roll in force within the said municipality for each and every year shall be the amounts on which the rate shall be levied for the purpose of this Act so far as the properties included in such assessment roll are concerned, but for any or all properties not included in such assessment roll, and for all properties not liable to assessment under the said Ordinance No. 9 of 1836, and the Act No. 13 of 1864, the value shall be made and determined annually by some competent person to be appointed by the commissioners: Provided that such valuation shall be open for public inspection at the office of the municipality for the space of one month from the levying of the said annual rate, and the commissioners shall give notice in one or more of the newspapers published within the said municipality that the same is open for inspection, and the provisions of the 28th section of the said Ordinance No. 9 of 1836, and the 10th, 11th and 13th sections of the said Act 13 of 1864, shall apply to the hearing and deciding upon objections to such valuation.

When rates payable.

XVI. Every such rate or assessment so made and assessed as aforesaid shall become due and payable upon some certain day to be fixed by the said commissioners, of which day and of the amount of the rate or assessment so to become payable not less than fourteen days' notice shall be given, and such notice shall be published by causing the same to be inserted in one or more of the newspapers published within the said municipality, and causing a copy of the same to be affixed in some conspicuous place in or near the town hall.

Collection of rates.

XVII. As soon as any rate shall be assessed as aforesaid the commissioners shall appoint a person to collect the same, and such rate shall, on non-payment thereof,

be recoverable as a separate and distinct rate at the suit of such collector, by action in the resident magistrate's court having jurisdiction within the said municipality, or in any resident magistrate's court within the jurisdiction of which such defaulter shall reside.

No. 19—1882.

XVIII. The commissioners shall grant to the party or parties, or company, society or co-partnership from whom they shall borrow such moneys as aforesaid, a written acknowledgment for the moneys borrowed by the said commissioners for the purposes aforesaid, not exceeding in the whole the aforesaid sum of twenty-four thousand pounds sterling; which acknowledgment shall in substance be in the form contained in the schedule to this Act, and shall be signed on behalf of the said commissioners by three of the commissioners for the time being, of whom the chairman for the time being of the board of commissioners shall be one.

Acknowledgment to be given to lenders of money as in schedule.

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

Public Bodies Debts Act to apply.

XX. The commissioners shall keep or cause to be kept a separate and distinct account of all moneys borrowed under this Act, and of the operation of the sinking fund and of the expenditure of such moneys, and of all revenues arising from the waterworks contemplated by this Act, distinguishing sums received for rates imposed under the provisions of this Act, and of all moneys expended upon the construction and maintenance of the waterworks contemplated by this Act: and the said commissioners shall yearly and every year so long as any part of the debt contracted under the authority of this Act shall be in existence, prepare and deposit in the office of the municipality for the inspection at all reasonable times of any householder of the municipality, an account showing the particulars aforesaid and giving any other information which the said commissioners shall deem necessary or expedient to impart: Provided that every such account shall be made up to the 31st December in each and every year and be open for inspection at the office of the municipality on and after the 15th day of January next ensuing.

Separate account to be kept of borrowed moneys, sinking fund, &c.

XXI. In order to provide a fund for the payment of all moneys borrowed under the provisions of this Act, and for the gradual extinction of the debt to be incurred under the authority of this Act, there shall be set apart an annual sum equal to the interest of the whole amount of such debentures as shall be issued under authority of this Act, and a further sum of not less than one pound sterling per centum on the total amount of the principal or capital sum which shall be raised under the authority of this Act, and such last

Sinking fund of one per cent. for extinction of debt.

444 TOWN OF ALI WAL (MOSSSEL BAY) WATER SUPPLY ACT.

- No. 19—1882. mentioned sum shall be annually invested as and by way of a sinking fund, and applied towards the redemption of the said debt so long as any portion of the same or any interest thereon shall remain unpaid and unextinguished; unless the money shall be raised by loan from Government by any Act or Acts specially authorizing the same.
- Costs of Act. XXII. The necessary costs, charges, and expenses of obtaining this Act may be paid by the said commissioners out of the moneys to be so borrowed as aforesaid.
- Interpretation clause. XXIII. The word “municipality” used in this Act shall mean the municipality of Aliwal (Mossel Bay), as established by the Proclamation of the 12th of July, 1852; and the word “commissioners,” the municipal commissioners of Aliwal (Mossel Bay).
- Previous loans not affected. XXIV. Nothing herein contained shall affect or prejudice any loan already raised under the provisions of the Act 7 of 1876 and Act 6 of 1878.
- Short title. XXV. This Act may be cited for any purpose as “The Town of Aliwal (Mossel Bay) Water Supply Act, 1882.”

SCHEDULE.

We, the undersigned commissioners of the municipality of Aliwal (Mossel Bay), do hereby acknowledge that the said commissioners in their said capacity are indebted to——— in the sum of £——— for so much money borrowed by the said commissioners for the purposes set forth in the “Town of Aliwal (Mossel Bay) Water Supply Act, 1882,” and certify that the said sum is and stands secured by the said Act, in manner and form as by the said Act provided. And we further covenant and engage for and on behalf of the said commissioners that the interest and principal of the said debt shall be payable and paid in manner following, that is to say [here insert according to the agreement, the rate of interest and times of payment thereof, and the date or dates, or other conditions upon which the principal of the debt shall become payable].

Given under our hands at Aliwal (Mossel Bay), this———day of——— 18——

A. B., Chairman of the Municipality.

C. D. }
E. F. } Commissioners.

Witnesses { G. H.
 { I. J.

No. 20—1882.] ACT [June 22, 1882.

To Empower the Governor to Grant Land for a Race-course and purposes connected therewith, and to provide for the Management and Regulation of the Club to which such Land shall be granted, and for other purposes.

WHEREAS it is expedient to encourage efforts to improve the breed of horses within the Colony; Be it enacted by the Governor of the said Colony, acting by and with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

I. In this Act the term club shall mean the club to which the land hereinafter mentioned shall be granted; the term committee shall mean the committee for the time being of the club; and the term "chairman" shall mean the person who shall be chairman for the time being of such committee.

Interpretation clause.

II. It shall and may be lawful for the Governor to grant to any club now established, or hereafter to be established, for the control and management of matters connected with the racing of horses, such piece or parcel of land as to him may seem fit, for the purposes hereinafter described, that is to say, firstly, as a course upon which horse races may be run with the consent or under the direction and control of the said club; secondly, as a training ground for the purpose of training horses intended to race, and also for the erection of training stables and dwellings for the use of persons engaged in training race horses; thirdly, for any other public amusement, or purpose which the Governor may upon the application of the said club, declare to be a public amusement or purpose for which the said land may be used.

Power to Governor to grant land for a race course, &c

III. All actions, suits, and proceedings at law for any cause, matter, or things to be commenced, instituted, prosecuted or carried on by or on behalf of the said club, or wherein the said club shall be concerned in any way against any person or persons, body or bodies, whether a member or members of the said club or otherwise, shall be commenced, instituted and prosecuted or carried on in the name of the chairman at the time such action, suit, or proceeding shall be commenced or instituted for or on behalf of the club, and all actions, suits, and proceedings as aforesaid to be commenced, instituted, or prosecuted against the club shall be commenced, instituted and prosecuted against the chairman, for and on behalf of the club, and in all indictments and informations it shall be sufficient to state the property of the club to be the property of the chairman, and any offence committed with intent to

Chairman to prosecute and defend the club in actions Civil and Criminal.

No. 20—1882.

injure or defraud the club may, in any prosecution for the same, be stated or laid to have been committed with intent to injure or defraud the said chairman, and any offender or offenders may thereupon be lawfully convicted of any such offence, and the death, resignation, or removal, or other act of such chairman shall not abate any such action, suit, or prosecution, but the same may be continued, prosecuted, and concluded in the name of any person who may be or may become chairman.

Notice of election of chairman to be published in *Gazette*.

IV. Upon the election or appointment of any person to be chairman, notice of such election or appointment shall be forthwith given in the Government Gazette and such notice shall be sufficient proof of such election or appointment.

Judgment to be enforced against property of the club.

V. Every judgment and every decree or order which shall be at any time obtained against the chairman on behalf of the club shall take effect and be enforced and execution thereon be issued against the property and effects of the club.

Power of chairman to purchase or hire lands &c., required by the club.

VI. It shall be lawful for the chairman, for the time being, to purchase or to lease on behalf of the club any lands or buildings which may be required for the purposes of the club, and to sell or relet the same or any part thereof as occasion may require, and transfers or leases thereof shall be passed or made to or by the said chairman on behalf of the said club.

Land granted to be used only for specified purposes.

VII. The land, by the second section of this Act authorized to be granted to the club, shall be held, enjoyed, and used only for the purposes authorized by this Act or by any bye-law to be made under and by virtue thereof.

Committee may make bye-laws.

VIII. The committee, or an absolute majority in number of such committee present at any meeting, may from time to time make such bye-laws as they may think fit for regulating all matters concerned or connected with any lands, buildings, or other property belonging to the said club, and the admission thereto and expulsion therefrom of members of the club or any persons respectively, and the rates or charges to be paid for such admission and for the general management of the said racecourse, and may from time to time by any other bye-laws amend, alter, or repeal any such bye-laws: provided that no such bye-laws be repugnant to the laws for the time being in force in this Colony.

When bye-laws to take effect.

IX. No bye-law made under the authority of this Act shall be of any force or effect until the expiration of one month after such bye-law shall have been sent to the Colonial Secretary, and until publication in the Government Gazette, and at any time within one month the Governor may

disallow any such bye-law, and if disallowed such bye-law shall not come into operation.

No. 20—1882.

X. Every bye-law shall, if not disallowed within one month after the same shall have been sent as aforesaid to the Colonial Secretary, be published in the Government Gazette, together with a notice stating when such bye-law was sent to the Colonial Secretary, and that such bye-law has not been disallowed, and such bye-law shall come into operation upon such publication.

If bye-laws not disallowed to be published in Gazette.

XI. The Governor may at any time, by proclamation in the Government Gazette, declare that, from a time to be named in such proclamation, any bye-law made under this Act shall be repealed, and from and after the time so named such bye-law shall, unless previously repealed under the provisions in this Act contained, be absolutely repealed, and of no effect: Provided always that such repeal shall not affect any suit, prosecution, or other proceeding, commenced before the time of such repeal, but the same shall be continued as if no such repeal had taken place.

By-laws may be repealed by Governor

XII. The production of a copy of the Government Gazette containing any such bye-law and notice as aforesaid shall be conclusive evidence that such bye-law was duly made.

Gazette to be evidence of bye-law.

XIII. A copy of all bye-laws made under this Act for the time being in force shall be painted on boards or printed on paper and affixed on boards and hung up or otherwise placed at or near the principal entrance to the said racecourse, and also in a conspicuous place at or adjacent to the grand stand on the said racecourse so as to give public notice thereof, and no penalty imposed by any such bye-law shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

Copies of bye-laws to be posted.

XIV. Such bye-laws when so published as aforesaid shall be binding upon and be observed by all persons, and shall be sufficient to justify persons acting under the same; and for proof of the publication of any such bye-laws, it shall be sufficient to prove that a painted board or a printed paper affixed to a board, containing a copy of such bye-laws was hung up or otherwise placed in manner by this Act directed.

By-laws to be binding.

Proof of bye-laws.

XV. Any person offending against any bye-law made under this Act shall for any such offence be liable on conviction before the resident magistrate of the district to a fine not exceeding five pounds, and if the infraction or non-observance of any of such bye-laws be attended with danger or annoyance to the public, or hindrance to the committee, or any of the officers of the said club, or the public in the lawful use of the said racecourse, it shall be lawful for the committee, or any member, officer, or servant thereof, summarily to

Penalties for infringement.

No. 20—1882.

interfere to obviate, or [remove such danger, annoyance or hindrance, and that without prejudice to any penalty incurred by the infraction of any such bye-law.

Penalties for offences, trespasses, &c.

XVI. Whosoever shall wilfully obstruct or impede any officer, servant or agent of the committee in the execution of his duty upon any land owned or leased by the club under this Act, or upon or in any building or premises connected therewith, or wilfully trespass upon any such land, building, or premises, or remove or wilfully injure any building, enclosure, post, fence, tree, or shrub, upon any such land, shall, upon conviction thereof before the said resident magistrate, be liable to a penalty of not exceeding ten pounds over and above the amount of the injury done.

Offenders may be arrested.

XVII Any member, officer, or servant, of the committee, and all persons called by him to his assistance, may seize and detain any person who shall have committed any offence against the provisions of this Act, or of the bye-laws made under this Act, and whose name and residence shall not be given to such member, officer, or servant, upon his requiring the same to be given, and give such offender in charge to a police officer or constable for the purpose of conveying him before the said resident magistrate, in order that the complaint against the offender may be dealt with according to law.

Liabilities under bye-laws not to affect other liabilities.

XVIII. Notwithstanding the liability of any person to any penalty under this Act, or the bye-laws made under this Act, he shall not be relieved from any other liability to which he would have been subject if this Act had not been passed.

Rates of charges for admission to the club's land.

XIX. The committee may, by any bye-law duly made according to the provisions of this Act, from time to time prescribe and vary at pleasure the scale of rates or charges to be levied or taken for admission to any land owned or leased by the said club for the purposes of this Act, or to any building standing or being thereon, and may demand and recover and receive such rates or charges from any person coming upon such land or any part thereof, or into or upon any such building.

Power to chairman to lease lands for races and other sports.

XX. The chairman may let for any particular race meeting or meetings, or for any other amusement or sport, any portion of the land or buildings owned or leased as in this Act mentioned, or all or any of the rates or charges demandable and payable under and by virtue of this Act, or the bye-laws made under this Act, and the lessee, his collectors, servants or agents, shall have the same power of demanding, recovering, and receiving the said rates or charges as are hereby given to the committee.

XXI. It shall be lawful for the committee in the name of the chairman, from time to time, as they shall see fit, on behalf of the club, for any purpose connected with the said club, to procure advances and to borrow money by way of cash credit, mortgage, bond, debentures, or otherwise, and to pay off and discharge such advances in such manner as may be agreed on, but the said committee shall not have power to pledge the credit of any member of the club nor shall any member be responsible for any debts incurred on behalf of the club beyond the amount of his subscription either annual or for life.

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Committee may borrow on security of club's property.

XXII. The Commissioner of Crown Lands and Public Works may authorize any person to inspect the whole or any part of the land and buildings owned or leased by the club, according to the provisions of this Act, and such person shall have power at all reasonable times, to enter upon and examine the said lands and buildings.

Commissioner of Crown Lands may authorize inspection of land and buildings.

XXIII. If the person so authorized as in the last section mentioned shall certify in writing to the Commissioner of Crown Lands and Public Works that in his opinion the surface of the said land or any part thereof, is imperfectly kept in order, for the purpose of a public racecourse, or that any building thereon is in want of repair, or is unsafe to the public, or in any other respect improper or unfit for use, and which certificate shall contain a detailed statement of all such defects and want of repairs, the said Commissioner of Crown Lands and Public Works may, by notice in writing addressed to the chairman, call upon the committee, who are thereupon required so to do within a reasonable time after receipt of such notice, well and sufficiently to repair and make good all or any of such defects and want of repair.

If report of inspector unfavourable, Commissioner may call on committee to make repairs.

XXIV. In case the land granted in pursuance of this Act shall not at any time have been used *bona fide* for the purposes of such grant for a period of three years, the said land shall be and become waste Crown lands, and may be dealt with in accordance with the provisions of the Crown Lands Act, No. 14 of 1878, or in any other manner by law provided.

If land not properly dealt with, may be dealt with under Act 14 of 1878, &c.

XXV. It shall be further incumbent upon the said club to fence in the ground so granted them within twelve months from the time when such ground shall have been granted, and until such ground shall be securely fenced it shall not be lawful to impound any cattle or other animals found trespassing on the said ground.

Land granted to be fenced in within 12 months.

XXVI. This Act shall apply only to such club as the Governor may, by notice in the Government Gazette under the hand of the Colonial Secretary, declare within forty-two days from the taking effect of the said Act to be the club to which this Act shall apply.

Act only to apply to club declared by Governor within 42 days of taking effect of Act.

Repealed by 1896 Act 36.
No. 21, 1882.]

ACT

[June 22, 1882.]

For the Management of the Harbour of Port Elizabeth.

Preamble.

WHEREAS it is desirable to provide for the better management of the Harbour of Port Elizabeth: 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 repugnant laws.

I. 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.

Existing Commissioners to retain office *pro. tem.*

II. The commissioners appointed under the provisions of the Ordinance No. 21 of 1847, who shall be in office at the time of the taking effect of this Act, shall remain in office, and exercise all powers and perform all duties now exercised and performed by them, until the first meeting of the board of commissioners appointed and elected under the provisions of this Act.

Management of harbour to be vested in Board of Commissioners.

III. The management of the harbour of Port Elizabeth as well as of any works of construction or maintenance connected therewith, shall be vested in a board of commissioners, to be appointed and elected under this Act, from and after the date of the first meeting of such board.

Constitution of the Board.

IV. The board of commissioners in the last preceding section mentioned shall consist of seven persons, one of whom shall be the mayor of Port Elizabeth for the time being, three of whom shall be elected by the constituency hereinafter provided, one of whom shall be nominated and chosen annually by the Port Elizabeth Chamber of Commerce, if such body shall be incorporated but not otherwise, and two of whom, or in case the said Chamber of Commerce shall not be incorporated, three of whom, shall be appointed by the Governor by Proclamation: Provided that the persons so appointed by the Governor may be removed as if they had been appointed under the provision of the 2nd Section of the said Ordinance No. 21 of 1847.

Lists to be made yearly of all persons who have in previous twelve months paid wharfage dues to the amount of £10.

V. The existing board of commissioners shall, as soon as may be after the 30th day of June next, and the board by this Act constituted shall, as soon as may be after the 30th day of June in every succeeding year, cause a true list to be made, in alphabetical order, of all persons being inhabitants of, or having their places of business in, Port Elizabeth, who shall during the last preceding twelve months have paid, to the amount of not less than ten pounds sterling, such wharfage dues as are provided by the third section of the Act No. 25 of 1875, and setting forth the Christian and

surname of such person at full length, or the name of the firm (in case the said wharfage dues shall have been paid by a firm and not by a single individual), the place of his or their business and the amount of such wharfage dues which such person or firm shall have paid during the period aforesaid, and such person or persons shall be entitled to vote for the commissioners to be elected under this Act, in proportion to the amount of wharfage dues paid by them severally, according to the schedule of this Act.

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Such persons to be voters.

VI. As soon as the list in the last preceding section shall be complete the said board shall cause the same to be transmitted to the sub-collector of customs, who shall cause copies thereof to be posted in some convenient place, heading such list with the words "List of persons and firms entitled to vote at the election of commissioners of the Port Elizabeth Harbour Board."

Sub-collector of customs to post lists.

VII. In case within one month after the posting of such list, as in the last preceding section mentioned, any complaint shall be made to the sub-collector of customs of the omission therefrom of the name of any person or firm whose name ought to have appeared upon such list, or of the insertion therein of the name of any person or firm which name ought to be expunged from such list, it shall be the duty of the said sub-collector of customs to investigate such complaint, and to add, or remove, any such name to or from such list as to him shall seem just.

How lists may be corrected.

VIII. The persons and firms named in such list, after the additions to or alterations of the same (if any) have been made by the said sub-collector of customs as aforesaid, shall be the voters entitled to vote at the election of the commissioners as hereinafter provided, and as often as a firm shall be named in such list of voters, such firm shall be entitled to vote by one member thereof, and no more, or may by an authority in writing appoint some person to appear and vote for such firm.

When lists complete persons named therein to be voters.

IX. Every person being a voter as in the last preceding section provided, and whether he be so individually or as a member of a firm, shall be qualified to be elected a commissioner of the said harbour board: Provided, however, that no such voter shall be competent to be a candidate for the said office unless he shall have received and accepted a requisition to become such candidate signed by not less than five duly qualified voters, and shall have transmitted such requisition, with his acceptance thereof, to the sub-collector of customs at least ten days before any election is appointed to take place.

Qualification of a Commissioner.

X. The sub-collector of customs shall, at least seven days before the day appointed for the election, cause the

Lists of candidates and of requisitionists to be published.

- No. 21—1882. names of the candidates for election thereat, together with the names of the persons who have signed such requisitions, to be published in the Government Gazette and one or more newspapers published in Port Elizabeth.
- Sub-Collector of Customs to be returning officer. XI. Every election under this Act shall take place before the sub-collector of customs, who shall be the returning officer for that purpose, on such day and at such place as he shall appoint, and the poll shall be kept open from nine o'clock a.m. until one o'clock p.m.
- How poll to be taken. XII. The poll shall be taken by some officer to be appointed for that purpose by the sub-collector of customs, and the voting at such poll shall be by voting papers.
- Scrutineers. XIII. Every candidate may, if he thinks fit, appoint a scrutineer to see that the votes are fairly taken and recorded.
- Who to be declared elected. XIV. At the close of the election the returning officer shall ascertain the number of votes given for each candidate; and so many candidates being equal to the number to be chosen as shall have the greatest number of votes shall be declared by the returning officer to be duly elected.
- When and how elected Commissioners to enter on office. XV. At the first election of commissioners under this Act, the voters shall elect, in manner by this Act provided, three commissioners, who shall be deemed to enter upon their office on the first Monday following, in conjunction with the commissioners appointed by the Governor, the commissioner, if any, nominated by the Chamber of Commerce, and the mayor of Port Elizabeth for the time being.
- How seats vacated by lapse of time. XVI. Of the persons so elected as in the last preceding section mentioned the commissioner who shall have been elected by the smallest number of votes shall vacate his seat at the expiration of one year from the date of entering upon his office; and in case from any cause it shall be uncertain which of them shall vacate his seat, the returning officer shall cause such question to be determined by lot; and the remaining two elected commissioners shall vacate their seats in like manner at the expiration of two years and three years respectively, and upon the retirement from office of such commissioners respectively, they shall be succeeded by commissioners who shall be elected as hereinbefore provided, so that at every annual election after the first there shall be elected one commissioner who shall enter upon his office on the first Monday after his election, and continue therein for three years, and every retiring commissioner shall be eligible for re-election.
- Resignation, &c. of Commissioners. XVII. If any elected commissioner shall die, resign, become insolvent, or assign his estate for the benefit of his creditors, or shall be absent from the ordinary meetings of the board for a period of three calendar months, his office shall become vacant and a commissioner shall be elected in his

place and stead, in manner hereinbefore provided, who shall hold office for the remainder of the term for which the commissioner who has vacated office and whom he shall succeed would otherwise have remained in office.

No. 21—1882.

XVIII. In case of an equality of votes at any election of a commissioner under this Act, the returning officer shall determine by lot which of the persons for whom an equal number of votes shall have been given shall be elected, in case such persons cannot be both elected.

In case of equality of votes at election

XIX. The commissioners present at the first meeting of the board constituted under the provisions of this Act, and at the first meeting held after every annual election respectively, shall elect from amongst themselves a chairman, who shall hold such office for the space of one year, and who shall, when present, preside at all the meetings of the board: Provided that if at any meeting such chairman shall not be present, the members attending such meeting shall elect from among themselves a chairman to preside at such meeting: and provided also, that in case at any election of a chairman under the provisions of this section any two or more commissioners shall have an equal number of votes, it shall be decided by lot which of such commissioners shall be the chairman.

Chairman to be chosen.

In case of his absence

XX. At every meeting of the board three commissioners shall form a quorum; and in case the votes of the commissioners upon any question before them shall be equally divided, the presiding member shall, in addition to his original or deliberative vote, have a casting vote: Provided, however, that no commissioner shall vote on any question in which he shall have any personal or pecuniary interest, directly or indirectly, under a penalty not exceeding one hundred pounds sterling, to be sued for by the attorney-general.

Quorum.

XXI. Every commissioner appointed or elected under the provisions of this Act shall be entitled to receive the sum of twenty shillings for each attendance at the meetings of the board: Provided, however, that no commissioner shall receive more than one hundred pounds sterling in any one year in respect of such attendances.

Payment of Commissioners.

XXII. All the rights, powers, duties, privileges, and authority conferred upon, assigned to, and at present enjoyed or received by, the existing board of commissioners for the management of the harbour of Port Elizabeth otherwise designated Algoa Bay by virtue of any ordinance act of parliament or other statutory enactment having the force of law, and not repugnant to or inconsistent with the provisions of this Act, shall be, and the same are hereby, conferred upon, assigned to, and continued in, the board of commissioners to be appointed and elected under this Act; and such commis-

Powers and duties.

No. 21—1882.

sioners shall be designated the "Port Elizabeth Harbour Board," and may by such title sue and be sued and be described in all legal proceedings, and shall have power to take, purchase, and hold, or to sell and transfer, lands, buildings, hereditaments, and possessions, and all other property, chattels, or effects whatsoever, and such lands or other property, subject to any engagements affecting the same, shall be vested in the said board by such name of the "Port Elizabeth Harbour Board," and without the necessity of any individual member of such board being mentioned in the deed or deeds of transfer, grant or grants, or conveyances thereof.

Board may land,
warehouse and de-
liver goods.

XXIII. In addition to all such existing rights, powers, duties, privileges and authority, it shall be lawful for the board of commissioners under this Act to land, warehouse, and deliver goods and merchandize by themselves or by their duly constituted agents in that behalf; and for the purposes of such landing, warehousing, and delivery to construct or hire such railways, tramways, sheds, or warehouses as they may deem necessary, and to enter into contracts or make arrangements with any public company or private individuals for any such construction or hiring.

May construct or
hire railways, &c.
for the purpose.

Certain powers ves-
ted in Governor
transferred to the
Board.

XXIV. The several powers vested in the Governor by the Act No. 21 of 1872, and the Ordinance No. 1 of 1847, shall, so far as concerns the harbour of Port Elizabeth, be transferred to, vested in, and exercised by, the said "Port Elizabeth Harbour Board" by this Act created.

Short Title.

XXV. This Act may be cited as the "Port Elizabeth Harbour Board Act, 1882."

SCHEDULE.

Votes according to Dues paid in respect of every Commissioner to be elected :-

Not less than £10 and not exceeding £100,	one Vote.
Exceeding 100 "	200, two Votes.
" 200 "	300, three Votes.
" 300 "	400, four Votes.
" 400 "	500, five Votes.
" 500 "	600, six Votes.
" 600 "	700, seven Votes.
" 700 "	800, eight Votes.
" 800 "	900, nine Votes.
" 900 and upwards	ten Votes.

No. 22—1882.] ACT. [June 22, 1882.

To Amend the Law relating to the Extradition of
Criminals.

WHEREAS it is expedient to amend the law relating Preamble.
to the surrender to the Transvaal State and the
Orange Free State of persons accused or convicted of the
commission of certain crimes within the jurisdiction of the
said States: 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:—

I. The “Extradition of Criminals Ordinance (No. Repeal of Griqua-
land Ordinance 2
of 1877. 2), 1877,” passed by the Legislature of the Province of
Griqualand West is hereby repealed.

II. This Act shall apply to the offences specified in the Offences in Schedule
first schedule hereto.

III. Where a person accused or convicted of having Persons convicted or
accused of such
offences in Trans-
vaal or Free State,
and found in this
Colony may be ex-
tradited.
committed an offence (to which this Act applies) in the
Transvaal State or the Orange Free State, has left such
state, such person (in this Act referred to as a fugitive
criminal) if found in this colony, shall be liable to be apprehended and returned to the state from which he is a fugitive in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the passing of this Act.

IV. A requisition for the surrender of a fugitive criminal Requisition for any
such extradition to
be made to the
Prime Minister.
for whose apprehension a warrant has been issued in either of
the said States, and who is in or is suspected of being in the
colony, shall be made on behalf of the government of the
state seeking extradition of such criminal to the Responsible
Minister who shall for the time being be the Prime Minister
of this Colony. Upon receipt of such requisition the said
Minister may by order under his hand signify to any resident
magistrate or justice of the peace that such requisition has
been made, and require him to issue his warrant for the ap-
prehension of the fugitive criminal.

V. A warrant for the apprehension of a fugitive Proceedings there-
upon.
criminal, whether accused or convicted of crime, may be
issued

- (1) By a resident magistrate or justice of the peace on receipt, or upon the publication in the Government Gazette of the said order of the said Minister, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed, or the criminal convicted, in this Colony; and

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(2) By a resident magistrate or any justice of the peace on such information or complaint and such evidence or after such proceeding as would in the opinion of the person issuing the warrant justify the issue of a warrant if a crime had been committed or the criminal convicted in this colony.

By whom warrants of apprehension to be issued.

Any person issuing a warrant under this section without an order from the said Minister shall forthwith send to the latter a report of the fact of such issue, together with the information or complaint, or certified copies thereof; and the said Minister may, if he think fit, order the warrant to be cancelled, and the person who has been apprehended to be discharged.

When warrants may be cancelled.

VI. Every warrant for the apprehension of any fugitive criminal shall command that he be brought before some resident magistrate. Where the warrant has been issued without the order of the said Minister, the resident magistrate shall order the discharge of the fugitive criminal unless, within such time as having reference to the circumstances of the case he may consider reasonable, the said resident magistrate receives from the said Minister the order mentioned in the fourth section of this Act.

What warrants of apprehension shall command.

VII. When a fugitive criminal is brought before the resident magistrate, the said magistrate shall hear the case in the same manner, and have the same jurisdiction and powers as near as may be as if the prisoner were brought before him charged with an indictable offence committed in the colony.

Magistrates to exercise jurisdiction as if offence committed in the Colony.

VIII. In the case of a fugitive criminal accused of the commission of any crime or offence to which this Act applies, if the warrant of the state making the requisition is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would according to the law of the colony justify the committal for trial of the prisoner if the crime of which he is accused had been committed in the colony, the resident magistrate shall commit him to prison, but otherwise shall order him to be discharged.

When Magistrates may order committal or discharge.

In the case of a fugitive criminal alleged to have been convicted of the commission of any such crime or offence, if such evidence is produced as (subject to the provisions of this Act) would according to the law of the colony prove that the prisoner was convicted of such crime, the resident magistrate shall commit him to prison, but, otherwise, shall order him to be discharged.

To what gaol committed person to be sent.

IX. If the fugitive criminal is committed to prison he shall be committed to the principal gaol of the district, there to await the warrant of the Governor for his surrender.

The resident magistrate shall forthwith send a certificate of the committal to the said Governor with such report thereon as he may think fit.

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X. Upon production of the certificate of committal it shall be lawful for the Governor, by warrant under his hand and the public seal of the colony, to order the fugitive criminal to be surrendered to such person as may in his opinion be duly authorized by the state from which the requisition for the surrender proceeded, to receive the fugitive criminal, and such fugitive criminal shall be surrendered accordingly.

Upon committal, Governor may order offenders surrender to state demanding it.

It shall be lawful for the person to whom such warrant is directed to receive, hold in custody, and convey the criminal mentioned in the warrant within the jurisdiction of the state to which he has been surrendered.

What may be done under Governor's warrant for surrender.

The gaoler, or other chief officer of any gaol, on request of any person having the custody of a fugitive criminal under such warrant, and on payment or tender of a reasonable amount for expenses, shall receive such fugitive criminal and detain him for such reasonable time as may be requested by the said person for the purpose of the proper execution of the warrant.

Expenses of detention.

If the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of the colony may be retaken.

Escape of prisoner from custody.

XI. Where any person who shall have been committed under this Act to remain until delivered up pursuant to requisition, shall not be delivered up pursuant thereto within two months after such committal, it shall in every case be lawful for the supreme court of this colony, or for the court of the Eastern Districts or the high court of Griqualand respectively, if such person be imprisoned within the limits of either of such last mentioned courts, upon application by or on behalf of any person so committed, and after notice of the intention to make such application has been given to the attorney-general, or in case such application be made either to the court of the Eastern Districts or to the high court of Griqualand after such notice has been given to the solicitor-general or to the crown prosecutor as the case may be, to order the person so committed to be discharged out of custody unless sufficient cause is shewn to the contrary.

Proceedings in regard to persons committed but not given up within 2 months.

XII. Depositions or statements on oath taken in either of the aforesaid states, whether taken in the presence of the fugitive criminal or not, and copies of such original depositions or statements, and certificates of or judicial documents

Depositions, &c., to be received in evidence.

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stating the fact of conviction may, if duly authenticated, be received in evidence in proceedings under this Act.

How warrants of the states to be authenticated.

XIII. Warrants of the said states and depositions or statements on oath and copies thereof shall be deemed duly authenticated for the purposes of this Act, if authenticated in manner provided for the time being by law, or if authenticated as follows :—

- (1) If the warrant purports to be signed by a judge, magistrate, or other officer of the state where the same was issued authorized by law to issue warrants ;
- (2) If the depositions or statements on oath, or the copies thereof, purport to be certified under the hand of a judge, magistrate, or officer of the state where the same were taken, to be the original depositions and statements, or to be true copies thereof, as the case may be ;
- (3) If the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate, or officer of the state where the conviction took place ; and

if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of some officer of the government of the state from which the requisition for surrender proceeded ; and all courts of justice and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

Forms of warrants.

XIV. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and when used shall be deemed to be valid and sufficient in law.

When Act to take effect.

XV. This Act shall take effect so far as concerns the surrender of fugitive criminals to the Transvaal State and the Orange Free State respectively, so soon as the Governor shall by proclamation in the (1) Government Gazette of the colony declare and make known that the said states have respectively made due provision for the surrender of fugitive criminals who have escaped to either of the said states from this colony ; and from and after the date of each such proclamation the " Extradition of Criminals Act (No. 19), 1872," shall, as to the State named therein, be and the same is hereby repealed : Provided that such repeal shall not affect any warrant duly granted or issued, or anything done

(1) See Proclamation No. 122, 4th August, 1882, notifying that the Free State has made due provision, and Proclamation No. 123, of same date, extending this Act to Basutoland and the Transkei.

or suffered, or any legal proceeding or remedy in respect of any such warrant, or in respect of any liability or penalty incurred previously to such repeal; and any such warrant may be executed, and any such legal proceeding or remedy may be carried out, as if this Act had not been passed.

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XVI. In the interpretation of this Act the term "Transvaal State," shall mean the territory otherwise known as the "South African Republic," by whatever name the said territory shall now or hereafter be designated.

Interpretation clause.

XVII. This Act may be cited as "The Extradition Act, 1882."

Short title.

FIRST SCHEDULE.

Abduction.
 Abortion.
 Arson.
 Assault, including indecent assault on the person of a girl under the age of twelve years.
 Assault with intent to do grievous bodily harm.
 Bigamy.
 Child stealing,
 Culpable homicide.
 Coining, or uttering counterfeit or altered coin.
 Deserting from any police or defensive force.
 Offences under any law relating to the dealing in diamonds.
 Falsity, forgery or uttering a forged document.
 Fraud.
 Offences under any law relating to the dealing in gunpowder, lead, or firearms.
 Housebreaking (including the breaking into any office, store, or hut), with intent to commit any crime.
 Incest.
 Offences by insolvents against insolvency laws.
 Malicious injury to property.
 Murder, or attempt to commit murder.
 Perjury or subornation of perjury.
 Rape and assault to commit rape.
 Any act done with intent to do injury to person or property on any railway.
 Robbery.
 Public violence.
 Theft, including theft by means of false pretences, and theft by means of embezzlement.
 Being accessory to the commission of any of the aforesaid crimes or offences.

SECOND SCHEDULE.

Form of order for issue of Warrant of Apprehension.
 To the Resident Magistrate [or ——— Esquire, Justice of the Peace] for the district of ———,

No. 22—1882

Whereas, a requisition has been made to the Government of the Colony of the Cape of Good Hope by the Government of the _____ State, for the surrender of _____, late of _____, accused [or convicted] of the commission of the crime of _____ within the jurisdiction of the said State: Now I hereby, by this my order, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of the said _____, provided that the conditions of the "Extradition Act, 1882," relating to the issue of such warrant, are in your judgment complied with.

Given under my hand at Cape Town, this ____ day of _____ 18—.

Premier and [Colonial Secretary.]

Form of Warrant of Apprehension by order of the Prime Minister.

To the Field-cornets, Constables, Police Officers, and other Officers of the Law proper to the execution of Criminal Warrants.

Whereas the Honourable the Prime Minister and [Colonial Secretary] by order under his hand has signified to me [or has notified] that requisition has been duly made for the surrender of _____ late of _____ accused [or convicted] of the commission of the crime of _____ within the jurisdiction of the _____ State: This is, therefore, to command you in Her Majesty's name, forthwith to apprehend the said _____ pursuant to "The Extradition Act, 1882," wherever he may be found within the limits of the Colony of the Cape of Good Hope, and bring him, or cause him to be brought, before the Resident Magistrate for the district of _____, to show cause why he should not be surrendered in pursuance of the said Extradition Act: for which this shall be your warrant.

Given under my hand at _____ this ____ day of ____ 18—

Resident Magistrate
[or Justice of the Peace] for the District of ____.

Form of Warrant of Apprehension without order of the Prime Minister.

To the Field-cornets, Constables, Police Officers, and other Officers of the Law proper to the execution of Criminal Warrants.

Whereas it has been shown to the undersigned—Resident Magistrate [or Justice of the Peace] for the district of _____ that _____, late of _____ is accused [or convicted] of the commission of the crime of _____ within the jurisdiction of _____: This is, therefore, to command you in Her Majesty's name, forthwith to apprehend the said _____, and to bring

him, or cause him to be brought, before the Resident Magistrate for the district of _____, to be further dealt with according to law: for which this shall be your warrant.

No. 22—1882.

Given under my hand at _____, this _____ day of _____ 18—

Resident Magistrate
[or Justice of the Peace] for the District of _____.]

Form of Warrant of Committal.

To the Gaoler of the _____ Gaol:

Be it remembered that on this _____ day of _____ 188_____ late of _____, is brought before me _____, resident magistrate for the district of _____, to show cause why he should not be surrendered in pursuance of The Extradition Act, 1882, on the ground of his being accused [or convicted] of the commission of the crime of _____ within the jurisdiction of _____ and forasmuch as no such sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Act:

This is therefore to command you, the said gaoler, to receive the said _____ into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Extradition Act, for which this shall be your warrant.

Given under my hand at _____ this _____ day of _____ 18—.

Resident Magistrate
for the District of _____.

Form of Warrant of the Governor for Surrender of Fugitive Criminal.

WARRANT

By His Excellency, &c.

To the Gaoler of the _____ Gaol and to _____
(a).

Whereas _____, late of _____, accused [or convicted] of the commission of the crime of _____ within the jurisdiction of the _____ State, was delivered into the custody of you (b) _____ the said gaoler by warrant dated (c) _____ pursuant to "Extradition Act, 1882:"

Now, therefore, I the Governor aforesaid do hereby, in pursuance of the said Act, order you, the said gaoler, to deliver the body of the said _____ into the custody of the said (a) _____, and I command you the said (a) _____ to receive the said _____ into your custody, and to carry him within the

(a) Insert name of person authorized by the Foreign State to receive the criminal.

(b) Insert name of gaoler.

(c) Date of warrant of committal.

No. 23—1882.

jurisdiction of the said State, and there place him in the custody of any person or persons appointed by the said State to receive him : for which this shall be your warrant.

Given under my hand and the Public Seal of the Colony of the Cape of Good Hope, at ——— this ——— day of ——— 18—.

Governor.

By command of His Excellency the Governor,

Premier and [Colonial Secretary.]

No. 23—1882.]

ACT.

[June 30, 1882.

To Make provision to release a further portion of the Estate Orangezigt from the entail of *Fidei commissum* and to invest the Town Council of the City of Cape Town with the Right to the Water Springs on the said Estate, and of collecting Water on the said Estate and leading out the same for the use of the City of Cape Town, and to confirm the provisions of a certain Rule and Order of the Honourable the Supreme Court, made on the 8th day of December, 1881, relative to the Compensation to be paid for the same.

Preamble.

WHEREAS by Act 29 of 1877, entitled "An Act to release a portion of the estate Orangezigt of the entail of *Fidei commissum* and to authorize the Town Council of the city of Cape Town to acquire the said lands for the purpose of constructing thereon one or more reservoirs," authority is given to the Town Council of Cape Town to extend and improve the water works of the municipality of the City of Cape Town and to construct a new reservoir or reservoirs for the purpose of increasing the supply of water of the said city, for which purpose the said Town Council of Cape Town was further authorized and empowered to acquire certain lands forming part of the estate Orangezigt, situate in Table Valley, the property of the family of Van Breda, held by them subject to the burthen and entail of *Fidei commissum* as in the said Act is stated and set forth : and whereas under the powers conferred by the said Act, the said Town Council has acquired for the purposes of the City of Cape Town certain portion of the said entailed estate for the purposes stated in the said Act : and whereas

it has since been found desirable and necessary that the said Town Council should further acquire for the purposes aforesaid the right and title to and the ownership of the several springs of water rising on the said estate, with the right to dig, bore, excavate or otherwise open up the said springs and carry out all such works as may be found necessary for the said purposes and to construct filtering beds and all other works required for the purpose of collecting the waters of the said estate and to lay down pipes in, on, and across the said estate so as to lead out such waters for the use of the City of Cape Town: and whereas in accordance with such necessity the said Town Council did, under the provisions of Section 70 of Act 1 of 1861, acquire and take possession of the water springs on the said estate, and proceeded to do all things necessary to collect and utilize the water for the use of the City of Cape Town, but could not agree with Gerrit Hendrik van Breda, the person now entitled to and in possession of the said estates as to the compensation to be paid for the same, whereupon such compensation was referred for assessment and decision to arbitrators mutually appointed: and whereas the said arbitrators made their award in writing on the 18th day of November, 1881, which award was on the 8th day of December, 1881, made a rule or order of the Honourable the Supreme Court, which rule or order is set forth in the schedule to this Act: and whereas by reason of the said entail of *Fidei commissum* aforesaid it is necessary that the rights so acquired by the Town Council of Cape Town, and the compensation to be paid for the same, should be sanctioned and confirmed by legislative enactment: 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. The burthen and entail of *Fidei commissum* in Act 29 of 1877 mentioned is further removed and annulled so far as it affects the water springs and other sources of water on the estate Orangezigt, and all the said springs and sources of water are hereby declared to be vested in the Town Council of Cape Town and their lawful successors, with the right to dig, bore, excavate and otherwise open up and carry out all such works on the said estate as may be found necessary for the said purposes and to construct filtering beds and all other works required to collect the waters of the said estate and to lay down pipes in, on, and across the said estate so as to lead out the waters for the use of the City of Cape Town.

Burthen of *Fidei
Commissum* re-
moved from springs
of "Orangezigt."

Vesting of them in
Town Council.

II. For the acquisition by the said Town Council of the said springs and other sources of water on the estate Orange-

£700 per annum to
be paid to proprie-
tors of estate.

No. 23—1882.

zigt and for the right to collect and lead out the waters thereof, and for the other privileges as in the last preceding section mentioned in terms of the said award and rule of court, the said Town Council shall pay the sum of Seven Hundred Pounds sterling per annum (subject to the conditions hereinafter mentioned) to the said Gerrit Hendrik van Breda, the present proprietor, and the future proprietors of the said estate.

Charged upon the
revenues of the
Municipality.

III. The said sum of Seven Hundred Pounds sterling is hereby charged upon the annual revenues of the Municipality of the City of Cape Town, as a preferent debt ranking in order next after any debt heretofore contracted under the authority of any Ordinance or Act of Parliament: and shall continue until by any Act of Parliament the decree of any competent court, or the happening of any event, the said estate Orangezigt shall pass free and discharged from the said entail to any person or persons in full and absolute property, and shall then be payable to such person or persons.

Payable half-yearly.

IV. The said annual sum of Seven Hundred Pounds sterling shall be payable in half-yearly instalments to the person or persons entitled to receive the same.

Short Title.

V. This Act may be cited for all purposes as "The Orangezigt Further Purchase Act, 1882."

SCHEDULE.

In the Supreme Court of the Colony of the Cape of Good Hope, Cape Town, Thursday, 8th December, 1881.

Upon reading the Award, dated at Cape Town, the 18th day of November, 1881, made between Gerrit Hendrik van Breda, of Cape Town, and Johannes Anthony Roos, in his capacity as Secretary to the Town Council of Cape Town the terms of which said Award is in the words and figures, following, that is to say: "Whereas by a certain written deed of submission to arbitration, bearing date the 8th day of August, 1881, made between Gerrit Hendrik van Breda, of Orangezigt, Cape Town, of the one part, and Johannes Anthony Roos, also of Cape Town, in his capacity as Secretary to the Town Council of Cape Town, being duly authorized thereto by a resolution of the said Town Council, dated the 29th day of July, 1881, of the other part, reciting that it was expedient and necessary to construct certain water works and filtering beds, and to carry out other operations in order to increase the water supply of the City of Cape Town, and that it was expedient that the said Town Council should acquire for such purpose certain rights over the estate

Orangezigt, situated in Table Valley, the property of the family of Van Breda, held by them subject to the burden and entail of *Fidei commissum* under the provisions, conditions, and stipulations set forth and provided in the Deed of Transfer of the said estate, of which said estate the said Gerrit Hendrik van Breda is the present proprietor, and further reciting that negotiations had already taken place between the said Gerrit Hendrik van Breda and the said Town Council with reference to the acquisition by the said Town Council, of the rights aforesaid, and that the said Gerrit Hendrik van Breda was willing to cede the rights aforesaid to the Town Council, but that differences had arisen between the said parties regarding the sum to be paid by the Town Council to the said Gerrit Hendrik van Breda annually by way of rent or compensation, and as to the date from which the said payment should be computed, it was agreed that the question as to the amount of compensation to be paid annually by the said Town Council to the said Gerrit Hendrik van Breda and his successors in the said estate, for the transfer of the said rights enumerated and set forth in the said Deed, subject, however, to certain conditions duly enumerated at length in the said Deed, and also the question as to the date from which such compensation should be computed should be referred to the award, order, and final arbitrament of us, James Rose Innes, junior, and Thomas Watson, both of Cape Town, and of such third arbitrator as we, the said James Rose Innes, junior, and the said Thomas Watson should, by writing under our hand, to be endorsed upon the said Deed of Submission before we proceeded to the said arbitration, nominate and appoint to act with us, or to the final award or order of any two of us the said arbitrators: And whereas we, the said James Rose Innes, junior, and the said Thomas Watson did accept the burden of the said arbitration, and did, by writing under our hands, bearing date the 25th day of August, 1881, endorsed upon the said Deed of Submission, nominate and appoint James Murison to act with us as third arbitrator in the said matter: And whereas the said James Murison did accept the said appointment: Now, therefore, we the said arbitrators, James Rose Innes, junior, Thomas Watson, and James Murison, having duly weighed and considered the several allegations of the said parties and also the proofs and documents which have been given in evidence before us, do hereby make and publish our award of and concerning the questions above referred to, as follows:—

1. We award and direct that for the rights and privileges ceded by the said Gerrit Hendrik van Breda, and acquired by the said Town Council, as set forth in the

No. 24—1882.

said Deed, under the provisions and conditions also set forth in the said Deed, a copy of which, marked "A," is annexed to this Award, there shall be paid every year by the said Town Council to the said Gerrit Hendrik van Breda and his successors in the said estate the sum of £700 sterling.

2. We further award and direct that such compensation shall be computed from the 1st January, 1881.

It is ordered that the said Award be, and the same is, hereby made a rule of this Court.

By order of the Court,
J. C. B. SERRURIER,
Registrar.

No. 24—1882.] ACT [June 29, 1882.

To incorporate the Port Elizabeth Chamber of
Commerce.

Preamble.

WHEREAS there exists an association of merchants and others at Port Elizabeth, called and known as the "Port Elizabeth Chamber of Commerce," formed for the purpose of promoting and protecting the trade of that place: And whereas it is expedient to incorporate such association in order the better and more effectually to carry out its objects: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

Incorporation of
"Port Elizabeth
Chamber of Com-
merce."

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

Power given to such
Corporation.

II. The association hereby incorporated by the name of the "Port Elizabeth Chamber of Commerce" shall have perpetual succession and a common seal, and by such name shall and may from time to time sue and be sued in any competent court, and shall have power to take, purchase, and hold landed and other property, and such landed or other property, subject to any engagements affecting the same, shall be vested in the association in its corporate name, and without the necessity of each individual member being mentioned in the deed or deeds of transfer, grant or grants, or conveyances thereof.

To make, &c., rules
and regulations.

III. The said corporation hereby created shall have power from time to time to make, rescind or alter rules or

regulations as to the admission of its members, or the expulsion of any such members, and for the general good management and guidance of the association and the furtherance of its objects.

No. 25—1882.

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

Existing rules to apply meanwhile.

V. This Act may be cited as the “Port Elizabeth Chamber of Commerce Act, 1882.”

Short Title.

No. 25—1882.] ACT June 29, 1882.

To Authorize the Reduction of the Quitrents payable on certain Lands in Griqualand West.

WHEREAS the late government of Griqualand West by Government Notice, dated the 21st day of July, 1879, intimated that it had been decided that all titles to farms in the said province, the quitrent on which was in excess of one pound per thousand morgen, might be exchanged for other titles, subject to certain terms of occupation and tenure at a quitrent of one pound per thousand morgen, provided that such exchange were made on or before the thirtieth day of November, 1879: And whereas by further notice issued by the said government, the said period was extended to the thirty-first day of December, 1879, and again to the thirty-first day of March, 1880: And whereas, while certain persons, owners of such quitrent lands, availed themselves of the benefits of the said notices, others, in ignorance of the existence of such notices, and from other causes, were unable to do so: And whereas it is just and expedient that effect should be given to the intentions of the said late government, and that the Governor of the Cape of Good Hope should be authorized, if it shall to him seem fit to do so, to reduce the quitrents on any grants of land in the late province of Griqualand West on which the quitrents payable are in excess of one pound per thousand morgen, to such an extent, not less than one pound per thousand morgen, as he shall think fit, notwithstanding that application was not made within the time mentioned in the said notices respectively, and without reference to any conditions in the said notices set forth: Be it therefore enacted by the Governor of the Colony of the Cape of Good Hope, by and with the advice

Preamble.

No. 26—1882. and consent of the Legislative Council and House of Assembly thereof, as follows:—

Governor may reduce quitrents, but not below £1 per 1,000 morgen. I. It shall be lawful for the Governor to reduce the quitrents payable under any of the grants in the preamble of this Act referred to, to such an extent as shall seem to him to be fair and reasonable and from such date as he may determine: Provided that no such quitrent shall in any case be reduced below the rate of one pound per annum for each one thousand morgen granted.

Reductions to be recorded on grants, or on transfers. II. The reduction of such quitrents shall be recorded on the face of such grants by the surveyor-general, or on the deeds of transfer by the registrar of deeds in case the land granted shall have been transferred from the original grantee, upon production of a certificate under the hand of the Commissioner of Crown Lands and Public Works, stating that such reduction has been authorized by the Governor under the provisions of this Act.

Short Title. III. This Act may be cited for all purposes as "The Griqualand West Quitrents Reduction Act, 1882."

Repealed by 1906 Act 32 Sec. 2.
No. 26—1882.] ACT

[June 29, 1882.

To Afford greater Facilities to Persons having a right to Water, to convey the same across the Lands of other Persons.

Preamble. **W**HEREAS it has been found that the existing law enabling persons having a right to water to convey the same across the lands of other persons is insufficient for the purpose, and leads to much litigation: and whereas it is desirable to amend and improve such law: 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:—

Repeal of Act 24 of 1876. I. The Act No. 24 of 1876, being "The Right of Passage for Water Act, 1876," is hereby repealed, except as to things done or proceedings pending at the time of the taking effect of this Act.

Person with right to water may convey it over lands of others, subject to compensation. II. Every person having a legal right to any water in any stream or river, or derived from any spring, dam, or reservoir, and wishing to employ it for irrigation or hydraulic works, or any other useful purpose, shall be entitled to claim the right, temporarily or in perpetuity as he may elect, to convey such water from or over any land belonging to, or in the occupation of any other person (upon payment of compensation to such last mentioned person in manner hereinafter provided), in every case in which such right is necessary to enable the person claiming the right to use the water for any

of the purposes hereinbefore mentioned, or to make a more beneficial use of it than such claimant would otherwise have.

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III. Every person desiring to acquire the right to convey water as in the last section mentioned shall give notice thereof in writing to the person owning or occupying the land over which he desires to acquire the same, describing in such notice the line of passage along which he proposes to convey the water, the mode in which he wishes to convey it, the works which he proposes to construct upon such land in order to give effect to his purpose, the amount of compensation which he offers, and the period of time during which he wishes to possess the said right.

Notice of desire to acquire such right.

IV. In case the person from whom such right is claimed and the person claiming such right shall not within one month after the service of such notice as aforesaid agree as to the line of passage to be adopted, the mode of conveying the water, the works, or the construction of the works, necessary for such conveyance, or the compensation to be paid in respect thereof, the person claiming the right shall be at liberty, by another notice in writing, to call upon the party from whom the right is claimed to refer to arbitration all the several matters in dispute between them.

In case of no private agreement, arbitration to take place.

V. The arbitrators shall, in any matter referred to them under the provisions of this Act have power to do all or any of the following things:—

Powers and duties of arbitrators.

- (1) To give the party claiming the right aforesaid, the line of passage chosen by him, or such other line as may be deemed most beneficial to such party, and as little injurious as possible to the other party.
- (2) To specify the manner in which the water shall be conveyed, and the nature of the works to be constructed for conveying it.
- (3) To award the amount of compensation to be paid for the possession and exercise of the right of passage of water, in one sum, or in different sums at different times, or by way of annual rent.
- (4) In case the land over which the right of passage is claimed shall be under lease, to determine the amount of compensation to be paid to the lessee for any injury which such lessee may sustain by reason of the exercise of such right.

Provided that:—

- (1) The arbitrators shall set off against and deduct from the amount of such compensation as would otherwise be claimable, the amount which such arbitrators shall estimate the benefit and advan-

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tages to be derived by the owner, or lessee, or owner and lessee respectively, as the case may be, of the property by reason of the construction of irrigation works over such property.

- (2) It shall not be competent for the arbitrators to award any right of passage for water in any case in which it shall appear to such arbitrators that such water is insufficient in quantity for any useful purpose.
- (3) The power to award compensation to a lessee may be exercised whether such lessee shall or shall not be a party to the arbitration, if in the course of proceedings under the reference such lessee shall claim compensation.

Mortgagees to be made parties to arbitration.

VI. If any mortgage bond shall be existing on the said property the mortgagee shall be made a party to the said arbitration, and shall receive the like notices as are required to be given to the proprietor; and any compensation to be paid under this Act shall be made to the mortgagee in reduction of the mortgage: Provided that if the land is owned by more than one person, and only the share of one or more such persons is mortgaged, a *pro rata* portion only of such compensation shall be paid to the mortgagee.

In case Government require lands, streams, &c.

VII. If at any time the Government shall require or deem it expedient to take or use any land, or the bed of any river, stream or river tributary, for the purpose of irrigating any land, or of constructing thereon any dam, reservoir, or other irrigation work, and there may not be any right or power by law to take or use such land or property without the consent of the proprietor thereof, it shall be lawful for the Governor to take or use such land or property for the purpose aforesaid, and the proprietor thereof shall thereupon be entitled to compensation, to be settled in case of difference by arbitration.

Works to be constructed at cost of party claiming right of passage.

VIII. All channels and other works required for the conveyance of water under the provisions of this Act shall be constructed and maintained solely at the cost of the person claiming the right of passage for such water.

In case of roads being crossed by such passage.

IX. In carrying water across any public roads, such works shall be constructed by the person exercising the right of passage as the divisional council of the division, or as to roads within a municipality the commissioners of the municipality, or the town or borough council, as the case may be, in which the proposed crossing is situated, may consider necessary for the purpose of preventing danger or inconvenience to persons using the said road, and any works so constructed shall thereafter be maintained in repair by the person using the same.

X. No such proceedings as are authorized by this Act shall be taken in any case where the right to the water for which a passage is claimed is in dispute until such dispute shall have been settled by the judgment of some competent court.

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In case right to water disputed.

XI. Every person who shall have acquired, under the provisions of this Act, a temporary right to the passage of water, shall be entitled at any time to have such temporary right converted into a permanent one on paying to the person against whom he enjoys the said right such amount as compensation for such conversion as may be agreed upon between them; and in case no such amount shall be agreed upon, the difference between the said parties shall be referred to arbitration.

Persons having temporary right of passage.

XII. All servitudes, which shall arise from or be created by the provisions of this Act shall be duly registered on the title deeds of the dominant and servient properties in the deeds registry office of this colony.

Servitudes to be registered.

XIII. In the event of any channel constructed under this Act across the land of another person being out of repair or in want of cleaning, the person having or claiming the right of passage of water through such channel shall be bound, upon receipt of a notice in writing from the proprietor of such land requiring him so to do, to repair or clean, as the case may be, such channel within a reasonable time, and in the event of his failing so to do, it shall be lawful for such proprietor to cause all necessary repairs or works to the said channel to be done, and to recover the cost thereof from the person having or claiming such right of passage as aforesaid, and any person having or claiming such right of passage as aforesaid who shall knowingly allow or suffer any such channel to be out of repair or foul, shall be liable for all damage which may arise therefrom.

Person having right of passage bound to repair water courses, &c.

XIV. In cases where the waters flowing in any channel made under this Act for the benefit of individuals prevent the adjoining proprietors from passing freely to their property, or check the circulation of water in the irrigation or drainage of the same, the parties benefiting by the water shall be bound to construct and maintain in good order all bridges and other works necessary for intercommunication in a sure and convenient manner, and shall be further bound to construct and maintain such culverts, aqueducts, and other like works, as are required for the free progress of irrigation or drainage, except there shall be some agreement or legitimate title to the contrary.

In what cases bridges, culverts, &c., must be constructed.

XV. The establishment of a servitude such as before mentioned shall involve the right of everything necessary to its use, including the right to clean and repair; but the right

Servitude under this Act only to involve everything necessary to its use.

No. 27—1882.	of passage for water shall not give the party exercising it the right of property either in the land at the sides or forming the bed of the channel, and all burdens attached to the land shall be borne by the proprietor of the land.
“Lands and Arbitration Clauses Act 1882,” incorporated.	XVI. For the purposes of any arbitration under the provisions of this Act, the provisions of “The Lands and Arbitrations Clauses Act, 1882,” are hereby incorporated.
Interpretation clause.	XVII. The word “person” and the word “party” in this Act shall include government, divisional council, municipality, corporation, and joint-stock company.
Short Title.	XVIII. This Act may be cited as the “Right of Passage of Water Act, 1882.”

No. 27—1882.] ACT [June 29, 1882.
To Provide for the Suppression and Punishment of
Certain Offences.

Preamble.	W HEREAS it is expedient to consolidate and amend the Law relating to the suppression and punishment of certain offences: Be it enacted by 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.	I. The laws mentioned in the Schedule hereto, to the extent to which the same are therein expressed to be repealed, shall be and the same are hereby repealed: And the Governor may at or after the coming into effect of the first part of this Act in any Municipality or in any community which has been brought under the operation of the “Villages Management Act, 1881,” repeal any regulations in force in any such Municipality or community as shall be repugnant to or inconsistent with the provisions of the first part of this Act. But such repeal shall not affect any things done, offences committed, or proceedings commenced or pending under, by virtue of, or against any of said repealed laws, or any such regulations so to be repealed as aforesaid.
Repeal of existing Municipal or other regulations.	
Interpretation Clause	II. In the construction of this Act, the term “Local Authority” shall mean The Council or Board of Commissioners of any Municipality; The Board of Management of any community in which the “Villages Management Act, 1881,” is in operation; The Resident Magistrate or Special Justice of the Peace (if any, or as the case may be), residing in any town or village not being a Municipality, or in which the said “Villages Management Act” is not in operation, and when there shall be no such

Resident Magistrate or Special Justice of the Peace,
any Justice of the Peace residing in or nearest
to such town or village.

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PART I.—POLICE PROVISIONS APPLICABLE TO SPECIAL
LOCALITIES.

III. The provisions of this part of this Act shall be in operation :—

To what localities
Police provisions to
apply.

- (1) In every town or village which shall hereafter be constituted a municipality.
- (2) In every community which has been, or shall hereafter be, brought under the operation of the "Villages Management Act, 1881."
- (3) In any city, town, village, or other place in which the Governor shall by proclamation declare this part to be in operation, and from a date to be by such proclamation fixed and appointed.

IV. The Governor may from time to time define, vary and alter the limits of any such city, town, village or other place to which the provisions of this part shall be put in operation, and may revoke any such proclamation.

Governor may define
&c., limits of towns
villages, &c.

V. Any person guilty of any of the following offences, omissions, or neglects shall, on conviction, in respect of each act or offence, be liable to a penalty not exceeding two pounds, or in default of payment, to be imprisoned, with or without hard labour, for a period not exceeding thirty days, unless such penalty be sooner paid :—

Penalty on conviction of following
offences.

- (1) Washing in, or in any manner defiling or polluting, the water of any public stream or watercourse.
- (2) Indecently exposing the person or appearing in any street or public place without such articles of clothing as decency requires.
- (3) Wantonly or mischievously ringing any public bell, or making any noise or disturbance in the streets, throwing stones or other missiles, using catapults, knocking at doors or ringing any private bells, removing signboards, scales, or other property from the premises of the owner, or mischief of a like nature.
- (4) Wantonly irritating any cattle, horses, or other animals, whether attached to vehicles or not, or unnecessarily clapping wagon-whips in any public street or place.
- (5) Making a fire in any street, thoroughfare, or public place, or letting off fireworks without leave of the local authority.
- (6) Riding a horse or driving a vehicle upon any footpath or side-walk.
- (7) Failing or neglecting to keep the sluices or flood-gates of any erf in a proper state of repair, and to allow the water to pass freely through or past

Offences enumerated

- the ground of any person for the use of the occupants of the land below.
- (8) Wilfully or by any neglectful act depriving any person of the water to which such person is entitled at the time proper for the use thereof.
 - (9) Unlawfully diverting or appropriating the water to which any other person is entitled.
 - (10) Throwing any glass, filth, dirt, rubbish, orange peel, or offensive matter upon any public street, lane, or public place, or in any dam, or reservoir, or watercourse, or fountain, or in any other place than such as may have been appointed for that purpose by the local authority.
 - (11) Encumbering any public street, footway, or carriage-road, or obstructing the free passage along the same by means of any wagon, cart, or other thing whatsoever.
 - (12) Wilfully or neglectfully breaking up, injuring or damaging any dam or public watercourse, or sluice gate, or any public street, footway, carriage-road, or thoroughfare.
 - (13) Cutting down, removing, destroying, or injuring any wood, tree or shrub upon any commonage without special permission from the local authority.
 - (14) Destroying, damaging, or injuring any tree or shrub growing, in or along any public street, or in any public place.
 - (15) Furiously driving any vehicle, horses, or cattle, or furiously riding any animal in or through any public street, lane or thoroughfare.
 - (16) Discharging firearms in any street or thoroughfare without leave of the local authority, or unless in the discharge of some duty, or in obedience to some lawful command.
 - (17) Driving or leaving any vehicle drawn by oxen in any public street or thoroughfare without a leader, or leaving any vehicle drawn by horses or mules standing in any street or thoroughfare without a person at the head of the leaders.
 - (18) Swearing or making use of obscene, abusive, insulting, or threatening language, or swearing, shouting, or screaming to the annoyance of the inhabitants in any street, road, or public place.
 - (19) Singing any obscene song or ballad, or writing or drawing any indecent or obscene word, figure, or representation in any public street or place.
 - 20) Burning any straw, shavings or other materials upon any footway, carriage-road, or open or public place.
 - (21) Leaving any inflammable material or matter in any public shed or place, or on any open space near any building, without having first obtained the permission of the local authority.

- (22) Drawing or trailing any sledge, timber, or other heavy material upon any footway or carriage-road to the injury of such footway or carriage-road.
- (23) Allowing any night soil or other offensive matter to be spilt or cast into or upon any road, street, footway, or public place.
- (24) Allowing the drippings of the eaves of any house to fall upon any public footway.
- (25) Placing any placard or other document, writing or painting on, or otherwise defacing any house, building, wall, fence, lamp-post, or gate, without the consent of the owner or occupier thereof.
- (26) Neglecting to clean all private yards, ways, passages, or avenues, by which neglect a nuisance by offensive smell or otherwise is caused.
- (27) Rolling any cask, flying any kite, or playing any game to the annoyance of any person in any public place.
- (28) Committing any nuisance in any street, or within view of any dwelling house, whereby public decency may be offended.
- (29) Any common prostitute or night walker loitering or being in any thoroughfare or public place for the purpose of prostitution or solicitation to the annoyance of the inhabitants or passengers.
- (30) Suffering to be at large any unmuzzled ferocious dog.

No. 27—1882.

PART II.—GENERAL POLICE PROVISIONS.

VI. The provisions of this part of this Act shall extend to and be in operation throughout the Colony, including the Transkeian territories annexed by the Act No. 38 of 1877, and so much of any municipal regulation as may be repugnant to or inconsistent with the provisions of this part of this Act, or which would operate concurrently with such provisions shall be and the same are hereby repealed.

Provisions of this part to operate throughout Colony and Transkeian Territories. Repugnant Municipal Regulations repealed.

VII. Any person guilty of any of the following acts or offences, shall upon conviction in respect of each act or offence be liable to a penalty not exceeding five pounds, or in default of payment to be imprisoned with or without hard labour for a period not exceeding three months, unless such penalty be sooner paid:—

Penalty on conviction, of certain offences.

- (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

Offences enumerated.

No 27—1882.

- 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 illusage 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 authorized 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.

Penalty on conviction of certain other offences.

VIII. Any person guilty of any of the following acts or offences shall upon conviction in respect of each act or offence be liable to a penalty not exceeding twenty pounds, or in default of payment to be imprisoned with or without hard labour, for a period not exceeding six months, unless such penalty 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 picklock, key, crow, or other implement of housebreaking. No. 27—1882.
Offences enumerated
- (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 any dwelling-house, warehouse, coach-house, stable, cellar, or outhouse, or in any enclosed yard, garden, or area, or in or on board any ship or other vessel when lying or being in any port, harbour, or place in this colony.
- (4) Any person found by night armed with any gun, pistol, sword, bludgeon, or other offensive weapon or instrument with a criminal intent, or 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.

IX. Any person drunk in any street, road, lane, or public place, 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, upon conviction, be liable to a penalty not exceeding two pounds, and in default of payment, to imprisonment 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 liable to a penalty not exceeding five pounds, or in default of payment to imprisonment for any period not exceeding thirty days, unless the fine in any case be sooner paid. Punishment for
drunken, riotous,
and indecent con-
duct.

X. 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, upon conviction, be liable to a penalty not exceeding three pounds, or to imprisonment with or without hard labour, and with or without spare diet, for any term not exceeding thirty days, unless such penalty be sooner paid; and such person may further be required to find sureties to keep the peace for such period, not exceeding three months, as the court before which such person is tried may deem necessary. For threats, abusive
language, &c.

XI. Every person who shall, in any port of this colony, knowingly purchase, or take in exchange from any seaman For accepting from
seamen and others
ships stores, &c.

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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, upon conviction, be liable to a penalty not exceeding ten pounds, or to 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 Act, he would have been guilty.

For seamen and
others removing
ships boats.

XII. If any seaman belonging to any vessel lying in any port of this colony, 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), upon conviction, be liable to a penalty not exceeding ten pounds, or to imprisonment with or without hard labour for any term not exceeding three months.

PART III.—MISCELLANEOUS.

Nuisance in private
buildings, lanes,
&c., provided
against.

XIII. The local authority or any resident magistrate or justice of the peace, may authorize any police officer or constable from time to time to visit and inspect any butchers' shambles, slaughter-house, or yard, or any house, out-building, lane, alley, or other place, for the purpose of ascertaining if the same be kept cleansed; and such person so authorized shall, if it appear that any accumulation of manure, dung, offal, soil, filth, or other unwholesome or noxious matter ought to be removed, give notice to the person to whom the same belongs, or to the occupier or person in charge of the premises whereon it exists to remove the same; and if at the expiration of four days after such notice the same be not complied with, such owner, occupier or person in charge shall, upon conviction, be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day after conviction during which such notice shall not be complied with; or in default of payment to be imprisoned with or without hard labour for a period not exceeding three months in respect of every penalty imposed unless the penalty be sooner paid.

Powers of police in
regard to persons
suspected of un-
lawful dealing in
spirits, &c.

XIV. Any inspector, sub-inspector, or sergeant of police, any chief constable, or any policeman, or constable who may be thereto authorized by any such officer of police, or by any chief constable, may from time to time and at all times as often as they shall have reasonable or probable ground for suspecting that any person licensed to sell wines and spirituous liquors, is selling liquors at unlawful hours or on prohibited

days, may demand admittance into the premises of such dealer for the purpose of examining the same; and if such dealer shall wilfully and intentionally refuse to admit any such police officer, chief constable, constable or policeman, after being informed of his official character, or if such dealer shall make any unnecessary delay in admitting the person so demanding admittance as aforesaid, such dealer shall upon conviction be liable for such offence to a penalty not exceeding ten pounds, or in default of payment to be imprisoned with or without hard labour for any term not exceeding three months, unless such penalty be sooner paid.

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XV. Any of the persons in the last preceding section mentioned and empowered for the purpose therein stated, may demand admittance into any lodging or other house, or into any apartments in any house, not being a licensed house, in case there shall be reasonable or probable cause for suspecting either from the fact that persons are seen coming out therefrom in a state of intoxication, or from any other fact of a like nature, or from private information given, that spirituous or other liquors are being sold therein, for the purpose of examining the same; and if the occupier of any such house or apartment shall wilfully or intentionally refuse to admit any such person as aforesaid (after such person has stated his official character), or if such occupier shall make any unnecessary delay in admitting such person as aforesaid, such occupier shall be liable upon conviction for such offence to a penalty not exceeding ten pounds, or in default of payment to be imprisoned with or without hard labour for any term not exceeding three months, unless such penalty be sooner paid.

Right to demand admittance into houses of persons suspected of selling liquor unlawfully.

XVI. Any officer or member of any police force may stop any person who shall be found at any time between sunset and sunrise carrying or transporting any bundle or parcel or generally any goods of any description, and to interrogate such person: and if such person shall not account satisfactorily for the possession of the goods or articles so being carried or transported, or if there shall be reasonable grounds for suspecting that such goods or articles have been criminally procured, then such officer or member may convey such goods or articles and the person so carrying or transporting the same to any prison or police station, and to detain such person in custody until the next sitting of the court of the resident magistrate (or special justice of the peace, as the case may be), who shall enquire into the circumstances and make such order, or give such direction as to him shall seem fit and proper.

Power to stop persons carrying bundles, &c., between sunset and sunrise.

XVII. If any person shall without the consent of the owner or occupier of any landed property, burn any stubble,

Penalties for burning stubble, grass, &c., without consent.

No. 27—1882.

grass, trees, or herbage thereon, or if any person shall leave any fire which he may have lighted or used in the open air before the same be thoroughly extinguished, he shall be liable upon conviction to pay a penalty not exceeding twenty pounds for every such offence, or to be imprisoned with or without hard labour for any period not exceeding six months, unless such penalty be sooner paid, or to both such penalty and such imprisonment: Provided that nothing herein contained shall be deemed to exempt such person from prosecution for any other crime or offence for which but for the provisions of this section he would have been liable, but no person shall be twice prosecuted in respect of the same act or offence.

Persons offending
against this Act
may be arrested
without warrant.

2
Appealed by
217 Act. 31

Search and detention
of vessels, carri-
ages, &c., suspec-
ted to contain sto-
len goods.

XVIII. Any person found committing any offence punishable under the provisions of this Act may be taken into custody without a warrant by any constable or any member of any police force, or may be apprehended by the owner of the property on or with respect to which the offence shall be committed, or by the servant of such owner or by any person authorised by such owner; and such person may be detained until he can be delivered into the custody of a constable or policeman to be dealt with according to law: And any such constable or member of any police force may also stop, search, and detain any vessel, boat, cart, or carriage, in or upon which there shall be reason to suspect that anything stolen or unlawfully obtained may be found, and also any person who may be reasonably suspected of having or conveying in any manner anything stolen or unlawfully obtained; and any person to whom any property shall be offered to be sold, pledged, or delivered, if he shall have reasonable cause to suspect that any such offence has been committed with respect to such property, or that the same or any part thereof has been stolen or otherwise unlawfully obtained, is hereby authorised and, if in his power, is required to apprehend and detain, and as soon as may be, to deliver such offender into the custody of a constable or policeman, together with such property, to be dealt with according to law: Provided that no person shall be arrested or detained without warrant unless there shall exist reasonable ground for believing that except by arresting the person offending he could not be found or made answerable to justice without delay, trouble, or expense.

Persons arrested
without warrant
to be taken before
nearest Court hav-
ing jurisdiction as
soon as possible.

XIX. Any person taken into custody without warrant shall be brought before the nearest court having jurisdiction as soon as practicable after he is so taken into custody, and if it is not practicable to bring such person before such court within twenty-four hours after such person is taken into custody, any chief constable or officer of any police force

may enquire into the case, and, except when the offence appears to be of a serious nature, shall discharge the prisoner upon his making a deposit of ten pounds, or on his entering into a recognizance conditioned in a like sum, with or without sureties, as such chief constable or police officer shall require to appear before some court having jurisdiction, on a day, and at a time and place to be stated in the recognizance; and every such recognizance shall be returned to the court at which the party was bound to appear at the next ensuing sitting of the same, and if such person fails to appear at the place and time notified by the person taking the same, any deposit so made shall be forfeited, and any such recognizance shall be recoverable in the same manner as any recognizance taken and acknowledged before a justice of the peace

No. 27—1882.

Release on bail for minor offences.

XX. The offences mentioned in Part I, and in the ninth and tenth sections of this Act, may be prosecuted before any special justice of the peace within whose jurisdiction any such offence shall have been committed, provided that when so prosecuted, notwithstanding anything in this Act to the contrary, no fine imposed by any such special justice shall exceed the sum of two pounds sterling, and no term of imprisonment awarded shall exceed one month, and the said offences, and all other offences created by this Act, and all fines and penalties which may be imposed under the provisions of this Act, may be prosecuted before and imposed by any resident magistrate of any district in which the offence was committed.

Offences in Part I and Sections 9 & 10 may be prosecuted before special justices.
As much of this sec. as relates to S.J. P's amended Special J. P's jurisdiction limited, by 1918 Act-2.

XXI. All moneys arising from fines, penalties, and forfeitures under this Act shall, when recovered, and subject to the proviso hereinafter contained, be appropriated as follows:—

Appropriation of fines.

- (1). Under Part I. and II., if incurred in any municipality or in any village or community in which the "Villages Management Act, 1881," is in operation, such moneys shall be paid to the local authority.
- (2). Except as aforesaid into the public treasury.

Provided that it shall be competent for the court before which any person shall be convicted to award an amount not exceeding one-half of the amount of any such money recovered to any informer or person prosecuting.

XXII. Any person shall be deemed to have capacity to prosecute as a private prosecutor any person charged with any offence under this Act.

Private prosecutions allowed.
Repealed by 1917 Act 31.

XXIII. In any prosecution for any offence under the provisions of this Act, it shall be sufficient to set forth the offence charged in the words of this Act.

How offences to be set forth.

No. 27—1882.
Short Title.

XXIV. This Act may be cited as "The Police Offences Act, 1882."

SCHEDULE.

ENACTMENTS REPEALED.

Number and Year.	Title.	Extent of Repeal.
Ord. No. 2, 1840.	Ordinance for improving the Executive Police of Cape Town and the district thereof, for defining the powers and duties of the said police in certain cases, and for promoting the peace and good order of the said town.	Sections 13, 15, 16, 18, 19, 21, 22, 23, and 29.
Ord. No. 25, 1847.	Ordinance for improving the Police of the Colony.	Sections 13, 15, 16, 18, 19, 20.
Ord. No. 9, 1851.	Ordinance for the better regulation of the sale of Wines and Spirituous and Fermented Liquors.	Section 35.
Act No. 2, 1855.	An Act for abating Public Nuisances and other Mischiefs of a Public Nature in certain Towns and Villages not being Municipalities.	So much as has not already been repealed.
Act No. 8, 1867.	An Act to amend the Ordinance No. 25 of 1847, intituled "An Ordinance for improving the Police of the Colony."	The whole.
Act No. 8, 1875.	An Act to amend the law relating to the sale of Wines and Spirituous and Fermented Liquors.	Section 8.
Act No. 10, 1876.	An Act to improve the Administration of Justice in places distant from a seat of magistracy.	Section 12, and so much as is repugnant to this Act.

No. 28—1882.] ACT. [June 29, 1882.

To Amend the "Villages Management Act, 1881."

WHEREAS it is expedient to amend the "Villages Management Act, 1881": Be it enacted by 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. So much of the "Villages Management Act, 1881," as may be repugnant to or inconsistent with the provisions of this Act is hereby repealed.

II. At any such meeting as is mentioned in the fifth section of the said Act any justice of the peace may preside when the resident magistrate is not present thereat; and the justice of the peace so presiding shall have and may exercise all the powers which the resident magistrate would have and exercise if present.

III. It shall be lawful for the board of management of any town, village, or community to which the provisions of the said Act have been applied, from and out of any funds at the disposal of such board, to defray the cost to the extent of one-half of such number of policemen or constables as may be necessary to maintain order, and as may from time to time be agreed upon between such board and the resident magistrate of the district on behalf of the Government.

IV. When and as soon as the board of management shall have paid into the colonial treasury one-half of the estimated cost of such policemen or constables for one year, the resident magistrate shall appoint the policemen or constables agreed to by the board and approved of by the Governor, and such policemen or constables shall possess all the powers and perform all the duties appertaining to policemen or constables.

V. The provisions of the eighth, ninth, tenth, and eleventh sections of the Act No. 15 of 1857, intituled "An Act for enabling Municipalities to obtain additional Police by contributing towards the expense thereof," shall, *mutatis mutandis*, extend and apply to any board of management obtaining police under the provisions of this Act as if such board were a municipality.

VI. This Act may be cited for all purposes as "The Villages Management Amendment Act, 1882."

Preamble.

Repeal of repugnant laws.

Justice of Peace may preside in absence of Magistrate.

Board of Management may defray half the cost of necessary police.

Repealed by 1882 Act 28.

On payment of such moiety into Treasury, Resident Magistrate to appoint policemen.

Certain provisions of Act 15 of 1857 to apply.

Short Title.

Repealed by 1889 Act 4.

No. 29—1882.] ACT. [June 29, 1882.

To Amend the "House Duty Act, 1878."

Preamble.

WHEREAS by the seventh section of the "House Duty Act, 1878," it is provided, amongst other things, "That a fresh valuation or revision of the valuation roll shall take place before the lapse of three years from the date of the previous valuation or revision as the case may be:" And whereas from divers causes it has not been possible, in certain districts, to complete such fresh valuation or revision of the valuation roll within the space of three years from the date of the previous valuation or revision: and whereas it is expedient that the said Act should be amended in regard to the said provision 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 House of Assembly thereof, as follows:—

Repeal of certain laws.

I. The nineteenth section of the "House Duty Act, 1878," and the "House Duty Act, 1878, Amendment Act, 1879," are hereby repealed.

Amendment of 7th Section of "House Duty Act, 1878."

II. The last proviso to the said seventh section shall be read and construed as if the words "the lapse" were omitted, and instead thereof the words "or at the expiration" were therein inserted; and the valuations made or to be made after the lapse of three years from the date of the previous valuation or revision, as the case may be, shall be as valid and effectual for all purposes as if the same had been in strict conformity with the provisions of the said section.

Short Title.

III. This Act may be cited as the "House Duty Amendment Act, 1882."

No. 30—1882.] ACT [June 29, 1882.

To Authorize the Raising of Money for certain Public Purposes.

Preamble.

WHEREAS it is expedient to authorize 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, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Power to raise £309,365.

I. 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 three hundred and nine thousand three hundred and sixty-five pounds, to be applied to the several purposes mentioned in the schedule to this Act annexed.

II. This Act may be cited as “The Public Loan Act, Short Title, 1882.”

SCHEDULE.

For the construction of Telegraphs, authorized by the “Telegraph Extension Act, 1882” ..	£36,365	0	0
For the purposes of the “Local Works Loans Act, 1882”	50,000	0	0
For the purposes of the “Irrigation Act, 1877,” and the “Municipalities Irrigation Works Loans Act, 1879”	50,000	0	0
For Irrigation purposes:—			
Works at Van Wyk’s Vley, in the District of Carnarvon	£20,000	0	0
Works at Stoltz Hoek Dam, in the District of Beaufort West ..	5,000	0	0
	<hr/>	25,000	0
For Works and Buildings:—			
Transference of Robben Island Asylum: Preliminary Expenses		15,000	0
For Bridges:—			
Orange River Bridges, to supplement expenditure authorized by Acts No. 26 of 1874 and No. 21 of 1880	£17,000	0	0
For the Cradock Bridge	6,000	0	0
	<hr/>	23,000	0
For Railway purposes:—			
Fencing Railways ..	£50,000	0	0
Water supply ..	30,000	0	0
Survey of Oudtshoorn and Mossel Bay Railway	10,000	0	0
Riet River Bridge, and Kimberley Railway survey ..	20,000	0	0
	<hr/>	110,000	0
		<hr/>	
		£309,365	0
		<hr/>	

No. 31, 1882.]

ACT

[June 29, 1882.

Spent.

For Authorizing certain Expenditure for the service of the Year ended the Thirtieth day of June, 1878, not hitherto provided for by Parliament.

Preamble.

WHEREAS divers moneys have been paid and expended by the officers of the regular forces of Her Majesty the Queen, for and on account of the Government of this Colony, in connection with military operations on the Eastern Frontier thereof during the years 1877 and 1878: and whereas the Commissioners of Her Majesty's Treasury have agreed to accept the sum of one hundred and fifty thousand pounds in full satisfaction of the claims on the Government of this Colony in respect of such expenditure, and it is desirable that an Appropriation Act should be passed to authorize the said amount to be paid and charged against the public revenue 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 House of Assembly thereof, as follows:—

Revenue charged in the additional sum of £150,000 for year ending 30th June, 1878.

I. The public revenue is hereby charged with a further sum of one hundred and fifty thousand pounds in addition to the sums already provided for the service of the year ended the thirtieth day of June, 1878, which sum shall be applied and accounted for by paying the same over to the Commissioners of Her Majesty's Treasury in such manner as the Governor may direct, in satisfaction of the amount paid for and on account of the Government of this colony as in the preamble of this Act mentioned.

*Lapsed. See**Act 3 of 1885.*

No. 32, 1882.]

ACT

[June 29, 1882.

To Provide for the Imprisonment in this Colony of Criminals sentenced in certain Territories adjacent, but not annexed to this Colony.

Preamble.

WHEREAS it is desirable to make provision for authorizing the imprisonment, with or without hard labour, of criminals sentenced to undergo such punishment by a competent court in the territories of Tembuland, Emigrant Tambookieland, Bomvanaland and Galekaland: 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:—

Prisoners convicted in certain unannexed Territories may be detained in this Colony.

I. Every person who has been, or may hereafter be, sentenced by any competent court within any of the several territories mentioned in the preamble of this Act to im-

prisonment with or without hard labour, may be sent into, imprisoned and detained in this colony 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 colony.

No. 33—1882.

II. 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 proof of lawful detention.

III. This Act may be cited as the “Transkeian Prisoners’ Detention Act, 1882.”

Short Title.

Repealed in 1884 Act-18.

No. 33.—1882.] ACT [June 29, 1882.

To Amend the Act No. 2 of 1878, known as the “Excise Duty Act, 1878.”

WHEREAS it is desirable to amend the law relating to the imposition of an excise duty upon spirits distilled or manufactured within 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:—

Preamble.

I. So much of the Act No. 2 of 1878 as may be repugnant to or inconsistent with the provisions of this Act shall be and the same is hereby repealed.

Repeal of repugnant laws.

II. Every person who may be already registered and licensed as a distiller or manufacturer of spirits, and every person who shall hereafter apply to be so registered or licensed, shall declare whether he desires to be registered as a distiller of spirits from materials the produce of land owned or cultivated by such person, or as a distiller of spirits from materials other than such produce, and thereupon such person shall be registered and known in the first case as an “agricultural distiller,” and in the second case as a “professed distiller,” and every person already registered as a distiller shall be deemed to be a “professed distiller” until he shall so declare.

Two classes—“Agricultural” and “Professed” Distillers defined.

III. No person registered and licensed as a “professed distiller” shall be permitted to carry on business as such except in some building or buildings to be specifically described in the registry and certificate of registration in the

Each to carry on business in place described in registry.

- No. 33—1882. first and second sections of Act No. 2 of 1878 mentioned; and no such person shall be permitted to carry on the business of an "agricultural distiller" in such building or buildings, or in any building or buildings communicating therewith.
- Only "Professed" Distiller to distil from materials not the produce of his land. IV. No person who shall not be registered and licensed as a "professed distiller" shall distill or manufacture spirits from materials not the produce of land owned or cultivated by such person, and any persons contravening the provisions of this or the last preceding section shall be liable to a penalty not exceeding one hundred pounds sterling.
- Duty payable by professed Distillers only. V. The excise duty payable upon all spirits manufactured or distilled by any "professed distiller" shall be the same as the duty imposed by the 8th section of the Act No. 2 of 1878, but no duty shall be payable on any spirits distilled or manufactured by any agricultural distiller after the taking effect of this Act, and none of the provisions of the said Act No. 2 of 1878, save and except the 1st, 2nd, 3rd, 5th, 6th, 17th, 18th, 19th, 21st, and 22nd sections thereof, shall be deemed to apply to agricultural distillers or to any spirits manufactured by such distillers.
- Certificate of registration to be taken out annually. Stamps on same. VI. Every "professed distiller" shall take out an annual certificate of registration as such distiller, for which a sum of ten pounds shall be paid by means of stamps. Such certificate shall, no matter at what period of the year the same be taken out, expire on the thirty-first day of December then next; but when such certificate shall be issued upon or after the 1st day of July, there shall be payable only one-half of the said sum.
- Forms of certificates in Schedule. VII. The certificates of registration granted to "agricultural distillers" and "professed distillers" shall be in the forms No. 1 and No. 2 respectively in the schedule to this Act annexed.
- Professed Distillers to have stores or warehouses, to be locked, &c., by Government officer VIII. Every "professed distiller" shall provide upon the premises used by him for the distillation or manufacture of spirits, a store or warehouse built of brick or stone, in which all spirits distilled or manufactured by him shall be deposited. Each door of such store or warehouse shall be secured by two locks, the key of one of such locks to be kept by such distiller, and the key of the other to be kept by some officer to be appointed by the Governor in that behalf, and it shall not be lawful for any person to open the said locks or to enter the said store or warehouse unless by the permission of such officer. Any person who shall contravene the provisions of this section shall be liable to a penalty of one hundred pounds sterling.
- IX. No materials for the manufacture or distillation of spirits shall be received into or delivered from any building

or buildings used by any "professed distiller" for the purposes of his business as such distiller, and no spirits manufactured or distilled in such building or buildings shall be removed therefrom until a warrant for such receipt, delivery, or removal shall have been obtained from such officer as aforesaid, which warrant shall in no case be granted until a bill of entry or delivery note, as the case may be, setting forth the nature and quantity of such materials or spirits, shall first have been delivered in duplicate by or on behalf of such distiller to such officer, except in the case of removal of such spirits from the building in which the same has been distilled to some other building for storage, and unless the excise duty payable upon such spirits shall first have been paid, and such warrant shall fix the hours for such receipt, delivery, or removal. Any person receiving, delivering, or removing any such materials or spirits in contravention of this section or of any warrant granted thereunder shall be liable to a penalty not exceeding five hundred pounds sterling, and to forfeiture of the materials or spirits so unlawfully received, delivered, or removed.

No. 33—1882.

Warrants for receipt and delivery of materials for distillation, and spirits to be procured.

Penalty for contravention.

X. It shall be lawful for the officer aforesaid to issue the warrant in the last section above mentioned for the removal of spirits from the said building to any bonded store or warehouse duly licensed, or appointed as such under the provisions of the Act No. 2 of 1878, notwithstanding that the excise duty payable upon such spirits shall not have been paid; but no such spirits shall be removed from any bonded store or warehouse except to some other bonded store or warehouse unless the duty payable thereon by virtue of this Act shall first have been paid.

Provisions for removal of spirits from one bonded store to another.

XI. The officer aforesaid may, subject to such regulations as may be made by the Governor in that behalf, grant such warrant as aforesaid for the removal of spirits from the said building or buildings to be exported by sea or to be used for the purpose of fortifying wine produced in this Colony in the proportions fixed by the 13th section of the Act No. 2 of 1878, without payment of the amount of excise duty which would otherwise be payable upon such spirits by virtue of this Act.

Rules as to removal of bonded spirits without payment of duty.

XII. All stills, apparatus, and utensils used by any "professed distiller" shall be fixed, placed, secured and worked in accordance with such regulations as may be made by the Governor in that behalf.

Governor to make rules as to fixing and working stills.

XIII. Every "professed distiller" shall upon being registered as such, and upon every renewal of his certificate of registration, lodge with the registering officer a return in writing setting forth the number, description and capacity of all stills, apparatus, and utensils to be used by him in connection with

Returns to be made by "professed" Distillers of number, &c., of all stills.

No. 33—1882.

his business as such distiller, and shall also from time to time immediately lodge with the said officer a duly amended return of such stills, apparatus, and utensils, if any alteration or increase shall be made in the number, description, or capacity thereof; and if any stills, apparatus, or utensil, not set forth in such return or amended return, shall be found in any building or buildings used by such distiller for or in connection with his business as such still, apparatus, or utensil, shall be liable to be forfeited.

Stills, &c., to be numbered and marked.

XIV. All stills, apparatus, and utensils, used by any professed distiller for or in connection with his business as such, shall be marked, numbered, or otherwise distinguished in such manner as the Governor may by any regulation in that behalf provide.

Books to be kept

XV. Every "professed distiller" shall keep such books as the Governor may require, 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 any officer duly appointed in that behalf may at all times demand an inspection of such books and examine and measure any materials or spirits upon the premises of such distiller or in any warehouse or store connected therewith.

Returns required by 7th Section of Act 2 of 1878, to be made by 1st December, and monthly thereafter.

XVI. Every "professed distiller" shall, on or before the first day of December next, make the return required by the seventh section of the Act No. 2 of 1878, and shall thereafter make such return monthly in the first week of every month, anything in the said section of the said Act to the contrary notwithstanding, and every person already registered as a distiller who shall under the provisions of the second section of this Act desire to be registered as an "agricultural distiller," shall before being so registered, make the return as is required by the seventh section of the said Act of all spirits distilled by him since his last return.

Governor may make rules for working this Act

XVII. It shall be lawful for the Governor to make all such rules and regulations as may be deemed necessary from time to time for carrying the provisions of this Act into effect, provided that the same shall not be repugnant to or inconsistent with such provisions, and all such rules and regulations shall be published in the Government Gazette.

Penalty for contravening this Act.

XVIII. Any person convicted of any contravention of any provision of this Act or of any regulation framed thereunder, to which no penalty is hereinbefore specially attached, shall be liable to pay a fine not exceeding five hundred pounds sterling.

In default of payment.

XIX. In default of payment of any penalty imposed under this Act, the person or persons convicted may be

imprisoned with or without hard labour for any term not exceeding twelve months, unless such penalty be sooner paid.

No. 34—1882.

XX. This Act shall be read and construed as one with the "Excise Duty Act, 1878," and with the exception of the third, eighth, ninth, tenth, and eleventh sections thereof, respectively, shall come into operation upon the promulgation thereof, and the said recited sections, shall come into operation from and after the first day of December next.

Act to be construed as one with Act 2 of 1878.

XXI. This Act may be cited as the "Excise Duty Amendment Act, 1882."

Short Title.

No. 1.

SCHEDULE.

CERTIFICATE OF REGISTRATION.

A. B., of _____, in the division of _____, has this day been registered as an agricultural distiller upon the said place _____

Given at _____ this _____ day of _____, 18—
C. D., Dist. of Stamps.

No. 2.

CERTIFICATE OF REGISTRATION.

A. B., of _____ in the division of _____, has this day been registered as a professed distiller in (describe the building or buildings in which he is to carry on business).

C. D., Dist of Stamps.

Spent.

No. 34.—1882.] ACT [June 29, 1882.

For applying a further Sum not exceeding Three Hundred and Seventy-three Thousand Eight Hundred and Seventy-one Pounds for the Service of the Year ending the 30th June, 1882.

WHEREAS it is necessary to provide for certain expenditure necessarily incurred and to be incurred during the year ending on the 30th June, 1882, in addition to the sums provided by the Act No. 27 of 1881: 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.

I. 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, 1882, with a sum of three hundred and seventy-three thousand eight hundred and seventy-one pounds, in addition to the several sums provided for by the said Act No. 27 of 1881.

Revenue charged with £373,371.

II. The money granted by this Act shall be applied to the purposes and services expressed in the schedule annexed

Purposes.

No. 35—1882.

hereto and more particularly specified and set forth in the explanatory detailed schedule to this Act submitted to Parliament.

Short Title.

III. This Act may be cited for all purposes as the "Additional Appropriation, 1881-82, Act, 1882."

SCHEDULE.

ADDITIONAL APPROPRIATION 1881—82.	Establishments.	Services Exclusive of Establishments.	Total.	Required to be provided for.
	£	£	£	£
I. Ministerial Department of Colonial Secretary ..	11,976	97,053	109,029	109,029
II. Ministerial Department of the Treasurer of the Colony	1,115	28,235	29,350	4,690
III. Ministerial Department of the Attorney-General	850	..	850	850
IV. Ministerial Department of the Commissioner of Crown Lands and Public Works	4,440	245,841	250,281	250,281
V. Ministerial Department of the Secretary for Native Affairs	4,493	4,528	9,021	9,021
Grand Totals	22,874	375,657	398,531	373,871

passed.

No. 35—1882.]

ACT

[June 29, 1882.]

For raising a Sum not exceeding One Million Pounds
Sterling for the Public Service.

Preamble.

WHEREAS it is expedient and necessary that the Governor should be empowered to raise and take up upon loan from time to time such sums of money not exceeding one million pounds as may be required for the public service until adequate provision can be made therefor by Parliament in its next ensuing session: 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. It shall be lawful for the Governor to raise and take up upon debentures or treasury bills to be issued in this colony or in England, such sum of money as from time to time shall seem to him fit and necessary for the exigencies of the public service not exceeding in the whole the sum of one million pounds to be applied as may be needful towards payments to be made for the public service, authorized or to be authorized, by Parliament. No. 36—1882.
Power to raise
£1,000,000 for pub-
lic service.
- II. Such debentures or treasury bills shall bear interest at a rate to be agreed upon by the Governor, and the capital sum and interest shall be charged and chargeable on and payable out of the general revenue of the colony. Interest and capital
charged on general
revenue.
- III. Such debentures or treasury bills shall be payable at par, at such time or times, or after such notice as the Governor shall, before issue thereof, fix and determine. Debentures payable
at par.
- IV. An account shewing the amount of all such debentures or bills issued under the authority of this Act, and the moneys realised thereby, and the expenditure thereof, or of so much as shall have been expended, vouched by the Controller and Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof. Account of money
received and ex-
pended to be kept.
- V. The provisions of "The Cape of Good Hope General Loans Act, 1881," shall not be deemed to apply to the loans authorized by this Act. Provisions of "Cape
of Good Hope
Loans Act, 1881,"
not to apply.
- VI. The short title of this Act shall be "The Temporary Loans Act, 1882." Short Title.

No. 36.—1882.]

ACT

[June 29, 1882.]

To Remove doubts as to the legality of the Payment of an Annual Allowance or Salary to the Chief Justice of the Colony of the Cape of Good Hope as President of the Legislative Council.

WHEREAS doubts may arise as to the legality of the payment of an allowance or salary to the Chief Justice as President of the Legislative Council, and it is expedient that such doubts should be removed: 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.

I. Nothing in the Charter of Justice contained shall be construed so as to prevent the payment to the Chief Justice of the Colony of the Cape of Good Hope, so long as the said Chief Justice em-
powered to receive
salary as President
of Legislative
Council.

S

No. 37—1882.

Chief Justice shall continue to be the President of the said Council, of such annual allowance or salary for or in respect of his duties as President of the Legislative Council as Parliament may from time to time direct.

No. 37—1882.] ACT [June 29, 1882.
To Consolidate and Amend the Agricultural Lands Acts.

Preamble.

WHEREAS it is necessary to consolidate, and to amend the several Acts providing for the allotment of land for agricultural purposes: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Repeal of repugnant laws.

I. The several laws mentioned in the Schedule hereto, and so much of any law in force in the colony as is inconsistent with any of the provisions of this Act, shall be and the same are hereby repealed, save in so far as the provisions of the said Acts, or any of them, relate to lands disposed of prior to the taking effect of this Act or to the disposal of lands for which applications have been made, or proceedings commenced, prior to, or are pending at, the time of the taking effect of this Act; all which lands shall be dealt with as if this Act had not been passed.

What grants of Crown Land on quitrent Governor may make.

II. It shall be lawful for the Governor to grant, to approved applicants, on perpetual quitrent and on the terms and conditions in this Act set forth, portions of Crown land, for which such applicants may have applied, not being forest land, and not exceeding two hundred and fifty morgen, and not less than ten morgen in extent.

How application to be made for grants

III. Every such application for land shall be in writing, and shall clearly and accurately describe the locality, area, and boundaries thereof as set forth in a plan of the said land framed by a sworn land surveyor, previously appointed by the Surveyor-General: Provided that, with regard to any lands that may have been surveyed before the date of any such application, it shall be sufficient for the applicant in his application to describe the land in such manner that the lot applied for may be recognized.

To be addressed to Civil Commissioner of District.

IV. Every such application shall be made to the civil commissioner of the district in which such land is situate, who shall note upon such application the day and hour at which such application is received.

Divisional Land Boards to be appointed.

V. In every division there shall be a land board for the purposes of this Act, consisting of the civil commissioner of such division, and two persons to be appointed from time to time by the Governor, which appointment shall be notified

*in 1907 Act 19
Sec. 2.*

in the Government Gazette, and such board shall enquire into the circumstances of land applied for under this Act, and shall report to the commissioner whether it is desirable that the said land shall be disposed of and the price per morgen which shall be a fair value of the land.

No. 37—1882.

VI. Every applicant at the time of making application shall deposit with the civil commissioner a sum equal to one shilling per morgen of the land so applied for, and in the event of his neglecting or refusing to take up the licence for such land the said sum shall be absolutely forfeited to the Government.

Deposit to be made by applicant.

VII. Any person of full age may receive a licence to occupy land by virtue of this Act, but no person who is the owner of land in extent two hundred and fifty morgen or upwards, and no person who at the time of making his application has made any arrangement or agreement to permit any other person to acquire by purchase or otherwise the allotment in respect of which his application is made, or any part thereof, or the applicant's interest therein, shall receive such licence, and no person shall receive more than one licence under the provisions of this Act.

Who competent to receive licence to occupy land.

VIII. Every applicant for land under this Act shall make and append or annex to his application a declaration to the following effect:—I, A.B., of (insert place of abode and occupation), do solemnly and sincerely declare that I am of the age of twenty-one years and upwards; that I make this present application for my own exclusive use and benefit, and not directly or indirectly for the use or benefit of any other person whomsoever, that I am not the holder of any land in extent two hundred and fifty morgen or upwards, that I have not made any arrangement or agreement to enable or permit any other person to acquire, by purchase or otherwise, the allotment in respect of which this my application is made, or any part thereof, and that I am not already the licensee, or holder on quitrent of any land under the provisions of the "Agricultural Lands Act, 1882."

Declaration to be made by applicant.

IX. In the event of any of the statements contained in the declaration made by the applicant being false in any material respect, the applicant shall forfeit all right to the land applied for, as well as all moneys paid in respect thereof, and all improvements thereon.

False declaration to entail forfeiture of land.

X. The civil commissioner shall, with all possible dispatch, forward the said application, together with the applicant's declaration, to the commissioner, and shall, at the same time, transmit the report of the land board on the said application.

Civil Commissioner to forward application and report of Board to the Commissioner.

XI. The commissioner shall, if he see fit, issue to the said applicant a licence to hold the land so applied for upon

No. 37—1882.

Terms and conditions
on which Commission-
er may issue
licence to hold
lands.

the following terms and conditions, which shall be inserted in every licence.

- (a) The licence shall be for five years reckoned from the next first July or first January following the date of licence, and shall include the period between the date of the licence and such day.
- (b) The yearly fee in respect of such licence shall be equal to one-twentieth of the price fixed for the land, and shall be paid in advance.
- (c) The deposit paid at the time of application, together with the excess over the said value of one shilling per morgen, if any, shall be in discharge of the licence fee due on the next first day of January or July, as the case may be.
- (d) The person to whom such licence is issued shall within six months after the issue of his licence, personally reside on his land, and shall continue so to reside for a period of three years from the date of the issue of the licence.
- (e) The licensee shall within two years from the date of his licence bring under cultivation one twentieth part of the land occupied by him under such licence, or shall enclose the same with a substantial fence.

In case licensee de-
sires to assign or
transfer his licence

XII. If any licensee shall desire to assign his interest in the land, he may apply to the commissioner stating his intention, and naming the person to whom he proposes to transfer the licence; whereupon the said commissioner shall, at the expense of the said licensee, give public notice in the Government Gazette and in one or more newspapers published, or circulating, in the district in which the land is situated of the proposed transfer of interest by the licensee, and no transfer shall be effected until after the expiration of thirty days from the date of the last publication of such notice, after which time, if the commissioner see fit to accept the person proposed as transferee, and such person shall have made the declaration required in the eighth section, the said commissioner shall, on payment by means of stamps of a transfer fee of one pound sterling, endorse the said transfer on the licence on the production of the same; or, if the loss or destruction thereof be proved to his satisfaction, the commissioner may dispense with its production, and may issue instead thereof to the person accepted, a new licence to hold the said land on the same terms and from the same date as the original licence, but with the name of such lastmentioned person substituted, and thereupon such person

shall be deemed to have been from the date of the original licence the licensee of such land.

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XIII. In the event of the death or insolvency of any licensee, his executor or the trustee of his estate, as the case may be, shall have the like powers as are given to the licensee to assign the interest in the land of the licensee, provided that such power shall be exercised within twelve months from the day of the death or insolvency of the licensee, as the case may be. If such executor or trustee shall fail within such time to exercise the power to assign hereby granted, then, and in every such case, the commissioner shall forthwith direct the land with all improvements thereon, to be sold as hereinafter provided in cases of sales or forfeiture.

In case of his death or insolvency.

XIV. The interest in land held on licence shall not during the currency of such licence be assignable, except under the provisions of this Act, and shall not be capable of being hypothecated, attached, or taken in execution.

Interest on land not assignable except under provisions of this Act.

XV. If any person holding land under licence shall fail to perform any of the conditions under which such licence is granted, such land may be declared forfeited by the commissioner unless the licensee shall within three months from the date of the notice of forfeiture comply with the said conditions.

Forfeiture for non compliance with conditions of licence.

XVI. When any lot of land shall be forfeited or shall become vacant from death or other cause, the commissioner shall cause the improvements thereon to be valued, and the land shall be sold by auction under the provisions of Act 14 of 1878, upon condition that the purchaser shall pay the sum at which such improvements shall have been valued at such time as may be fixed by the conditions of sale.

Improvements on forfeited land to be valued and land sold under Act 14 of 1878.

XVII. The amount at which the said improvements shall have been valued shall, when paid by the purchaser, and after deducting the expenses incident to the forfeiture and sale of the land, be paid to the original licensee or to his legal representative.

Net amount of valuation to be paid to original licensee.

XVIII. At the expiration of any licence, and on the fulfilment of the terms and conditions of such licence, the commissioner shall certify the same, and the licensee shall obtain a grant on quitrent in terms of Act 14 of 1878, at an annual quitrent equal to the yearly fee paid in respect of such licence.

At expiration of licence quitrent grant may be made

XIX. As often as any land shall be put up for auction under the provisions of Act 14 of 1878 and the land so put up shall fail to obtain a purchaser at the upset rent placed thereon, it shall be lawful for any person within one year of the date of such sale to make application in writing for such land, and if the applicant shall fulfil all the conditions re-

If land put up under Act 14 of 1878, be not sold, application may be made within a year for a quitrent lease.

No. 37—1882.

quired, the commissioner may allow such person to obtain a quitrent lease of the said land in the same manner as if he had become a purchaser at public auction under the aforesaid Act, and at a price not being less than the said upset rent.

Penalty for accepting money not to bid at sale of land.

XX. Any person who shall directly or indirectly accept or agree to accept money or any valuable consideration for abstaining from bidding or competing as a purchaser or applicant, shall upon conviction be liable to a penalty not exceeding fifty pounds, or to be imprisoned for any period not exceeding six months.

Commissioner may order inspection of land under licence.

XXI. The commissioner or any person appointed by him in writing, may, at any time, enter upon any land held under any licence granted under this Act, to inspect the land and the improvements, or for any other purpose, and any person obstructing the commissioner or such person in the performance of his duty shall, upon conviction, be liable 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 three months.

What lands may not be treated as waste Crown Lands.

XXII. No land claimed by any registered owner of adjacent land as part of his property by reason of an alleged defective title-deed, or supposed landmarks of the said adjacent land, or land occupied *bona fide* and beneficially, without title deed at the date of the extension of the colonial limits beyond it, or 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 be considered or treated as waste Crown lands 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 rejecting the claim altogether or of satisfying such claim by grant of the land or compensation out of the public revenue, or otherwise as shall appear equitable: Provided always that due notice of the nature of the claim, and reasonable proof that it may be substantiated, be received at the office of the commissioner in sufficient time to admit of the withdrawal of the land from sale, and that the claimant use reasonable diligence to lay the proofs in support thereof before the officer or board to whom the question may be referred by the Governor.

Servitudes and general conditions.

XXIII. All lands disposed of under this Act shall be subject to such special servitudes as may be set forth at the time of the issue of the licence to occupy, and to the following general conditions, viz.:

- (a) Government shall always have the right to make new roads, railways and railway stations,

aqueducts, dams and drains, or to conduct telegraphs over the land for the benefit of the public, on payment to the proprietor of such sum of money in compensation for actual damage, as three appraisers, one to be appointed by each side, and a third to be chosen by the two others, before proceeding to act, or any two of them, shall award.

- (b) The rights of the proprietor shall not extend to any deposits of gold, silver, or precious stones, which may at any time be or be discovered on the land hereby granted.

XXIV. In the interpretation of this Act the term Interpretation clause "licensee" shall mean any person who may receive a licence to occupy land under the provisions of this Act, and the word "commissioner" shall mean the Commissioner of Crown Lands and Public Works.

XXV. This Act may be cited for all purposes as the Short Title. "Agricultural Lands Act, 1882."

SCHEDULE.

LAWS REPEALED.

Number and year.	Title.	Extent of Repeal.
Act No. 4 of 1870.	"Agricultural Lands Act, 1870."	The whole.
Act No. 10 of 1877.	"Agricultural Immigrants Land Act, 1877."	The whole.
Act No. 33 of 1879.	"Agricultural Immigrants Land Extension Act, 1879."	The whole.

No. 38—1882.] ACT. [June 29, 1882.

To Exempt from Charges for Customs Duty certain Material Imported through this Colony for the Orange Free State Railways.

WHEREAS the House of Assembly, on the thirteenth Preamble. day of June, 1882, adopted a resolution in the terms following:—that is to say "This House concurs in the proposal that all material imported through this Colony for the Orange Free State Railways shall be exempt from

No. 39—1882.

charges for custom duty; the term material to include rails, sleepers, fastenings, iron girders and bridge work, locomotives, ballast trucks, goods waggons and carriages, and that a Bill be introduced for the purpose of carrying out this resolution:” And whereas it is expedient to give effect to the said resolution: 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:—

Government may exempt from Customs Duty railway material for Orange Free State.

I. In case the Government of the Orange Free State shall undertake the construction by contract or otherwise of any railway, which shall be connected with any railway now being or hereafter to be constructed in this Colony, it shall be lawful for the Governor to exempt from the payment of customs duty, or to refund such duty after payment as to him may seem fit, upon all such material imported through this Colony for the said Railway as is mentioned and described in the preamble to this Act.

Short Title.

II. This Act may be cited as “The Customs Duty Exemption Act, 1882.”

Spent.

No. 39—1882.] ACT [June 29, 1882.

For Applying a Sum not exceeding One Hundred and Forty-three Thousand Two Hundred and Twenty-three Pounds Four Shillings and Eightpence, for the purpose of meeting and covering certain Unauthorized Expenditure for the Service of the Year 1875, and certain Deficits on Votes or Appropriations for the Year ended 30th June, 1881.

Preamble.

WHEREAS it has been found necessary to expend from time to time in the service of this colony certain sums of money, amounting in the whole to one hundred and forty-three thousand two hundred and twenty-three pounds four shillings and eightpence, in addition to and beyond the sum voted and authorized by the Legislature to be so expended: and whereas it is desirable to legalise such unauthorized 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:—

Revenue charged with £143,223 4s 8d

I. The public revenue of the colony is hereby charged with a sum of one hundred and forty-three thousand two hundred and twenty-three pounds four shillings and eight-

pence, which sum has been applied in manner following, that is to say :—

(a) For unauthorized expenditure for the year 1875, in addition to the expenditure authorized by Acts No. 28 of 1875, No. 27 of 1877, No. 16 of 1879, No. 24 of 1879, No. 25 of 1880, and No. 25 of 1881, a sum of two hundred and ninety-five pounds eight shillings and eightpence, which has been applied and accounted for in the manner specified in the Schedule hereunto annexed, marked A.

(b) For covering deficits on votes and appropriations for the service of the financial year ended 30th June, 1881, a sum of one hundred and forty-two thousand nine hundred and twenty-seven pounds sixteen shillings, which has been applied and accounted for in the manner specified in the Schedule hereunto annexed, marked B.

II. This Act may be cited for all purposes as the “Unauthorized Expenditure Act, 1882.”

SCHEDULE A.

ESTABLISHMENTS.	AMOUNT.	TOTAL.
CIVIL.	£ s. d.	£ s. d.
GENERAL POST OFFICE.		
Salaries	1 10 0	
POLICE AND GAOLS.		
Contingencies	25 0 0	26 10 0
TRANSPORT.		
A. E. Murray, Travelling Expenses inspecting Farms between the Gonubie and Kei Rivers	16 16 0	
C. J. Levey, Transport of Fingoes from Fingoland to East London	5 6 6	22 2 6
SUMS REFUNDED.		
G. Walker, late Shipping Master, East London, Shipping Fees	6 10 0	
Refund of Money paid to W. Wild, clerk in charge at Keiskama Hoek	2 2 9	8 12 9
WORKS AND BUILDINGS.		
Country Divisions .. .. .	..	26 14 3
ROADS AND BRIDGES.		
J. Jones, Overseer of Roads .. .. .	..	28 0 7
RAILWAYS.		
Wellington and Wynberg, Working and Maintenance .. .. .	..	183 8 7
Total .. .. .	..	£295 8 8

SCHEDULE B.

No. 39—1882.

Vote.	SERVICE.	Amount.	Total.
	MINISTERIAL DIVISION No. I.	£ s. d.	£ s. d.
5	Vaccine Institution, Cape Town	3 8 0	
8	Robben Island, Infirmary	391 17 0	
10	Lunatic Asylum, Graham's Town	1 9 5	
10 $\frac{1}{2}$	Kimberley Hospital, Griqualand West ..	1,576 14 5	
13 $\frac{1}{2}$	Police (including Prisons and Gaols), Griqualand West	5,355 11 3	
16 $\frac{1}{2}$	Parliamentary, Griqualand West	202 2 9	
17	Miscellaneous Services	129 4 4	
17 $\frac{1}{2}$	Miscellaneous, Griqualand West	297 17 2	
19	Pensions, Retiring Allowances and Gra- tuities	308 4 4	
19 $\frac{1}{2}$	Pensions and Gratuities, Griqualand West	202 10 0	
20 $\frac{1}{2}$	Divisional Courts and Offices, Do.	20 7 3	
24	Registrar of Deeds	75 17 6	
25	Commandant-General of Colonial Forces	1,405 0 1	
26	Cape Mounted Rifles	2,143 9 1	
27	Colonial Artillery	39 16 4	
28	Northern Border Police	2,307 15 5	
31	Burghers and Levies	711 13 6	
32	Colonial Defence Miscellaneous	14 10 0	
33	Education "Establishments" and "Ex- clusive of Establishments"	508 2 0	
35	General Post Office, Cape Town	394 6 1	
36 $\frac{1}{2}$	Postmasters and Post Offices, Griqualand West	75 11 6	
37	Conveyance of Mails	16,734 9 2	32,899 16 7
	MINISTERIAL DIVISION No. II.		
38	Treasury	7 10 0	
43	Miscellaneous	915 6 2	
43 $\frac{1}{2}$	Miscellaneous, Griqualand West	2,181 7 6	
45	Interest and Commission	6,045 12 1	9,149 15 9
	MINISTERIAL DIVISION No. III.		
52	Superior Courts	206 12 6	206 12 6
	MINISTERIAL DIVISION No. IV.		
54	Commissioner of Crown Lands and Public Works	7 12 0	
56	Ports and Harbours	2,231 9 5	
57	Crown Forests and Plantations	274 6 7	
57 $\frac{1}{2}$	Immigration	996 17 4	
58	Experimental Farm, Leeuwfontein	305 16 8	
61	Geological Explorations	986 16 9	
63	Miscellaneous Services	1,539 13 6	
63 $\frac{1}{2}$	Miscellaneous, Griqualand West	635 18 5	
64	Chief Inspector of Public Works	402 18 1	

SCHEDULE B—(continued).

No. 39—1882.

Vote.	SERVICE.	Amount.	Total.
65	Works and Buildings	6,021 17 3	
66	Roads and Bridges	520 18 3	
67	Maintenance of Lighthouses	110 0 1	
68	Miscellaneous Services	11 2 6	
71	Railway Engineer for the Colony	359 5 9	
72	Western Railways, Working and Maintenance	12,709 19 1	
72 $\frac{1}{3}$	Mossel Bay and Oudtshoorn Survey	482 10 9	
72 $\frac{2}{3}$	Midland and Western Railway Surveys	13,507 17 3	
73	Midland and North Eastern Railways, Working and Maintenance	17,738 6 1	
74	East London and Queen's Town Railway, Do.	23,173 12 0	
75	Telegraphs, Maintenance and Working	1,314 0 11	
			83,330 18 8
	MINISTERIAL DIVISION NO. V.		
80	Native Chiefs, Councillors and Headmen	16 14 0	
81	Inspectors and Constables	121 5 3	
81 $\frac{1}{2}$	Inspectors of Natives, &c., Griqualand West	72 18 4	
83	Miscellaneous	15,918 0 10	
86	Tembuland	367 10 3	
87	Griqualand East	814 16 4	
88 $\frac{1}{2}$	Fingoe Delegates	29 7 6	
			17,340 12 6
			142,927 16 0

Repealed by 1918 Act 2. (22-23) Part of Act Repealed by
 No. 40—1882.] ACT [June 29, 1882. *1896 Act 35.*

For the Better Administration of Justice.

WHEREAS it is desirable to increase the number of Preamble. judges in the High Court of Griqualand, and to provide in other respects for the better administration of justice: 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. The laws mentioned in the schedule hereto, to the Laws repealed. extent to which the same are therein expressed to be repealed, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

THE SUPREME COURT.

II. The supreme court shall henceforth consist of one Number of Judges. chief justice and eight puisne judges, who shall be ap-

No. 40—1882.

Quorum of Supreme Court.

pointed and hold office in the same manner as the judges already constituting such court.

III. The number of judges of the supreme court necessary to form a quorum thereof shall continue to be two as in the thirty-third section of the Charter of Justice is provided, and in case of a difference of opinion between such two judges, the decision of the said court shall be suspended until three or more judges shall be present, but not longer; and the decision of such two judges, when unanimous, or of the majority of such three or more judges in case of any difference of opinion, shall in all cases be deemed and taken to be the decision of the whole court.

Judges of Eastern Districts Court and High Court of Griqualand competent to sit in Supreme Court.

IV. Nothing contained in this or in any other Act heretofore passed shall be construed to prevent the judge president of the court of the Eastern Districts, or the judge president of the high court of Griqualand, or any judge assigned to either of the said courts, from taking part in the determination of any cause civil or criminal which shall be heard before the supreme court.

Supreme Court may order a rehearing before 5 or more judges.

V. It shall be lawful for the supreme court in any cause which shall be heard before such court, and which such court shall deem to be of sufficient importance to be heard before a larger number of judges than are then present to order a re-hearing of such cause before five or more judges who may be available for the purpose.

THE HIGH COURT OF GRIQUALAND.

Constitution of High Court of Griqualand.

VI. The high court of Griqualand shall consist of and be holden before three of the puisne judges of the supreme court, who shall be thereto duly assigned and appointed by the Governor, of whom one shall be by the Governor appointed to preside in the said court and shall be called the "judge president": Provided that the law relating to the number of judges necessary to constitute a quorum in the supreme court, and to the powers vested in certain cases in a single judge, shall apply equally to the said high court of Griqualand.

Quorum.

Term of office of Judge President.

VII. Every judge who shall be assigned and appointed to the office of judge president of the high court of Griqualand shall be entitled to hold the said office so long as he shall continue to be a judge of the supreme court.

In case of difference of opinion between two judges.

VIII. Whenever any suit, action or cause, or any questions, matters or things, arising in any suit, action or cause, shall be heard before any two of the judges of the high court of Griqualand, and any difference of opinion shall arise between such two judges, the decision of the said court shall in any such case be suspended until three judges shall be present, and the decision of the majority of such three judges shall be deemed and taken to be the decision of the whole court.

IX. The office of sheriff of Griqualand West shall cease to exist, and the duties now attached to such office shall be performed by the deputy or deputies to be from time to time appointed for that purpose by the sheriff of the colony of the Cape of Good Hope in like manner as such deputies are appointed for the other districts of this colony; but all process in the hands of the sheriff of Griqualand West at the time of the taking effect of this Act shall be executed and returned as if this Act had not been passed.

No. 40—1882.
Office of Sheriff of
Griqualand West
abolished.

Deputy Sheriffs provided for.

X. The several duties connected with the sale of real property attached by legal process within Griqualand West, which duties are by the rules and orders of the supreme court from No. 105 to 122 (both inclusive), directed to be performed by the master of the supreme court, shall be performed by the deputy sheriff of the district within which the high court of Griqualand is held, together with the other duties by the said before mentioned rules and orders imposed upon the sheriff of the colony.

Sale of landed property by legal process to be performed by Deputy Sheriffs.

XI. The high court of Griqualand shall have final jurisdiction without appeal in all cases of appeal from the decision of the court mentioned in the fifteenth clause of the fifth section of the rules and regulations forming the schedule to the Proclamation No. 8 of 1880, issued by the acting administrator of Griqualand West, upon the 30th day of September, 1880; and any claimholder feeling himself aggrieved at the decision of such court, with regard to any valuation determined upon under and by virtue of such clause, may appeal from such decision to the said high court, upon due notice given to the secretary of the mining board of the mine in which the property valued is situate, who shall be, in his official capacity, the party respondent in every such appeal: Provided, however, that the notice aforesaid shall be given within twenty-one days next after the date of the decision of the said court and that the said appeal shall be prosecuted within three months after such decision. The said high court, after hearing the parties to such appeal, and considering such affidavits as may have been submitted to the court from which the appeal is made, and the record of the proceedings of such court relating to the matter in dispute, shall and may confirm, modify, or alter such decision as to it may seem just: Provided that in the event of the mining board for the time being deciding to levy any rate in terms of such assessment, notwithstanding the prosecution of any such appeal as is hereinbefore provided for, such rate shall notwithstanding such appeal be due and payable, as though no such appeal was being prosecuted; and in the event of the high court modifying or altering such assessment the pay-

Jurisdiction of High Court in appeals.

No. 40—1882.

ment previously made of rates levied under such assessment shall be adjusted and allowed in terms of such modification or alteration: Provided, however, that nothing in this clause contained shall affect any question that may have arisen on any valuation made previous to the taking effect of this Act. The term "claimholder" in this section shall include every individual holder of a claim or the duly authorized representative of any absentee claim-holder or of any company holding claim property in such mine as aforesaid.

Service of summons,
&c.

XII. The summons or process of the high court of Griqualand for procuring the attendance of any person before the said court to give evidence in any criminal case shall be delivered to the resident deputy sheriff of the district within which the said person shall reside or be, for the execution thereof, together with so many copies of the summons as there are persons to be summoned. And in case there be no resident deputy sheriff within such district, the provisions of the sixth section of Act No. 15 of 1864 shall be taken to apply as if the high court of Griqualand were specially mentioned therein in addition to the supreme court and circuit courts.

THE COURT OF APPEAL.

Constitution of the
Court of Appeal.

XIII. The court of appeal of the Cape of Good Hope shall consist of the chief justice of the Cape of Good Hope, the judge president of the Eastern Districts Court, the judge president of the high court of Griqualand, and two other judges of the supreme court who have been or may hereafter be thereto duly assigned and appointed in the manner provided by the seventh section of the "Administration of Justice Amendment Act, 1879";—such two judges not being judges assigned to the said high court.

Appeals, number of
Judges to sit in
regulated.

XIV. Every appeal to the court of appeal against any judgment of the Eastern Districts court or high court of Griqualand, in which only two judges thereof shall concur, or against the judgment of any circuit court, shall be heard before not less than three judges of the court of appeal; and every appeal against any unanimous judgment of the three judges of the Eastern Districts court or of the high court of Griqualand shall be heard before not less than four judges of the court of appeal; and if in any case heard before such four judges, such judges be equally divided in opinion, the decision of the court shall be suspended until all the judges be present, but not longer; and the decision of a majority of the judges in case of any difference of opinion shall in all cases be deemed and taken to be the decision of the whole court.

XV. For the purpose of hearing and determining any application for extending the time within which an appellant shall prosecute his appeal, or any application or motion relating to any appeal prior to the hearing thereof, any one or more of the judges of the court of appeal may sit in chambers, and may make such order in the premises as may be deemed necessary: and every order so made in chambers may be appealed from to the court of appeal, and may by such court be confirmed, altered, or rescinded.

No. 40—1882.

Judges may sit in Chambers to hear motions relating to pending appeals.

XVI. If any question of law shall arise upon review of the judgment or sentence of any inferior court in any criminal action or suit by or before the court of the Eastern Districts, or the high court of Griqualand, respectively, it shall be lawful for the reviewing court, if it shall see fit to do so, to reserve such question for the consideration and determination of the court of appeal; and in every such case, the provisions of the twenty-fifth, twenty-sixth, twenty-seventh and twenty-eighth sections, inclusive, of the "Administration of Justice Amendment Act, 1879," shall *mutatis mutandis* be deemed to apply.

Questions of law in cases under "review" of Eastern Districts or High Court may be reserved for Court of Appeal.

JURISDICTION OF THE COURT OF THE EASTERN DISTRICTS.

XVII. The court of the Eastern Districts shall have a jurisdiction concurrent with that of the supreme court in and over all causes arising, and persons residing and being within all districts of the colony to the eastward of and including the districts of Humansdorp, Uitenhage, Jansenville, Aberdeen, Murraysburg, Richmond, and Hope Town, and within the territories known as the Transkei and Griqualand East, described in the "Transkeian Annexation Act, 1877."

Extension of the jurisdiction of the Eastern Districts Court.

XVIII. Notwithstanding anything contained in the thirty-sixth section of "The Administration of Justice Act, 1864," the rights, powers, and functions, therein conferred upon the solicitor-general may be exercised by him in regard to all criminal cases within any district or territory over which the court of the Eastern Districts now has or hereafter may have jurisdiction.

Of the Solicitor General.

JURISDICTION OF THE COURTS OF RESIDENT MAGISTRATE IN THE TRANSKEI AND GRIQUALAND EAST.

XIX. The resident magistrates of the territories known as the Transkei and Griqualand East shall, until the Governor shall by any proclamation to be issued under the provisions of the second section of the "Transkeian Annexation Act, 1877," otherwise direct, respectively have jurisdiction in all cases of crimes and offences wherein any person may be accused of any crime or offence not punishable by death; and may sentence any person convicted to any punish-

Jurisdiction of Magistrates' Courts of Transkei and Griqualand East in criminal cases.

No. 40—1882.

Review of such Magistrates decisions.

ment allowed by law: anything in the forty-second section of the Act No. 20, 1856, to the contrary notwithstanding.

XX. The sentences of the resident magistrates of the territories in the last preceding section mentioned shall, until the Governor shall by any such proclamation issued as is therein mentioned, otherwise direct, continue to be reviewed by the chief magistrates, respectively, of the said territories in the manner provided for in and by the twenty-sixth sections respectively of the regulations promulgated by certain two proclamations of His Excellency the then Governor of the colony bearing date, respectively, the fifteenth and seventeenth days of September, 1879: 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 Magistrate's Court Act, 1876."

Appeals in civil cases

XXI. Any person being a party to any civil suit, action, or proceeding pending in the court of any resident magistrate in the said respective territories may appeal either to the chief magistrate thereof in the manner provided by the twenty-fifth sections, respectively, of the proclamations mentioned in the last preceding section, or to the supreme court, or court of the Eastern Districts, as such person may elect.

JURISDICTION OF SPECIAL JUSTICES OF THE PEACE.

Extension of jurisdiction of Special Justices of the Peace.

XXII. Every special justice of the peace appointed under the provisions of "The better Administration of Justice in Criminal Cases Act, 1876," shall in addition to the jurisdiction conferred by the second section of the said Act, have and enjoy and be at liberty to exercise within the local limits fixed and determined by any such proclamation as is in the first section of the said Act mentioned, the same jurisdiction, power and authority as if he were resident magistrate of the district in which the offence then under investigation was committed, over and in respect of any such offence or instance of misconduct as is mentioned in the second and seventh sections respectively of the "Masters and Servants Law Amendment Act, 1873," as such Act is amended by the "Master and Servants Act, 1875," subject to the provisions of the said Acts respectively.

*Appealed by
9/8 Oct 2.*

Their powers of fine and imprisonment

XXIII. As often as any such special justice of the peace shall, by the provisions of any Act, be empowered to impose a fine, such fine shall not exceed two pounds, and as often as any such justice shall be empowered to adjudge imprisonment upon non-payment of any fine or otherwise such imprisonment shall not exceed one month.

Time of taking effect of Act.

XXIV. This Act shall take effect when and so soon as the Governor shall by proclamation published in the Government Gazette, declare that the same is in force, and may be cited as the "Administration of Justice Act, 1882."

Short Title.

SCHEDULE.

No. 40—1882.

LAWS REPEALED.

Number and Year.	Title.	Extent of Repeal.
4. May, 1832.	The Royal Letters Patent of His late Majesty King William the Fourth, commonly called the "Charter of Justice."	
Act 20, 1856.	An Act for Amending and Consolidating the Laws relative to the Courts of Resident Magistrates.	
27. Oct., 1871.	Proclamation of His Excellency Sir Henry Barkly, No. 70 of 1871, establishing the High Court of Griqualand.	} So much as is repugnant to or inconsistent with the provisions of this Act.
Act No. 39, 1877.	The "Griqualand West Annexation Act, 1877."	
Act No. 38, 1877.	The "Transkeian Annexation Act, 1877."	} The third section
15. Sept., 1879.	Proclamation of His Excellency the Right Honourable Sir Henry Bartle Edward Frere, under the provisions of the Act, No. 38, 1877, annexing the Transkei, and promulgating regulations for the Government thereof.	
17. Sept., 1879.	Proclamation of His Excellency the Right Honourable Sir Henry Bartle Edward Frere, under the provisions of the Act, No. 38, 1877, annexing Griqualand East, and promulgating regulations for the Government thereof.	} The twentieth sections, respectively, of these Proclamations, and so much thereof as may be repugnant to or inconsistent with this Act.
Act No. 5, 1879.	"The Administration of Justice Amendment Act, 1879."	
Act No. 12 1880.	"To amend in certain respects Act No. 39, 1877, and Act No. 5, 1879."	} So much as may be repugnant to or inconsistent with this Act.
Act No. 10, 1876.	"The better Administration of Justice in Criminal Cases Act, 1876."	
Act No. 23, 1879.	"The Vagrancy Act, 1879."	} So much as limits the amounts of fine which may be imposed by any Special Justice of the Peace, to Twenty Shillings, or any period of imprisonment which may be adjudged to fourteen days.
Act No. 29, 1881.	"The Villages Management Act, 1881."	

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No. 41—1882.] ACT [June 29, 1882.
 To Extend the Advantages of the Electric Telegraph.

Preamble.

WHEREAS it is expedient to extend the advantages of the Electric Telegraph: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Transmission of summonses, writs, &c., by telegraph.

not to apply to

criminal summonses.

writs and other

criminal process

2 Oct 31 1917.

× I. Any summons, writ, warrant, rule, order, notice, or other process document or communication which by any law, rule of court, agreement of parties, or by any regulation made under the authority of this Act, is required or directed to be served upon any person, or left at the house or place of abode or business of any person, in order that such person may be affected thereby, may be transmitted by telegraph, and a telegraphic copy served upon such person, or left at his house or place of abode or business shall be of the same force and effect as if the original had been shown to, or a copy thereof served upon, such person, or left as aforesaid, as the case may be.

Telegram stating issue of warrant or writ of arrest, authority for execution of the same.

× II. A telegram from any diplomatic, judicial, or police officer, or the sheriff or any deputy sheriff, stating that a warrant or writ has been issued for the apprehension or arrest of any person accused of any crime or offence, or to appear in or answer to any civil suit, action, or proceeding, shall be a sufficient authority to any officer by law authorized to execute any such warrant or writ for the arrest and detention of such person in this colony until a sufficient time, not exceeding thirty days, has elapsed to allow of the transmission of the warrant or writ to the place where such person has been arrested or detained, unless the discharge of such person is previously ordered by a judge of the supreme court: Provided that any such judge may upon cause shown order the further detention of any such person for a period to be stated in such order, but not exceeding sixty days from the date of the arrest of such person.

Members of Parliament may resign by telegraph.

Repealed by
718 Oct 12.

III. A member of the Legislative Council or House of Assembly respectively, desiring to resign his seat as such member, may transmit his resignation by telegraph, and a telegraphic message from such member received, in the case of a member of the Legislative Council, by the President thereof, and in the case of a member of the House of Assembly by the Speaker, or in the case provided for by the ninth section of the "Constitution Ordinance Amendment Act, 1874," by the Colonial Secretary, shall be deemed to be a writing under the hand of the member so resigning for the purposes, respectively, of the sixty-ninth and seventieth

sections of the "Constitution Ordinance" and the said ninth section of the "Constitution Ordinance Amendment Act, 1874."

No. 41—1882.

IV. The judges of the supreme court acting in pursuance of any Act for the time being regulating the making of general rules of court, may from time to time make and alter rules for more effectually carrying out the object of this Act in regard to the use of the telegraph for the service of any notice, process, or proceeding in any of the courts of this colony, or the execution of the process of any such court.

Supreme Court may make rules under this Act for service of legal process.

V. The Governor may from time to time make and alter rules and regulations for the service of notices or documents other than such as relate to legal process and procedure, by the delivery of telegraphic copies of such notices or documents, and for prescribing the manner in which the service of such copies shall be made, and for certifying by telegraphic officers that such service has been effected and may by such regulations declare that any notice, document, or instrument in such regulations described, which is by any law required or directed to be in writing, and delivered or transmitted by or to any officer or person in the public service, may be transmitted by telegraph: and all such rules and regulations shall be of the same force as if in this Act set forth, and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament be then sitting, and if Parliament be not then sitting during the next session thereof.

Governor may make rules for service of documents other than legal process.

VI. Any person charged with the delivery of any telegraphic message who shall wilfully deliver such message to any person other than the person to whom the same shall be addressed, or other than the agent or representative of such last-mentioned person, shall upon conviction be liable to a penalty not exceeding twenty pounds, or to imprisonment with or without hard labour for any period not exceeding six months.

Penalty for delivering messages to others than person addressed.

Repealed by Act. 10/11

VII. Any person who shall without lawful authority or excuse (the proof whereof shall be upon the person accused), sign the name of any other person to any telegraphic message with intent to procure such message to be sent as a message from such other person, shall upon conviction be liable to be imprisoned with or without hard labour for any period not exceeding six months.

Penalty for affixing persons name to telegram without authority.

VIII This Act may be cited as "The Telegraphic Messages Act, 1882."

Short title.

No. 42—1882] ACT [June 29, 1882.
 FOR Enabling the surviving Trustees of the Church
 Committee of Hanover to transfer to the Com-
 missioners of the Municipality of Hanover certain
 Immovable Property, and for other purposes con-
 nected with such transfer.

Preamble.

WHEREAS the farm “Petrus Vlei,” situated in the divi-
 sion of Colesberg, was on the 13th day of October, 1856,
 transferred by G. W. Gous to the following persons, that is to
 say: Christoffel Johannes Vermeulen, Walter Barber,
 Johannes Wilhelmus Swart, Philippus Johannes Andreas
 Watermeyer, and Adriaan Johannes Botha, in their capacity
 as “the church committee of Hanover,” for the purpose, as
 therein set forth, of establishing the village of Hanover, and
 making the same a separate parish of the Dutch Reformed
 Church: and whereas the said village has been established
 and the said parish formed as contemplated by the said
 transfer, but all the several persons hereinbefore named,
 to whom such transfer was made, are now dead with the
 exception of the said Philippus Johannes Andreas Water-
 meyer and the said Adriaan Johannes Botha: and whereas
 it has been deemed advisable by the church committee of
 Hanover that the rest, residue and remainder of the said
 property so vested in the said church committee or the sur-
 viving members thereof, still unsold, should be transferred to
 and vested in the commissioners of the municipality of
 Hanover under the same terms and subject to the same con-
 ditions as those under which the said farm was transferred to
 the several persons hereinbefore named: 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 surviving
 Members of Church
 Committee to
 transfer remainder
 of property to Han-
 over Municipality.

I. It shall and may be lawful for the said Philippus
 Johannes Andreas Watermeyer, and Adriaan Johannes
 Botha, or the survivor of them as such surviving members
 of the church committee of Hanover, by any power of
 attorney or other instrument required for that purpose to
 make and pass transfer before the registrar of deeds to the
 commissioners for the time being of the municipality of
 Hanover, of all and singular the erven and lands included in
 the remainder of the said farm “Petrus Vlei,” so held by
 them under the aforesaid deed of transfer of the 13th
 October, 1856.

No transfer duty
 payable.

II. No such transfer as is required to be passed by the
 preceding section shall be subject to the payment of trans-
 fer duty.

III. The property so transferred to the said commissioners of the municipality of Hanover for the time being, shall be held by them, and administered, subject to all and singular the conditions set forth in the schedule to this Act annexed.

No. 42—1882.

Lands to be held under conditions in schedule.

IV. It shall and may be lawful for the said commissioners of the municipality of Hanover for the time being, from time to time to make and pass transfer to the purchaser or purchasers of erven, under and subject to the conditions in the said schedule referred to.

Municipality may transfer under conditions.

V. This Act may be cited as the "Hanover Transfer Act, 1882."

Short title.

SCHEDULE.

The following are the conditions referred to in the 3rd section of this Act:

1. All erven sold and transferred by the municipal commissioners shall be subject to the same servitudes as attach to those heretofore sold by the members of the church committee.

2. The sale of the erven or building plots shall be confined to the portions surveyed, beacons off, and marked off in the diagram annexed to the deed of transfer to the church committee, the remaining part of the farm shall be common as grazing ground to proprietors of ground within the plot so marked off: provided that if at any time the proprietors aforesaid shall consent by a majority at any meeting duly convened for that purpose by the municipal commissioners, to empower the board of commissioners to dispose of any of the said ground so reserved for grazing purposes, the board of commissioners shall have the right to do so.

3. Out of the proceeds of the sale of such erven or ground the said commissioners of the municipality shall be obliged to pay over to the consistory for the time being of the Dutch Reformed Church of the parish of Hanover, for the use of the congregation of that parish, seventy-five per cent. of such proceeds, and the remaining twenty-five per cent. shall be paid into the municipal funds for general municipal purposes: provided that the said consistory of the Dutch Reformed Church shall at all times have the right of appointing one of their members to consult and agree with the board of commissioners of the municipality in the fixing of a reserved price at which such erven or plots of ground are to be sold.

4. In laying out new erven within the defined limits, the commissioners of the municipality may create such new squares and thoroughfares as they may think fit, but shall at no time interfere or do away with any street or square already existing without the unanimous consent, at a public meeting duly convened for that purpose, of all proprietors of ground in the village who shall be present at such meeting.

No. 43—1882.

5. Proprietors unable or unwilling to attend any public meeting hereinbefore mentioned may be represented by proxy or agent at such meeting, and every such proxy or appointment of agent shall be deposited with the secretary of the municipal commissioners at the time of such meeting, and every such proprietor shall be bound by the vote of such agent or proxy.

Spent.

No. 43—1882.] ACT [June 30, 1882.]

To Apply a Sum of Money for the Service of the Year ending the 30th day of June, 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:—

Revenue charged
with £2,583,637.

I. The public revenue of the colony is hereby charged towards the service of the year ending the 30th day of June, 1883, with a sum of two millions five hundred and eighty-three thousand six hundred and thirty-seven pounds sterling.

Application of
Money.

II. 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 and supplementary estimates of the expenditure for the year ending 30th June, 1883, with the notes to such estimates submitted to and approved by Parliament.

Confined to purposes
in Schedule.

III. 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.

IV. This Act may be cited for all purposes as the "Appropriation Act, 1882."

[For Schedule see next page.]

SCHEDULE.

No. 43—1882.

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 ..	576,992	599,800	1,176,792	1,067,006
II. Ministerial Department of Treasurer of the Colony	50,076	890,695	940,771	8,385
III. Ministerial Department of Attorney-General ..	37,679	20,000	57,679	44,124
IV. Ministerial Department of Commissioner of Crown Lands and Public Works	117,622	1,174,077	1,291,699	1,270,009
V. Ministerial Department of Secretary for Native Affairs	90,120	122,559	212,679	194,113
Grand Totals ..	872,489	2,807,131	3,679,620	2,583,637

Repealed by 1893 Act-26.
 No. 44—1882.]

ACT

[June 30, 1882.]

To Consolidate and Amend the Acts No. 1 of 1861 and No. 1 of 1867.

Preamble.

WHEREAS it is expedient to consolidate and amend the provisions of the existing Municipal Act No. 1 of 1861, entitled "An Act for the Creation of a Municipal Board for the City of Cape Town," and No. 1 of 1867, entitled an "Act to amend the Act No. 1 of 1861, entitled 'Act for the Creation of a Municipal Board for the City of Cape Town,'" and to alter the constitution and mode of election of the town council of the said city, and to give the said council further power to borrow money, and for the levying of rates and the general management of the affairs of the said city: Be it enacted by 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 former Acts.

I. The Act No. 1 of 1861, entitled "An Act for the creation of a Municipal Board for the City of Cape Town," and the Act No. 1 of 1867, entitled "An Act to amend the Act No. 1 of 1861," shall be and the same are hereby repealed: Provided that the council of the said municipality, which shall be in office at the time of the taking effect of this Act, shall be deemed and taken to be in the same plight and condition, and have and possess the same powers and authorities in all respects, as if such council had been elected under this Act, and shall remain in office until the second Wednesday in the month of September, 1882, but no longer, to be then succeeded by a council elected under this Act: Provided, also, that the provisions of this Act relative to casual vacancies occurring in the office of councillor shall extend and apply to such casual vacancies as may occur amongst the members of council who shall be in office as aforesaid at the time of the taking effect of this Act.

Limits of Cape Town Municipality.

II. The municipality of Cape Town shall include the space of ground situate within the following limits, that is to say:—From the outside boundary of the military lines at Fort Knokke along the said lines to their termination at Zonnebloem; thence, in a straight line, to the summit of the Devil's Mountain; thence, along the edge of the summit of Table Mountain, to the point of the edge of the said mountain nearest the Lion's Head; thence, in a straight line, to the government fountain in the kloof, near the blockhouse; thence along the ravine through which the said fountain empties itself into the sea—from the point where the said fountain empties itself into the sea along low-

water mark to where the western boundary line of the property formerly belonging to the late Mr. Frederick Liesching (called Botany Bay), prolonged northwards, runs into the sea; thence, along the lastmentioned boundary line to its southern extremity; thence, by a line running in a straight direction, to the Lion's Head; thence, eastwards along the ridge and on the line which divides the waters flowing therefrom to the north and south, to a point where the line of the west side of Strand-street, prolonged northwards, shall intersect the southern boundary line of the land now belonging to Mr. Wessels (being Lot No. 1 of the Green Point lots), prolonged upwards and westwards; thence, downward along the said boundary line, and by a prolongation of the said boundary line in a straight direction downward and eastward across the Somerset or Green Point Road, to a point twenty yards to the eastward of the said road; thence by a line running parallel with and twenty yards to the eastward of the said road and of the cross road branching therefrom to Three Anchor Bay, to low-water mark; thence, along low-water to the point first mentioned.

No.44, 1882.

III. There shall be in the said municipality a body corporate, which shall take and bear the name of the "Town Council of Cape Town," and by that name have perpetual succession, and shall have a common seal, and shall by that name sue and be sued, and shall do all acts, and have and enjoy all the rights and privileges, which bodies corporate such as being in this colony do and have.

Incorporation of
"Town Council of
Cape Town."

IV. The town council of Cape Town shall consist of eighteen councillors (one of whom shall be the mayor), who shall be elected in manner hereinafter provided by the householders of the said municipality voting as one constituency, and at all meetings of such council a number not less than seven shall constitute a quorum for the transaction of business.

Constitution thereof.

V. For the purposes of such elections the municipality of Cape Town shall be divided into six separate districts, which shall be proclaimed by publication in the Government Gazette, and any readjustment of or alteration in any of the said districts shall likewise be so proclaimed by publication in the Government Gazette, and the production of the Government Gazette shall be proof thereof in any proceeding or action: Provided always that until any such division, readjustment, or alteration shall have been made under this provision the existing districts into which the said town is divided under the Acts No. 1 of 1861 and No. 1 of 1867 shall remain as at present constituted.

Division of Town
into six Districts.

VI. Every person who is the occupier, either as owner or tenant, or who is an owner though not an occupier, of any

Registered rate-
payers entitled to
vote at meetings.

No. 44, 1882.

immovable property within the said municipality, and whose name shall appear in the list of registered ratepayers in the twenty-ninth section mentioned, shall be entitled and qualified to vote at all and any meetings of ratepayers called in virtue of any of the provisions of this Act.

Such persons eligible to be elected Councillors.

VII. Every person registered as a ratepayer and qualified to vote under the last preceding section shall be eligible to be elected a town councillor.

No Councillor to accept salary, &c.

VIII. No person elected a town councillor shall have or receive any salary, or shall exact, take, or accept any fee or reward whatsoever, for or on account of any thing done as such councillor.

Existing list of householders to be in force till new one framed.

IX. The list of householders in force at the time of the commencement and taking effect of this Act shall remain conclusive evidence of the qualification of any person to be elected a member of the said town council or to vote at any election of members of the said council until a list of registered voters and ratepayers shall have been made in pursuance of the provisions of this Act.

Existing Council to give notice for nominations to be sent in.

X. The councillors who shall be in office at the time of the commencement and taking effect of this Act shall be and they are hereby empowered and required to call upon the ratepayers of the municipality by a public notice in the Government Gazette and in one or more local newspapers to nominate in writing candidates for the said town council on or before some day to be mentioned in such notice not being earlier than fourteen days nor later than twenty-one days from and after the publication of the said notice as aforesaid.

No person eligible to be a candidate without a requisition.

XI. No person except as hereinafter excepted shall be deemed to be a candidate at any election, or qualified to be elected a councillor, unless he shall have received a requisition signed by at least five registered ratepayers and shall have transmitted such requisition, with his acceptance thereof, to the town clerk on or before such day as may be appointed, as hereinbefore provided, for receiving nominations: Provided that no such registered ratepayer shall sign more than one such requisition; and if he shall sign more than one requisition, then the said town clerk shall erase the name of such registered ratepayer from all such requisitions as he shall have signed: And provided, further, that in case the number of candidates who shall have received and accepted requisitions as aforesaid shall be equal to or less than the number of councillors to be elected, such councillors shall be deemed and taken to be duly elected: Provided that if there shall be less than the required number of candidates nominated, then the ratepayers shall be required

and called upon to nominate candidates to complete the required number of councillors in the manner provided for in the last preceding section, and the councillors elected in pursuance of this proviso shall serve until the next annual election, and it shall be the duty of the town council, as soon as the day named in the notice as the last for receiving such requisitions shall have expired, to publish in the Government Gazette, and one or more other local newspapers, the names of the candidates who shall have been so nominated.

XII. The manner of voting in each district shall be as follows: the town council shall cause the officers appointed as hereinafter provided to take the poll at each polling place to be provided with a sufficient number of printed lists of the several candidates for the office of town councillor, and each voter shall in the presence of such officer erase or cause such officer to erase upon such list the name or names of the candidate or candidates whom such voter shall desire not to be chosen: and the name of such voter shall by such officer be legibly written on the top of such list, and shall either by himself or by such officer at his request be signed or written at the foot of such list, which list shall also be signed by such officer in attestation of the correctness thereof: Provided always that no registered ratepayer shall be entitled to give more than one vote to each candidate; and provided, always, that when and as often as the identity of any voter shall be established, no omission in the voter's list of one or more of the christian names of such voter, and no variance between the said last-mentioned lists in regard to the christian names of such voter, and no error in the spelling of either the christian names or the surname of such voter, shall destroy or affect the validity of his vote.

XIII. Every candidate may, if he think fit, appoint by a writing under his hand a person to represent him at each of the polling places to see that the votes are fairly taken and recorded.

XIV. Every poll for the election of a town councillor or councillors, annual or otherwise, shall be taken in each of the said districts, between the hours of 9 a.m. and 5 p.m., after which hour no vote shall be taken, and by such two polling officers as shall be nominated and appointed by the mayor of Cape Town, or in his absence by the town clerk, and every registered ratepayer shall be entitled and required to vote in the district in which he shall be registered: Provided that every ratepayer who may be the owner or occupier of property in more than one district shall be required to elect the district in which he will vote; provided further that where such ratepayer shall decline or fail to make any such election, it shall be competent for the town council

- No. 44, 1882. to register such ratepayer in such district as the council may think proper.
- Questions to be asked of voters. XV. No inquiry shall be made, at any election, as to the right of any person to vote, except that the polling officer may, himself or at the request of any registered ratepayer, put to any voter the following questions, or either of them, and no other:—
- 1st. Are you the person whose name appears as A. B. on the list of registered voters and on the voting paper now delivered by you?
 - 2nd. Have you already voted at this election at any other polling place?
- Penalty for false answers. XVI. Any person who shall wilfully make a false answer to either of these questions shall be liable to a penalty not exceeding ten pounds, to be recovered in the court of the resident magistrate.
- Result of poll to be sent to the Mayor. XVII. On the close of the poll in each of the said districts, the polling officers shall ascertain the number of votes given for each candidate in the respective polling places, and shall immediately transmit the voting papers sealed, together with the result, verified and certified by their signatures, to the mayor of Cape Town.
- Mayor to declare who are elected. XVIII. Upon the receipt of such voting papers and results, the mayor shall declare so many candidates, equal to the numbers to be elected as shall have received the greatest number of votes, to be duly elected. And in case there shall be an equality of votes, the mayor shall publicly determine by lot which of the persons for whom an equal number of votes shall have been given shall be elected, and at the first election of the town council under this Act, the mayor shall declare which of the candidates elected are elected for three years, which for two years, and which for one year. When the mayor has declared the names of the persons so elected, he shall cause a list of the candidates elected, and the terms for which they shall have been respectively elected, to be published in the Government Gazette and in one or more local newspapers.
- In case of equality of votes. XIX. On the first election of town councillors to be held under this Act, the six councillors who shall have been elected by the largest number of votes, or shall have been determined by the mayor by lot as hereinbefore provided to have been elected for the term next hereinafter mentioned, shall be elected to serve as such for the term of three years, and the six councillors who shall have been elected by the next largest number of votes or shall have been determined by lot as aforesaid to have been elected for the term next hereinafter mentioned, shall be elected to serve as such for the term of two years, and the six councillors who shall
- Terms of office of Councillors respectively.

have been elected by the smallest number of votes, or who shall have been determined by lot as aforesaid to have been elected for the term hereinafter mentioned, shall be elected to serve for a term of one year only, at the expiration of which term of one year such lastnamed councillors shall vacate their office, and the vacancies so occasioned shall be filled up by the election of six councillors who shall serve for the term of three years, and all councillors elected at any annual election subsequent to the said first election shall serve for a term of three years.

No. 44, 1882.

XX. When and as often as any casual vacancy shall occur in the town council for any of the reasons hereinafter specified, the member to be elected to fill such vacancy shall be elected in the manner hereinbefore provided for the election of candidates at the annual election, and shall serve for the remainder of the term for which the member whose place he shall have been elected to fill was originally elected.

In cases of casual vacancy.

XXI. The annual election of town councillors shall take place on the second Monday in the month of August of each and every year.

Election to be on 2nd Monday in August

XXII. Any town councillor who shall cease to possess the qualification by this Act provided, or shall absent himself from meetings of the council for four consecutive weeks without leave from the said council having been first had and obtained, or shall assign his estate for the benefit of his creditors without having obtained a full release, or shall become insolvent, or who shall accept any office of emolument under the town council, or who shall accept any fee or reward whatsoever for or on account of anything done as such councillor shall, *ipso facto*, vacate his office; and in case any person so elected a town councillor shall die, or become disqualified in manner aforesaid, or shall resign, or shall refuse to accept the office of town councillor, or, in case of any casual vacancy happening in any manner whatever, the town council shall forthwith, in the manner directed by this Act, cause candidates to be nominated and elected to fill up such vacancy in the manner in this Act provided; and the person then elected shall hold office for the remainder of the term for which the councillor who has vacated office and whom he shall succeed would otherwise have remained in office.

In cases of disqualification of Councillors.

XXIII. After the first election of councillors under this Act the town clerk shall, by notice in the Government Gazette and in one or more local newspapers, intimate the time and place of the first meeting of councillors.

Clerk to give notice of first meeting of new Councillors.

XXIV. At the first meeting of the town council held after every annual election of town councillors, the councillors present shall elect one councillor to be mayor, who

Mayor to be chosen.

- No. 44, 1882. shall forthwith enter upon his office and continue therein until his successor be appointed after the next ensuing annual election of town councillors, unless his office be sooner vacated, and in case of such vacancy then a successor shall at the second next meeting of the council after such vacancy be chosen by the remaining councillors from amongst themselves, who shall forthwith enter upon his office and serve until the next annual election of councillors.
- Chairman of meeting in absence of Mayor. XXV. So often as the mayor shall not be present at any meeting of the town council, or on any other occasion when his presence is necessary, or in case there be no mayor, a chairman shall be chosen by the councillors present. And as often as the votes of the councillors shall be equally divided, the mayor, or chairman, as the case may be, shall have a casting vote in addition to his deliberative vote.
- List of qualified voters to be made. XXVI. The town council shall cause a true list to be made in alphabetical order of all persons qualified to vote at the election of councillors, setting forth the name, surname, place of abode, and occupation of each voter, which list shall be made in the month of July of each and every year, and shall be and remain open to public inspection.
- Lists to be posted XXVII. The mayor shall in the month of July in each and every year cause such list to be affixed in some conspicuous place in the town hall, and cause to be appended thereto and published in the Government Gazette and in one or more local newspapers, a notice of not less than fourteen days that all objections and claims to be inserted will be heard and determined at some time and place to be therein stated.
- Claims and objections to be heard. XXVIII. The town council shall hear and determine all claims and objections and may insert in the list the names of any persons which have been omitted, and strike out the names of all persons not entitled to be therein: provided that no name of any person shall be struck out until such person shall have had forty-eight hours' notice of the investigation of his qualification, and shall be heard in regard thereto should he so desire. The meetings of the town council for hearing and determining such claims and objections may be adjourned from time to time.
- Lists when settled to be lists of registered ratepayers. XXIX. The list when so settled and amended shall be the list of registered ratepayers for the municipality of Cape Town for the then ensuing year and until the next annual list shall in like manner be completed, and such list shall be deemed and taken to be conclusive proof of the right of every person inserted therein to act and vote as a registered ratepayer.
- Power to make and alter regulations. XXX. The town council may, from time to time, repeal, alter, add to, or amend any of the municipal regulations, and

may frame any new regulations, and from time to time alter, add to, or amend such regulations.

No. 44, 1882.

XXXI. No new streets shall for the future be laid out until the plan thereof has been first submitted to and approved of by the town council, and it shall be lawful and competent for the town council to make rules and regulations for the planning and laying out of all new streets and thoroughfares, for securing the regularity of lines of buildings, for preventing or stopping the further progress of buildings being built in an insecure manner, and for pulling down and removing at the cost of the owner, all buildings of an unsafe and dangerous character, or which have been allowed to fall into a dilapidated or ruinous condition.

As to new streets, and rules for planning, laying out, &c.

XXXII. It shall be lawful and competent for the town council to make rules and regulations for the safe and commodious conveyance of passengers travelling by conveyances plying for hire, not being tramway or railway carriages, within the limits of Cape Town, and to impose and recover fines, not, however, to exceed five pounds sterling in any one case, for the breach of such rules and regulations.

Rules for public carriages.

XXXIII. After framing regulations, the town council shall publish the same in the Government Gazette and one or more local newspapers, in the English and Dutch language, for three or more consecutive weeks, and thereafter transmit the same to the Governor for approval.

Rules when framed to be published in English and Dutch

XXXIV. No municipal regulation shall be of force that is inconsistent with the provisions of this Act, and that has not been approved by the Governor, and published in the Government Gazette.

Must be approved by Governor.

XXXV. Every treasurer and other officer appointed by virtue of this Act shall, under his hand, and at such time and in such manner as the town council shall direct, deliver to the mayor, or such person as they shall appoint, true and perfect accounts, in writing, of all matters and things committed to his charge by virtue of this Act, and also of all moneys which shall have been by such officer received by virtue or for the purpose of this Act, and of how much thereof shall have been expended or disbursed, and for what purposes, together with proper vouchers for such payments; and that every such officer shall pay all such moneys as shall remain due from him to the treasurer for the time being, or to such person or persons as the town council shall appoint to receive the same; and if any such treasurer, officer, or other person shall refuse or neglect to make or render such account, or refuse to deliver up the vouchers relating to the same, or to make payment as aforesaid, or shall refuse or wilfully neglect to deliver to the mayor, or to such person or persons as he shall appoint to receive the same, within three days after being

Treasurer to render accounts to Mayor

Penalties for refusal or neglect.

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thereunto required by the mayor by notice in writing under his hand, given to or left at the last or usual place of abode of such officer, all books, papers, and writings in his custody or power relating to the execution of this Act, or to give satisfaction to the mayor or such other person or persons as aforesaid respecting the same, then and in every such case, upon complaint made by the mayor or by such person or persons as aforesaid of any such refusal or wilful neglect as aforesaid to the supreme court or any judge thereof, the said court or judge shall, if they or he shall see fit, order the officer so refusing or neglecting to appear before him, and if it shall appear to the said court, or judge, upon the hearing of the case, that any moneys remain due from such officer, such court or judge may, by decree of the said court, or warrant under the hand of the said judge, cause such money to be levied by distress and sale of the goods and chattels of such officer, and if no goods and chattels of such officer shall be found sufficient to answer and satisfy the said money and the charges of distraining and selling the said goods and chattels, or if it shall appear to such court or judge that such officer had refused, or wilfully neglected, to render and give such account, or to produce the vouchers relating thereto, or that any books, papers, or writings relating to the execution of this ordinance remained in the hands or in the custody or power of such officer, and he refused or wilfully neglected to deliver or give satisfaction respecting the same as aforesaid, then, and in every such case, it shall be lawful for such court or judge to commit such offender to the common gaol or house of correction within the municipality, there to remain without bail until he shall have given a true and perfect account as aforesaid, or until he shall have paid such moneys as aforesaid, and until he shall have delivered up such books, papers, and writings, or given satisfaction in respect thereof, to the said town council, or to such other person or persons as aforesaid, or until such other or further time as the said court or judge shall direct: Provided that nothing herein contained shall prevent such treasurer, officer, or other person from being tried, and, if found guilty, convicted and sentenced, according to law, for any crime or offence which he may have committed relative to any matter or thing entrusted to him under the provisions of this Act; and provided, further, that nothing herein contained shall prevent the town council from bringing an action for the recovery of any sum or sums due by the treasurer, officer, or other person, to the said town council.

Prosecution of officers not to exonerate sureties.

XXXVI. No prosecution or commitment of any treasurer or other officer or person shall acquit and discharge

any surety or security that shall or may have been taken by or given to the town council for the due and faithful execution of his or their office, or the payment of the moneys received or to be received by him or them respectively.

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XXXVII. All acts, orders, and proceedings of the said town council shall be entered in a book to be kept for that purpose, and shall be signed by the mayor or chairman, as the case may be, and two of the councillors then present; and all such acts, orders, and proceedings shall then be deemed and taken to be original acts, orders, and proceedings; and such books shall and may be produced and read as *prima facie* evidence of all such acts and proceedings, upon any proceeding, civil or criminal, and in any court.

Records to be kept.

XXXVIII. The town council shall, from time to time, order and direct a book or books to be provided and kept at the town-hall in Cape Town, which shall not be taken thence, except by leave of the council, or by process of some competent court, in which shall be entered true and regular accounts of all sums of money received, paid, and expended for or on account of the purposes of this Act, and of the several articles, matters, and things for which such sums of money shall have been disbursed and paid; and such book or books shall at all reasonable times be open to the inspection of the town councillors, and of every resident householder, without fee or reward; and the said town councillors and other persons aforesaid, or any of them, may take copies of or extracts from the said book or books, without paying for the same. And in case the said town council, or any officer of the town council, shall refuse to permit or shall not permit the said persons aforesaid to inspect the same or take copies or extracts as aforesaid, the town council or officer shall forfeit and pay any sum of money not exceeding five pounds for each default, to be levied and applied in manner hereinafter provided.

Books to be kept showing receipts and expenditure of Council.

XXXIX. In the month of January in every year a true account shall be made in writing of all moneys received and paid by virtue of this Act during the preceding year, ending on the 31st day of December; and a copy or duplicate of such account, verified by solemn declaration by the said treasurer, and certified by the mayor and two of the said town councillors, shall be deposited with the said town council, and shall be open to the inspection of any registered ratepayer, and an abstract thereof published in the Government Gazette and one or more papers published in the said city, for general information, before the first day of March following.

Accounts to be made in January of receipts and payments to 31st December of previous year.

Abstract to be published.

XL. The said town council shall also, in the month of January in every year, draw out an estimate of the pro-

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 Estimates of Revenue and Expenditure to be framed in same month and published.

bable revenue and expenditure for the current year, showing the several taxes or rates to be levied or assessed during the same, which estimate shall be signed by the treasurer, mayor, and town clerk, and shall be open to the inspection of any ratepayer or any party interested, and an abstract thereof published in the Government Gazette and one or more papers published in the said city before the 31st day of the said month of January in every year. And after such publication of the said annual estimate a special meeting of the town council shall be held upon fourteen days' notice for the purpose of finally considering and confirming the said estimate, and at such meeting it shall not be competent and lawful to place any new item on said estimates or to increase any item.

When assessment of rates to be made.

XLI. After the said estimate accounts and abstracts in the two last preceding sections of this Act mentioned shall have been published, as therein directed during fourteen days, the said town council shall immediately after the expiration of the same call a meeting of the town council upon not less than seven days' notice, to be published in the Government Gazette, and one or more papers published in the said city, for the purpose of assessing any such rate or rates on the immovable property situate within the municipality not to exceed the rate or rates hereinafter provided, and to endure for such period not exceeding twelve months as the majority of persons present and entitled to vote at such meeting shall deem necessary for all or any of the purposes of this Act.

What rates may be imposed.

XLII. It shall be lawful and competent for the town council to impose and levy a rate to be called the tenants' rate of not more than one penny in the pound in any one year on the value of all rateable immovable property, and which rate shall be payable by the occupier of such property; and also to impose and levy, in manner hereinafter provided, a rate or assessment upon all immovable property within the limits of the municipality, such rate or assessment to be called the "landlords' rate," and to be made and levied on an estimate of the value of such property, to be made as hereinafter provided, and which rate shall be payable by the owner of such property and shall not exceed in any one year the sum of threepence in the pound.

How and for what purposes to be levied.

XLIII. The rates in the last preceding section mentioned shall be voted and levied for specific services or objects in manner and to the extent following, that is to say, one rate shall be voted and levied for the waterworks and generally for the supply of water to the inhabitants, and another rate for public works, sewerage, drainage, paving, cleaning, repair and watering of streets, and generally for

all purposes of a municipal nature, exclusive of the waterworks and the supply of water: Provided that no rate voted for waterworks and the supply of water shall be invalidated or impeached by reason that no rate shall have been voted at or by the same meeting for any other municipal purpose, and conversely, that no such lastmentioned rate shall be invalidated or impeached by reason that no rate shall have been voted for waterworks or the supply of water: Provided, also, that separate and distinct accounts shall be kept, showing the receipts from and the expenditure of each separate rate which shall be voted, and that the funds arising from any rate voted for any specific purpose, shall be applied to that specific purpose, and none other: Provided, also, that the funds arising from water rates and private water leading shall not be spent upon or applied to any other purpose than the supply of water to the inhabitants.

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XLIV. All minutes of the proceedings of the town council, and all books, writings, accounts, and records thereof, shall be made and kept in the English language.

Minutes, &c., to be kept in the English language.

XLV. After the rates to be levied by virtue of this Act shall have been assessed, the same shall be published in the Government Gazette and in one or more local newspapers, and it shall and may be lawful for the said town council to appoint one or more collectors for the purpose of collecting the amounts due and payable, and the said collectors are hereby authorized to demand and receive the amounts so to be collected, which shall, on non-payment thereof, be recoverable at the suit of any such collector, upon production of the said Government Gazette and such local newspaper, by action in the court of the resident magistrate of Cape Town, or in case any person liable for any rate shall not reside within the municipality of Cape Town, then either in the court of the resident magistrate of Cape Town, or in the court of the resident magistrate of the district in which such ratepayer shall reside: Provided that as often as any ratepayer not resident in the Cape division shall be proceeded against in the court of the resident magistrate of Cape Town, the summons directed to such ratepayer shall be served upon the person, if any, in occupation of the premises in regard to which the rate alleged to be due is claimed. And such collectors shall give security to the said town council for the due execution of their office to such amount as the town council shall deem sufficient.

Collectors of rates to be appointed.

Rates recoverable in Magistrate's Court

XLVI. If the amount of any rate, which under the provisions of this Act shall have been assessed on any immovable property within the said municipality, shall not, on demand made by the person duly authorised to collect the same, be paid by the occupier of such property or by the

Powers to sue for unpaid rates.

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owner thereof, as the case may be, it shall be lawful for the said town council to sue either the said occupier or the said owner separately for both of them in one and the same action, each for the whole, before any competent court, and to obtain the judgment and process of such court for the recovery of the same, reserving to such occupier and owner respectively such relief against each other as he may be lawfully entitled to: Provided, always, that no person shall, as occupier of any such immovable property, be liable to pay or to be sued for any rate which had been assessed on the same, in respect of any period, or which had become due and payable at any time, before such person entered on the occupation of such property. And that every person who, as occupier of any such property, shall at any time have become liable to pay any rate which may have been assessed thereon, shall continue to be liable, and may be sued in manner aforesaid for the same, notwithstanding that such person shall have ceased to occupy such property: And provided, also, that the payment of any rate assessed on and due in respect of any such immovable property as aforesaid, by either the owner or occupier of the same, shall free and discharge the other from all claim and demand for the payment of such rate, as far as regards the municipality aforesaid.

One fourth of expense of the Cape Town Police to be paid annually to Treasury.

XLVII. The town councillors for the time being shall yearly, and every year, pay and hand over to the treasurer and accountant-general of this colony, or to the officer acting as such, one-fourth part or share of the expense incurred for the maintenance of the executive police of Cape Town, for and during the year then last past, such payment to be made on or before the 31st of March in the year next after that for or in regard to which it is so made.

What shall be the items for which such contribution shall be made.

XLVIII. The items which shall, for the purpose of such contributions as aforesaid, be included in the expense of the police force aforesaid, shall be the same as those which were included in such expense for the purpose of the several annual contributions towards such expense heretofore made by the municipality of Cape Town; and the town council shall not be liable for any charge for any police engaged by the Government in addition to the number fixed under the Appropriation Act of 1858, which additional police shall be so engaged without the concurrence of the town council.

Auditor-General's certificate shall be proof of expense in question.

XLIX. A certificate, signed by the auditor general of the colony, or the officer acting as such, certifying that a certain sum, to be specified in such certificate, has been the expense, for the purposes of this Act, of the police force aforesaid, for the year mentioned in such certificate, shall be deemed and taken to be *prima facie* evidence of the amount

of such expense: Provided that the town council shall, should they require it, be supplied with a detailed statement showing the particulars of such expense.

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L. It shall be lawful for the town council, from time to time, to keep up fire-engines, with pipes and other utensils proper for the same for the use of the municipality, and to provide a proper place or places for the keeping of the said fire-engines and to place the same under the care of some proper person or persons, and to make him or them such allowance for his or their trouble as may be thought reasonable, and to make such further rules and regulations thereon as they shall think necessary.

Fire Engines, &c.

LI. It shall be lawful for the town council, from time to time, to cause such lamp-irons or lamp-posts, or other posts, to be put or fixed upon or against the walls or palisades of any house, tenements, buildings, or enclosures (doing as little damage as may be practicable thereto), or to be put up or erected in such other manner, within all or any of the roads, streets, and places within the limits of the municipality, as shall be deemed proper; and also to cause such number of lamps, of such sizes and sorts, to be provided and affixed and put upon such lamp-irons and lamp-posts as shall be necessary for lighting all or any of such roads, streets, and places, and cause the same to be lighted with oil, gas or otherwise, during such hours as shall be necessary, and also from time to time to make such regulations thereon as they shall find necessary.

Lamp posts, &c.

LII. It shall be lawful for the town council, from time to time to provide and to carry and lay any pipes for the conveyance of water, to which the inhabitants of the municipality shall, at any time, have or acquire a common right from any reservoir, river, or spring, to any house, building, or other place, within the limits of the municipality, and also from time to time to make such regulations touching the same, and the quantity of water to be supplied to the inhabitants, and the time or times at which such supply is to be received, as shall be proper and necessary; and also touching the most expedient mode of preventing any waste of drinking water within the said municipality.

Water pipes.

LIII. The inhabitants of the municipality of Green Point shall have the right, and shall be entitled, to be furnished and provided from the waterworks now existing; or which may hereafter be made, erected or provided, for supplying water to the inhabitants of Cape Town, in whomsoever the property, management, or administration of any such waterworks shall for the time being be vested, with a supply of water, in the same proportions, on the same terms, at the same rates, and under the same regulations, in, on,

Green Point to provided with water.

No 44, 1882.

at, and under which, the inhabitants of Cape Town shall for the time being have, or be entitled to have, water supplied to them; and in consideration of such water rates to be paid by the inhabitants of the municipality of Green Point as aforesaid, the community or communities, person or persons, in whom the property, management, or administration of such waterworks as aforesaid shall for the time be vested, shall, and they are hereby required to provide, keep in good order, and repair a main pipe extending from the said waterworks as far as the main pipe by which water is now supplied to the inhabitants of Green Point and Sea Point at present extends,—and also the fountains or pumps connected with the said main pipe now existing, or as many of them as from time to time shall be necessary for the due supply of water to the inhabitants of the municipality of Green Point.

Water rates payable
by inhabitants of
Green Point.

LIV. Every rate which shall be voted, in manner and form as in the forty-second and forty-third sections of this Act, for the waterworks, and generally for the supply of water to the inhabitants, shall be chargeable upon and payable by the inhabitants of the municipality of Green Point, according to the valuation, for the time being, of the immovable property of the said municipality, in like manner as by the inhabitants of the municipality of Cape Town.

Private water lead-
ings at expense of
owners compulsory

LV. The owner of each and every house shall be obliged, when called upon by the municipality, to take from the municipality, at his own expense, a private waterleading of not less than one hundred gallons per diem, and pay the usual rate upon the same.

Water for public
fountains, fire-
plugs, shipping, &c.
and for private
houses.

LVI. The town council is hereby required to maintain, at all times, an adequate supply of water to every public fountain and fire-plug, to the disterns from which the shipping in the harbour of Table Bay is supplied, and to all dwelling-houses and private water leadings and shall maintain such supplies of water as, under the provisions of this Act, such dwelling-houses and private waterleadings may be entitled to; and in order to enable the town council to supply every dwelling-house with water, the owner of every such dwelling-house shall, within twenty-one days after receiving written notice to that effect, lay on a private service pipe to the main or branch service as may be directed, and in all cases when the owner shall refuse or neglect, the town council is hereby empowered, to supply and lay on such private service-pipe at his expense; and for such purpose, and in the case of renewing or relaying such pipes as may already have been lawfully laid, or in the laying on, at the expense of owners, private service pipes or waterleadings to dwelling houses, the town council shall have power to enter on private property.

LVII. The town council shall make and maintain, at all times, in serviceable order and efficient repair, all dams, tanks, reservoirs, and other works necessary for the impounding of an adequate supply of water to the inhabitants of the municipalities of Cape Town and Green Point, with the shipping in Table Bay: as also all mains, branch service pipes, and other appurtenances required to convey that supply to every locality or district entitled to it by the provisions of this Act.

Making and repairs of dams, tanks, reservoirs, &c.

LVIII. The town council shall cause to be made, provided, erected, and built, covered in, or removed, such bridges, sluices, dams, or reservoirs, watercourses, drains, and ditches, as now are or shall be deemed necessary, within the municipality, and shall cause the same to be kept at all times in good and efficient repair, and from time to time to make such rules and regulations thereon as they shall find necessary.

Bridges, sluices, &c.

LIX. It shall be lawful for the commissioners of the municipality of Green Point, upon a notice of not less than three months, to be given by them to the town council of Cape Town, to terminate and annul the arrangement mentioned in section fifty-three, either in the whole or in part, regarding the supply of water from the waterworks of Cape Town for the time being to the inhabitants of the municipality of Green Point; and upon the expiration of such notice, or sooner, should both boards of commissioners so agree, all and singular the provisions of the fifty-third, fifty-fourth, and fifty-fifth, sections shall cease, determine, and become void as to the district or districts in respect to which the notice is applicable: Provided, always, that if any such arrangement be terminated and annulled, either in the whole or in part, the municipality of Cape Town shall sell, at a fair value, to the municipality of Green Point the service-pipes and water-leads belonging to the municipality of Cape Town, situate in the district or districts in respect of which such arrangement shall terminate.

Municipality of Green Point may terminate arrangement provided for in Section 53.

LX. It shall be the duty of the town council to cause the public streets, roads, and places, within the limits of the municipality, to be at all times kept in good and efficient repair; and, as far as the funds of the municipality shall permit, to cause such new streets and roads to be made within the limits aforesaid as may be legally made and shall be necessary for the public use, and to be kept at all times in like good and efficient repair, and from time to time to make such rules and regulations thereon as to them shall seem fit.

Repairs of streets, roads, &c.

LXI. It shall be lawful for the said town council, from time to time, as occasion may require, to keep up and establish within the limits of the said municipality, a market or markets for the sale of cattle, meat, fish, poultry, vegetables, fruit, and other colonial produce, and to cause suitable houses or

Establishment of markets.

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buildings to be built and erected for the convenience of persons attending, holding, and superintending such market or markets, and cause the same to be kept in good and efficient repair, and also to frame and make such regulations and impose such fines as they shall think necessary for ensuring order and cleanliness within the said market or markets.

Weights & measures,
&c.

LXII. It shall be lawful for the said town council, and they are hereby empowered, from time to time, to make the necessary rules for the due and proper care of weights, measures, and the quality and assize of bread, and quality of meat and other eatables; and any person by the said council duly authorized, is hereby empowered, at all times, to visit and enter into the shops or places where bread, meat, fish or other eatables are sold, for the purpose of assizing the bread, and examining the weights and measures, and also of taking proper care that the bread, meat, fish or other eatables therein sold are good and wholesome; and to seize, confiscate, remove and destroy all bad or unwholesome bread, meat, fish, and other eatables.

Rules regarding
commonage lands.

LXIII. It shall be lawful for the said town council, and they are hereby empowered, from time to time, if necessary and expedient, to make rules for the due and proper care of the common pasture lands of the municipality, and therein to specify and regulate the quantity of cattle which each inhabitant shall be allowed to keep and depasture on the said common lands, and of what kinds; and also to impose fines on any person contravening such regulations, and to establish and erect one or more pound or pounds within the said municipality, and to appoint one or more poundmasters, and to make all such pound regulations as shall be necessary or expedient: Provided, always, that the said town council shall not be authorized or permitted to dispose of, alienate, build upon, enclose, or cultivate any such common pasture lands, nor suffer any other person to build upon, enclose, or cultivate the same, and any such alienation by sale, gift, or otherwise, except made in the manner and by authority hereinafter in the seventy-third section mentioned, shall be, and is hereby declared to be, null and void.

Penalties for injur-
ing Municipal pro-
perty.

LXIV. If any person shall wilfully break, throw down, spoil, or damage any lamp, lamp-iron, lamp-post, pale, rail, chain, or other furniture thereof, or wilfully extinguish the light of any lamp, or shall break, spoil, or damage any building, the property in which is by the provisions of this Act vested in the said town council, or shall wilfully break or damage any public watercourse, drain, or ditch within the limits of the said municipality, it shall be lawful for any person who shall see the offence committed, to apprehend, and also for any other person or persons to assist in apprehending, the

offender, and by the authority of this Act, and without any warrant, to deliver him to any constable, who is to keep him in safe custody, and with all reasonable dispatch to convey him before the resident magistrate for Cape Town, or any justice of the peace having jurisdiction, and if the party accused shall be convicted of any such offence by such resident magistrate, he shall forfeit any sum not exceeding two pounds for every such offence, and shall also make full satisfaction for the damage which shall have been done thereby, and one moiety of such forfeiture shall be paid to the person or persons apprehending such offender, and the other moiety shall be applied for the purposes of this Act; and in case any such offender shall not, on conviction, pay the said forfeiture such magistrate is hereby required to commit him to the common gaol or house of correction, there to be kept at hard labour, if such magistrate shall so order, for any time not exceeding one calendar month, unless such forfeiture shall be sooner paid: Provided nothing herein contained shall prevent the town council from bringing any civil action for damages against such offender before the supreme court, should they consider the amount of such damages to exceed the jurisdiction of the said magistrate.

LXV. If any person shall carelessly or accidentally do any such damage or injury as hereinbefore mentioned, and shall not, upon demand, make satisfaction to the said town council for the damage or injury so done, it shall and may be lawful for the said resident magistrate, and he is hereby required, upon the application or complaint of the town council, to summon the party complained of, and upon hearing the parties on both sides, or on the non-appearance of the party complained of, to examine the matter of complaint, and award such sum of money, by way of satisfaction, to the said town council for such damage as such resident magistrate shall think reasonable; and in case of neglect or refusal forthwith to pay such money, then the same, and all expenses attending the recovery thereof, may be levied and recovered as any penalty or forfeiture is by this Act directed to be levied and recovered in other cases: Provided, however, that nothing herein contained shall prevent the town council from bringing any civil action for damages against such offender before the supreme court, should they consider the amount of such damages to exceed the jurisdiction of the said magistrate.

LXVI. The town council shall use all endeavours to keep the impounded water from being fouled or in any way rendered impure, and for this end, every person convicted upon the prosecution of the town council, of any of the following offences, shall forfeit to the use of the said council a sum not exceeding five pounds; in failure of the

Proceedings when injury done by carelessness or accident.

Provisions against fouling water and penalties for fouling.

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payment of such fine the party convicted shall be liable to imprisonment, with or without hard labour, for any period not exceeding two calendar months :

- (a) Every person who shall bathe or wash himself in any stream, reservoir, or other waterworks belonging to the council, or wash, throw, or cause to enter therein any dog or other animal ;
- (b) Every person who shall throw any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, or other waterworks, or wash or cleanse therein any cloth, wool, leather or skin of any animal, or any clothes or other thing ;
- (c) Every person who shall cause the water of any sink, sewer, or drain, or any filthy water whatever, belonging to him or under his control, to run or be brought into any such stream, reservoir, or other waterworks, or do any other act whereby the water under the charge of the town council shall be fouled or made impure. And every such last-mentioned person shall also forfeit the sum of one pound aforesaid for each day, if more than one, during which the last mentioned offence shall be continued.

In case of land, buildings, &c. required within Cape Town or Division.

LXVII. In case the said town council shall require to take or use any land within the limits of the municipality or within the limits of the Cape division, with or without the buildings, if any, erected thereon, or any frontage or stoep belonging to any premises, for the purpose of making or improving causeways or pavements, or to dig out to 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 municipality or of the Cape division, who shall not be bound by law to allow the town council so to do, then, and in that case, it shall be lawful for the said town council, and they are hereby authorized and empowered, to treat and agree with every such person or persons for the purchase or hire, as the case may be, of any such land, buildings, materials, springs, streams, or supplies of water as aforesaid ; or for payment of consequential damages, and generally to enter into any such contract or contracts relative to the obtaining of any such land, buildings, materials, springs, streams or any other supplies of water as aforesaid, on such terms and conditions as they shall deem expedient. And if any such person or persons and the said

town council shall not agree upon the purchase-money, or hire, or recompense for consequential damages to be respectively given by one party and received by the other, then the amount of recompense or compensation shall be settled by arbitration.

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

"Lands and Arbitration Clauses Act 1882" incorporated

LXIX. It shall be lawful for the said town council, and they are hereby authorized and required, to remove, put down, and abate all nuisances of a public nature within the said municipality, or which may tend either to injure the health or in any way affect the safety or reasonable comfort, peace and quiet, or the rights of the inhabitants at large, and, if need be, to proceed at law before the resident magistrate or supreme court, against any person or persons so committing any such nuisance as for abatement thereof, and aforesaid damages; and, further, that the said town council shall, and they are hereby required to cause all streets, watercourses, drains, roads, and places within the said municipality to be kept clean and free from dirt, filth, or rubbish: and any person convicted upon the complaint made by the town council to the resident magistrate, of throwing dirt, filth, or rubbish into any such street, road, watercourse, drain, or place as aforesaid shall forfeit and pay any sum of money not exceeding five pounds; and in default thereof to be imprisoned for any period not exceeding two months unless such fine shall be sooner paid.

Removal of nuisances.

LXX. It shall and may be lawful for the town council from time to time, to enter into any contract with any person or company whatsoever, for any work to be done and performed, or for any materials to be furnished to and for the said town council, by virtue and for the purposes of this Act, which contract shall specify the work to be done and the price to be paid for the same, and the time when the work shall be completed, and the penalty to be suffered in case of non-performance thereof, and shall be signed by the mayor and by two or more of the said town councillors, and also by the person or persons contracting: which contract, or a copy thereof, shall be entered in a book to be kept for that purpose; but no contract above the value of fifty pounds shall be entered into, unless fourteen days' notice be previously given in one or more of the public newspapers published in this city, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered and presented to the said town

Power to make contracts for carrying out works.

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council at a certain time and place in such notice to be mentioned: Provided always, that if the said town council shall be of opinion that it will not be advantageous to contract with the person offering the lowest price, it shall be lawful for the said town council to contract with such other person or persons as they shall think proper, and such person or company so contracting shall give security for the due performance thereof to the satisfaction of the town council: Provided, however, that no town councillor shall be allowed, either directly or indirectly, to become a contractor, or to tender for any contract either in his name or in the name of, or jointly with, any other persons, on pain of forfeiture of all his share and interest in such contract for the benefit of the municipality, and shall also be considered to have vacated his office of town councillor *ipso facto*, and be ineligible to be elected at any future period to serve as a town councillor.

No Councillor to be a contractor.

Except as shareholder in a contracting Joint-Stock Company.

LXXI. No town councillor shall be deemed or taken to have vacated his office of town councillor or to have incurred any penalty or forfeiture whatever by reason merely that the town council shall have entered into any such contract as in the last preceding section of the Act aforesaid mentioned, or any other dealing or transaction with the directors or other managers of any joint-stock company in this colony of which such town councillor shall be a shareholder or in which he shall be otherwise interested, nor shall any shareholder or person otherwise interested in any joint-stock company with which company the town council shall have entered into any executed or still subsisting contract, dealing, or transaction be deemed or taken to be ineligible to be elected or to act as a town councillor by reason merely of such contract, dealing or transaction: Provided, always, that no town councillor who is also such a shareholder or so otherwise interested as aforesaid shall be allowed to vote as a town councillor upon the question of making or entering into any contract, dealing, or transaction with the joint-stock company in which he is interested; and any town councillor who shall so vote in contravention of this restriction shall for every such offence forfeit the sum of one hundred pounds: Provided also that nothing herein contained shall be deemed or taken to prevent the mayor, being such a shareholder as aforesaid, from signing any such contract as by the seventieth section aforesaid is required.

Powers of borrowing on security of rates.

LXXII. It shall be lawful and competent for the town council to borrow on the security of the town rates, at any time, any sum or sums of money not exceeding one hundred and fifty thousand pounds sterling altogether,

including existing loans, but should a larger sum than one hundred and fifty thousand pounds be required, then and in such case the consent of the ratepayers thereto shall be first had and obtained at a meeting to be convened for the purpose upon a notice of not less than twenty-one days: provided, however, that any ratepayer present at such meeting may demand a poll of the ratepayers of the municipality.

No. 44, 1882.

LXXIII. The property hereinafter mentioned, and situate within the municipality: to wit, the town hall, the town market, the butchers' shambles, the granary buildings, the fish market, the waterworks and the buildings belonging thereto, together with all the waste ground or land situate within the municipality, together with all the stone quarries therein situate, and all right, title, and interest in the same, and which was before the 1st day of January, 1828, vested in or committed to the administration of the late burgher senate, and which, by Ordinance No. 34, was afterwards vested in trustees, and all other property which at the time of the expiration of Ordinance No. 1, 1840, was legally vested in the commissioners, shall be and the same are hereby vested in the council appointed under this Act to be administered, and the revenue thereof employed and made use of for the benefit of the municipality, and for the purposes of this Act: Provided that the said town council shall not be authorised or permitted to sell or otherwise alienate the said buildings or lands without having first obtained the consent of the Governor for the time being, to such sale or alienation, and without having, after obtaining such consent, published such resolution to sell, during three successive weeks, in the Government Gazette and one or more papers published in the the said city: Provided, also, that nothing herein contained shall affect, or be construed to affect, any right or title which Her Majesty's Board of Ordnance has, or may have, in the immovable property hereinbefore mentioned, or any part thereof, or to vest in the town council aforesaid any greater or other right in or to the granary buildings aforesaid than shall have been lawfully vested in them on the 31st December, 1860, under the provisions of the Ordinance No. 1, 1840.

Landed property vested in the Town Council.

Not to be sold without authority of Governor.

LXXIV. The property of and in the lamps, lamp-irons, lamp-posts, bridges, sluices, dams, market houses, pipes, posts, chains, pales, and rails in, or about, belonging to the said streets and places within the limits of the said municipality, and of and in all iron, timber, stone, bricks, and other materials, and furniture and things, of, in, and belonging thereto (except when the same shall be otherwise regulated by the contract with the said town council), also all the movable property which now is under the

Property in lamps, bridges, sluices, &c vested in Council.

No. 44, 1882.

administration of the municipality of Cape Town, and employed by them for the use of Cape Town and its vicinity, shall be, and the same is hereby, vested in the said town council, and may be used, sold, and disposed of by them from time to time as they shall deem necessary; and the money arising from such sale shall be applied towards the purposes of this Act, and the said town council are hereby authorised and empowered to bring or cause to be brought, any civil or criminal action, in manner as hereinbefore is provided, against any person or persons who shall steal, break or otherwise damage any of the buildings or other things, the property which is hereby vested in the said town council, subject, however, to the provisions of the Ordinances Nos. 40 and 73, or of any law or ordinance which may hereafter be created or then be in force in that behalf; and in all such actions it shall be, and be deemed and taken to be, sufficient to state generally that the article or thing for or on account of which such action shall be brought is the property of the town council.

Prosecution of offences before Magistrate's Court.

LXXXV. All offences committed in contravention of this Act, or of any municipal regulation, may lawfully be prosecuted in the court of the resident magistrate for Cape Town; and if any person shall be duly convicted of any such offence, and shall not pay or satisfy the amount of fine imposed upon him, it shall be lawful unless otherwise provided in this Act for the said resident magistrate to sentence such offender to any period of imprisonment not exceeding three months unless such fine shall be sooner paid; and the amount of all such fines, when recovered, shall be paid to the treasurer of the municipality for the time being, for the purposes of this Act.

Private rights to property protected.

LXXXVI. Nothing herein contained shall extend, or be construed to extend, to injure or impair the rights of property which any person or persons may have in, to, or in respect of, any of the matters aforesaid; and in every case in which the town council shall commit any act under and by virtue of this Act, or of any municipal regulation, by which the right of property of any person or persons is injured or impaired, the town council shall be liable to make compensation to such person or persons for the same: Provided, always, that nothing herein contained shall be deemed, construed, or taken to extend to render the said town council personally, or any of their goods and chattels (other than such as may be invested in them in pursuance of this Act), liable to the payment of any sum of money as or by way of compensation or satisfaction in the case in which such compensation or satisfaction is hereby directed to be made by the said town councillors.

LXXVII. It shall be lawful for the town council to pay to such officers and servants of the municipality as shall be superannuated or become unfit for duty, such pensions or retiring allowances as such officers or servants would be entitled to according to the scale and regulations at the time existing relative to pensions or retiring allowances of the civil service of the colony.

Pensions to retired officers.

LXXVIII. The immovable property within the municipality shall be valued, for municipal purposes, every five years, and to that end the town council shall, every five years, employ one or more valuers to make such valuation. Every such valuation shall, when made, be laid before the town council, but shall not become fixed until the owner or occupier of each property included in such valuation shall have had from the town council notice of and an opportunity of objecting before them to the value placed upon such property: Provided that such owner or occupier, if dissatisfied with the determination of the town council in regard to his objections, may bring the same in review before the supreme court; and provided, always, that it shall be lawful and competent for the town council to have all new buildings erected or existing buildings improved during the year valued or revalued, and shall be entitled thereupon to levy a rate upon the increased value; reserving to the owner or occupier, if dissatisfied, such right of review as aforesaid.

Immovable property to be valued every five years.

LXXIX. In any action or suit which shall or may be brought for the recovery of any penalty or sum of money due or payable by virtue of this Act, or for or in respect of any other matter or thing relating to this Act, by or against the said town council, it shall and may be lawful for the said town council to sue or be sued by the style or description of "the Town Council of Cape Town," and the warrant of attorney to sue or defend any action or suit shall be issued under the common seal of the town council: Provided, always, that every such town councillor may and shall (if not otherwise interested or objectionable), be a good, examinable, and competent witness in every action or suit, either for or against the town council, and all the affidavits of debt or service which may be necessary or expedient to be made preparatory to or in the prosecution or defence of any such action, suit, or proceeding, shall and may be lawfully made by any such town councillor; and provided, also, that the said town council shall always be reimbursed and paid out of the moneys to arise by virtue of this Act, all such costs, charges, and expenses as they shall be put to or become chargeable with, by reason of bringing or defending such action or suit, and shall not be personally answerable or

Suits to be in the name of the 'Town Council of Cape Town.'

- No. 44, 1882. liable for the payment of the same, or any part thereof, unless such action or suit shall arise in consequence of their or any of their own wilful neglect or default.
- Expenses provided for. LXXX. All the necessary costs, charges, and expenses attending the carrying the provisions of this Act and of the municipal regulations into effect, shall be paid out of the money authorized to be received by the town council under the provisions of this Act.
- “Public Bodies Debts Act 1867,” to apply LXXXI. The Act No. 11 of 1867, intituled “An Act to make provision for the payment of judgment debts found to be due by public bodies empowered to levy rates,” and known as the “Public Bodies Debts Act, 1867,” shall apply in the case of all debts due, or which may hereafter become due, by the municipality of Cape Town, anything in the said Act to the contrary notwithstanding.
- Existing regulations to continue till changed. LXXXII. The several existing regulations of the town council in so far as the same are not contrary to law, and not repugnant to or inconsistent with the true intent and meaning of this Act, shall remain as legal, valid, and effectual as if the same had been word for word inserted in this Act, until such time as the same shall have been altered by the said town council in due form of law.
- Meetings to be open to public. LXXXIII. Every meeting of the town council, held under the provisions of this Act, shall be open to the public.
- Existing contracts and debts of Council to be taken over by New Council. LXXXIV. The town council constituted under this Act shall be subject and liable to every contract, engagement, debt, and demand to which the present town council of Cape Town shall be subject or liable to at the time of the taking effect of this Act, and in like manner shall be vested with or entitled to all rates, assets, or claims to which the said last-mentioned town council were at the time of the taking effect of this Act vested with or entitled to.
- Power of closing burial grounds. LXXXV. So soon as any burial ground within the limits of this municipality or portion thereof, shall become so crowded as to be, in the opinion of the council, dangerous to the public health, the council shall be empowered to give six months’ notice that burials therein shall cease, and after the expiration of the said term of six months, any person or persons causing any interment to be made therein, shall be liable to pay a fine not exceeding fifty pounds sterling, to be recovered in any competent court: provided, however, that at and from the time that burials in such burial ground shall cease, the town council shall, unless other satisfactory provision is made, provide some other suitable burial ground for the interment of the dead.
- Short Title. LXXXVI. This Act may be cited for all purposes as the “Cape Town Municipality Act, 1882.”

See 1907 Act 29, Sec. 58. and 1908 Act 32.

No. 45—1882.]

ACT

[June 30, 1882.

No. 45—1882.

To Consolidate and Amend the Law relating to Municipalities.

WHEREAS it is expedient to consolidate and amend the laws relating to municipalities, and to provide more effectually for the government of municipalities: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:--- Preamble.

PRELIMINARY.

I. This Act shall apply to every municipality hereafter constituted, and to every existing municipality which shall in the manner by this Act provided be brought under the operation of this Act. Application of the Act.

II. From and after the commencement of this Act the several laws mentioned in the first Schedule shall be and the same are hereby repealed, except as to property vested acts and things done or commenced, rights, privileges, and protection acquired, liabilities incurred, offences committed, and proceedings taken, and except as in the fourth section is excepted. Repeal of Laws in Schedule.

III. In case any municipality incorporated by any Ordinance or Act of the Legislature shall, in pursuance of the provisions of this Act, come under the operation of this Act, it shall be lawful for the Governor, by proclamation, to repeal any such Ordinance or Act incorporating such municipality, but notwithstanding such repeal, the provisions of the several sub-sections numbered (1) to (6) respectively of the next succeeding section shall apply. Governor may repeal special Acts in incorporating Municipalities coming under provisions of this Act.

IV. Notwithstanding the repeal of the laws hereby repealed, the said several laws shall be and continue in force and applicable to every municipality already established as if this Act had not been passed until such municipality shall come under the operation of this Act, and as often as any existing municipality shall come under the operation of this Act, the following provisions shall apply:--- Existing Municipal Laws to continue until Municipality comes under this Act.

- (1) All creditors of such Municipality shall have the same rights and remedies as if this Act had not been passed. Provisions to apply to Municipalities coming under this Act.
- (2) All municipal regulations then in force in such municipality shall (unless repugnant to the provisions of this Act) continue in force, until altered or amended under this Act.
- (3) The councillors or commissioners, as the case may be, then in office, shall continue in office

Act 12 of 1907. To amend the law relating to section ^W of Municipal Councillors

No. 45—1882.

- until the election and first meeting of councillors under the provisions of this Act.
- (4) All rates due or payable to or recoverable by such municipality shall be vested in and recoverable by the municipality newly constituted under this Act, and the valuation or assessment roll in use at such time, shall continue to be used until a new one shall be completed under the provisions of this Act.
 - (5) All works and undertakings authorised to be executed, all rights, liabilities, and engagements existing, and all actions, suits, and proceedings pending by or against or in respect of such municipality, shall be vested in, attached to, and be enforced, carried on and prosecuted by or against the municipality newly constituted: and no such action, suit, or proceeding shall abate or be discontinued or prejudicially affected by such constitution.
 - (6) All property, movable and immovable, and all moneys of or vested in any such municipality, shall be vested in and belong to the municipality newly constituted.

THE CONSTITUTION OF MUNICIPALITIES.

Incorporation of Municipalities

V. The inhabitants of every city, town, or village for the time being subject to the provisions of this Act shall, under such name or designation as the Governor may by proclamation declare, be a body corporate with perpetual succession and a common seal, with power to alter and change the same from time to time, and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and of doing and performing such other acts and things as bodies corporate may by law do and perform subject to the provisions of this Act.

Mayor or Chairman, and Councillors to be the governing body.

VI. Every municipality subject to the provisions of this Act shall be governed by a council composed of a mayor or chairman, and councillors; and all acts of the council shall be deemed to be acts of the municipality.

Not less than 6 nor more than 24 Councillors, 3 to each Ward.

VII. Whenever the number of councillors for any municipality is determined under the provisions of this Act, such number shall be not less than six nor more than twenty-four, and in case such municipality is divided into wards, the number produced by the return of three councillors for each ward.

Powers of Governor in regard to proclaiming Municipalities, &c

VIII. Subject to the provisions of this Act, the Governor may from time to time exercise all or any of the powers following:—

- (1) Declare any city, town, or village to be a municipality, constituted under the provisions of this Act.
- (2) Assign a name to such municipality.
- (3) Describe the boundaries thereof.
- (4) Unite any two or more villages, which form one continuous area, so as to form one municipality.
- (5) Subdivide or re-subdivide any municipality into any number of wards not exceeding eight.
- (6) Alter the boundaries of or abolish the subdivisions existing in any municipality.
- (7) Determine and alter, within the limits of this Act, the number of councillors assigned to any municipality.
- (8) Alter and adjust the boundaries of adjoining municipalities and determine any questions arising out of such alteration and adjustment.
- (9) Sever any portion of a municipality from the municipality of which it forms a part, and constitute the same a separate municipality, or annex the same to any other municipality of which the portion severed formed one continuous area; and from time to time make any apportionment of property, rights and liabilities, and give any directions, as to any matters and things, that may be necessary to do justice between the municipalities concerned.

IX. The Governor may exercise any of the powers by this Act conferred after the presentation of a petition, in pursuance of the provisions of this Act for the exercise thereof, and after the publication of the substance and prayer of such petition, in the Government Gazette, and in some newspaper (if any) circulating in the neighbourhood referred to thereby, at least once a week during three weeks; and it shall be in the discretion of the Governor to refuse the prayer of any such petition, or to grant the whole or any part thereof: Provided always that the Governor shall not exercise, in respect to any existing municipality, constituted by special Ordinances or by any Act of Parliament, any of the said powers (anything in the next succeeding section to the contrary notwithstanding) if there shall be presented to him within three weeks, after the said publication in the Government Gazette, another petition signed by not less than one-half of the ratepayers, registered within such municipality, praying him not to exercise such powers.

How such powers to be exercised after Petition presented.

X. Every petition for the constitution of a municipality shall—

How Petitions to be signed.

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- (1) In the case of an existing municipality, be signed by not less than three-fourths of the councillors or commissioners (as the case may be) of such municipality.
- (2) In case no municipality exists, be signed by not less than twenty-five persons, being registered as voters for the election of members of Parliament resident within the proposed municipality.

Particulars to be stated in Petitions.

XI. Every petition shall state precisely what exercise of the powers by this Act conferred on the Governor is desired by the petitioners, and shall pray for such specific exercise thereof, and may also pray for any partial exercise of such powers. And every petition for the constitution of a municipality shall state the proposed boundaries thereof.

Petitions may be opposed.

XII. It shall be competent for any persons interested to present to the Governor any counter-petition, setting forth the grounds of opposition to any petition of which notice shall have been given as aforesaid.

Notice to be given of Governor's intention to exercise powers of his own accord.

XIII. It shall be lawful for the Governor, from time to time, to exercise any of the powers conferred by this Act without the presentation of any petition, provided that before the exercise of any such power, notice be given once a week during three consecutive weeks, in the Government Gazette, and in a newspaper (if any) circulating in the neighbourhood, stating the intention of the Governor to exercise such powers. If within one month after the date of the last publication of such notice no sufficient cause shall be shown why the power proposed to be exercised shall not be exercised, it shall be lawful for the Governor to exercise such power: Provided, however, that the powers conferred by this section shall not apply to the case of any city, town, or village having a municipality constituted by a special ordinance or Act of Parliament.

In case no cause shown.

Powers not to be exercised in cases of specially established Municipalities.

Resident Magistrate and others to investigate matter of Petitions.

XIV. It shall be lawful for the Governor to appoint the resident magistrate of any district, together with two other persons, to investigate any matter connected with any petition or counter-petition, and to report thereon, or upon any matter by the Governor referred to such resident magistrate and other persons for report, in relation to such petitions. The resident magistrate and other persons aforesaid shall report within such time as may be by the Governor be named in that behalf.

MUNICIPAL COUNCIL.

Qualification of Councillors.

XV. Every male person of full age liable to be rated in respect of immovable property within the municipality of the yearly value of not less than twenty pounds owned or occupied by him (or of different properties of not less than

such yearly value owned or occupied in immediate succession) for a period not less than six months next before such election, and in regard to which property no municipal rate made three months or more before the date of such election shall then be due and in arrear, shall be eligible to be elected a councillor, and qualified to hold office as such, but so long only as he shall continue to possess such qualification.

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XVI. No person having his affairs under liquidation, under assignment, or by arrangement with his creditors, no insolvent who shall not have obtained his rehabilitation, no alien who has not been naturalized, no person convicted of treason, murder, rape, theft, perjury, or other infamous crime, and who shall not have received a free pardon, no person of unsound mind, and no person who is not qualified or who is disqualified by this Act, shall be capable of being elected or of continuing a councillor of any municipality. Disqualifications.

XVII. No person holding any office or place of profit under Government, or under or in the gift of the council of any municipality, or concerned in, or participating in the profit of, any contract with any municipality, or concerned in or in the profit of any work to be done under the authority of any such council, shall be capable of being or continuing a councillor of such municipality: Provided that nothing in this section contained shall extend or apply to any contract entered into by any company, partnership, or association consisting of more than twenty persons, or any incorporated company, when such contract is entered into for the general benefit of such company, partnership, or association: and provided that it shall be lawful for any councillor to purchase at public sale any property or right which the board of which he is a member shall offer to sell by public competition. Further Disqualifications.

XVIII. All proceedings of the council of a municipality, or of any person acting as mayor, chairman, councillor, auditor, or municipal clerk, as the case may be, shall, notwithstanding that it be afterwards discovered that there was some defect in the election or appointment of any such councillor, officer, or person as aforesaid, or any disqualification, be as valid and effectual as if every such councillor, officer, or person had been duly elected and qualified. Proceedings of Council to be valid though defect existed in mode of election.

RETIREMENT AND VACANCIES IN COUNCIL.

XIX. At the conclusion of the election to be held on the first Wednesday in August next after any first election of councillors who shall have been elected by voters registered for the election of members of parliament as provided in the twenty-sixth section of this Act, the whole number of councillors shall go out of office. When whole number of Councillors to go out of office.

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Retirement of Councillors by rotation regulated.

XX. At the conclusion of the annual election in every year, except as in the last preceding section is provided, one-third part of the councillors of every municipality shall go out of office by rotation, and the councillors who shall go out of office shall be the councillors who have been the longest time in office without re-election. If by reason of two or more councillors having become councillors at the same time, it shall not be apparent which of such councillors ought to go out of office, then such councillors as to whom it shall not be apparent as aforesaid shall go out of office in the order of the number of votes obtained by each at his election, commencing with the lowest number and proceeding upwards. And in case of an equal number of votes being given for such councillors, or in case such councillors shall have been elected without a poll, the councillors to go out of office shall be determined by lot, and in default of being so determined, or not otherwise determined or capable of being determined, the Governor shall for such occasion determine in what order and which of such councillors shall go out of office: provided that in case of any sub-divided municipality, where one-third of the whole number of councillors are to go out of office, one of the number of councillors of each ward shall go out of office.

Officers under this Act may resign.

XXI. Any person elected or appointed to any office under this Act may resign such office by any writing addressed to the municipal clerk, and the resignation shall be complete from the time of its being received by such clerk.

When offices shall become vacant.

XXII. The office of mayor or chairman, or councillor, shall become vacant, and every such vacancy shall be deemed to be an extraordinary vacancy within the meaning of this Act, in case such mayor, chairman, or councillor shall

- (1) Die; or
- (2) Resign his office; or
- (3) Be declared incapacitated from holding office by any competent court; or
- (4) During the time for which he is elected cease to be qualified; or
- (5) Be absent from four consecutive ordinary meetings of the council, without leave of the council; or
- (6) Be convicted and sentenced to imprisonment for any offence.

How to determine date at which officers must retire.

XXIII. For the purpose of determining the time of his retirement, every mayor or chairman, and every councillor elected to supply an extraordinary vacancy shall be deemed to have been elected at the same time, and in the same manner, and in the case of a councillor to have received the same number of votes (if any) as the last holder of the seat he

was elected to fill who was elected otherwise than to fill an extraordinary vacancy.

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XXIV. Every councillor going out of office at the conclusion of any annual election shall retain office until the councillors elected at such election are declared duly elected, and shall thereupon, unless he be one of such councillors, go out of office.

Interim between retirement and election of new Councillors.

XXV. Any person vacating office as mayor, or chairman, or as a councillor, may be re-elected to such office if for the time being he is eligible under the provisions of this Act of being or continuing a mayor, or chairman, or councillor.

Mayor, &c. vacating office may be re-elected.

ELECTORS.

XXVI. At any election held in any municipality before a voters' roll shall have been prepared for such municipality in the manner by this Act provided, the resident magistrate shall, from the list of registered voters for the election of members of parliament, frame a list of all such voters as shall be resident within the limits of the municipality, or the wards thereof respectively if the municipality be subdivided, and such voters shall be and be deemed to be the voters of such municipality, or the respective wards thereof as the case may be, for the purposes of such election.

Who to vote before voters' list under this Act is prepared.

PERSONS ENTITLED TO BE ENROLLED.

XXVII. From and after the completion of a voters' roll for any municipality under the provisions of this Act, the persons whose names are inserted in such roll shall be the voters of the municipality, and shall be entitled to the number of votes for which they are respectively enrolled.

After voters' roll completed.

XXVIII. 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 any 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 voters' roll for such municipality according to the following scale :

Qualification of voters.

- (1) If the property liable to be rated be of the annual value of, or exceeding, ten pounds, and less than fifty pounds, he shall have one vote.
- (2) If such value amount to fifty pounds and be less than one hundred pounds, he shall have two votes.
- (3) And if such value amount to or exceed one hundred pounds, he shall have three votes.

And in case any municipality is subdivided, every person entitled to be enrolled under this section shall be so entitled

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for only one ward wherein any rateable property in respect of which he is so entitled is situated, such ward to be selected by such person.

Provisions in cases of joint owners of property.

XXXIX. 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 ten pounds for each such person.

Disqualifications.

XXX. The following persons shall not be qualified to vote at any elections held under the provisions of this Act:

- (1) Persons who have not paid all sums due from them in respect of any rates 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.
- (3) Persons whose names do not appear upon the voters' roll for the time being.

MAKING OF ROLL.

Roll of voters to be made annually.

XXXI. The clerk of every municipality shall, before the first day of June in every year, make out a list to be called the "voters' roll," containing the names of all persons qualified to vote under the provisions of this Act, which list shall shew—

- (1) The names in full of the voters, arranged according to the alphabetical order of surnames.
- (2) Description of property giving title to vote.
- (3) Whether the voter be owner or occupier.
- (4) The annual value of such property.
- (5) Number of votes.

Notification that lists are ready for inspection.

XXXII. The municipal clerk shall, immediately after making out the said list, notify by advertisement in some

newspaper generally circulating in the neighbourhood, and in such other manner as the council shall from time to time direct, that a copy of such list is ready for inspection at the municipal office, and if the council shall so direct, at such other place as may be appointed, and a copy of such list shall be open to inspection at the municipal office, and at each appointed place as aforesaid, during office hours, for a period of seven days; the said advertisement shall also intimate that on a certain day and hour, and at a place to be therein set forth, claims to be inserted in, or objections to, the said list will be heard and determined as hereinafter in the next succeeding section is provided.

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XXXIII. The mayor or chairman and two councillors elected for that purpose by the council shall, on the day so notified, in open court hear all such claims and objections and determine thereon, and may adjourn the sitting of such court from time to time as may be necessary.

Court to hear objections.

XXXIV. The said mayor or chairman and councillors shall, in revising the voters' roll, be guided by this Act, and the following directions and provisions: that is to say, they shall

Directions for guidance of such Courts.

- (1) Insert the name of every person who shall prove to their satisfaction that he is entitled to be inserted in the voters' roll for one or more votes according to the provisions of this Act.
- (2) Except in the case of death, retain on the list the names of all persons to whom no objection has been made.
- (3) Retain on the list the name of every person objected to, and the number of votes set against the same, unless the person objecting appears by himself, or some one on his behalf, in support of such objection, and establishes the same by satisfactory proof.
- (4) In case any objection is made and satisfactorily proved, expunge the name of the person objected to from the voters' roll, or alter and correct the number of votes set against the same (as the case may be).
- (5) Expunge from the voters' roll the name of any person inserted therein who is proved to be dead.
- (6) Correct any mistake or supply any omission which may appear to have been made in the voters' roll.

XXXV. The revised roll certified by the mayor or chairman of the municipality, shall be the voters' roll for the municipality, and shall continue in force, and shall not be added to or otherwise altered until a new roll has been made

Revised roll to be in force till new one framed.

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for the municipality and revised under the provisions of this Act, whether the same be duly made at the time appointed or afterwards.

Printed copies signed
by Mayor to be
evidence.

XXXVI. Any printed or written copy purporting to be a copy of the voters' roll of any municipality or of any ward or subdivision of a municipality, signed by the mayor or chairman of such municipality, shall be *prima facie* evidence of such roll and of the contents thereof.

Omission of certain
prior formalities
not to invalidate
roll.

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

In case list not revis-
ed within required
time.

XXXVIII. If from any cause the revision of any list awaiting revision under this Act has not been made or completed within the proper time appointed or allowed for that purpose, the Governor may appoint a day for holding a court for revising such list, and such day shall as to all such acts and proceedings as then remain to be done or had with respect to such list, be deemed to be for all intents and purposes the day appointed for such revision, and all further proceedings shall be had and taken accordingly.

In case list not pre-
pared in time.

XXXIX. If from any cause the preparation or revision of the voters' list has been omitted or not completed, the Governor may at the request of the council of the municipality direct the same to be done within such time as may be prescribed by the order in council authorizing it, and upon the publication of such order in the Government Gazette, such omission or non-completion shall be rectified, and such list validated in accordance with the terms of such order.

ELECTION OF COUNCILLORS.

When first election
to take place.

XL. A first election of councillors in any municipality shall be held on such day within three months after the constitution thereof, as the resident magistrate of the district may appoint.

All Councillors to be
elected at first elec-
tion.

XLI. At every first election of councillors in any municipality the whole number of councillors assigned to the municipality shall be elected, and in case of a subdivided municipality they shall be elected in equal numbers for every ward.

And annually there-
after.

XLII. In every municipality an annual election of councillors shall be held on the first Wednesday in August in every year.

XLIII. At the annual election (except as in the nineteenth section is excepted) one-third of the whole number of councillors shall be elected, and in case of a subdivided municipality they shall be elected in equal numbers for every ward.

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Proportion of Councillors to be annually elected.

XLIV. On the occurrence of any extraordinary vacancy in the office of councillor of any municipality, an election to fill such vacancy shall be held on such day not being more than thirty days after the occurrence of such vacancy as the mayor or chairman of the municipality may appoint, and in default of such appointment on the thirtieth day after the occurrence of such vacancy.

In cases of extraordinary vacancies.

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

Exceptions.

XLVI. In the case of a municipality which is not subdivided into wards, the proceedings of every election shall be taken and had for the whole municipality, and in the case of a municipality which is subdivided the like proceedings shall be taken and had for and in every ward.

Proceedings when there are, or are not, wards.

XLVII. Every municipal election shall be held before the mayor or chairman of the municipality, or in case there is no mayor or chairman, or the mayor or chairman as the case may be is absent or incapable of acting before such person as the council of the municipality, or, in case there is no council, the Governor, may appoint. And such mayor or chairman or other person shall be the returning officer at such election.

Returning Officer

XLVIII. No person specially appointed to act as returning officer as aforesaid shall be or become a candidate for office at such election.

Returning officer not to be a candidate.

NOMINATION OF CANDIDATES.

XLIX. Not less than twenty-one days before the day appointed for the first election the resident magistrate, and thereafter at any election, the mayor or chairman of the municipality, shall give public notice of such election, and by such notice shall specify a day, not being more than fourteen days from the date of giving such notice, as the day of nomination, and shall require all candidates at such elections to be nominated at some place within the municipality, to be named in such notice in manner after-mentioned.

Notice of election.

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Mode of nomination.

L. No person may become, or shall be deemed, a candidate at any election unless he shall be nominated in manner following: Before four o'clock in the afternoon of the day before the day of nomination there shall be delivered at the place appointed, a nomination paper in the form in the second schedule, or to the like effect, stating the christian name and surname of such candidate, together with the other particulars required in and by the said schedule, and such nomination paper shall be signed by not less than five persons whose names appear on the voters' roll.

Lists of nominated persons to be posted.

L.I. The council shall cause the names of all persons who have been nominated as candidates for election to be posted and kept posted, outside the place named as aforesaid for the delivery of nomination papers.

If no more nominations than number of Councillors required election complete.

L.II. If at the expiration of the time appointed for the nomination of candidates, the number of persons who have become candidates as aforesaid does not exceed the number of councillors then to be elected, the returning officer shall, at or after noon on the day of nomination at the place named as aforesaid for the delivery of nomination papers, publicly declare such candidates to be duly elected, and they shall be deemed duly elected accordingly.

In case candidates less than number required.

L.III. If at the expiration of the time appointed for the nomination of candidates, the number of persons who have become candidates shall be less than the number of councillors then to be elected, the persons nominated shall be declared to be duly elected in the manner provided in the last preceding section, and the like proceedings shall be taken to supply any vacancy arising from failure to nominate as in the case of an extraordinary vacancy.

In case greater number, returning officer to give notice of poll.

L.IV. If at the expiration of the time appointed for the nomination of candidates, the number of candidates exceeds the number of councillors to be elected, then the returning officer shall, at noon on the day of nomination, at the place appointed for the delivery of nomination papers, publicly announce the names of the persons who have become candidates, and the places at which a poll will be taken, and shall also forthwith give public notice by advertisement, stating the names of the persons nominated, and that a poll will be taken for the election of councillors on the day appointed for holding the election under the provisions of this Act, and naming such day and the polling places. And the poll shall take place accordingly, and shall commence at nine o'clock in the forenoon and close at five o'clock in the afternoon.

u 1907 Act-12.

POLLING PLACES AND POLLING.

Candidate to declare for which Ward he elects to be a Councillor.

L.V. If any candidate shall, in any municipality divided into wards, be elected for more wards than one,

such candidate shall declare within twenty-four hours after being called upon in writing so to do, for which ward he elects to be a councillor, and upon such election the seat of such person for any other ward for which he was elected shall become vacant, and in case such person shall fail to elect as aforesaid then all the seats for which such person was elected shall become vacant.

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LVI. For the purposes of every election, the returning officer shall and may from time to time appoint and abolish the polling places, but no polling place shall be appointed or abolished later than three days after the day of nomination.

Returning Officer may appoint and change polling places.

LVII. At every election the returning officer shall appoint such polling officers and polling clerks as may be required for taking the poll, and if, in case of illness or other sufficient cause, the returning officer or any polling officer shall be prevented from attending, or shall refuse to attend, the municipal clerk shall by writing under his hand appoint a substitute, who shall have all the power and authority of the person for whom he was substituted.

Appointment of polling officers, &c.

LVIII. If after a poll has been appointed at any election any candidate nominated for election shall be desirous of retiring from his candidature, he may not later than three days before the day of polling, sign and deliver to the municipal clerk a notice of his retirement; and the returning officer on receipt of such notice shall, if the number of candidates is by such retirement reduced to the number of persons to be elected at such election on the day appointed for the election, declare the remaining candidates to be duly elected, and if the said number is not so reduced, shall omit the name of the person so retiring from the list of candidates, and such person shall not be capable of being elected at such election.

In case candidate desires to retire from contest.

LIX. Every candidate may appoint one scrutineer to attend at the place of polling on his behalf, and see that the votes are fairly taken and recorded.

Scrutineers.

LX. At any election the polling officer shall, if he see fit, or if required so to do by any candidate or scrutineer, put to the person tendering his vote any of the questions following:—

Questions to electors

- (1) Are you the person whose name appears on the voters' roll now in use for this municipality (or ward, as the case may be), being enrolled therein in respect of property described to be situated (specify the street or other place described in the roll)?
- (2) Have you already voted at this election (for this ward)?

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- (3) Have all sums due and payable by you in respect of rates made or levied three months or more before this date been paid?

And no person who shall refuse to answer any such question, or who shall not answer the first and third of such questions absolutely in the affirmative, and the second of such questions absolutely in the negative, shall be permitted to vote.

Penalty for false answers.

LXI. Every person who shall wilfully make a false answer to any of the questions aforesaid, or who shall poll or attempt or offer to poll at the same election more than once, or more than the number of votes which such person is entitled to poll at such election, in case such person is entitled to vote for more candidates than one, shall upon conviction be liable to be imprisoned with or without hard labour for any period not exceeding three months.

When polling officer may reject vote tendered.

LXII. No voter shall at any election be required to answer any questions except as aforesaid; and no person claiming to vote at any election shall be excluded from voting except by reason of its appearing to the polling officer upon putting any such question allowed as aforesaid that he is not the person whose name appears on the roll, or that he has previously voted at the same election, or that such sums as aforesaid due for rates are unpaid, or except by reason of such person refusing to answer any of the said questions.

Bribery.

LXIII. All the acts enumerated as acts of bribery and corruption, or undue influence, in any Act for the time being in force regulating or in respect of elections of members of parliament, shall, *mutatis mutandis*, be deemed to be acts of bribery, corruption, or undue influence with reference to all elections under this Act. And every person committing any Act forbidden or made punishable, by any such Act relating to elections of members of parliament, in reference to any elections under this Act, shall upon conviction incur and be liable to such penalty or punishment as is by such Act provided.

Manner of voting.

LXIV. The manner of voting shall in substance and as nearly as is material, be as follows:—

- (1) The polling officer, shall ascertain that the person coming to vote is a voter entered upon the voters' roll, and having ascertained that such person is so entered, shall ask for whom he votes.
- (2) When the voter has named the candidate for whom he intends to vote, such officer shall lay before the voter a page of paper having at the top the name of that candidate, and the voter shall, if able and willing to do so,

write in the presence of such officer his name where such officer shall direct.

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- (3) Should the voter be unable or unwilling to write, the polling officer shall at the request and in the presence of the voter write the christian and surname of the voter, and attest the fact by his own signature.
- (4) In case the voter shall be entitled to vote for more than one candidate to be elected at such election, there shall be laid before the voter so many papers bearing the names of candidates not exceeding the number to be elected, as the voter shall have named as the candidates for whom he votes.

LXV. Every returning officer shall, at the close of the poll and as soon as possible after he shall have received the voting lists or papers taken by the polling officers in the presence of such candidates and scrutineers as may attend, cast up, examine, and count the number of votes given for each candidate at the several polling places, and the returning officer shall, as soon as the results are ascertained, publicly announce the state of the poll, and at the same time declare the name or names of the person or persons elected. And in the event of the number of votes being found to be equal for any two or more candidates, he shall by lot determine which shall be elected.

Result of poll to be stated.

In case of ties

LXVI. The returning officer shall immediately after the declaration of the poll, enclose in one packet all the voting papers aforesaid, and shall seal up such packet and endorse thereon a description of the contents thereof, and sign such endorsements with his name. The said sealed packet, together with a certificate stating the names of the councillors declared to be elected, shall be delivered to the municipal clerk, who shall safely keep such sealed packet for six months after the receipt thereof, and after the expiration of six months such papers may be destroyed in the presence of two councillors, unless the council shall otherwise direct.

Voting papers to be sealed up and kept for 6 months.

LXVII. No such sealed packet of voting papers shall be opened during the said period of six months, unless by order and in presence of the council, or by order of some competent court. And if any person shall, contrary to the provisions hereof, wilfully break the seal of or open any such packet, he shall, upon conviction, be liable to a penalty not exceeding twenty pounds.

Such packets not to be opened except by competent authority.

LXVIII. When the proceedings at any election are interrupted or obstructed at any polling-place by any riot or open violence, the polling officer shall not finally close

In case of riot, poll may be adjourned. &c.

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the poll, but shall adjourn the taking of the poll at such polling-place to the day following, and if necessary, such polling officer shall further adjourn such poll until such interruption or obstruction has ceased, when he shall again proceed with the taking of the poll at the place at which the same shall have been so interrupted or obstructed.

In other cases of non-election on polling day.

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

"Wards" included in foregoing provisions.

LXX. In any subdivided municipality the provisions of this Act relating to elections shall extend and apply to every ward in which an election shall take place, as well as, or instead of, to the whole municipality, as circumstances may require.

Elections not to be impeached for want of title of polling officer.

LXXI. No election under the provisions of this Act shall be liable to be set aside by reason only of any defect in or want of title of the officer or person by or before whom such elections, or any polling for the same, has been held: provided that such person has been acting in the office giving the right to preside at such election.

Actions by or against Council not affected by mode of election.

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

In cases where there is no Mayor or other officer in this Act mentioned.

LXXIII. If at any time there shall be no mayor or chairman, or municipal clerk, or any mayor, chairman, or clerk shall refuse to act or be incapable of acting as by this Act provided, all acts and things which may or are required to be done by such mayor, chairman or clerk, as the case may be, may lawfully be done and performed by such one of the councillors as the council of the municipality may appoint for that purpose, and failing such appointment by the council, by such person as the Governor may so appoint.

ELECTION AND PRIVILEGES OF CHAIRMAN.

Election of chairman

LXXIV. At the first meeting of the council of any

newly-constituted municipality, or at some adjournment thereof, and thereafter at the first meeting of the council after every annual election of councillors, or at some adjournment thereof, the councillors shall elect some one of their own number to be chairman of the municipality.

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LXXXV. In case any vacancy shall occur in the office of chairman, such vacancy shall forthwith be filled at an ordinary or special meeting of the council.

In case of vacancy.

LXXXVI. Such chairman shall be styled and designated "the mayor" or "the chairman," as the council shall by regulation or bye-law from time to time determine, and shall be entitled to hold office until the conclusion and completion of the next annual election.

"Mayor" or "Chairman."

LXXXVII. The chairman shall preside at all meetings of the council at which he is present, and in his absence the councillors present shall elect a chairman to preside at such meeting.

To preside.

LXXXVIII. The chairman of every municipality shall during his tenure of office be a justice of the peace for the district in which the municipality is situated: provided that any such chairman may at any time be removed from being a justice of the peace by the Governor, and from the date of notification in the Government Gazette of such removal the powers of such chairman to act as a justice of the peace shall cease and determine.

Chairman to be ex-officio Justice of the Peace.

AUDITORS.

LXXXIX. Two auditors shall be elected at the same time as the first election of councillors, and thereafter annually for every municipality, at the same time as the annual election of councillors, and, notwithstanding any subdivisions into wards, such auditors shall be elected for the whole municipality, and save as aforesaid every election of auditors shall be conducted in the same manner and subject to the same conditions and provisions as an election of councillors.

Two auditors to be chosen annually.

LXXX. Upon the occurrence of any vacancy in the office of auditor for any municipality by death, removal, resignation or otherwise, the like proceedings shall be taken to supply such vacancy as upon an extraordinary vacancy in the office of councillor.

Vacancy by death or other cause.

LXXXI. The Governor may at any time remove any auditor elected for a municipality upon petition of the council thereof.

Power of Governor to remove.

LXXXII. The auditors shall be paid out of the municipal funds such remuneration as the council may from time to time determine.

Payment of Auditors.

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PROCEEDINGS OF THE COUNCIL.

- When first meeting of Councillors to be held** LXXXIII. The council of every newly constituted municipality shall hold their first meeting on the first Wednesday after the first election of councillors; and in case of failure, on such day and at such hour as the resident magistrate of the district shall appoint for that purpose.
- Ordinary meetings.** LXXXIV. The council of every municipality shall hold ordinary meetings for the transaction of business not less than once every month, on such days and at such hours as the council shall from time to time appoint, and when such appointment is made the municipal clerk shall give notice thereof to each of the councillors, and they shall afterwards, until the time of such ordinary meeting is changed, and notice of the change given to the councillors, be required to attend such ordinary meetings without notice.
- Meetings of Council to be public.** LXXXV. All meetings of the council shall be open to the public, and, save when it is otherwise provided, all the councillors present at any meeting shall vote, and all questions shall be decided by a majority of the councillors present. In case of an equality of votes the chairman presiding shall, in addition to his vote as councillor, have a casting vote.
- Quorum.** LXXXVI. All powers vested in the council by this Act may be exercised at any duly convened meeting thereof at which not less than one-third of the members thereof, exclusive of the chairman or in the absence of the chairman an additional member, shall be present.
- Councillor not to vote where interested pecuniarily.** LXXXVII. No councillor shall vote upon or take part in the discussion of any matter in or before the council in which he has directly or indirectly by himself or his partners any pecuniary interest. And any councillor contravening the provisions of this section shall, for every offence, be liable to a penalty not exceeding fifty pounds.
- Adjournment of meetings.** LXXXVIII. The councillors present at any meeting may from time to time adjourn such meeting: and if at any meeting of the council a sufficient number of members be not present to exercise the powers vested in the council, the councillors present, or the major part of them or any one councillor, if one only be present, may adjourn such meeting.
- Resolutions not to be revoked except upon notice.** LXXXIX. No resolution at any meeting of the council shall be revoked or altered at any subsequent meeting, unless notice of the intention to propose such revocation or alteration be given to each of the councillors two days at least before holding the meeting, nor unless such revocation or alteration be determined upon by a majority consisting of two-thirds of the councillors present at such subsequent meeting, if the number of councillors present at

such subsequent meeting be not greater than the number present when such resolution was come to or by a majority if the number of councillors present at such subsequent meeting be greater than the number present at such former meeting.

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XC. All notices of any special meeting or adjourned meeting of the council shall be in writing, and shall be delivered or sent by post or otherwise to the usual place of business (if any) within the municipality, or to the place of abode of each of the councillors twelve hours at least previous to such meeting, and every such notice shall specify the time of meeting, and in case of a special meeting, shall specify the object thereof, and no business shall be transacted at any special meeting except such as is stated in the notice thereof.

Notices of special or adjourned meetings

XCI. The council may from time to time, as they may see fit, appoint occasional or standing committees, either of a general or a special nature, and may delegate to any committee any inquiry or power to do any act which they may think fit, and may fix the quorum of every such committee, and every such committee may from time to time appoint one of the members to be chairman thereof, and the council may from time to time continue, alter, or discontinue such committee, and every such committee shall report to the council.

Occasional & standing Committees.

XCII. Every committee so appointed may meet from time to time and may adjourn from place to place, as they may think proper, but no business shall be transacted at any meeting of the committee unless the quorum of members (if any) fixed by the council, and if no quorum be fixed two members be present, and at all meetings of the committee if the chairman be not present one of the members present shall be appointed chairman, and all questions shall be determined by a majority of the votes of the members present, and in case of an equal division of votes the chairman shall have a casting vote in addition to his vote as a member of the committee.

Committees may adjourn

Quorum.

XCIII. No proceeding of the council or of any committee shall be invalidated or be illegal in consequence only of there being any vacancy in the number of councillors at the time of such proceeding.

Vacancy in Council not to affect validity of proceedings

XCIV. The council shall cause entries of all the proceedings of the council and of every committee appointed by them with the names of the councillors who attend at each meeting, and of the names of all councillors voting upon any question for the decision of which a division is called, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the municipal clerk under the superintendence of the council. And every

Minutes to be kept of all proceedings.

No. 45—1882. such entry shall be signed by the chairman at the meeting next succeeding the meeting at which such proceeding has taken place. And every entry purporting to be such entry as aforesaid and to be so signed, or a copy of or an extract from such entry, attested by the corporate seal and the signatures of the chairman and municipal clerk, shall be received as evidence in all courts, without proof of the meeting to which the same shall refer having been duly convened or held, or of the persons attending such meeting having been or being councillors or members of committee respectively, or of the signature of the chairman or of the fact of his having been chairman, all which last-mentioned matters shall be presumed until the contrary is proved.

Minute Books open to inspection.

XCV. Such books shall at all reasonable times be open to the inspection of any of the councillors and of any ratepayer or creditor, of the municipality, any of whom may at all reasonable times, without fee make any copy of or take any extract therefrom.

ACCOUNTS AND AUDIT.

Proper accounts of moneys received and paid to be kept

XCVI. The council shall cause books to be provided and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the municipality, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any councillor ratepayer, or creditor of the municipality. And any such person may take copies of or extracts from the said books without paying anything for the same.

Books to be balanced half-yearly and audited.

XCVII. The council shall in each year, not later than the thirty-first day of January and the thirty-first day of July, cause the accounts of the municipality to be balanced to the thirty-first day of December and the thirtieth day of June immediately preceding such first-mentioned dates respectively, and after each such balancing the auditors shall audit the said accounts as soon as conveniently may be. And the council shall, by the municipal clerk, produce and lay before the auditors the accounts so balanced as aforesaid, with all vouchers in support of the same, and all books, papers and writings in their custody or power relating thereto; and if the auditors after due inquiry shall be satisfied that all moneys received have been duly accounted for, and that all payments charged have been duly authorised and made, they shall sign the said accounts, in token of their allowance thereof, but if they think there is just cause to disapprove of any part of the said accounts they may disallow any parts of the said accounts so disapproved of.

XCVIII. Any person interested in the said accounts, either as a creditor of the municipality, or as a ratepayer, may be present at the audit of the said accounts, by himself or his agent, and may make any objection in writing, signed by such person or his agent, to any part of such accounts.

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Accounts may be inspected & objected to.

XCIX. Half-yearly statements showing the financial position of the municipality to the end of December and June respectively shall be prepared and laid before the council at their first ordinary meeting in the months of February and August respectively. Such statements shall be audited by the auditors and shall contain an account of all moneys paid by the council during the preceding half-year and a statement of all rates made and contracts entered into during such half-year, and of all assets and liabilities of the municipality.

Half-yearly financial statements to be laid before Council

C. The council shall cause every such audited statement to remain for inspection at the office of the council, and any creditor or ratepayer of the municipality, or any person acting on his behalf, may at all reasonable times inspect such statement and compare the same with the books and documents relating thereto in the possession of the council.

Statements to be open to inspection.

CI. The accounts of the council so balanced as aforesaid and audited, and either allowed or disallowed by the auditors as aforesaid, together with the said statement, shall be produced at the last-mentioned meetings of the said council, or at some adjournment thereof, at which meetings all creditors, ratepayers, and other persons interested as aforesaid may be present, and the accounts shall then be finally examined and settled by the council, and if the same be found just and true they shall be allowed by the council and certified accordingly, under the hand of the chairman of such meeting. And a copy of such abstract shall be kept by the municipal clerk at the office of the council, and shall be open to be inspected by any creditor or ratepayer during office hours.

How accounts to be finally settled.

CII. The Governor may from time to time appoint some person to examine the accounts of any municipality. And the council of such municipality shall by the municipal clerk produce and lay before the person so appointed all books and accounts of the municipality for the preceding twelve months, with all vouchers in support of the same, and all books, papers, and writings in their power relating thereto: Provided that seven days' notice in writing shall be given to the chairman and municipal clerk of any such intended examination.

Governor may appoint person to examine accounts.

CIII. For the purpose of every audit under the provisions of the last preceding section it shall be lawful for the auditor to hear, receive, and examine, evidence upon oath (which oath such auditor is hereby empowered to administer)

Powers given to such examiners of accounts.

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and by summons under his hand to require such persons as he may think fit to appear personally before him at a time and place to be stated in such summons, and to produce all such books and papers as may be necessary for such audit. And any person so required who shall without lawful excuse refuse to attend in obedience to such summons, or who having appeared shall refuse to be examined upon oath or affirmation, or to take such oath or affirmation, or having taken such oath or affirmation, to answer such questions as shall be put to him, shall incur and be liable to a penalty not exceeding ten pounds for every act or offence, and in default of payment to be imprisoned with or without hard labour for any period not exceeding three months unless such fine be sooner paid: Provided that no conviction under this section shall be taken to exempt the person convicted from liability to do or perform the act, matter, or thing required to be done or performed by him, or from being successively convicted and punished for every distinct commission of the same act or offence.

CONTRACTS.

Council may make contracts.

CIV. The council may in the name and on behalf of the municipality enter into contracts for the purposes of this Act, and all such contracts lawfully made shall be effectual and binding on the municipality and all the other parties thereto, their successors, heirs, executors, or administrators, as the case may be. Every contract shall be deemed to be duly executed by or on behalf of the municipality if signed by the chairman, or if signed by any one or more councillors thereto authorized by resolution of the council.

Tenders for contracts to be called.

CV. Except in cases of emergency before any contract for the execution of any work or the furnishing of any goods to the amount of fifty pounds or upwards is entered into by the council, fourteen clear days' notice at the least shall be given in some newspaper, generally circulating in the neighbourhood, expressing the purpose of such contract, and inviting any person willing to undertake the same to make proposals for that purpose to the council. And the council shall accept the proposal, which on a view of all the circumstances appears to them to be most advantageous, and may take security for the due and faithful performance of every such contract, or the council may decline or accept any such proposal.

OFFICERS.

Officers to be appointed.

CVI. The council shall from time to time appoint a municipal clerk, and such other officers to assist in the execution of this Act, as may be necessary and may pay such salaries and allowances to such officers respectively as the

council may determine: And unless it shall be otherwise stipulated in the contract with, or appointment of, any such clerk or other officer the council may at any time remove any such clerk or officer upon a notice of not less than three months, or in case of misconduct without notice.

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CVII. The chairman may at any time suspend from office any officer of the council who may in his opinion be guilty of misconduct or neglect, and if necessary temporarily appoint another officer in his place: Provided that at the next meeting of the council after such suspension the chairman shall report the matter to the council, and if the officer so suspended be dismissed by the council, no salary or wages shall be due or paid to him from and after the date of his suspension, and every officer so temporarily appointed shall hold office and receive remuneration (which shall in no case exceed that paid to the officer or servant so suspended) only until the council shall decide whether the person suspended shall be reinstated or be dismissed, and a successor appointed in his stead.

Officers may be suspended & dismissed

CVIII. Every officer employed by the council who shall exact or accept on account of anything done by virtue of his office, or in relation to the matters to be done under this Act any fee or reward whatsoever other than the salary or allowance by way of salary allowed by the council, or who shall be in anywise concerned or interested in any bargain or contract made by the council, shall be incapable of being afterwards employed by the council.

Officers to take no fees or rewards beyond salary.

BYE-LAWS OR REGULATIONS.

CIX. The council of any municipality may from time to time make, alter, and revoke bye-laws or regulations for all or any of the following purposes:—

Power to make bye-laws & regulations.

- 1) Regulating the proceedings of the council and the duties of their officers and servants and preserving order at council meetings.
- (2) For preventing and extinguishing fires and compensating the owners of buildings removed to prevent the spread of fire.
- (3) For establishing and regulating public markets and market dues and regulating public sales.
- (4) For suppressing nuisances, houses of ill-fame, and gaming houses.
- (5) For restraining noisome and offensive trades, and compelling residents to keep their premises free from offensive or unwholesome matters.
- (6) For regulating the supply and distribution of any water under the control or management of the council.

- (7) For regulating sewerage or drainage.
- (8) For regulating lighting with gas, electricity or otherwise.
- (9) For preserving public decency
- (10) For preventing the spread of contagious or infectious diseases, and for preserving the public health.
- (11) For regulating and licensing boatmen, porters, public carriers, carters, cabs, and vehicles plying for hire.
- (12) For regulating the killing of cattle and sale of butchers' meat, and the establishment and locality of slaughter houses.
- (13) For regulating the removal of night soil, stable litter, filth, and refuse from private premises, and from all streets, roads and public places.
- (14) For preventing the dangerous use of gunpowder, fireworks, or other combustibles, and for regulating the storage or removal of petroleum, gunpowder, dynamite, or other explosive material.
- (15) For imposing a tax upon the keeping of dogs.
- (16) For preventing the pollution of any water which the inhabitants have a right to use.
- (17) For establishing and maintaining cemeteries.
- (18) For planting and preserving trees and shrubs
- (19) For regulating the width, curbing, paving, guttering, gravelling, and cleansing of roads and streets.
- (20) For establishing, maintaining and controlling any ferry, pontoon, or bridge, and levying and collecting tolls and dues thereon.
- (21) For granting licences or permits for the making of bricks or for digging or removing clay or gravel, or for quarrying stone, or for cutting firewood, brushwood, or grass upon municipal lands, and to prescribe the fees (if any) to be paid for the same.
- (22) To establish and provide for the management of pounds and appointment of poundmasters, subject to the provisions hereinafter in this Act contained.
- (23) To provide for the management and protection of all common pasture or other municipal lands, and to fix the number and description of live stock any inhabitant shall be allowed to keep and depasture thereon or any part thereof. But no such provision shall interfere with

or derogate from any existing rights which may be possessed or enjoyed by any person over such common pasture or other municipal lands either by virtue of any valid title deed or of any lawfully constituted servitude.

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- (24) To grant temporary grazing rights over the said lands to carriers and others frequenting or passing through the municipality or attending the markets thereof, or to travellers, and to charge such reasonable dues as hereinbefore mentioned in consideration of the same.
- (25) For establishing, maintaining, and regulating public libraries, museums, botanical gardens, parks, public baths, and washhouses, and public places of recreation.
- (26) For regulating traffic and processions.
- (27) Generally maintaining the good rule and government of the municipality.

But no such bye-law or regulation shall be contrary to the provisions of this Act or of any other law in force in this colony.

CX. After any resolution for passing any bye-law or regulation has been agreed to by the council and not less than seven days before the same is confirmed, a copy of such bye-law or regulation shall be deposited at the office of the council, and shall be there open to the inspection of any person, at all reasonable times, and a notice shall be published in some newspaper generally circulating in the neighbourhood, setting forth the general purport of the proposed bye-law or regulation, and stating that a copy is open to inspection as aforesaid.

Proposed by-laws open to inspection.

CXI. After any bye-law or regulation has been passed by the council it shall be submitted for the approval of the Governor and if approved shall be published in the Government Gazette, and thereupon such bye-law shall have the force of law in the municipality.

Governor's approval required.

CXII. Every bye-law or regulation in force in any municipality hereafter constituted or brought under the operation of this Act may be repealed by the Governor.

Governor's power of repeal.

CXIII. Any bye-law or regulation made under this Act may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches, but no penalty shall exceed twenty pounds. And any such bye-law or regulation may provide that in addition to any such penalty, any expense incurred by the council in consequence of any breach of such bye-law or regulation, or in the execution of any work directed by any such bye-law or regulation to be executed by any person, and not executed by

Power to impose penalties in by-laws.

Limit.

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him, shall be paid by the person committing such breach or failing to execute such work.

Evidence of by-laws.

CXIV. A copy of the Government Gazette containing any bye-law or regulation of any municipality shall be evidence of the due making of such bye-law or regulation, and of the contents thereof.

RATEABLE PROPERTY.

Land rateable with exceptions.

CXV. All land within any municipality shall be rateable property within the meaning of this Act, save as hereinafter excepted that is to say,

- (1) Land the property of Her Majesty or of the Colonial Government which is unoccupied or used for public purposes.
- (2) Land in the occupation of Government, or of any person or public body, and used for public purposes.
- (3) Places used exclusively for public worship, or for public worship and educational purposes, or for public schools, libraries, museums, or cemeteries.
- (4) Land used exclusively for hospitals, lunatic asylums, benevolent asylums, or orphanages.
- (5) Land set apart for any mine or mining area.

MAKING OF VALUATIONS.

Fresh valuations.

CXVI. The council of every municipality shall from time to time, but not less than once in five years, cause to be made for such municipality a valuation of all rateable property within the municipality by a competent person or competent persons as valuers, and the rates made by the council for the purposes of this Act shall be made upon such valuation.

Valuation of property omitted to be valued.

CXVII. It shall be lawful for the council at any time to direct that a valuation be made of any property discovered to have been omitted from the valuation roll, and of any property subdivided or any buildings erected between any two valuations, and to appoint a valuer or valuers for that purpose.

How annual value of property to be calculated.

CXVIII. The annual value of any property valued under the provisions of this Act shall, for the purpose of framing any voters' roll, or for the purpose of making any rates (in case the council shall determine to assess rates upon the annual value) be deemed to be a sum equal to six per cent. upon the capital sum for which such property has been valued.

Declaration to be made by valuer.

CXIX. Every valuer shall, before entering upon the valuation entrusted to him, make before some justice of the peace a solemn declaration in the terms following:—

“ I ———, do solemnly and sincerely declare that I will to the best of my skill and knowledge, and without fear, favour or prejudice, truly and impartially appraise and value all such property as I shall be required to value in the municipality of ———, for the purpose of assessment, and that I shall conscientiously value the same at and for the full and fair price or sum which such property would, in my judgment, be likely to realize if brought at the time of valuation to voluntary sale, and sold upon the usual terms and conditions. And I make this solemn declaration conscientiously intending to fulfil the same; and by virtue of the provisions of the Ordinance No. 6, 1845, entitled ‘ An Ordinance for substituting Declarations in the place of certain Oaths, and for the suppression of voluntary and extra-judicial Oaths and Affidavits.’

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“ Declared at ———, this ——— day of ———,
“ Before me ———.”

And every such declaration shall be lodged with and preserved by the municipality to which it relates.

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

Valuer's power of entry.

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

Questions which valuer may put.

Penalty for refusing to answer such questions.

CXXII. As soon as any valuation as aforesaid shall be completed, the roll shall lie in the office of the municipality

Valuation Roll to be open for inspection.

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for the inspection of every owner or occupier of any property included therein who may, upon all lawful days, and at reasonable times, inspect the same and take extracts therefrom, and the council shall by public notice announce, for general information, that upon some day and at some hour and place to be fixed by such notice, a court will be held at which at least a quorum of members shall be present for the purpose of hearing and determining objections to such valuation: Provided that the notice shall be published fourteen days at least before the day appointed therein for the holding of such court.

Court to hear objections.

CXXIII. Upon the day and at the place and hour mentioned in such notice, the council shall hold a court, and shall hear all objections which may be urged to any valuation, by any owner or occupier, or other person on his behalf, and shall inquire into the merits of such objections, and shall confirm, alter, or reduce any valuation objected to: Provided that the said court may be adjourned from time to time upon the application of any person objecting, who shall show reasonable grounds for not being ready with proofs, or for the purpose of obtaining further evidence in regard to any case which shall have been partly heard.

Power of appeal.

CXXIV. 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 one month against such valuation from the decision of the court in the last preceding section mentioned to the court of the resident magistrate of the district in which such property shall be situated, 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 lawful for such resident magistrate, instead of himself deciding such question, at the request of the council or party objecting to record such question of law for decision by some superior court, and such question shall be stated in the form of a special case, and may be argued before and determined by the Supreme Court, or by the Court of the Eastern Districts or High Court of Griqualand, in case any such question shall arise within the limits of the jurisdiction of such last-mentioned courts respectively, and the court adjudicating upon any such special case may make such order as to costs as to the court shall seem fit.

MAKING OF RATES.

What rates may be levied.

CXXV. The council of every municipality shall once at least in every year, and may from time to time as

they may see fit, make and levy rates upon all rateable property within the municipality. And such rates may be:

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- (1) A landlords' or owners' rate assessed upon the value of the rateable property.
- (2) A tenants' rate assessed upon the annual value of such property.

Or either or both of such rates.

Provided that no rate exceeding twopence in the pound on the value, or eightpence in the pound on the annual value, of any rateable property, and no such special rate as in the next succeeding section mentioned, shall be levied unless notice of the intention to levy such rate or special rate as the case may be, shall be published by the Council for not less than seven days; and any twenty ratepayers may, within seven days after the last publication of such notice, demand that the question whether such rate or special rate shall be levied or not shall be submitted to the election of, and be determined by, the ratepayers in the manner by this Act provided for determining whether or not a loan shall be incurred.

CXXVI. Where it appears to the council that any work, improvement, or undertaking which the council is authorized to do or execute is for the special benefit of any particular portion of the municipality, the council may for defraying the expenses incurred in doing or executing such work, improvement, or undertaking by resolution distinctly defining such portion, make and levy a rate to be called a "special rate" equally on all rateable property situated within such portion.

Special rates for works in special localities.

RECOVERY OF RATES.

CXXVII. Every rate assessed by the council of any municipality shall become due and payable upon a day to be fixed by the council, of which day, and the amount of the said rate, the council shall give at least thirty days' notice by advertisement in a newspaper (if any) circulating in such municipality and in such other mode as the council shall by resolution direct.

When rates payable.

CXXVIII. Whenever the council shall have given such notice as aforesaid of the day on which any rate will become due and payable, it shall be the duty of all persons liable for such rate to pay the amount thereof to the municipal clerk or any collector duly authorized by the council to collect and receive the same, failing which defaulters will be liable to legal proceedings for the recovery of the amounts due by them respectively.

Proceedings in default of payment of rates.

CXXIX. If after the expiration of the time fixed for the payment of any such rate as aforesaid, any person fail

How defaulters to be sued.

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to pay any rates due by him it shall be competent for the council to cause a demand in writing to be made upon such person, requiring such person to pay the amount stated in such demand within fourteen days after service thereof. And in case any person who shall have had any such demand delivered to him personally, or left at his ordinary place of residence, or place of business, or office, shall make default, it shall be lawful for the chairman of the council to issue his warrant directed to the messenger of the court of the resident magistrate of the district requiring such messenger to levy and raise the amount stated therein by sale of the goods and chattels found on the premises in respect of which such rate shall be due, and continuing to be occupied by the person on whom such notice shall have been served. And every such messenger receiving any such warrant shall execute the same as if a warrant issued out of the court of the resident magistrate of the district, and shall conform to such rules and make such charges in respect of the execution of such warrant as are for the time being applicable to warrants of such Court as aforesaid.

Actions for rates in
Magistrate's
Court.

CXXX. Notwithstanding the provisions of the last preceding section the council may at their discretion after the expiration of the time fixed for the payment of any rate as aforesaid, recover from any person in default (without further notice or demand) the amount of rates due by such person by action in the court of resident magistrate, as hereinafter in this Act is provided.

Jurisdiction in re-
gard to rates.

CXXXI. Any rates assessed as aforesaid and unpaid after the expiration of such notice as aforesaid shall in case the amount thereof do not exceed fifty pounds, be recoverable at the suit of the council of the municipality or their collector thereto appointed in writing, by action in the court of the resident magistrate of the district in which such municipality is situated, or in case the person liable for such rate shall not reside within such district, then either in the court of the resident magistrate of such district or in the court of resident magistrate of the district in which such person shall reside: Provided that as often as any such person not resident in the district in which the municipality is situated shall be proceeded against in the court of resident magistrate of such district the summons directed to such person may be served upon the person, if any, in occupation of the property in regard to which the rate alleged to be due is claimed, or upon the person summoned by the messenger of the court of any resident magistrate in which such person shall be found.

Evidence in suits for
recovery of rates.

CXXXII. In any proceeding to levy or recover rates or consequent on the levying or recovering of any

rate under the provisions of this Act the valuation rolls and rate books of the council, and all entries purporting to be made therein in manner by this Act required, extracts or certified copies thereof signed by the chairman and sealed with the seal of the municipality, shall upon production thereof alone be *prima facie* evidence of such rate, and of the contents thereof without any evidence that the notices required by or other requirements of this Act, have been complied with: Provided that it shall be competent for any person proceeded against to offer evidence to prove the contrary.

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CXXXIII. When the occupier or owner who is rated to any rate ceases to be the occupier or owner of the property in respect whereof he is rated before the end of the period in respect of which such rate was made, such occupier or owner shall be liable to pay a portion only of the rate payable for the whole of such period proportionate to the time during which he continued to be the occupier or owner, and any person who shall be the occupier or owner of the property during the remainder of the period, shall be liable to pay a portion of such rate in proportion to the time during which he is such occupier or owner, and the same shall be recovered from him in the same manner as if he had been originally rated for such property.

In cases where owner or occupier ceases to be such before period for which rates due.

CXXXIV. When the occupier of any rateable property is rated in respect thereof, and the rate remains unpaid for three months, the council or their collector, notwithstanding any judgment or order of any court for the recovery of such rate from any other person, may, at any time within twelve months after the making of the rate by notice served as aforesaid, or published in the Government Gazette and in some newspaper circulating in the neighbourhood, demand the amount of such rate or any part thereof from the owner for the time being of such rateable property, and on non-payment thereof after one month from the service or publication of such demand may recover the same from such owner before any court of competent jurisdiction; and subject to any agreement previously made between the owner and occupier, the owner may recover the sums so paid, if not paid on demand, from such occupier as arrears of rent could be recovered from such occupier by such owner.

When owners may be sued for default of occupier.

CXXXV. When the owner of any rateable property has been rated in respect thereof, and the rate remains unpaid for three months the council, or their collector as aforesaid, may, at any time within twelve months after the making of the rate, demand the amount of such rate or any part thereof from the occupier for the time being of such rateable property, and on non-payment thereof may, after

When owner in default, demand against occupier.

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one month from the date of such demand, recover the same in like manner as rates may be recovered from any occupier liable to be rated. And every such occupier shall be entitled, subject to any agreement to the contrary, to deduct from any rent payable by him to such owner so much as was so paid by or recovered from him; and the production of the receipts for such rates so paid by or recovered from such occupier shall, subject as aforesaid, be a good and sufficient discharge for the amount so paid or recovered as payment of rent to the owner.

When occupier
refuses to disclose
name of owner.

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

When interest to
run on rates in
default.

CXXXVII. In case any rates made or levied under the provisions of this Act shall remain unpaid after three months from the date fixed by the council for the payment thereof, interest upon such rates shall be chargeable and recoverable by such council at the rate of six per centum per annum, reckoned from the date upon which such period of three months shall expire.

When property rated
may be seized and
leased.

CXXXVIII. Where any rateable property in any municipality is unoccupied, and the rates thereon accrued and due at the time such municipality shall come under the operation of this Act, or any rates thereon accrued under this Act shall have been unpaid for five years, the council may, in the name of the municipality, take possession of such property and grant leases of the same subject to the provisions of this Act.

For what term.

CXXXIX. Every such lease shall be for such term, not exceeding five years, as the council may deem fit, and shall be granted for the best rent which may be reasonably had for such property, and subject to such covenants and conditions as the council may determine.

Notice before the
seizure.

CXL. The council shall not take possession of any such property until three months after a notice in writing setting forth that rates in respect of such property are unpaid, and demanding payment thereof, and stating that in default of payment the council will take possession of such property under the provisions of this Act has been served upon the owner of such property, if within this colony, and whose name and address is known to the council or if there is no such owner within this colony, or no such owner whose name and address is so known, until such notice

has been affixed to some conspicuous place on such property and published in the Government Gazette at least once a month during three months; and every such notice shall contain a sufficient description of the property to identify the same; but every lease granted by the council otherwise in accordance with the provisions of this Act shall be valid notwithstanding the non-compliance with the provisions of this section, unless all arrear rates and interest thereon are paid within twelve months after the council shall have taken possession.

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

How owner may regain possession.

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

Application of rents accruing under the leases.

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

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

CXLIII. Unless some person entitled to resume possession of any property of which the Council of any municipality 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 such municipality.

After prescriptive possession of 30 years property seized to vest in Council.

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LOANS.

Borrowing power for works.

CXLIV. Subject to the provisions of this Act, the council of every municipality may borrow money for permanent works or undertakings, or to liquidate the principal moneys owing by the municipality on account of any previous loan.

Plans and specifications of works to be prepared.

CXLV. Before proceeding to borrow any money for the construction of permanent works and undertakings, the council of every municipality shall cause to be prepared plans and specifications, and an estimate of the cost thereof, and also a statement showing the proposed expenditure of the money to be borrowed, and such statement shall be open to the inspection of the ratepayers, for one month after the publication of the notice next hereinafter mentioned at all reasonable times.

Notice to be given of intention to borrow.

CXLVI. No proposition for borrowing money for any of the purposes aforesaid shall be adopted by the council, unless a notice thereof has been published in the Government Gazette and also twice in some newspaper generally circulating in the neighbourhood, not less than one month nor more than three months before such proposition is adopted, stating the amount of the moneys proposed to be borrowed, and the purposes for which the loan is to be applied, and in case such loan is to be expended in the purchase of any land, works, or undertakings, specifying such land, works, or undertakings, and in case the loan is to be expended in the construction of works or undertakings, stating that the plans and specifications and estimate of such works, and the statement hereinbefore mentioned, are open for inspection at the office of the council.

When proposal to borrow, must be submitted to ratepayers.

CXLVII. Within one month after the last publication of such notice as aforesaid, of any proposition to borrow money, not being a proposition to borrow money to liquidate any loan lawfully incurred, any twenty ratepayers may by writing under their hands delivered to the chairman or clerk of the municipality, demand that the question whether or not such loan shall be incurred, be submitted to the election of the ratepayers.

Proceedings on demand for such submission.

CXLVIII. When any such demand has been made, the votes of the ratepayers shall be taken upon such questions on a day to be fixed by the council of which day not less than fourteen days' notice shall be given and on such day a poll shall be taken in the manner by this Act prescribed for holding elections of all ratepayers who desire to prohibit the council from proceeding further with such loan.

Scrutineers.

CXLIX. One scrutineer shall be appointed by the council and the persons demanding a poll may by

Amended by 1908 Act 32, Sec. 1(a) + (b)

writing under the hands of a majority or the whole of them also appoint one scrutineer to be present at every polling place.

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CL. Immediately after the close of the poll, the number of votes recorded thereat shall be ascertained in the manner provided for ascertaining the number of votes at elections, and the returning officers shall, as soon as conveniently may be on or after the day of the poll, give notice to the council of the number of votes recorded, and the council shall be prohibited from proceeding further with such loan if the number of votes recorded against the loan exceeds one-half of the total number of votes for which voters are recorded on the voters' roll of the municipality.

How result of poll to be ascertained.

CLI. If no such demand is made as aforesaid, that the question whether or not such loan be incurred be submitted to the election of the ratepayers, or if on such demand being made the ratepayers fail to prohibit the council from proceeding further with the loan, the council may at any time not more than six months after the last publication of such notice as aforesaid pass a resolution for borrowing money for the purposes mentioned in the notice.

In case proposal to borrow be not opposed, or fail to be prohibited.

CLII. No resolution for borrowing money shall be adopted by the council, unless at the meeting of the council at which the resolution is confirmed as herein required, the resolution for confirmation is carried by a majority of the whole number of members of the council: Nor shall any such resolution be adopted if the sum proposed to be borrowed, together with any sums previously borrowed and not repaid, would exceed a sum equal to ten times the then annual revenue of the municipality.

Majority necessary to support proposal to borrow.

CLIII. The council of every municipality shall cause a separate account to be kept in some bank, for every loan incurred by them, and all money forming part of such loan shall be paid into such account, and shall be applied solely to the purposes for which the same was borrowed.

Separate accounts to be kept of borrowed money.

CLIV. For the temporary accommodation of councils of municipalities, it shall be lawful for such councils to obtain advances from banks, by overdraft of the current account upon the credit of the municipality. But no such overdraft or accommodation shall at any time, under any circumstances exceed the prior year's income.

Advances from Banks.

CLV. If after the commencement of this Act, the council of any municipality borrow any money, as on the credit of the municipality which the municipality is not legally bound to pay, all councillors who have consented to the borrowing of such money shall be jointly and severally liable to repay the same and all interest thereon to the

When Councillors personally liable for loans.

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persons from whom the same was borrowed, and the same may be recovered from such councillors or any of them, as money lent by such persons to such councillors in any court of competent jurisdiction, but in no case shall such money be recoverable from the municipality.

POWERS AND DUTIES OF THE COUNCIL.

Powers and duties of Council.

CLVI. The council shall have power and authority to do all or any of the following things :—

To make, construct, alter, keep clean and in repair the roads, streets, dams, furrows, sewers, drains, culverts, and bridges within the limits of the municipality.

To excavate, construct, and lay down within the limits of the municipality, water courses, water pipes, conduits, sluices, dams, reservoirs, aqueducts, wells, and other works for supplying the inhabitants of the municipality with water, and to keep the same in repair, or to grant leave to any person, or company of persons, to lay down pipes or to execute any other like works.

To lease, or purchase any land, and to erect, lease, or purchase, maintain and keep in repair, any building or buildings for any municipal requirement or purpose.

To lease, purchase, or erect and maintain such school buildings and manage such schools as the council shall, from time to time, think proper; 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 schools should be required under any Act which may now or hereafter be in force for this purpose.

Police, street keepers and other officers.

CLVII. The council of any municipality may appoint and employ such number of streetkeepers, policemen, and special constables as shall be required for the protection of the inhabitants and property, streets, and public places within the municipality by day and by night; and to provide all such streetkeepers, policemen, and special constables with such clothing, arms, ammunition and weapons, and appoint to them such duties and hours or time of duty, and to make such rules, orders, and regulations, relative to such streetkeepers, policemen, or special constables and their duties, as shall be deemed fit. All such streetkeepers and policemen shall act as constables within the municipality while in the execution of their duties under this Act, and are hereby invested with and shall have and enjoy the like powers,

authorities, privileges, and immunities, and shall be subjected to such and the like penalties and forfeitures as constables or policemen are invested with, or shall or may have or enjoy or are or may be subject to or liable to by law: provided that nothing in this section contained shall be taken to alter or affect any existing law regulating the number of police required to be provided by or in any municipality.

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CLVIII. The Council of every municipality may, within the municipality and with the consent of the Governor, take land with or without buildings for the purpose of executing any work or undertaking authorized by this Act, and the council shall make full compensation to the owners and occupiers of any lands so taken.

Power to take lands &c.,

MUNICIPAL LANDS.

CLIX. The property of and in all lands, streets, roads, and buildings to which the inhabitants of any municipality shall at any time have or acquire a common right, shall be vested in the council of such municipality for the time being.

Common lands, &c., of inhabitants vested in Council.

CLX. When and as often as the council shall at any meeting duly convened for that purpose, resolve that it is expedient to dispose of or alienate or permit to be built upon, enclosed, or cultivated, any part or portion of the common pasture lands of the municipality, or any other lands which shall be vested in the said council, it shall and may be lawful for the council to apply in writing for the consent of the Governor to the proposed sale, lease or other arrangement for the occupation or enclosure of any part or portion of such lands, and upon obtaining such consent, but not otherwise, to execute or carry into effect such sale, lease, or other arrangement.

As to disposing of, enclosing, &c., such lands.

CLXI. No such application shall be made to the Governor aforesaid until a notice in writing of such intended application shall have been posted for general information at some conspicuous place within the municipality for a period of not less than fourteen days, and published for a like period in a newspaper (if any) published or circulating within such municipality, which notice shall in some part thereof describe the part or portion of land proposed to be sold, leased, or otherwise permitted to be occupied or intended to be enclosed, and the object, terms and conditions of the proposed sale, lease or other right of occupation or enclosure, and shall require any person objecting to the proposed proceeding to lodge with the council, within fourteen days from and after the date of the posting of such notice, his objections thereto in writing.

Notice of application for such dealing with lands to be given.

CLXII. In every case in which any such council as aforesaid shall apply to the Governor for such consent as

Copy of notice and of objections to be sent to Governor,

No. 45—1882.

aforesaid, they shall transmit, together with such application, a copy of the notice posted as aforesaid, and of all objections which shall have been lodged in pursuance thereof, with such observations, if any, upon such objections as they shall deem necessary or fitting.

Contract of sale, &c.,
to be completed
when Governor's
assent given.

CLXIII. When and as soon as the Governor shall have signified his assent to such application as aforesaid, all contracts, leases, or other instruments necessary to effect the object of such application may be signed or executed.

MISCELLANEOUS.

Pound Ordinance 16
of 1847 to apply.

CLXIV. The provisions of the Ordinance No. 16, 1847, commonly called the "Pound Ordinance," and of all Acts amending the said Ordinance, shall *mutatis mutandis*, extend and apply to every municipality hereafter constituted or brought under the operation of this Act: Provided that the council of every such municipality shall, in regard to every pound established therein, have and exercise all the powers now had and exercised by the civil commissioner and divisional council in regard to pounds not within municipalities.

Newspapers for
Notices.

CLXV. In all cases in which any matter or thing is by this Act required to be published, advertised, or inserted in a newspaper generally circulated in the municipality or neighbourhood, the said newspaper shall be such newspaper as the council shall for the time being appoint in that behalf.

Power of entry.

CLXVI. The council shall for the purposes of this Act have power, by themselves or their officers, to enter at all reasonable hours in the daytime into and upon any building or land within the municipal district for the purpose of executing any work or making any inspection authorised to be executed or made by them under this Act without being liable to any legal proceedings on account thereof.

Service of process.

CLXVII. Any summons or notice, or any writ or other proceeding at law requiring to be served upon any municipality may be served by being given personally to the chairman or municipal clerk, or left at the municipal office.

Authentication of
documents.

CLXVIII. Every order, notice, or other document requiring authentication by the council may be sufficiently authenticated without the common seal of the municipality if signed by two councillors or by the municipal clerk.

Penalties for ob-
structing officers.

CLXIX. Every person who shall at any time obstruct the council, or any person employed by them, or any person appointed by the Governor in the performance of anything which they are respectively empowered or required to do by this or any other Act, shall be liable to a penalty not exceeding five pounds.

Legal proceedings
and expenses.

CLXX. The council may order proceedings to be taken for recovery of any penalties and for the punishment

of any person offending against the provisions of this Act, or of any bye-law made thereunder, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund.

No. 45—1882.

CLXXI. Where any matter or thing is by this Act or by any order or notice made and published under the authority hereof directed or forbidden to be done, or where any authority is given by this Act to any person to direct any matter or thing to be done, or to forbid any matter or thing to be done, and such Act so directed to be done remains undone, or such Act so forbidden to be done is done in every such case, every person offending against such direction or prohibition shall be deemed guilty of an offence against this Act.

What shall constitute offences against this Act.

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

Penalties.

CLXXIII. All penalties or other moneys payable in respect of any offence against this Act, or any bye-law made thereunder, may be recovered before the court of the resident magistrate of the district.

Recoverable in Resident Magistrate's Court.

CLXXIV. All offences against any bye-law or regulation in force in any municipality shall be deemed to be offences against this Act, and in any prosecution for contravening the provisions of any such bye-law or regulation it shall be sufficient to allege that the accused is guilty of contravening or offending against a bye-law or regulation in force in the municipality, without describing the bye-law or regulation by number or otherwise, and alleging the act complained of.

Offences against bye-laws.

CLXXV. Whenever any penalty shall have been imposed under the provisions of this Act or of any bye-law made thereunder, and the person convicted shall not forthwith pay the same, the court may direct that such person be imprisoned with or without hard labour for a period not exceeding one month if the penalty imposed do not exceed five pounds, or not exceeding three months if the penalty be above five pounds, and such person shall be detained and kept to hard labour accordingly unless he shall sooner pay the penalty.

Punishment if penalties not paid.

CLXXVI. All penalties recovered for offences against the bye-laws of any municipality, or for offences against this Act committed in any municipality, or in any way in respect of the municipality, shall be paid into the municipal fund of such municipality.

Application of penalties paid.

CLXXVII. For the purposes of any land taken, or any arbitration under the provisions of this Act, the provi-

"Lands and Arbitration Clauses Act, 1882," to apply.

No. 45--1882. sions of the "Lands and Arbitration Clauses Act, 1882," are hereby incorporated.

Boundaries of Municipality may be altered by Proclamation and Regulations repealed.

CLXXVIII. Notwithstanding anything in this Act contained it shall be lawful for the Governor from time to time, by proclamation to be published in the Government Gazette, to alter the boundaries of any existing municipality, not being a municipality incorporated by any Ordinance or Act, or to repeal any municipal regulations now in force in any municipality whether incorporated or not.

"Weights and Measures Act, 1876," to apply.

CLXXIX. For the purpose of assizing weights and measures, the provisions of "The Weights and Measures Act, 1876," are hereby incorporated.

Short Title

CLXXX. This Act may be cited as the "Municipal Act, 1882."

FIRST SCHEDULE.

ENACTMENTS REPEALED.

Number and Year.	Title.	Extent of Repeal.
Ordinance No. 9, 1836	Ordinance for the Creation of Municipal Boards in the Towns and Villages of this Colony, on which the Local Regulations of each shall be founded.	So much as has not been already repealed.
Ordinance No. 2, 1844	Ordinance for amending the Ordinance No. 9, 1836, entitled "An Ordinance for the Creation of Municipal Boards in the Towns and Villages of this Colony on which the Local Regulations of each shall be founded."	The whole.
Ordinance No. 8, 1848	Ordinance for enlarging in certain respects the Powers of Municipal Commissioners in regard to the Common Pasture Lands of the Municipality.	The whole.
Ordinance No. 5, 1852	Ordinance to enable Municipal Commissioners appointed under Ordinance No. 9, 1836, to purchase or hire immovable property for municipal purposes.	The whole.

Number and Year.	Title.	Extent of Repeal.
Act No. 15, 1860	For continuing the Ordinance No. 9, 1836, intituled "Ordinance for the Creation of Municipal Boards in the Towns and Villages of this Colony, on which the Local Regulations of each shall be founded," as also the Ordinance No. 2, 1844, intituled "Ordinance for amending the Ordinance No. 9, 1836, intituled 'Ordinance for the Creation of Municipal Boards, in the Towns and Villages of this Colony, on which the Local Regulations of each shall be founded.'"	The whole.
Act No. 13, 1864.	To amend the Ordinance No. 9 of 1836, intituled "Ordinance for the Creation of Municipal Boards in the Towns and Villages of this Colony, on which the Local Regulations of each shall be founded."	The whole.

SECOND SCHEDULE.

FORM OF NOMINATION.

Municipality of _____.

We, the undersigned voters of the municipality of _____ (or if the municipality be divided into wards, for the ward No. _____ of the municipality of _____), do hereby nominate (*state christian and surname*) as a candidate for the office of councillor (*or auditor as the case may be*) of the said municipality at the election to be held for the said municipality (*or ward as the case may be*) on the _____ day of _____ 18 _____.

(Here are to follow the Signatures.)

No. 46—1882.

No. 46—1882.]

ACT

[June 30, 1882.

To declare and Amend the Law relating to Libel.

Preamble.

WHEREAS it is expedient to declare and amend the law relating to defamatory libels, be it declared and enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Penalties for defamatory libel.

I. Any person who shall publish a defamatory libel shall be deemed to be guilty of a crime and shall, upon conviction thereof, be liable to imprisonment with or without hard labour for any term not exceeding two years, or to a fine not exceeding five hundred pounds sterling, or to both such fine and such imprisonment as the court may award.

What defence under plea of not guilty.

II. Any person charged with the crime of publishing a defamatory libel may, under the plea of not guilty, set up any defence (save as hereinafter excepted), which might be pleaded in answer to a civil action for the same libel.

When truth of libellous matter a defence, special plea of justification necessary.

III. On the trial of any person accused of the crime of publishing such libel as aforesaid, the truth of the matters charged may be inquired into, but shall not amount to a defence unless it was for the public benefit that the said matters should be published in the manner in which and at the time when they were published, but to entitle the defendant to give evidence of the truth of such matters, it shall be necessary for him to file a special plea of justification in manner hereinafter in the fourth section of this Act provided; and if after such plea the defendant shall be convicted, it shall be competent to the court in pronouncing sentence to consider whether the guilt of the defendant is aggravated or mitigated by the said plea or by the evidence given to prove or disprove the same: Provided always that the truth of the said matters shall in no case be inquired into without such special plea: Provided also that the defendant may plead such special plea alone or in addition to a plea of not guilty.

Plea of justification to be in writing and signed, &c.

IV. Every such special plea of justification as hereinbefore in the third section of this Act mentioned shall be in writing and signed by the defendant or his counsel or attorney, and shall allege that the matters charged in the said libel are true, and that it was for the public benefit that such matters should be published in the manner in which and at the time when they were published, and shall also set forth the particular fact or facts by reason of which it was for the public benefit that such matters should be so published. A copy of such plea, together with a notice that the defendant intends to plead it, shall be served upon the prosecutor within such time before the trial as the court at the trial may

*Repealed by
1917 Act 31.*

Requisite contents of plea.

consider reasonable, in default whereof the court may refuse to permit such plea to be pleaded or may adjourn the trial upon such terms as it thinks fit. The prosecutor may reply generally to any such special plea of justification denying the whole thereof.

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Reply thereto.

V. Whenever under the plea of not guilty, upon the trial of any person for the publication of a defamatory libel, evidence shall have been given which shall establish a presumptive case of publication against the defendant by the act of any other person by his authority, it shall be competent to such defendant to prove as a defence that such publication was made without his authority, consent, or knowledge, and did not arise from want of due care or caution on his part.

When defendant may prove want of knowledge of publication of libel.

VI. If any person shall publish or threaten to publish any libel upon any other person, or shall directly or indirectly, print or publish, or shall directly or indirectly propose to abstain from printing or publishing, or shall directly or indirectly offer to prevent the printing or publishing of any matter or thing touching any other person with intent to extort any money or security for money or any valuable thing from such or any other person or with intent to induce any person to confer upon or procure for any person any appointment or office of profit or trust, every such offender on being convicted thereof, shall be liable to be imprisoned with or without hard labour for any term not exceeding three years.

Threats to publish, or offers to abstain from publishing, libels.

VII. In case of any private prosecution for the publication of a defamatory libel, if upon a special plea of justification such as hereinbefore mentioned the issue be found for the prosecutor, he shall be entitled to recover from the defendant the costs sustained by him by reason of such plea, such costs so to be recovered to be taxed by the proper officer of the court before which the defendant is tried.

Costs in cases of private prosecutions.

Repealed by 1917 Act 31.

VIII. No criminal prosecution shall be commenced against any person under the provisions of this Act for the publication of any libel or defamatory matter without the written fiat or allowance of the Attorney-General, or, in case the publication shall have been made within the Eastern Districts or Griqualand West without the written fiat or allowance of the Solicitor-General or Crown Prosecutor for Griqualand West within their respective jurisdictions, as the case may be.

Fiat of Public Prosecutor necessary before criminal prosecution allowed.

IX. No court of a resident magistrate shall have jurisdiction in any case in which any person shall be charged with publishing a defamatory libel 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, the Solicitor-General, or the Crown Prosecutor for

When Magistrate's Courts shall have jurisdiction.

Repealed by 1917 Act 32.

No. 47—1882. Griqualand West, respectively, under the provisions of the statutes in that behalf made and provided.

Limitation of time for prosecution. X. No prosecution shall be commenced against any person for the publication of any defamatory libel after the lapse of a period of six months from the date of such publication.

Definition of term "Prosecutor." XI. The term "prosecutor" in this Act shall with regard to any private prosecution mean the private prosecutor, and shall with regard to public prosecutions mean the Attorney-General, Solicitor-General or Crown Prosecutor, as the case may be, by whom, or under whose direction such public prosecution shall be commenced or shall be conducted.

What is a "defamatory libel." XII. The expression "defamatory libel" in this Act shall have the same signification that is attached thereto by the law of England: Provided that nothing herein contained shall have the effect of giving force in this colony to any statutory enactment made and passed by the Imperial Parliament after the taking effect of this Act, unless the same shall be re-enacted here.

Short Title. XIII. This Act may be cited as the "Libel Act, 1882."

Repealed by 1887 Act 35.

No. 47, 1882.] ACT [June 30, 1882.
To Incorporate the Table Mountain Water Supply Company (Limited).

Preamble. WHEREAS it is expedient and desirable that a company should be formed and incorporated for constructing, maintaining and working waterworks for supplying the inhabitants of Wynberg, Claremont, Newlands, Rondebosch, Mowbray, Papendorp, New Brighton, and Cape Town, with good water: And whereas surveys have been made and measurements taken, by which it is shewn 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 the said villages and city: And whereas certain steps have already been taken by the appointment of a provisional committee, and the subscription of a fund considered sufficient to defray preliminary expenses toward the promotion of this object: And whereas it is deemed desirable that the liability of shareholders in the said company should be limited to the amount of their respective shares: Be it therefore enacted by His Excellency the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and the House of Assembly thereof, as follows:—

The Company incorporated. I. The several persons who are or shall become shareholders in the said company, their respective executors, administrators, successors, and assigns, shall be and are hereby

united into one body corporate, under the name and title of "The Table Mountain Water Supply Company" (Limited), 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 into Hout Bay, and constructing and maintaining the necessary waterworks, and supplying with water the villages of Wynberg, Claremont, Newlands, Rondebosch, Mowbray, Papendorp, New Brighton, and the City of Cape Town, and such other places as the directors of the said company shall deem fit, and the company hereby incorporated shall have perpetual succession and a common seal, and by such name shall and may from time to time sue and be sued, implead and be impleaded, answer and be answered unto in any competent court, and shall have power to take, purchase, and hold lands, buildings, and possessions and all other property, movable and immovable, or effects whatsoever; and such lands or other property shall be vested in the company by its corporate name, and without the necessity of each individual shareholder being mentioned in the deed or deeds of transfer, grant or grants or conveyances thereof.

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Its Objects.

II. The capital of the company shall be fifty thousand pounds sterling in two thousand five hundred shares of twenty pounds each, and such shares shall be numbered in arithmetical progression, beginning with number one, and each share shall be distinguished by its appropriate number: Provided, however, that the directors of the said company may increase the capital of the said company by the issue of new shares, not exceeding five thousand in number, thereby making the said capital amount to a sum not exceeding one hundred and fifty thousand pounds.

Capital and Shares.

III. The head office of the said company shall be at Cape Town..

Head Office.

IV. Subscription lists for shares in the said company shall be opened and headed as follows: "We, whose names are hereunder written, hereby agree with each other to become shareholders in the Table Mountain Water Supply Company (Limited), incorporated by Act of Parliament, and to take each of us the number of shares set opposite our respective names:" and every such list shall be signed by the shareholder himself or by his lawfully authorized attorney; and all such lists shall be preserved by the directors of the said company, and the shareholders signing such lists shall from that time be bound to each other for the due fulfilment of the several obligations by this Act imposed upon the shareholders in the said company, as fully and amply as if every shareholder had executed a trust deed containing all and singular the provisions and stipulations of this Act.

Subscription Lists.

No. 47—1892. Extent of Share- holders liability.	V. No more than twenty pounds in all shall be due or payable in respect of any share in the said company, and the liability of any shareholder shall be and is hereby limited to the payment of that amount in instalments as hereinafter mentioned.
How shares to be paid for.	VI. The shareholders shall pay the amount of their several shares in manner following, namely, five pounds per share in cash on subscribing and the remaining fifteen pounds by instalments not exceeding five pounds per share each, which instalments it shall be lawful for the directors to call up upon giving a notice to that effect of not less than one month in the Government Gazette and one or more local newspapers: Provided, however, that the resolution of directors making the said call be advertised at least twice in one of the Cape Town newspapers.
In case of failure to pay call.	VII. If at the time appointed for the payment of any call as aforesaid any shareholder shall fail to pay such call, it shall be lawful for such company to sue such shareholder for the amount thereof in any court having competent jurisdiction, and to receive the same with interest at the rate of six per cent. per annum from the day on which such call shall have become due and payable.
When shares may be declared forfeited.	VIII. Should any shareholder, after subscribing one of the lists in the fourth section mentioned, fail to pay the said sum of five pounds per share, or to pay the instalments of five pounds per share in the said section mentioned, or should any shareholder for the time being fail to pay any of the instalments or calls, as provided in the said section for the space of one month after the same shall have become payable, it shall be lawful for the directors of the company for the time being to declare by a resolution, in writing, signed by not less than three directors, at any meeting of such directors, the share or shares of such shareholder in respect of which he shall have made such default as aforesaid to be forfeited, and the same shall be forfeited accordingly, and any money which shall have been paid thereon shall become the property of the company, and the said directors may thereupon dispose of such forfeited share or shares to any other person or persons, and if needful issue fresh certificates to the persons purchasing such forfeited shares.
When works may be commenced.	IX. So soon as one thousand shares shall have been subscribed for and the sum of five thousand pounds paid on such subscribed shares, and no sooner, it shall be competent for the directors to commence the works contemplated in this Act, always, however, excepting the expenditure which may be incurred in procuring this act of incorporation, and other necessary expenses in establishing the company.

X. The general management of the affairs of the company shall be vested in seven directors, who shall be elected by ballot at a general meeting of the shareholders duly convened for that purpose: provided always that no person shall be competent to be a director of the said company who shall not possess in his own right ten shares in the stock of the said company. No. 47—1882.
Management of Com-
pany.

XI. The Hon. Alfred Edden, M.L.C., William Fleming, M.L.A., William Mortimer Maynard Farmer, M.L.A., William Wallace Dickson, Ludwig Wiener, John Spence, and John Ramner Marquard, shall be appointed the first directors, and shall so continue until other directors are appointed in their places, or they or any of them die, resign, or be removed and become incapacitated, as hereafter mentioned, shall go out of office, and seven directors shall be elected in their stead, and in like manner the whole of the directors shall go out of office annually, and shall be succeeded by seven directors to be then elected in their stead: Provided, however, that if from any cause whatever no election shall on such day in any year take place, the directors then in office shall remain until other directors shall be elected and consent to act; and provided that the directors who shall go out of office shall be eligible for re-election. First directors.

XII. At the meetings held for the election of directors or any other purpose connected with the affairs of the company, the shareholders present, either personally or by proxy, shall vote according to the following scale:— Votes of Share-
holders.

- The holder of five shares one vote,
- The holder of not less than ten shares two votes,
- The holder of not less than twenty shares three votes,
- The holder of not less than thirty-five shares four votes,
- The holder of not less than fifty shares five votes,
- The holder of not less than one hundred shares seven votes and no more.

XIII. Any director becoming insolvent or otherwise incapacitated to and in that behalf, or being absent from the colony for six months, or who shall cease to be the holder of ten shares as aforesaid, shall become disqualified and his seat be declared vacant. When Director's
office vacated.

XIV. In case the conduct of any director shall at any time be such that his continuance in office would, in the opinion of at least twenty shareholders, holding in the aggregate not less than two hundred shares, be prejudicial to the interests of the company, and notice thereof in writing signed by such shareholders shall have been given to the directors, the directors shall forthwith call a general meeting of shareholders in manner hereinafter described, and When Director may
be removed from
office.

No. 47—1882.

it shall thereupon be lawful for the shareholders voting at such meeting by a majority of votes to remove such director from his office.

Proceedings in case
of vacancy.

XV. Upon any vacancy in the board of directors occurring by any such means as abovementioned six months or more before the annual general meeting, the remaining directors shall forthwith call a special general meeting of shareholders, in manner hereinafter provided, to elect a director or directors to fill such vacancy.

Chairman to be
chosen.

XVI. The directors at their first meeting shall appoint a chairman from amongst themselves, who shall preside at all meetings of the directors, and in case of his absence, the directors present shall by a majority of votes elect a chairman for the meeting, such chairman to have a vote as a director and also to have a casting vote if there be an equality of votes. Three directors shall form a quorum and be competent to perform all acts which the directors are empowered to do and perform.

Annual meetings.

XVII. The annual general meeting of shareholders shall be held in Cape Town on the first Wednesday in February in each year, and a report shall be submitted to such meeting, setting forth the position and prospects of the company together with an account of receipts and expenditure during the preceding year.

Special meetings.

XVIII. The directors of the company, or the majority of them, may at any time call a special general meeting of the shareholders for the purpose of submitting to their consideration any question or matter concerning the interest of the company, and the directors shall, and may, call a special general meeting of the shareholders of the company, in addition to the annual general meeting, whenever required so to do by a requisition in writing to be left at the place of business of the company in Cape Town, signed by not less than ten of the shareholders, each of whom shall have been a registered shareholder for at least three months and representing in the aggregate not less than twenty votes, in which requisition the object for which such meeting is required to be called shall be fully explained, and the said meeting shall be called within twenty-one days after such requisition shall have been so left as aforesaid: Provided, that if the directors for the time being do not convene the same within the time specified, the requisitionists, or any other members holding the required number of shares, may themselves convene a meeting: Provided always, that notice of all such special general meetings, together with the purpose thereof, shall be published in the Government Gazette and one or more of the local newspapers at least fourteen days previous to the day upon which the meeting is to be held;

and provided also, that no business except that described and set forth in the published notice shall be brought before any such meeting.

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XIX. At any meeting of shareholders, no shareholder shall be entitled to vote in respect of any share or shares until he shall have been registered as the proprietor thereof for a period of at least one month previous to such meeting. An alphabetical list of the then shareholders of the company shall be made out and laid on the table previous to the commencement of any meeting of the shareholders.

What shareholders may vote at such meetings.

XX. No shareholder, residing at the time of holding any general meeting of shareholders within ten miles of the place where such meeting shall be held, excepting females, shall be entitled to vote by proxy; but any shareholder not being at the time of holding such meeting within ten miles of the said place of meeting, and any females holding shares in their own right or in right of their children being minors, shall be entitled to appoint a person to vote for him or her by proxy; but no vote or act by proxy shall be admitted unless the person appointed to vote be a shareholder duly qualified to vote, and the appointment of such proxy shall be in the form or to the effect in the schedule to this Act set forth.

When votes may be given by proxy.

XXI. All questions relating to any business or matter to be transacted or discussed at any general meeting of the shareholders, shall in the first instance be decided by a show of hands of the shareholders in the usual manner: Provided that any shareholder qualified to vote may demand that any question, then submitted, shall be put to the vote by ballot, in which case such question shall be decided by a majority of votes, to be taken by ballot from signed lists of the shareholders, and according to the number of votes which each shareholder may possess, as set forth in the thirteenth section of this Act; and that whatever resolution shall be adopted or negatived by a majority of votes so taken at such meeting, to be certified in writing by scrutineers to be appointed by the said meeting previously to taking such ballot, shall be binding upon every shareholder, and the same question shall not be reopened or proposed, nor any meeting called for the purpose of discussing such question at any time before the next annual general meeting; and provided, also, that the aforesaid demand for a ballot shall be made immediately after the show of hands, and that the ballot so demanded shall forthwith be taken, and shall not remain open for more than two hours.

How questions at meetings to be decided.

XXII. Should the shareholders at any general meeting, as aforesaid be unable to come to any decision upon the question duly brought before them, or should the scrutineers

When meetings may be adjourned.

- No. 47—1882. be unable to declare the result of the ballot on the day, or should any other circumstances render it desirable so to do, it shall be competent for the chairman at such meeting to adjourn the same until the following or some future day, in such manner as the shareholders present shall determine by show of hands, and so on from time to time as often as may be necessary. In the event of votes being equally divided the chairman of the meeting shall decide the question by his casting vote.
- Minutes. XXIII. The minutes of the proceedings of every meeting of the shareholders shall be entered in a proper book, to be kept for that purpose, and shall be signed by the chairman presiding thereat.
- Accounts. XXIV. The accounts of the company shall be audited annually by two auditors not being directors, such auditors to be appointed by the shareholders at each annual general meeting.
- Register of shareholders. XXV. The directors shall keep a register of shareholders, wherein they shall enter the names and places of abode of all the shareholders, and the proper number of each share to be entered in a book to be kept for that purpose, to be called the "Share Registry Book," and every shareholder shall be entitled to a certificate or certificates at his option, specifying the share or shares held by him, and the certificate shall be in the form set forth in the schedule to this Act, which certificate shall at all times be deemed sufficient evidence of the interest held in the company by the respective parties to whom the same shall be granted.
- Transfer of shares. XXVI. Any shareholder may transfer his share or shares by endorsement upon each certificate, specifying the person to whom such share is transferred, but no such transfer shall have any force or effect, as regards the affairs of the company, until a registration of the same shall have been duly made in the books of the company, three directors shall have certified their consent, in writing, to such transfer, and until the assignee or transferee shall either in person or by attorney acknowledge his proprietorship in substance as follows:
- I, C. D., do hereby acknowledge to have received by transfer from E. F. shares, No. _____ in the Table Mountain Water Supply Company (Limited), subject to the conditions, regulations, and provisions of the Act of incorporation of the said company.
- Shareholder transferring released from liability. XXVII. Any shareholder transferring his share or shares as aforesaid, shall be wholly released and discharged from all liability in respect thereof from date of registration,

and the person to whom the same is transferred shall be subject to all and singular the same liabilities in respect of such share or shares, as if such person had been the original shareholder.

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XXVIII. The board of directors of the company is hereby empowered to enter into contracts for the supply of work or materials necessary for the construction and working of the said waterworks, and may also appoint and employ such officers and workmen as it may deem necessary for carrying out the provisions of this Act, and also to remove or dismiss any such persons and employ others in their stead; and to fix the duties and salaries of all such persons, and generally all matters and things necessary for the due and effective management of the affairs of the company.

Power to make contracts.

XXIX. So soon as the £50,000 of the capital of the company shall have been paid up and expended, it shall be lawful for the directors from time to time, when duly authorized thereto by the shareholders at a special meeting convened for the purpose, to borrow money on security of the works and the future calls on the shareholders and of the expected earnings of the water supplies and the interest on such loan shall be a first claim upon the net profits of the working of the said waterworks.

After £50,000 paid up power to borrow further.

XXX. The directors shall and may make such rules, orders, regulations, and bye-laws for carrying on the business and management of the said company as to them shall seem just and expedient: Provided the same be not repugnant to law, and to the provisions of this Act, and shall be consented to by the majority present at a general meeting of the shareholders convened upon fourteen days' notice in the Government Gazette and one other local newspaper, to consider such rules, orders, regulations, and bye-laws.

Rules and bye-laws may be made

XXXI. Should it at any future time be deemed expedient for the extension of the operations of the said company to increase the capital stock of the company, it shall be competent for a majority of two-thirds of the then existing shareholders present, personally or by proxy, at a general meeting convened after notice given for the purpose, to create and issue such additional shares or by increasing the value of the original shares as shall be considered by them necessary to carry out such extension.

Power to increase capital of Company.

XXXII. No more than £20 in all shall be due in respect of any additional share or any increase in the value of the said original shares, and the further future liability of any shareholder arising out of any extension of the said waterworks shall be and hereby is limited, in case of such extension, to the payment of a sum not exceeding £20 per

Liability in respect of shares limited.

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Payment for additional shares, &c.	XXXIII. The amount of the additional shares or of the increased value of the original shares shall be paid as in manner provided in the sixth section of this Act, and may be recovered or forfeited as in manner provided in the seventh and eight sections of this Act.
Property vested in directors.	XXXIV. The right to, and property in, all and singular, the materials, stock, and everything appertaining to the said waterworks constructed under this Act, shall be vested in the board of directors for the time being.
How Company to sue and be sued.	XXXV. In any suit or action which may be brought by or against the said company or against the said directors of the said company in their capacity as such, it shall and may be lawful for such company or for such directors to sue or to be sued by the style or description of "The Table Mountain Water Supply Company (Limited)." Provided that the said directors shall be repaid out of the funds of the company, under the provisions of this Act, all costs and expenses which they shall incur by reason of bringing or defending any suit or action, unless such suit or action shall have arisen from their own gross negligence or wilful default.
Payment of directors	XXXVI. The chairman and directors for the time being may receive out of the clear profits of the company such sum or sums of money, by way of remuneration for their trouble, as the majority of the shareholders shall determine at the annual general meeting.
Dividends—how declared and settled.	XXXVII. The amount of dividends to be paid to the shareholders in the said company, shall be determined by the directors for the time being, subject to the approval of the shareholders present at the annual general meeting: Provided, however, that no dividend shall be paid whereby the capital stock shall be in any way reduced.
Powers of acquisition, diversion, &c. of water.	XXXVIII. The said company shall be empowered to take, impound, divert, appropriate and convey 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 in 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 of this colony, to grant to the said company, 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 it is intended that such supply 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 water or right of water, or any right of water which he may at the time of the taking effect of this Act possess or be entitled to, or in any way interfere with or lessen such water or right of water, such person shall be entitled to recompense or compensation to be settled in case of difference as in the forty-fifth section of this Act is provided: Provided, further, that no person to whom any Government land shall be sold or leased after the passing of this Act shall thereby acquire any water or right of water for the interference with or lessening of which by the works hereby authorized he shall be entitled to claim any recompense or compensation.

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XXXIX. Notwithstanding anything in the last preceding section contained, the town council of Cape Town shall have the right to, and be entitled within three years from the completion of the works, as certified on the certificate of such person as the Governor shall appoint, to take one-third of the whole quantity of the daily run or supply of the springs or streams rising in the Hout's Bay Valley for the use of the inhabitants of Cape Town, and may lead such water into Cape Town, and in so leading the water into Cape Town, the said council shall *mutatis mutandis*, have the same rights and powers and be subject to the same obligations as the said company has, and is subject to, under the provisions of this Act: Provided, however, that upon taking the said water, the said council shall pay to the said company one-third of the compensation paid by the said company for the expropriation of land in the said Hout's Bay Valley, one-third of all compensation paid by the company for water rights in the said valley, one-third of the cost of all works that have been carried out by the company for the collection of water above the intakes, and one-third of the cost of maintaining the said works above the intakes: Provided, further, that in case the said council and the said company shall not be able to agree as to the sum to be so paid, the question of the amount of such payment shall be settled by arbitration in the manner provided in the forty-fifth section of this Act: Provided, however, that the said town council shall take the said water, at the points selected by the said company for their intakes.

Rights given to
Town Council of
Cape Town in re-
gard to water from
Hout's Bay sources

XL. The said company is hereby empowered to construct and make, or cause to be constructed and made, all such works as may in the opinion of the directors of such company be necessary and expedient for the purpose of impounding, storing, diverting, appropriating, taking or conveying the said water, whether by reservoirs, dams,

Company's power of
Construction and
maintenance.

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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 said villages, or for the city of Cape Town, and for the shipping visiting Table Bay, as well as for such irrigation and other purposes as the said company may deem necessary and expedient.

Powers of entry on and taking of Government lands, and of "Orange Kloof" lands.

XLII. The said company 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 any place or village not being a municipality at the time of the passing of this Act, and also to enter upon, occupy, enclose, take and use 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 works aforesaid, for the obtaining of the necessary drainage area or for any of the purposes of this Act, and may agree, as hereinafter provided, for the purchase or hire of such 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 lands and the said farm as hereinafter provided, or enter into any contract relative to obtaining such lands or materials, or for laying down any pipe or pipes, or other works upon such terms and conditions as may be mutually agreed to.

Power to acquire other lands, Government and private.

XLIII. It shall be lawful for the said company to acquire and take possession, in manner hereinbefore and hereinafter provided, of any land, whether belonging to Her Majesty the Queen, commonly called "Crown Lands," or land set apart for glebe or commonage as aforesaid, or land belonging to private persons that may be required for the purpose of protecting the sources of the said Back or Hout River or any of its tributaries, the drainage area required for the collection of water or the sources of supply from whence the water may flow into the reservoirs, dams, places, or place where the said works may take off the water of the said river or any of its tributaries.

To lay down pipes, &c.

XLIII. The said company is hereby empowered to lay down pipes, or construct conduits under or along any public road or street, or under or along any ground set

apart in the diagram or conditions of sale of land as a street or thoroughfare, without making or being liable to any compensation in respect thereof: Provided however that when the said company shall open any street or thoroughfare under the provisions of this or any other Section of this Act, the said company shall restore the street or thoroughfare so opened to the same condition in every respect as it was in before being so opened.

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XLIV. It shall be lawful for the said company, at all times by themselves, their engineers, contractors, or workmen, and with carts or carriages to have free access and right of way to, over and along the line of works, and to and from all other property of the said company 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, that may be deemed expedient by the said company in or about the carrying out the purposes of this Act.

Rights of access.

XLV. 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 for the purposes of this Act shall be bound to send in to the secretary of the company, at his office, in Cape Town, his, her, or their claim or claims for the purchase amount, hire, recompense, or compensation which he, she, or they shall claim to be entitled to for such 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 purpose of this Act within twelve 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 head office in Cape Town of the said company, during its business hours, for and during the period aforesaid, for the inspection of any person or persons who shall be interested therein: After which said period no further or any claim or claims which shall not have been sent in, in manner hereinbefore provided for shall be recognised, nor shall such claimants be entitled to recover the amount of their claims or any portion thereof from the said company by any means or proceeding whatever. And in case the said company shall not consent or agree to pay the amount of such or any claim or claims, then the said company shall cause to be served upon the person or persons whose claims they shall reject a written notice offering as recompense or compensation whatever sum of money they shall deem sufficient, and requiring such persons to state in writing to the said company, or to some other person by them appointed, within a certain limited time, to be specified in the

Arbitration Clause

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said notice, being not less than fourteen clear days after the service of such notice, whether he is willing to accept the sum therein mentioned or not; and if such person or persons should refuse the sum offered or neglect to reply to the said notice, then the said company or other person aforesaid shall, by another notice in writing, call upon such person or persons to refer to arbitration the amount of recompense or compensation to be paid to him or them by the said company or other person aforesaid, and for that purpose to transmit to the said company or other person aforesaid, within a reasonable time, to be specified in the lastmentioned notice, the name of some person whom he or they shall select to be an arbitrator; and the said company or other person as aforesaid, upon receiving the name of the person so selected, shall nominate a second arbitrator and the said two arbitrators shall before proceeding in the arbitration choose a third arbitrator, the said three arbitrators to sit together, and the said company or other person as aforesaid shall cause a deed of submission to be prepared which shall be signed by or on behalf of the said company or other person aforesaid, and by the person claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, and the award of the said arbitrators or a majority of them shall be binding and conclusive, and may be pleaded in bar of any action or proceeding at law brought for or on account of the matter referred to their arbitration. And if any person as aforesaid claiming such recompense or compensation for land or materials shall neglect or refuse to name some person to be such arbitrator as aforesaid, or to sign the said deed of submission, then the said company or other person as aforesaid may lodge in some joint-stock bank in Cape Town the sum of money offered by them as aforesaid in their first notice in this section mentioned for or on account of and at the risk of such person as aforesaid, who shall at all times be entitled to draw the same out of said bank as his absolute property; and the said company or other person as aforesaid upon so lodging the said sum shall be authorized and entitled to take and use the land or materials in question, without being subject to pay or make any further recompense or compensation whatever in respect thereof, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or which had been awarded by the arbitrators under the provisions of this section, and as if all acts by law required for vesting in the said company or other person aforesaid a sufficient title to the use of, or property in the land or materials aforesaid had been duly done and approved.

XLVI. In case the said company or other person aforesaid shall require to take or use any water on land, or to dig out or carry away any materials belonging to any minor or other person under guardianship or curatorship, then the guardian or curator, as the case may be shall be authorized in his capacity as such guardian or curator to treat and agree with the said company or other person aforesaid 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 company or other person aforesaid for or on account of any land or materials in this section mentioned, shall be paid by the said company or other person aforesaid to the master of the supreme court administering the guardians' fund, who is hereby authorized to receive the same, and to place the same to the credit of the minor or other person entitled to such money, and if in any case any person of full age shall by way of fidei-commissary limitation, or any limitation of a like nature, be entitled to a life or other limited interest in any such land aforesaid, in which a minor or other such person aforesaid, under guardianship or curatorship, shall be also interested in remainder or expectancy, then the whole value of the land or materials as fixed by contract or by appraisal 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 guardians' fund the property of minors or persons under disability are therein administered: Subject, however, at all times to such orders as the supreme court aforesaid may, upon motion of any person having an interest, see fit to make in regard to such money.

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Lands of minors and
others.

XLVII. And in case the said company shall require to take or use any land or materials, as in the last preceding sections mentioned, of which the owner or owners shall be absent from the colony and not represented by any

Lands of persons
absent from the
Colony or undis-
coverable.

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agent duly accredited, or shall not be discoverable, then it shall be lawful for the said company, and it is hereby authorized, to cause a notice to be inserted in the Government Gazette, and one or more local newspapers for four successive weeks, describing as accurately as may be the land or materials which are required to be used or taken, and calling by name on the owner or owners of the said land or materials, if known, to take notice that the said company is ready and willing to treat with the owner or owners or any person duly authorized by him or them, for the recompense or compensation to be made by the said company for the said land and materials, and requiring such owner or owners to apply within six months from the date of such notice, which shall be the day of its publication, to the said company, stating the recompense or compensation claimed, and if the owner or owners shall not apply within the said period then the like proceedings in regard to the agreement for or otherwise determining the recompense or compensation to be respectively given and received shall in all respects be had and taken which are prescribed in the last two preceding sections, precisely as if the said owner or owners had from the first been in actual possession: And in case the owner or owners shall not apply to the said company within the said period, then it shall be lawful for the said company to appoint some competent person, to be approved of by the civil commissioner of the division, to appraise the value of the land or materials, and such person shall make a solemn declaration, under and by virtue of the provisions of Ordinance No. 6 of 1845, before some justice of the peace that he has, to the best of his judgment, fairly appraised such value, and thereupon it shall be lawful for the said company to pay whatever sum such person shall have valued the land or materials in question into the guardians' fund to the credit of the party or parties entitled thereto, subject to the same provisions in all respects which are provided by the Ordinance No. 105. bearing date the 5th July, 1833, in regard to moneys placed in the said fund belonging to persons absent from the colony, and the said company upon so paying the said sum shall be authorised and entitled to take or use the land or materials in question without being subject to pay or make any further recompense or compensation whatever in respect thereof, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all Acts by law required for vesting in the said company sufficient title to the use of, or property in the land or materials as aforesaid had been duly done and performed.

Penalties for injuring Company's property and works.

XLVIII. Any person who shall wilfully injure, damage, obstruct, or interrupt any building, erection, conduit,

reservoir, dam or watercourse, drain, ditch, pipe or pipes, or other work or works, or shall obstruct, hinder, or prevent, the forming, constructing, completing, or maintaining the works contemplated by this Act or any of them, shall upon conviction, be liable to forfeit for the use of the said company 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, 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.

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XLIX. Any person who shall bathe or wash himself in any dam or reservoir belonging to the said company or in any stream flowing into such dam or reservoir, by means of any watercourse constructed by the company 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, on being convicted thereof, forfeit for the use of the said company 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.

Penalties for defiling water.

L. The company are hereby empowered from time to time to make and publish a tariff of charges by which the supply of water by private water leadings for domestic, irrigating, industrial, and other purposes shall be regulated, and the payment for such supply shall be in accordance with such tariff: Provided, nevertheless, that the said company, or any person duly authorized by the said company, shall have access at all reasonable times to inspect and regulate all such private water leadings.

Tariff of charges.

LI. It shall be lawful for the directors of the said company to frame from time to time such regulations and bye-laws as they shall deem necessary for regulating the system of water supply to the said villages, and to impose penalties to prevent waste or damage to the conduits, reservoirs and pipes of the company: Provided, however, that all regulations and bye-laws framed under the provisions of this section of this Act shall be published in the Government Gazette, and in some one local newspaper, and shall not less than three weeks after the publication thereof be

Rules and Bye-laws in regard to water supply.

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To be submitted to Governor and published.

submitted to the Governor for approval, alteration or amendments, and shall, together with such alterations and amendments as the Governor may deem fit to make therein, be published in the Government Gazette, and shall thenceforth have the force of law: And provided also, that it shall be competent for the said directors of the company from time to time to alter and amend any regulations made and published as aforesaid, and thereupon such amended regulations shall be transmitted to the Governor, who may deal with the same in manner hereinbefore in this section mentioned, and such amended regulations after the same shall have been published in the Government Gazette shall have the force of law. Any person contravening any of the regulations made and published as in this section provided shall be liable to a penalty of five pounds sterling or imprisonment for two weeks unless the fine imposed be sooner paid.

Power of entry on premises supplied with water.

LII. It shall be lawful for the company's inspector to enter any premises supplied with water by the said company, between the hours of ten a.m. and four p.m., and it shall be lawful for the company to cut off the supply to any house on giving twenty-four hours' notice in writing of their intention to do so: Provided, however, that the water supply be not cut off for a period longer than may actually be required for the purpose of detecting waste or making the necessary repairs.

Cost of house connection with shut-off cocks.

LIII. The cost of the house connection with shut off cocks and suitable house fittings shall be borne by the owners or occupiers of the immovable property to whom the water is supplied; but the materials for the same shall be purchased from or approved by the directors of the company, and shall be laid down by the workmen of the company or under the control of the inspector of the company: 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 company 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.

When Colonial Government may take over works and on what terms.

LIV. At any time after the expiration of twenty years from the date of the said waterworks being completed, the colonial government shall, if so disposed, have the right to purchase from the said company all the land, water, water rights, buildings, conduits, pipes, plant, machinery and every other matter or thing belonging to or connected with the said company; and the said company shall, if required thereto, be bound to sell to the colonial government the said land, water, rights to water, buildings, conduits, pipes, plant, machinery and every matter or thing belonging to or connected with the said company upon such terms as may be agreed upon between the said colonial government and the said company

and if the colonial government and the said company cannot agree upon the terms upon which such purchase shall be made, all questions in dispute between the colonial government and the said company relative thereto shall be submitted to three arbitrators, one to be nominated by the said company and one by the colonial government, and such two arbitrators so appointed shall select a third arbitrator, and if the two arbitrators appointed under this section shall not agree on the selection of a third arbitrator within four days after their appointment, then and in that case it shall be competent for the supreme court on application made by either party, to appoint such third arbitrator; and the decision of such arbitrator or the majority of them on all questions submitted relative to the said purchase by the said colonial government shall be final and conclusive: And any award made under this section may be made a rule or order of the supreme court, and may be pleaded in bar of any action or proceeding at law brought for and on account of the subject matter.

LIV. The word company in this Act means "The Table Mountain Water Supply Company, Limited." Interpretation.

LVI. This Act may be cited as "The Table Mountain Water Supply Company Act, 1882." Short Title.

 SCHEDULE A.

FORM OF APPOINTMENT OF A PROXY.

I, A. B., of _____, one of the shareholders of the Table Mountain Water Supply Company (Limited), do hereby authorise and appoint C. D., of _____, to be my proxy at all meetings of the shareholders of the said company, and to vote for me thereat upon all matters and things proposed relative to the concerns of the company, unless I shall be personally present.

Witness my hand at _____, this _____ day of _____, 18—.
 A. B.

 SCHEDULE B.

No. _____

CERTIFICATE OF SHARES IN THE TABLE MOUNTAIN WATER
 SUPPLY COMPANY (LIMITED.)

This is to certify, that A. B of _____, is proprietor of _____ shares in the Table Mountain Water Supply Company (Limited), incorporated by Act of the Colonial Legislature, subject to the provisions and regulations of the said company.

Given under the common seal of the company, this— day
 of—18—.

No. 48—1882.] ACT [June 30, 1882.

To Amend and Consolidate the Laws for the Regulation
of the Trade in Diamonds, and to provide for the
punishment of certain Offences.

Preamble. **W**HEREAS it is expedient to amend and consolidate
the laws regulating the trade in diamonds, and to
provide for the trial and punishment of certain offences:
Be it therefore enacted by the Governor of the Cape of
Good Hope, with the advice and consent of the Legislative
Council and House of Assembly thereof, as follows:—

Repeal of repugnant laws. I. The laws mentioned in the first schedule hereto to
the extent which the same are therein expressed to be re-
pealed and all other laws or ordinances repugnant to or
inconsistent with the provisions of this Act, are hereby re-
pealed; except as to offences committed and proceedings
taken, and except as in this Act is excepted.

I.—WHO MAY DEAL IN DIAMONDS.

Possession of uncut diamonds unaccounted for. II. It shall not be lawful for any person, except as in
this Act is excepted, to have in his possession any rough or
uncut diamond; and any such person as aforesaid who shall
be found in the possession of any rough or uncut diamond
and shall be unable to account satisfactorily for, or prove his
right to, the possession of such rough or uncut diamond, or to
produce his proper permit for the same in accordance with
the provisions of this Act, shall, on conviction, be liable to
the penalties provided by the following section.

Prohibition against and penalties for buying or dealing in rough or uncut diamonds except licensed, &c. III. It shall not be lawful for any person or any firm
or joint-stock company, save as in this Act excepted, to buy,
deal in, or receive by way of barter, pledge, or otherwise,
either as principal or agent, any rough or uncut diamond, or
to be an accessory to such buying, dealing in, or receiving as
aforesaid, unless such person so buying, dealing in, or receiv-
ing as aforesaid, shall be duly licensed or authorized to deal
in diamonds either as buyer or seller, broker or factor, or
shall be duly licensed to carry on the trade or business of
a diamond cutter, or unless such person, firm, or joint-stock
company, buying, dealing in, or receiving as aforesaid,
shall be a banker within the colony; and any person con-
victed of contravening this section shall be liable to a penalty
not exceeding one thousand pounds, or to imprisonment
with or without hard labour for any period not exceeding

fifteen years, or to both such penalty and imprisonment: 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 Griqualand West or to any district in which this Act shall be in force, as the case may be, 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.

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Terms on which portion of sentence may be remitted.

IV. In all cases where a fine has been inflicted on any person for contravening any of the provisions of this Act it shall be lawful for the court to sentence such person to an additional term of imprisonment, without hard labour, for a period not exceeding one year, unless such fine shall have been sooner paid as the court may think fit: Provided that in cases where any person shall have been in the first instance sentenced to imprisonment in addition to any fine, such further period of imprisonment shall take effect from the termination of the first sentence, and shall not exceed the term to which he was originally sentenced.

Imprisonment when fine not paid.

V. It shall not be lawful, save as hereinafter excepted, for any person not being a banker, licensed diamond dealer, or a registered claimholder, or the duly accredited and registered agent of a registered claimholder or joint-stock company, or the holder of a washing permit or prospecting licence, or otherwise duly authorised under the provisions of this Act, to sell, offer or expose for sale, barter, pledge, or in any way either as principal or agent dispose of or deliver any rough or uncut diamond or diamonds: Provided that it shall not be lawful for such banker or diamond dealer, or duly authorised person, to sell, offer, or expose for sale, barter, pledge, or in any way dispose of or deliver any rough or uncut diamond, unless such diamonds shall be actually the property or in the lawful possession of such banker or diamond dealer: and provided also that it shall not be lawful for any such registered claimholder, or the duly accredited and registered agent of a registered claimholder or joint-stock company, or the holder of a washing permit or prospecting licence, to sell, offer, or expose for sale, barter, pledge, or in any way dispose of or deliver any rough or uncut diamond unless such rough or uncut diamond shall have been obtained

Who may sell and deal in diamonds.

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or found in soil taken from any claim registered in the name of such claimholder or joint-stock company, or in the soil or ground mentioned and specified in such washing permit, or in ground not being a public diamond field worked under such prospecting licence, and any person convicted of contravening this section shall be liable to the penalties provided by the third section of this Act: and provided also that the onus of proof of the *bona fide* possession within the meaning of this section of any such diamond as aforesaid shall in all cases rest on such banker, diamond dealer, registered claimholder, duly accredited and registered agent of a registered claimholder or joint-stock company, holder of a washing permit and prospecting licence, or otherwise duly authorized person as aforesaid.

Persons finding diamonds on private property to make declaration within 14 days.

VI. Any person being the proprietor of any landed property in the title to which there shall be no reservation of minerals or precious stones to the Crown and which may not be proclaimed a public digging or mine, who may find, win, or pick up any rough or uncut diamond or diamonds upon such farm or landed property, shall within fourteen days thereafter make a solemn declaration of the fact, and upon production of such declaration the resident magistrate of the district shall grant a permit to such person to hold or sell or dispose of such diamond. And in the case of a Company being the proprietor of any such landed property, the Secretary, Manager, or other duly authorized representative of such Company whose name shall be registered in the office of the resident magistrate of the district in which such landed property is situate, shall make the declaration aforesaid. And any person contravening the provisions in this section contained for declaring such finds as aforesaid, shall be liable, upon conviction, to a penalty not exceeding one hundred pounds, or in default of payment to be imprisoned with or without hard labour, for a period not exceeding one year. Provided that any person who shall sell, offer, or exchange, or barter, pledge, or in any way dispose of or deliver any rough or uncut diamond found, won, or picked up on any such landed property without the permit aforesaid shall be liable to the penalties provided by the third section of this Act.

In case land belongs to a company.

Persons competent to purchase not to buy, &c., from persons incompetent to sell.

VII. Any banker or licensed dealer registered claimholder, authorized or registered agent of a registered claimholder or joint-stock company, holder of a washing permit, prospecting licence, dealer in or cutter of diamonds, buying or receiving by way of barter, pledge or otherwise, either as principal or agent, any rough or uncut diamond from any person or in any way dealing with the same with any person not being a banker or licensed dealer, or cutter

of diamonds, or a registered claimholder, or a registered and accredited agent of a registered claimholder or joint-stock company, or not having a washing permit or prospecting licence, or permit under the sixth section of this Act, shall be liable on conviction to the penalties in the third section in this Act provided, and shall in addition forfeit any licence or permit which such person may hold and any right of renewal of the same for such time as the court may direct, and no such person shall thereafter be registered as the agent of any claimholder or joint-stock company.

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VIII. Any licensed diamond dealer or diamond cutter, in any way dealing in rough or uncut diamonds otherwise than in the manner specially authorized by the license held by him, shall on conviction thereof be liable to the penalties in the third section of 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 and direct.

Licensed dealers to adhere to terms of licence.

IX. It shall not be lawful for any banker or diamond dealer to buy, deal in, or receive by way of barter, pledge or otherwise, or to sell, barter, pledge, or in any way for the purposes of trade dispose of or deliver, or for any licensed diamond broker or factor to act as such diamond broker or factor, or in any way to negotiate the purchase or sale of diamonds between other persons, or act as agent or factor between buyer or seller in respect of any rough or uncut diamond or diamonds between sunset and sunrise, or on Sundays, and every person contravening this section shall incur a penalty not exceeding one thousand pounds and in default of payment shall be liable to be imprisoned with or without hard labour for any term not exceeding one year, and shall in addition be liable to forfeit any licence which such person may hold and any right of renewal of the same for such time as the court may direct.

No dealings allowed between sunset or sunrise, or on Sundays.

X. If in any proceeding under this Act, the court has to be satisfied either that the prisoner, or any witness, or other person, is not authorized 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 unauthorized, unless such prisoner shall prove to the satisfaction of such court, that he, or such witness or other person is duly authorized or licensed as aforesaid.

Burthen of proof of being licensed.

XI. It shall not be lawful for any person, firm, or joint-stock company to export or import rough or uncut diamonds out of or into any of the districts of the colony in which this Act shall be in force, unless such importer or exporter shall be licensed or authorized to deal in diamonds, or unless such person, firm, or joint-stock company shall be a banker or

Restrictions on exporting and importing rough or uncut diamonds.

A A

No. 48—1882.

bankers within the colony, and every person convicted of contravening this section shall be liable to the penalties provided by the third section of this Act.

Right of police to detain post packages supposed to contain diamonds sent illegally.

XII. It shall be lawful for the chief of the police of any district or the chief of the detective department of Griqualand West as the case may be, whenever he shall have good cause to believe that any parcel or package is being dispatched through the post office by any person, and which parcel or package contains rough or uncut diamonds, which have not been entered according to the provisions 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 parcel or package as aforesaid at any post office within the colony, either during the transit of such parcel or package or otherwise, and thereupon he shall by a notice in writing served personally on the person who shall have dispatched such parcel or package as aforesaid call upon such person as aforesaid to attend either personally or by an agent duly authorized by him in writing, to appear at a time and place to be named in such notice, for the purpose of being present at the opening and examination of such parcel or package, and thereupon on the day and at the place appointed in such notice the chief of the police of the district as aforesaid, or the chief of the detective department of Griqualand West, as the case may be, shall proceed to open and examine such parcel or package, and if there shall be discovered therein any rough or uncut 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 he is not able satisfactorily to account, such person shall on conviction be liable to the penalties provided in the third section of this Act, and all diamonds contained in such parcel or package shall thereupon be forfeited and sold as hereinafter provided.

Proceedings thereon.

Duty of person finding by chance uncut diamond outside his claim.

XIII. Whenever any person shall find or pick up any rough or uncut diamond on any ground or place not being the claim or depositing floor of such person, or in any ground or place worked by him under a prospecting licence, he shall forthwith take and deliver such diamond to the resident magistrate of the district, who shall thereupon advertise the same in the local newspapers; 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 realized 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 rough or uncut 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.

XIV. It shall be lawful for any detective officer, constable, or policeman when thereto authorised by warrant granted under the hand of any resident magistrate or of the chief of the detective department in the territory of Griqualand West, which warrant such magistrate or chief of the detective department is hereby authorised and required to grant, upon sufficient cause shown to his satisfaction to enter into and upon and search any stand, buildings, and premises where he may have good cause to suspect that any rough or uncut diamonds are unlawfully concealed and any person then being upon such stand, building or premises; and at any time in any highway, street, or public place, to arrest and search any person whom he may have good cause to suspect, of having on his person, or in his possession, any rough or uncut diamonds unlawfully obtained, or without having a proper permit for the same, and to stop and search any vehicle in or upon which he shall have good cause to suspect that any such diamonds are concealed or being carried away and to search any person then being in or upon such vehicle; and should there be found any rough or uncut diamonds in or upon such stand, buildings, or premises, or upon such person, or vehicle, to seize and detain such diamonds, and thereupon arrest any person then being in or upon such stand, building, premises, or vehicle, who may reasonably be suspected of being the possessor of, or interested in such diamonds, and as soon as may be bring such person before any resident magistrate or justice of the peace; and if such person as aforesaid shall at the trial fail to produce a proper permit for such diamonds, or to account for the possession thereof to the satisfaction of the court before which such person shall be tried such person shall on conviction be liable to the penalties provided by the third section of this Act; and on every conviction under this section any diamond found on such stand or in such building or premises or on such person, cart, or other conveyance as aforesaid may be forfeited, and the court may order the same to be sold: Provided that if no conviction takes place, and such 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.

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Powers of entry into and search of premises, &c., where stones suspected to be concealed.

Power of arrest at any time of suspected person.

Arrest, trial, and conviction of any person in such cases.

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When seized diamonds ordered by Court to be sold.
- XV. No person who by the order in writing of any court or resident magistrate, shall sell any rough or uncut diamonds seized, detained, or forfeited under any of the provisions of this Act, shall be liable in respect of such sale to any of the penalties provided for in this Act.
- Application of fines, &c.
- XVI. 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.
- Persons having uncut diamonds in their possession not registered at the time of this Act taking effect.
- XVII. Every person who shall, at the time of the taking effect of this Act, have in his possession any rough or uncut diamonds which shall not be registered under the provisions of the Ordinances No. 4 of 1877 and No. 8 of 1880 respectively, may within three months thereafter obtain from the resident magistrate of the district, a permit stating the number and weight of such diamonds, and after the expiration of such period of three months such permit shall upon any prosecution be the sole evidence of the lawful possession of such diamonds.

II.—LICENCES, PERMITS AND REGISTERS.

- Persons requiring licences.
- XVIII. It shall not be lawful for any person to deal in rough or uncut diamonds either as buyer, seller, exporter, or importer, or to carry on the business or trade of a diamond broker or factor, or the business or trade of a diamond cutter, 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 by the third section of this Act.
- Stamps, &c., on licences of dealers.
- XIX. Every licence to deal in rough and uncut diamonds within the colony shall be written upon or covered with stamps of the value of thirty pounds for a yearly licence, or ten pounds for a quarterly licence, and every such licence shall be in the form A set forth in the second Schedule: provided that all such licences as are quarterly shall, no matter when taken out, terminate on 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 shall, no matter when taken out, expire on the 31st December then next.
- Stamps on brokers' licences.
- XX. Every licence to be a diamond broker or factor, shall be written upon or covered with stamps of the value of fifteen pounds for a yearly licence or five pounds for a quarterly licence, and shall be in the form C set forth in the second Schedule: provided that all such licences shall terminate and expire as provided for and on the days set forth in the preceding section.

XXI. It shall not be lawful for any distributor of stamps to issue any licence to deal in rough or uncut diamonds unless the person so applying for such licence shall, when applying for the same, produce and lodge with such distributor a certificate under the hand of the resident magistrate of the district in the form B set forth in the second Schedule: provided that it shall not be lawful for any resident magistrate to sign or issue such certificate until the person applying for such certificate shall, together with two sufficient sureties, have entered into a recognizance in the form G set forth in the second Schedule, and unless the office in respect of which the licence is sought shall be in localities or limits from time to time defined by notice in the Government Gazette, under the hand of the Commissioner of Crown Lands and Public Works: Provided, also, that it shall not be lawful for any such resident magistrate to grant to any person a certificate for a licence to deal in rough or uncut diamonds or to carry on the trade or business of a diamond broker or cutter of diamonds who shall, at the time of making application for such certificate, be the holder of or interested in any licence to deal in intoxicating liquors or in any licence to keep a Kafir store or Kafir eating-house, or who shall have been convicted of any of the offences set forth in the tenth section of proclamation 24 of the 5th July, 1873, of Griqualand West, or in this Act, or in any of the ordinances or proclamations hereby repealed: Provided, however, that in the case of a licensed person who shall have been convicted and sentenced to forfeit his licence for any period, it shall be lawful for the resident magistrate to grant to such person a certificate as aforesaid after the period shall have elapsed for which the license of such person has been suspended.

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Persons applying for licences to deal to produce certificate of fitness.

Who prohibited from being licensed.

XXII. It shall not be lawful for any distributor of stamps to issue any licence to trade as a diamond broker or factor, unless the person applying for such licence shall, when applying, produce and lodge with such distributor a certificate under the hand of the resident magistrate of this district in the form D set forth in the second schedule; and it shall not be lawful for any resident magistrate to grant such certificate to or for any person not of full age who shall not either produce authority from his parent or guardian to trade as a diamond broker or factor (in which case such parent or guardian shall be a party to his recognizance hereinafter mentioned as assisting in such) or make a solemn declaration that he is not under tutelage. Nor in any case until the person applying for such certificate, together with two sureties, shall have entered into a recognizance in the form G set forth in the second Schedule.

Broker applying to produce certificate of fitness.

And enter into recognizances.

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Licences of diamond cutters, form, and amount of.

XXIII. Every licence to carry on the business or trade of a diamond cutter, shall be written upon or covered with stamps of the value of ten pounds for a yearly licence, or three pounds ten shillings for a quarterly licence, and every such licence shall be in form E set forth in the second Schedule: provided that all such licences as are quarterly shall no matter when taken out, terminate on the last day of the current quarter, such quarters ending respectively on 31st March, 30th June, 30th September, and the 31st December of each year; and all such licences as are annual shall, no matter when taken out, expire on the 31st December then next ensuing.

Diamond cutters to produce certificate of fitness before being licensed.

XXIV. It shall not be lawful for any distributor of stamps to issue any licence to carry on the trade or business of a diamond cutter unless the person or persons applying for such licence shall, when applying, produce and lodge with such distributor a certificate under the hand of the resident magistrate of the district, in the form F set forth in the second Schedule, and it shall not be lawful for any resident magistrate to sign or issue such certificate until the person or persons applying for such certificate shall together with two sufficient sureties, have entered into a recognizance in the form G set forth in the second Schedule, and unless the place of business in respect of which the licence is sought, shall be in localities or limits which shall from time to time be defined by notice in the Government Gazette under the hand of the Commissioner of Crown Lands and Public Works.

And enter into recognizances. G. in Schedule.

Licences obtained by concealment or misrepresentation.

XXV. 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 such licence, or permit, shall upon conviction be liable to a penalty not exceeding five hundred pounds or to be imprisoned with or without hard labour for any period not exceeding five years.

Diamond cutter may receive stones from unlicensed persons under magistrate's permit.

XXVI. Any licensed diamond cutter may without permit, as in the following section provided, receive for the purpose of his trade any rough or uncut diamond from any person not licensed or authorized as in the seventh section of this Act provided, on the production by such person of a written authority or permit from any resident magistrate as in the following section of this Act is provided, anything in this Act to the contrary notwithstanding.

What permits may be given.

XXVII. It shall be lawful for any resident magistrate 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 diamond or diamonds is or are to be bought or received, sold, or delivered, and to be in the form H set forth in the second Schedule: Provided that no such permit shall be granted unless the applicant shall make a solemn declaration, that such 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 diamond, together with a statement showing the lawfulness of his or her ownership, which declaration shall be in the form I or J as the case may be, set forth in the second Schedule: and provided further that the magistrate shall keep a record of all such permits, and of all such declarations as aforesaid: and provided further that for the purposes of this section the word "trade" shall not be construed as including the trade or business of a diamond cutter.

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Form of such permits.

XXVIII. It shall be lawful for the resident magistrate to issue to any person save as hereinafter excepted, a special permit bearing a stamp of the value of five shillings to sell or dispose of any diamonds that shall have been found by such person in ground or soil bought and washed by him, and such permit shall be called a washing permit, and shall be in the form K contained in the second Schedule, and shall set forth clearly the name of the person from whom the ground or soil in which such diamonds shall have been found was bought or received, together with the date of such purchase, the number of loads of the said soil so bought or received, the price paid for the same, and the number of loads thereof washed, and such permit shall also shew the total weight of the parcel of diamonds for which the permit is granted, and shall specify the number of diamonds of the weight of ten carats and upwards contained in such parcel, and further the weight of any single stone of the value of one hundred pounds and upwards: Provided that no such permit shall be granted unless the applicant shall make a solemn declaration that such diamonds were actually found by him in such ground or soil as aforesaid, and such declaration shall be made in the form L set forth in the second Schedule: and provided also that the said resident magistrate shall keep a record of all such washing permits and of all such declarations as aforesaid: and provided also that no such washing permit shall be issued to any person to whom the resident magistrate would not have power to issue a certificate under the twenty-first section of this Act: and provided lastly that such permit shall only be available in the district over which the resident magistrate so issuing such permit shall have jurisdiction.

Washing permits.

Particulars to be stated.

Restrictions.

No. 48—1882.

Permits to police and
detectives.

XXIX. It shall be lawful for any resident magistrate to grant to the chief of the police of the district, or chief of the detective department, as the case may be, or a person duly authorized in writing by him to receive the same, a permit to buy or receive one or more rough and uncut diamonds, such permit to be in the form H set forth in the second Schedule, and every such resident magistrate as aforesaid shall keep a record of all such permits so granted as aforesaid.

Buyers and cutters
to have place of
business mention-
ed in licence.

XXX. Every licensed buyer 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 and over, or by the side of, the outer door of the place in which he may have such office or place of business, his name at full length (or where there are partners, the name and 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 for the first offence, and for a subsequent offence, within two years, a penalty not exceeding fifty pounds, and shall in any case 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.

Transactions to be
confined to such
place of business.

XXXI. It shall not be lawful for any diamond buyer, seller, or cutter to buy, sell, deal in or receive by way of barter, pledge or otherwise, any rough or uncut diamond 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.

Licences of persons
removing to be
endorsed by dis-
tributor of stamps.

XXXII. It shall not be lawful for any licensed diamond buyer, or cutter, to remove his office or place of business at which he is licensed to deal in or carry on his business as a cutter of diamonds to another place, unless the distributor of stamps shall endorse on the licence of such diamond dealer or cutter a certificate that such licence is transferred to the place to which such diamond dealer or cutter desires to remove his office or place of business; and it shall not be lawful for any distributor of stamps to give such certificate unless the resident magistrate shall have first endorsed on such licence that the place to which it is sought to be transferred, is a fit and proper place for the office or place of business of a licensed dealer or cutter, and any licensed diamond buyer, seller or cutter con-

travening this section, shall be liable to the penalties provided by the thirty-sixth section of this Act.

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XXXIII. Every licensed broker or factor in every case in which he concludes a contract of purchase or sale of rough or uncut 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 M set forth in the second Schedule, and shall also deliver to the purchaser a proper and sufficient broker's sold note according to the said Schedule, and every registered claimholder, authorized or registered agent of a registered claimholder or joint-stock company, holder of a washing permit or prospecting licence, 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 brokers', sellers', and buyers' note shall respectively set forth all the parties to the transaction in the form M set forth in the second Schedule, 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 parcel was sold: Provided that every diamond above the value of one hundred pounds shall be separately described in every such brokers', sellers', and buyers' note: and provided also that every such brokers', sellers', and buyers' note shall be certified as correct by the licensed dealer disposing of the same; and every 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.

Broker's notes.

Forms of and particulars to be stated in.

Buyer's and seller's notes.

XXXIV. 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 license or permit under the sixth section of the Act, shall keep a true and correct register in the English language of all their respective dealings in diamonds, and in which they shall enter, or cause to be entered within twenty-four hours of every transaction.—

All persons authorized to deal, &c., to keep records of transactions.

- (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.

Particulars of records.

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- (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 N set forth in the second Schedule, and any person so required to keep a register who shall be convicted of neglecting or failing to keep a proper register, as required by this Act, 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, 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 direct.

Records to be forwarded monthly to Chief of Police, &c., and produced when required.

XXXV. Every person so required to keep a register shall, within three days after the expiration of each month, forward to the chief of the police of the district, or in the territory of Griqualand West to the chief of the detective department of the territory, 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 chief of the police of the district, or of the chief of the detective department as aforesaid; and if he shall refuse or fail to do so, he shall be liable to the penalties in the last preceding section mentioned.

Civil Commissioner or other officer to keep register of all uncut diamonds brought into district.

XXXVI. The civil commissioner of every district in which this Act shall be in force, or such other officer as may be appointed by the Governor, shall keep a register, showing the weight, description, and value of all rough or uncut 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, grant to the person bringing or importing such diamonds, a certificate, of registration setting forth all the particulars above-mentioned in the form "N" in the Schedule hereunto annexed, upon payment of a registration fee of one-half per cent. on the value of all such diamonds so brought in or imported; and any person who shall bring or import any rough or uncut diamond into such district without obtaining such certificate of registration, within twenty-four hours of his arrival with, or receipt of such diamonds, shall, upon conviction, be liable to a penalty not exceeding five hundred pounds and in default of payment, to imprisonment

Certificate of such registration.

with or without hard labour for any term not exceeding five years, or to both such fine and such imprisonment, and shall, in addition, forfeit such diamonds.

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XXXVII. No rough or uncut 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 the form "N" in the Schedule hereunto annexed by the civil commissioner 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 diamond or diamonds shall have been paid. Any person contravening the provisions of this Section, shall be liable to the penalties provided in the third section of this Act.

No rough diamonds to be exported before registered.

XXXVIII. In the territory of Griqualand West, the proceeds of such registration fee shall be applied in the following manner:—Three-fourths to be retained by the Government, and to be applied to the purposes mentioned in the sixty-fifth section of this Act, and one-fourth to be administered by a board constituted for the protection of mining interests in the manner set forth in the following section.

Application of registration fees.

XXXIX. The board mentioned in the last preceding section shall consist of eight members who shall be elected on the 1st day of September next, and thereafter annually in manner following:—Two to be elected by the mining board of the Kimberley Mine, two by the mining board of the De Beer's Mine, two by the mining board of the Du Toit's Pan Mine, and two by the mining board of the Bultfontein Mine.

Constitution of Board for protecting mining interests.

XL. In case at any time there shall not be a mining board as aforesaid controlling the affairs of any of the said mines, or in case of a failure to elect as aforesaid, it shall and may be lawful for the Governor to appoint such persons as he may think fit, to be members of the said board, in lieu and instead of such members as otherwise might have been elected by the said mining board or boards, as the case may be, and the Governor may from time to time revoke such appointments, and may appoint other persons in the place of those so removed.

In what cases Governor may appoint members of the Board.

XLI. Every licensed diamond dealer, or cutter of diamonds, and every holder of a permit granted under the twenty-seventh and twenty-eighth sections of this Act, or the holder of a prospecting licence, shall be bound to exhibit his licence to any person authorised by the chief of the police of the district, or the chief of the detective department in Griqualand West, as the case may be, in

Penalties for refusing to produce licence when called on by proper authority.

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writing to demand it, and every such licensed 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, for the first offence incur a penalty not exceeding one hundred pounds, and for a subsequent offence a penalty not exceeding three hundred pounds, and shall in addition in any case be liable to forfeit any licence held by him or any renewal of the same, for such period as the court shall order.

Counterfoils of
broker's notes to
be kept and pro-
duced when re-
quired.

XLII. Every licensed broker or factor shall keep copies or counterfoils of his bought and sold notes, as in the form M, contained in the second Schedule, and shall produce and exhibit such copies or counterfoils to any person authorised by the chief of the police of the district, or the chief of the detective department in Griqualand West, as the case may be, 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.

Permits to buy stones
at diamond fields
situated 3 miles
beyond town or
village, &c.

XLIII. It shall be lawful for any resident magistrate to grant to any licensed diamond dealer, not being a licensed broker or factor, a permit to buy rough or uncut diamonds at any place within his district at which there shall be any public diamond fields, at a distance of more than three miles from any town or village, or within three miles of which diamond field there shall not be three licensed diamond dealers, not being licensed brokers or factors: provided always that every such permit shall not extend over a period of more than one month, and shall be covered by or written on a stamp of five shillings.

III.—SPECIAL COURTS FOR MINING OFFENCES.

Special Courts may
be appointed by
Governor.

XLIV. For the purpose of trying offences under the Ordinances of Griqualand West respectively No. 4 of 1877, and No. 8 of 1880, committed before the taking effect of this Act, and offences under this Act respectively, the Governor may by Proclamation constitute one or more courts over any area, or for any districts to be defined or named in such Proclamation, and every such court shall be styled a "special court."

Constitution of
Special Courts.

XLV. Every special court shall consist of three persons of whom at least one shall be a judge of the Supreme Court, and a decision of a majority of the members of such court shall be the judgment of the court.

Who to preside.

XLVI. In case more than one judge shall sit in a special court the senior judge shall preside, and in case one judge only shall sit such judge shall preside.

XLVII. Judges of the Supreme Court shall ex officio be members of the special courts, and it shall be lawful for the Governor by Proclamation from time to time to appoint persons not being judges to be members of such courts respectively. Such last mentioned persons shall sit and take part in the proceedings of such special courts when thereto required by any order issued as in the next succeeding section mentioned.

No. 48—1882.

Judges of Supreme Court to be ex officio members.

Other persons may be appointed by Governor.

XLVIII. A special court shall be assembled from time to time, and as often as may be necessary, for the trial of any person accused of any offence cognizable by a special court by any one of the judges, and every order convening a special court shall state the names of the members to constitute such court, not exceeding three, and every such order may after the making thereof be altered by the judge making the same either as to the time when such court shall assemble or by omitting one or more members and substituting another or others.

When and How Special Court to be convened.

XLIX. Every special court when assembled may adjourn from time to time as to such court may be deemed necessary.

Adjournments.

L. Until otherwise ordered by any rules to be made in pursuance of the provisions of this Act, the form and manner of procedure in every such 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.

Rules of Magistrate's Courts to apply.

LI. The process of the said court for compelling the appearance of the 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 any judge or of the special court.

How process to be signed.

LII. Any person who shall be convicted by the judgment of any such special court and sentenced to undergo any punishment may appeal against such conviction either to the supreme court or to the high court of Griqualand, in case such conviction shall take place in any district over which the said high court exercises jurisdiction as such person may elect: provided that within four days next after such conviction notice in writing be given by or on behalf of the person convicted to the clerk of such special court, or of the judge presiding at the trial of his intention to appeal, and of the court to which he elects to appeal, and every such appeal shall be prosecuted within forty-two days after the giving of such notice (unless upon application to either of such courts further time be given for the prosecution thereof), and if not so prosecuted such conviction and sentence shall be and

Right of appeal to High Court or Supreme Court.

To be prosecuted within 42 days of notice of appeal.

No. 48—1882. become final: And when any such appeal is made as aforesaid, the provisions of the forty-seventh section of the Act No. 20 of 1856 in regard to the execution of any sentence of imprisonment exceeding one month, or to pay any fine exceeding five pounds, and the circumstances under which any such sentence may be suspended shall apply, *mutatis mutandis*, to any sentence so appealed against.

High Court may give leave to appeal to Court of Appeal. LIII. As often as any appeal shall be made to the said high court, and such court shall affirm the conviction and sentence of the special court appealed from, the person convicted may, with the leave of the said high court, but not otherwise, appeal to the court of appeal. And every appeal allowed as aforesaid to the court of appeal shall be prosecuted at the next sitting of such court unless upon application duly made further time be allowed for the hearing or prosecution of such case or appeal.

Charges to be brought first before Magistrate. LIV. All charges for offences cognizable by a special court shall, in the first instance, be brought before a resident magistrate having jurisdiction in the district in which the offence has been committed, and such magistrate shall decide whether a preliminary examination shall be taken or the case be tried before a special court. In case a preliminary examination be taken, and the accused be committed for trial, the attorney-general or crown prosecutor, as the case may be, if he determine to prosecute, may remit such case for trial before a special court, or may proceed in any other competent court, as he may deem fit.

Governor to make rules for Special Courts. LV. The Governor may from time to time by proclamation to be issued by him establish general rules or orders for regulating the practice and form of procedure in cases pending before such special courts, in addition to or instead of the laws and rules regulating the practice and procedure in the courts of resident magistrates.

IV.—RECOVERY OF PENALTIES.

Recovery of fines and penalties. LVI. All fines and penalties imposed under the provisions of this Act shall be levied by warrant under the hand of the judge presiding in the Special Court, directed to the messenger of the court of the Resident Magistrate of the district upon all property of or belonging to the prisoner at the time of his arrest.

Accused persons forbidden to sell or alienate property till case disposed of. LVII. 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 exchange gift or other alienation made contrary to the provisions of this section shall be void.

No. 48—1882.

V.—MISCELLANEOUS.

LVIII. Any servant who shall steal any diamond the property of or in the lawful possession of his master, or shall conceal or retain with intent to convert the same to his own use any rough or uncut diamond, or who shall attempt to commit any of the said offences, or who shall be an accessory or accomplice in the commission of any of the said offences, shall upon conviction be liable to the penalties provided in the third section of this Act: Provided always that all diamonds found in the possession of any servant then or lately employed by any master who is or was at the time of such employment a licensed dealer in or cutter of diamonds, or a registered claimholder, or a registered and accredited agent of a registered claimholder or the holder of a washing permit; shall unless and until the contrary be proved by such servant be deemed and taken to be the property of such master if such servant be then in the employment of any master, and may be seized and taken possession of by the said master, or if the servant is not then in the employment of any master shall be deemed and taken to be the property of the last such master as aforesaid by whom such servant was employed within three months, and may be seized and taken possession of by such master.

Penalties on servants stealing diamonds, &c.

Accessories, &c.

Diamonds found on servant presumed to be master's.

LIX. Any person who shall be convicted of having induced or attempted to induce any servant to steal a diamond from his master, or conceal or retain with intent to appropriate to his own use any diamond which it was the duty of such servant to have delivered to his master shall be liable to the penalties provided in the third section of this Act.

Penalties for inducing servants to steal diamonds.

LX. All crimes or offences punishable under any of the Ordinances which are repealed by this Act and committed before the passing of this Act shall be dealt with and punishable under the provisions of the said sections of the repealed Ordinances respectively; and a conviction under any of the provisions of Ordinance No. 21 of 1874, or of Ordinance No. 4 of 1877, or of Ordinance No. 8 of 1880, shall be taken as a previous conviction under the corresponding provisions respectively of Ordinance No. 4 of 1877, Ordinance No. 8 of 1880, or of this Act, in all cases where such previous convictions were obtained on charges which could respectively have been made under the corresponding provisions of Ordinance No. 4 of 1877, No. 8 of 1880, or of this Act,

Punishments may be inflicted under Sections of Repealed Ordinances.

Previous convictions

No. 48—1882.

Accessories may be charged as principals.

Interpretation clause.

LXI. 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.

LXII. 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.

“Joint-stock company” shall mean a company established for mining purposes only.

“Servant” shall mean any description of servant whether registered or not.

“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.

“The territory of Griqualand West” shall mean the territory as defined by Sir Henry Barkly’s Proclamation, No. 67 of 1871.

“Chief of the Police” shall mean any commissioner or inspector of police, or the chief constable of any district.

“Banker” shall mean any manager, cashier, or other officer of a Joint-stock Bank, acting in his capacity as such.

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 second Schedule.

When and where Act to come into operation.

LXIII. This Act shall come into operation in the districts forming the late territory of Griqualand West, upon the promulgation thereof, and in such other districts as the Governor shall from time to time by proclamation declare to be subject thereto, and from a date to be in such proclamation stated.

Governor may make rules for carrying out part 2 of this Act.

LXIV. The Governor may from time to time make regulations for the better administration of part two of this Act, and by such regulations may alter any forms by this Act

provided, or provide additional forms: and such forms shall be deemed to be forms by this Act directed to be used.

No. 48—1882.

LXV. The fifth section of the "Prevention of Diamond Thefts Ordinance, 1880," shall be read and construed as if the words "The Diamond Trade Act, 1882," were therein inserted, instead of the Ordinances No. 4 of 1877 and No. 8 of 1880," and the fines in the said section referred to to be deducted from the expense of keeping up and maintaining the portion of the police and detective forces for the detection of the illicit traffic in diamonds, shall be deemed to be the fines or penalties recovered under the provisions of this Act.

Substitution of this Act for certain other Ordinances in reading "Prevention of Diamond Thefts Ordinance, 1880," Sec. 5.

LXVI. It shall be lawful for the Governor to appoint such officer as he may deem necessary for the discharge of any of the duties by this Act imposed upon any resident magistrate, and as often as any such officer shall be appointed he shall be deemed for the purposes of this Act to be the resident magistrate, and the several sections of this Act shall be read and construed accordingly.

Officers may be appointed by Governor to discharge duties under this Act imposed on Magistrates.

LXVII. This Act may be cited for all purposes as the "Diamond Trade Act, 1882."

Short title.

SCHEDULE I.

Date of Ordinance or Proclamation.	Title of Act or Proclamation.	Extent of Repeal.
August 10, 1872, No. 14.	Sir Henry Barkly's Master and Servants Proclamation.	Sections 14, 15, and 17.
No. 4 of 1877	Diamond Trade Ordinance, 1877	The whole
No. 8 of 1880	Diamond Trade Amendment Ordinance 1880	The whole.

SCHEDULE II.

A.

FORM OF DIAMOND DEALER'S LICENCE

[DIAMOND TRADE ACT, 1882.]

I, _____, Distributor of Stamps in _____, on this _____ day of _____ 188 _____, do hereby authorize and empower _____, having his office at _____ (the _____ has produced to me his Certificate required by Law), to deal in, export, and import rough or uncut Diamonds within _____, for _____ ending on the _____ 188 _____, and no longer.
This Licence expires on the _____ day of 188 _____.

Distributor.

B B

No. 48—1882.

B.

FORM OF DIAMOND DEALER'S CERTIFICATE.

[DIAMOND TRADE ACT, 1882].

I, _____, Resident Magistrate of _____, do hereby certify that _____, whose office is situated at _____, is a fit and proper person to receive a Licence to deal in, export, and import rough or uncut Diamonds, and that he is not the holder of a Licence to sell intoxicating liquors, or of a Licence to keep a Kafir store or Kafir eating-house within

Resident Magistrate's Office,
day of _____ 188 _____,
Resident Magistrate.

C.

FORM OF DIAMOND BROKER'S LICENCE.

[DIAMOND TRADE ACT, 1882].

I, _____, Distributor of Stamps in _____, on this _____ day of _____, 188 _____, do hereby authorize and empower _____ of _____ (who has produced to me the Certificate required by Law), to act as a Diamond Broker within _____ for _____ ending on the _____ day of 188 _____, and no longer.

This Licence expires on the _____ day of _____ 188 _____
_____ Distributor.

D.

FORM OF DIAMOND BROKER'S CERTIFICATE.

[DIAMOND TRADE ACT, 1882].

I, _____, Resident Magistrate of _____, do hereby certify that _____, of _____, is a fit and proper person to receive a Licence to act as a Diamond Broker, or Factor, and that he is not the holder of a Licence to sell intoxicating liquors or of a Licence to keep a Kafir store or Kafir eating-house within _____.

Resident Magistrate.
Resident Magistrate's Office,
day of _____ 188 _____

E.

DIAMOND CUTTER'S LICENCE.

[DIAMOND TRADE ACT, 1882].

I, _____, Distributor of Stamps for _____ on this _____ day of _____, 188 _____, do hereby authorize and empower _____ having his place of business at _____ (who has produced to me the Certificate required by Law), to

carry on the trade or business of cutting, cleaving, and polishing rough or uncut Diamonds within for from the day of 188 , and no longer.

No. 48—1882.

This Licence expires on the day of , 188 , Distributor.

F.

DIAMOND CUTTER'S CERTIFICATE.

[DIAMOND TRADE ACT, 1882].

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, and that he is not the holder of a Licence to sell intoxicating liquors, or of a Licence to keep a Kafir store, or a Kafir eating-house within

Resident Magistrate's Office, Resident Magistrate.
day of 188 .

G.

RECOGNIZANCE UNDER DIAMOND TRADE ACT, 1882.

On the Day of , in the Year of Our Lord One Thousand Eight Hundred and Eighty , appeared before me, Esq., Resident Magistrate for the District of , and acknowledged ourselves to owe Our Lady the Queen, to wit, the said the sum of Five Hundred Pounds Sterling and the said the sum of Five Hundred Pounds Sterling of good and lawful money to be respectively made and levied of our several goods and chattels, lands, and tenements to the use of our said Lady the Queen, her heirs and successors, if the said shall fail in performing the conditions underwritten.

The condition of this recognizance is that if the said shall strictly conform to and abide by all and singular the provisions of the said Diamond Trade Act, 1882, during the time the Licence to be by him obtained under this Act shall be in force, then this Recognizance shall be null and void or else shall remain in full force and effect.

The said and the said and the said do hereby further jointly and severally agree that in the event of the said being convicted of contravening any provision of the said Act, this Recognizance shall *ipso facto* become at once executable without the necessity of further process, just as if judgment had been obtained upon it.

Taken and acknowledged this day and year above written before me aforesaid.

Resident Magistrate.

No. 48—1882.

H.

No. FORM OF PERMIT.

[Permit granted under Section 27 of Diamond Trade Act, 1882.]

Resident Magistrate's Office, 188 .

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

188 .

Resident Magistrate of

I.

FORM OF DECLARATION OF PURCHASER OR RECEIVER.

I, , of do solemnly
and sincerely declare that I am desirous of purchasing (or
receiving) from A.B. Diamonds of the approxi-
mate weight of carats, which I require for my
own use, and not for the purposes of trade here or elsewhere,
and I make this solemn Declaration conscientiously believing
the same to be true, and by virtue of the provisions of the
Ordinance No. 6 of 1845, intituled "An Ordinance for sub-
stituting Declarations in the place of certain Oaths, and for
the suppression of Voluntary and Extra-judicial Oaths and
Affidavits."

Declared before me, at this day of

188 .

Resident Magistrate of

J.

FORM OF DECLARATION OF OWNER.

I, , of do solemnly
and sincerely declare that I am desirous of selling (or de-
livering) to A.B. Diamonds of the approximate
weight of carats, of which I am the lawful and
bona fide owner (here state how he or she became owner),
and that such sale (or delivering) is not for the purposes of
trade, and I make this solemn declaration, conscientiously
believing the same to be true, and by virtue of the provisions
of the Ordinance No. 6 of 1845, intituled "An Ordinance
for substituting Declarations in the place of certain Oaths,
and for the suppression of Voluntary and Extra-judicial Oaths
and Affidavits."

Declared before me, at this day of

188 .

, Resident Magistrate of

K.

No. 48—1882.

No.

WASHING PERMIT.

[Permit granted under Section 28 of The Diamond Trade Act, 1882.]

Permission is hereby granted unto _____, of _____, to sell, export, or dispose of the diamonds herein specified and found in the ground herein described.

Dated at _____ this _____ day of _____ 188 .
 _____, Resident Magistrate of _____,

FROM WHOM GROUND BOUGHT.	DATE OF PURCHASE.	NUMBER OF LOADS.	PRICE PAID FOR GROUND.	LOADS WASHED.	NO. OF DIAMONDS OF TEN CARATS AND UPWARDS.	WEIGHT OF ANY SINGLE STONE VALUED ABOVE £100.	TOTAL WEIGHT OF PARCEL.

L.

FORM OF DECLARATION FOR WASHING PERMIT.

I, _____ of _____, do solemnly and sincerely declare that the rough and uncut Diamonds, hereinafter specified, were found by me in _____ loads of Diamondiferous Ground purchased by me on the _____ day of _____ 188 , from _____, and I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the Ordinance No. 6 of 1845, intituled "An Ordinance for substituting declarations in the place of certain Oaths, and for the suppression of Voluntary and Extra-judicial Oaths and Affidavits."

Declared before me at _____, this _____ day of _____ 188 .

_____, Resident Magistrate of _____.

SPECIFICATION OF DIAMONDS MENTIONED IN THE FOREGOING DECLARATION.

NO. OF STONES OF TEN CARATS AND UPWARDS.	WEIGHT OF ANY SINGLE STONE ABOVE THE VALUE OF £100.	TOTAL WEIGHT OF PARCEL.

C C

[M.]

BROKERS', COMPANIES', & OTHER LICENSED SELLERS' NOTES OF SALE.

A.

COUNTERFOOL TO BE KEPT BY SELLER OR BROKER AS REGISTERED.

No. _____ 188

SOLD FOR _____

SOLD TO _____

DETAILS OF PARCEL, SINGLE STONES OF A VALUE ABOVE £100 TO BE SPECIFIED.						TOTAL OF PARCEL.			
No. of Stones 10 cts. each or over.	Carats.	Price.	AMOUNT.			Carats.	AMOUNT.		
			£	s.	d.		£	s.	d.

CERTIFIED CORRECT.

Licensed Seller or Broker.

[M.]

BROKERS', COMPANIES', & OTHER LICENSED SELLERS' NOTES OF SALE.

B.

NOTE TO BE HANDED BY BROKER TO SELLER.

No. _____ 188

SOLD TO _____

DETAILS OF PARCEL, SINGLE STONES OF A VALUE ABOVE £100 TO BE SPECIFIED.						TOTAL OF PARCEL.			
No. of Stones 10 cts. each or over.	Carats.	Price.	AMOUNT.			Carats.	AMOUNT.		
			£	s.	d.		£	s.	d.

CERTIFIED CORRECT.

Licensed Seller or Broker.

[M.]

BROKERS', COMPANIES', & OTHER LICENSED SELLERS' NOTES OF SALE.

C.

NOTE TO BE HANDED BY BROKER, DEALER, ETC., TO BUYER.

No. _____ 188

BOUGHT OF _____

DETAILS OF PARCEL, SINGLE STONES OF A VALUE ABOVE £100 TO BE SPECIFIED.						TOTAL OF PARCEL.			
No. of Stones 10 cts. each or over.	Carats.	Price.	AMOUNT.			Carats.	AMOUNT.		
			£	s.	d.		£	s.	d.

CERTIFIED CORRECT.

Licensed Seller or Broker.

Spent.

No. 1—1883.]

ACT

[July 5, 1883. No. 1—1883

To apply a Sum not exceeding Four Hundred Thousand Pounds Sterling, towards the Service of the Year ending the 30th day of June, 1884.

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.

I. 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, 1884, 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, 1884.

II. This Act may be cited for all purposes as “The Appropriation (part 1883-4) Act, 1883.” Short Title.

No. 2—1883.]

ACT

[August 22, 1883.

To consolidate and Amend the Law relating to Aliens. *Repeal*

WHEREAS it is expedient to consolidate and amend the law relating to the legal condition of Aliens: Be it enacted by 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. Act 4/11 § 1

I. The laws mentioned in the first Schedule to this Act shall be and are hereby wholly repealed: Provided that such repeal shall not, as to any time before the passing of this Act, affect Repeal (with exceptions) of Laws in Schedule.

- (1) Any right acquired or thing done.
- (2) Any liability accrued or accruing.
- (3) Any penalty or other punishment incurred, or to be incurred, in respect of any offence committed.
- (4) The institution of any investigation or legal proceeding, or any other remedy for ascertaining or enforcing any such liability, penalty, or punishment as aforesaid.

II. Any person of alien birth may purchase, acquire, own, and dispose of immovable property in this colony in like manner as natural-born subjects of Her Majesty: Provided that this section shall not qualify an alien for any office or any franchise which such alien does not now by law possess, nor entitle an alien to any right or privilege except such rights and privileges in respect of immovable property as are hereby expressly given to him. Aliens may acquire fixed property.

III. Any alien now residing, or who may hereafter reside, within this colony, may make application, addressed to the Colonial Secretary, for letters of naturalization: and every such application shall be as nearly as is material in the form set forth in the second Schedule. Aliens may apply for Letters of Naturalization.

DD

No. 2—1883
 Governor
 may grant
 Letters of
 Naturaliza-
 tion.

IV. The Governor may (if he think fit), grant letters of naturalization in this colony to any alien, or to any person who has been naturalized as a British subject elsewhere than in this colony, who shall apply for naturalization and conform to the provisions of this Act: Provided that no letters of naturalization shall be granted until proof be furnished, to the satisfaction of the Colonial Secretary, that notice of application for such letters of naturalization has been given, by the person applying for the same, in two issues of the *Government Gazette*, and also in two issues of some local newspaper circulating in the district where such applicant resides.

Aliens hav-
 ing certifi-
 cates may
 apply for
 Letters of
 Naturaliza-
 tion.

V. Any person resident in this colony who has previously obtained a certificate of naturalization as a British subject as aforesaid may obtain letters of naturalization under the provisions of this Act if he shall submit such certificate and make an application to the Colonial Secretary, stating in the said application

- (1) That he is the person named in such certificate;
- (2) That the certificate has been obtained without any fraud or intentionally false statement; and
- (3) That the signature and seal (if any) thereto are to the best of his knowledge and belief genuine.

Declaration
 of allegiance
 to be taken.

VI. Every alien, being a male, to whom the Governor may grant letters of naturalization, shall before the delivery of such letters to him make and subscribe before a justice of the peace a declaration of allegiance in the form contained in the third schedule, which declaration shall be of the same force and effect as an oath of allegiance.

Rights of
 naturalized
 aliens.

VII. An alien to whom letters of naturalization have been granted shall in this colony be entitled to all political and other rights, powers, and privileges, and be subject to all obligations to which a natural-born British subject is entitled or subject in this colony.

Persons
 deemed to be
 naturalized.

VIII. The following persons shall be deemed and taken to be naturalized, and shall have all the rights and privileges of natural-born subjects of Her Majesty in this colony:

- (1) Any alien woman in this colony already married, or who shall hereafter be married to any such natural-born or naturalized subject.
- (2) All minor children alien born of any alien parent who shall be or become naturalized under this or any other Act, and which children shall either be within this colony at the time of the naturalization of their parent, or shall become resident with such parent in this colony during minority.

Returns to
 be published
 of Letters
 issued.

IX. A return of persons to whom letters of naturalization shall have been granted under this Act shall be published in the *Gazette* half-yearly, in the months of January and July, and such return shall shew:

- (1) Names of such persons in full.
- (2) Their birth place.

- (3) Occupation.
- (4) Residence in the colony.
- (5) Date of the issue of letters.

No. 2—1883

X. If any person shall wilfully make any false statement in any application made under the provisions of this Act for the purpose of obtaining letters of naturalization, he shall, upon conviction, incur the same penalties as are by law provided against persons convicted of wilful and corrupt perjury. And in case letters of naturalization shall have been granted such letters shall be void.

Penalty for false declaration.

XI. Every person obtaining letters of naturalization under this Act shall pay for the same a fee, to be collected by means of stamps, of one pound.

Fee.

XII. The Colonial Secretary shall cause a register to be made and kept of all letters of naturalization heretofore granted or hereafter granted under this Act, and shall upon the application of any person, and upon payment of a fee of one shilling in respect of every name, permit a search to be made for the name of any person upon, or supposed to be upon, the register.

Register to be kept.

A certificate under the hand of the Colonial Secretary authenticating the fact of the issue of letters of naturalization to any person whose name appears upon the said register may, at the discretion of the Colonial Secretary, be issued upon payment by means of stamps of a fee of five shillings. Every such certificate shall be received as evidence of the facts therein stated.

Certificate of authentication.

XIII. Every letter of naturalization and every such certificate as aforesaid shall be admissible in evidence without proof of the signature or seal authenticating the same and shall be *prima facie* evidence of the person named therein being duly naturalized, and of the signature or seal authenticating the same and of the official character of the persons appearing to have signed the same.

Evidence.

XIV. This Act may be cited as the "Aliens Naturalization Act, 1883."

Short Title.

THE FIRST SCHEDULE.

LAWS REPEALED.

No. and Year.	Title of Act.
No. 8, 1856.	For enabling Persons alien born to hold fixed Property in this Colony.
No. 37, 1861.	For Facilitating the Naturalization of Aliens.
No. 21, 1868.	For further Facilitating the Naturalization of Certain Aliens.

D D 2

THE SECOND SCHEDULE.

FORM OF APPLICATION FOR LETTERS OF NATURALIZATION,

To the Colonial Secretary of
the Cape of Good Hope.

I do hereby apply for Letters of Naturalization in the Colony of the
Cape of Good Hope, and I declare that the answers to the questions
hereunder given are true and correct.

<ol style="list-style-type: none"> 1. Name of the applicant (in full) 2. Birth place (state fully the name of the place and the country in which the place is situated). 3. Age next birthday. 4. Occupation. 5. Place of Residence in the Colony. 6. Length of time during which the applicant has resided in the Colony. 7. Does the applicant intend, when naturalized, to reside in this Colony? 	
---	--

Dated at _____
the _____ day of _____ 18 .

Witness :

(Signature of applicant.)

THE THIRD SCHEDULE.

DECLARATION OF ALLEGIANCE.

I, A.B., of _____, do sincerely promise that I will be faithful and
bear true allegiance to Her Majesty Queen Victoria as lawful Sovereign
of the United Kingdom of Great Britain and Ireland, and of the Colony of
the Cape of Good Hope, and to her heirs and successors, according to Law.

Declared this _____
day of _____ 18
Before me :

A.B.

Justice of the Peace.

No. 3—1883.] ACT [September 6, 1883. No. 3—1883

To facilitate the establishment of Public Cemeteries and to provide for the management 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 :—

I. The Governor may from time to time appoint trustees, not being fewer than three nor more than seven, for the management of any Public Cemetery, and every such appointment shall be notified in the Government Gazette.

Trustees.

II. The Governor may from time to time remove any trustee of any such Cemetery, and upon the removal, death, or resignation of any trustee, appoint another in his place.

Removal of Trustees.

III. The trustees, for the time being, so appointed, shall have power to acquire, hold, and alienate land for the purposes of this Act, and may raise money on mortgage of any land so held.

Trustees may hold and mortgage land.

IV. The legal estate in all lands held by any such trustees in trust for the purposes of this Act shall vest in the trustees for the time being, and the production of the Government Gazette containing a notice of the appointment of any trustee, accompanied by a solemn declaration that such trustee then holds office, shall be sufficient proof of the appointment and capacity of such trustee.

Vesting of land in trustees.

V. Grants of land for the establishment of any Public Cemetery under this Act may be made—

Grants may be made of land.

(1) Of Crown Land by the Governor, with the concurrence of both Houses of Parliament, as provided by the twelfth section of "The Crown Lands Act, 1878."

(2) Of land vested in any Municipality by the Council or Commissioners of such Municipality, proceeding in accordance with the provisions of any law or municipal regulation requiring due notice of the intention to alienate and the consent of the Governor.

VI. The Commissioners or Council of any Municipality, any Divisional Council, or any Board of Management created under the "Villages Management Act, 1881," may, from funds at the disposal of such Municipality, Divisional Council or Board of Management, grant any sum of money in aid of the establishment, and from time to time in aid of the maintenance of any Cemetery established under this Act, any existing law to the contrary notwithstanding.

Municipalities, &c., may grant money aids.

VII. The trustees of any such Cemetery shall, from time to time, have power to do all or any of the following things :—

Powers of trustees.

(1) To enclose any land held in trust for the purposes of this Act with proper and sufficient walls, rails, or fences.

(2) To erect suitable gates or entrances.

(3) To lay out and ornament such Cemetery in such manner as shall be most suitable and convenient for the burial of the dead.

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- (4) To embellish the same with walks, avenues, roads, trees, and shrubs.
- (5) To preserve, maintain, and keep in a cleanly and orderly state and condition, and to cause to be so maintained and kept the whole of any such Cemetery, and its walls and fences, and all monuments, tombstones, enclosures, buildings, erections, walks, trees and shrubs therein or belonging thereto.
- (6) To sell under such conditions and restrictions as they shall think proper the exclusive right of burial, or of constructing vaults with the exclusive right of burial therein either in perpetuity or for a limited period, in such parts of such cemetery as may be appropriated for that purpose.
- (7) To fix a scale of fees payable for any burial plot, and on any vault or grave being dug and made, and on any monument or tombstone being erected or placed in any part of any such Cemetery.
- (8) To permit any grave to be dug or made in such Cemetery, and any monument or tombstone to be erected or placed in any part of such Cemetery as they may think fit, upon payment to them of the fees fixed in the scale aforesaid.
- (9) To define the positions of all graves and vaults permitted to be made in such Cemetery, the depth of the graves and construction of coffins to be admitted into vaults, and the covering of vaults so as to prevent the escape of noxious exhalations.
- (10) To protect the buildings, monuments, tombs, shrubberies, plantations, and enclosures therein and thereof from disturbance or damage.
- (11) To make such arrangements as they may think fit for conveying, or for regulating and facilitating the conveyance of, the bodies of the dead from the place of death to any cemetery.
- (12) To do and perform, and cause to be done and performed, all such acts, matters and things as may be necessary and proper for any of the purposes of this Act.

Restrictions
as to vaults.

VIII. Every vault shall be so constructed that no portion thereof shall be above the level of the earth immediately adjoining or surrounding the said vault.

Provision
for burial of
the poor.

IX. The trustees of every such Cemetery shall cause to be set apart a portion thereof for the burial of poor persons free of charge, and shall cause to be buried therein the body of any poor person upon production of an order for that purpose from the Resident Magistrate of the district.

Trustees
may make
rules.

X. The trustees of any Cemetery shall have power and authority from time to time to make rules and regulations for the execution of their powers under this Act, for regulating their proceedings, the duties of their servants and officers, and preserving order at and convening their meetings. None of such rules shall be contrary to

this or any other Act, nor to the conditions of any grant or transfer of land held by such trustees. All such rules and regulations shall be submitted for the approval of the Governor, and when approved and published in the Government Gazette shall have force and effect. No. 3—1883

XI. If the number of trustees appointed shall be three, the powers by this Act conferred may be executed by any two of them, and if the number shall be four or more such powers may be executed by any three of them. Quorum of trustees.

XII. The majority of the votes of the members present at any meeting of trustees shall determine all questions which may be discussed or considered at such meeting. Majority to decide questions.

XIII. The trustees may choose one of their number to be chairman, and if the votes shall in any case be equally divided the chairman shall have a casting vote in addition to his deliberative vote. Chairman.

XIV. When any person desires to erect and place any monument or tombstone in any part of any such Cemetery he shall, before permission is given, submit a plan of the monument or tombstone proposed to be erected and placed to the trustees of such Cemetery, who may withhold their permission and prevent the erection of any monument which shall appear to them to be inappropriate or unbecoming. Monuments and tombstones.

XV. The trustees of any such Cemetery shall fix and determine the position of any monument which may be proposed to be erected according to the description, size, and character thereof, having reference to the general plan for ornamenting the Cemetery in an appropriate manner. Position of such to be determined by trustees.

XVI. If any monument, tomb, or other erection shall have been built or erected contrary to the terms and conditions upon which permission to erect or construct the same was granted, or in case such terms and conditions or the regulations of the Cemetery have not been complied with, the trustees may cause such monument, tomb, or other erection to be taken down and removed. Power to remove the same.

XVII. Before any body shall be permitted to be interred in any vault, or in any place of burial the exclusive right to which for burial purposes shall have been granted, sold, or let by the trustees as a family or private burial place, the trustees or any officer or servant employed by them may require satisfactory proof that the person for the time being entitled as owner to the exclusive right of burial in such vault or other place has consented, or would not object to such interment taking place therein. As to burials in places the exclusive right to which has been acquired by individuals.

XVIII. Any person digging or making any vault, grave or tombstone, or erecting or placing any monument in any Public Cemetery by and with the permission of the trustees thereof, and upon payment of the prescribed fees, shall, subject to the terms and conditions of such permission, be entitled to maintain and keep up, or to have maintained and kept up, as the case may be, such vault, grave, monument or tombstone for the sole and Right to keep up and maintain tombstones, &c.

No. 3—1883 separate use of such person and his representatives for ever, or for such time as by such terms and conditions may be stipulated.

How chapels may be erected. XIX. When the members of any religious denomination desire at their own expense to build in any such Cemetery a suitable mortuary church, or chapel for the performance of the rites and ceremonies in the burial of the dead according to the usages of such denomination, if the plans, specifications, elevations, and models thereof, and other buildings and conveniences thereto be first submitted to and approved by the trustees, such trustees may permit the same to be erected and built within such part of such Cemetery as shall be set apart for such denomination upon such terms as may be agreed upon.

Ministers' right of access to chapels, &c. XX. The minister of any denomination for which any portion of any such Cemetery shall be especially set apart may have access and admission to such portion at all times as he shall see fit, subject to any rules to be made by the trustees and approved of by the Governor, and any such minister may freely exercise his spiritual functions therein without hindrance or disturbance of the trustees of such Cemetery or any other person; provided that it shall not be competent for such trustees by any rule or regulation or by any act, matter, or thing to interfere directly or indirectly with the orderly performance of any religious ceremony in the burial of the dead according to the usage or practice of the communion to which the deceased may have belonged.

Accounts to be kept. XXI. The trustees of every such Cemetery shall keep a full and particular account of all moneys received and expended by them, and shall send an abstract of such account up to the thirtieth day of June next after their appointment, and subsequently to the same date in every year, to the office of the Colonial Secretary. Such account shall be certified to be correct by not fewer than two of such trustees, and shall from time to time contain such particulars as the Governor shall require. The Governor may order an inspection and examination or periodical inspections and examinations of the books, accounts, and vouchers of the trustees of every such Cemetery.

Penalty for not keeping said accounts. XXII. Every trustee omitting to keep such account, and to send such abstract thereof, to the Colonial Secretary as aforesaid, and every trustee failing to produce the books, accounts, and vouchers aforesaid in obedience to any order made by the Governor shall, upon conviction, be liable to a penalty not exceeding twenty pounds, to be recovered in the Court of the Resident Magistrate.

Registration of burials. XXIII. All burials within any public cemetery shall be registered in a book to be provided by the trustees and kept for that purpose. Such book shall be in such form as may be prescribed by any regulations made under this Act, and shall be regularly kept by some person appointed by the trustees to do that duty; and in such book shall be distinguished in what parts of the cemetery the several bodies (the burials of which are entered therein) are buried.

The trustees shall cause to be made at such times, in such manner, and to such officer or person as the Governor may direct, a return of the names, addresses, dates of death and causes of death, so far as ascertained, of the persons whose bodies have been interred in such cemetery.

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Returns of
deaths and
the causes
thereof.

XXIV. Any person who shall wantonly or wilfully destroy, or do, or cause to be done, any damage to any monument, vault, tombstone, building, erection, railing, fence, tree, shrub, or plant, in or belonging to any cemetery, shall, upon conviction before any Resident Magistrate of this colony, be liable for every such offence to a penalty not exceeding twenty pounds, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months, or to both such penalty or such imprisonment.

Penalty for
wilfully in-
juring ceme-
teries, &c.

XXV. Any person who shall do or cause to be done any injury to any such monument, vault, tombstone, building, erection, railing, shrub, tree, plant, or any other damage to any such Cemetery, whether the same be done wilfully or wantonly or otherwise, shall be liable, irrespective of any such penalty as aforesaid, to pay a reasonable sum of money as damages or for compensation, which sum of money shall be recoverable in any court of competent jurisdiction by the trustees of the Cemetery or by any person injured by such damage, but not by both such trustees and such person in respect of the same act or offence.

Damages for
injuries not
wilful.

XXVI. Any animal which may be impounded under the Pound Laws or Regulations (as the case may be), in force in any place where any such cemetery is situated, found trespassing in any cemetery, may be impounded by the trustees of such cemetery, or by any officer or servant employed by them, and the owner of any animal so impounded shall be liable to pay in lieu of any other trespass money, such sum not exceeding ten shilings in respect of each animal so found as aforesaid as may be prescribed by regulations to be made under the provisions of this Act, exclusive of mileage, herding, or other pound fees, payable according to the laws or regulations applicable to such pound.

Animals
found tres-
passing may
be impound-
ed.

XXVII. The fifth section of the "Police Offences Act, 1882," shall be in operation in and within the limits prescribed for every Public Cemetery, under the management of trustees appointed under this Act, and for the purposes of the said fifth section every part of every such Cemetery shall be deemed to be a public place or public street: Provided that in case by this Act any higher punishment or penalty shall be prescribed for any act or offence in the said section mentioned, such higher punishment or penalty may be imposed; and notwithstanding anything contained in the twenty-first section of the said Police Offences Act, all fines and penalties recovered under the said fifth section in respect of any offence committed within any Cemetery shall be paid to the trustees of such Cemetery.

Cemeteries
to be named
"public
places."

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Trustees and other officers may arrest without warrant persons contravening this Act.

XXVIII. Any trustee or any officer or servant of the trustees of any Cemetery or any person called to aid or assist any such trustee, officer, or servant may without warrant take into custody any person who shall commit or be in the act of committing any offence against this Act, or any offence mentioned in the fifth section of the "Police Offences Act, 1882," in any such Cemetery, and whose name and place of abode shall be unknown to the person so arresting, and the person arrested may be detained until he can be delivered into the custody of a constable or policeman, to be dealt with according to Law.

And may prosecute such persons

XXIX. The trustees of any Cemetery shall be authorized to prosecute all persons who may contravene any of the provisions of this Act, and may by any regulations to be made as aforesaid name some officer, servant, or other person to prosecute on their behalf, or may grant any special power or authority to any person for such purpose.

Fines and penalties to go to trustees.

XXX. All moneys arising from fines and penalties imposed by this Act shall, when recovered, be paid to the trustees of the Cemetery in respect whereof such fine or penalty may have been imposed for the purposes of such Cemetery.

Existing cemeteries may be brought under operation of this Act.

XXXI. The Council or Commissioners of any Municipality, which has heretofore established or shall hereafter establish any Public Cemetery may, by regulations to be framed and approved of in the manner by law provided, declare such Cemetery to be subject to the provisions of this Act, and thereupon such Council or Commissioners shall be deemed to be trustees appointed under the provisions of this Act, and shall have and exercise all the rights and powers, and be liable to all the duties and obligations of trustees.

Short title.

XXXII. This Act may be cited as the "Cemeteries Act, 1883."

Repealed by 1919 Act 36

No. 4—1883.]

ACT

[September 6, 1883.

To Amend the Law relating to Public Health.

Preamble.

WHEREAS it is expedient to amend the law relating to public health: Be it enacted by 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.

I. The laws mentioned in the first schedule hereto to the extent to which the same are therein expressed to be repealed shall be and the same are hereby repealed, except as to any things done, offences committed, or proceedings commenced or pending at the time of the taking effect of this Act.

PART I.—GENERAL PROVISIONS. X

Interpretation Clause.

II. In the construction of this Act the term "local authority" shall mean

The council or board of commissioners of any municipality;
The board of management of any community in which the "Villages Management Act, 1881," is in operation;

includes
X "Municipal Councils" (vide G.O. in 13 Feb 1893

A board consisting of not more than five persons nominated by the Governor for the purpose of carrying the provisions of this Act into effect, within any area to be fixed by the Governor by proclamation ;

The resident magistrate, or special justice of the peace (if any, or as the case may be) residing in any town or village which is not a municipality, or in which the said "Villages Management Act" is not in operation, or in which no such board as aforesaid has been appointed to act; and, when there shall be no such resident magistrate, special justice of the peace or board, any justice of the peace residing in such town or village. The area within which such resident magistrate or special or other justice of the peace, as the case may be, shall exercise authority, shall be such as the Governor may by proclamation determine.

The term "quarantine" shall include in its meaning the interdiction of free communication with persons on land infected with disease or suspected of being so infected.

And the term "port officer" shall mean the port captain or harbour master of any port, or the officer for the time being performing duties usually performed by such officers.

III. The Governor may, out of any moneys appropriated by Parliament for the purpose

(1) Grant to any local authority for the purposes of preventing the spread of or suppressing contagious or infectious disease, or for quarantine purposes, such reasonable sum as he shall think fit, not exceeding one-half of the amount expended or to be expended for any such purpose.

(2) Advance to any local authority such sum of money for the purposes of this Act as he may deem necessary; and all such advances shall be recoverable from the local authority, and when recovered be repaid to the general revenue.

IV. The council or commissioners of every municipality are hereby empowered to levy special rates upon all property liable to be rated for the purpose of defraying any expenses incurred or to be incurred under the provisions of this Act.

When such council or commissioners are authorized to levy tenants' rates, the special rates shall be levied as such, and all such rates shall be imposed, collected, and recovered in the same manner as ordinary rates.

V. In case any expense shall be incurred in carrying out the provisions of this Act by any local authority not having by law the power to levy rates upon the landed property within the area over which such local authority shall exercise its powers, it shall be lawful for the divisional council of the division in which such area is situated, and such divisional council is hereby required upon the application in writing of such local authority stating the amount

For what purposes Governor may grant moneys under this Act.

Municipalities may levy rates.

Tenants' rates.

Expenses when no power to levy rates.

No. 4—1888 required to be raised for the purposes of this section to levy a rate upon all the rateable property within such area, and such rate shall be levied and collected by the said divisional council in all respects as if it were a rate lawfully levied by such council for its own purposes.

Powers exercised by Governor may be revoked.

VI. Any power by this Act authorized to be exercised by the Governor may be exercised from time to time, and any order, regulation or direction to be made or given by the Governor, may be revoked, altered, or varied as occasion may require.

Quarantine to apply to small-pox.

VII. The provisions of this Act and any regulations framed under this Act concerning quarantine or contagious or infectious diseases shall extend and apply to small-pox and to such other diseases as the Governor shall by proclamation declare are to be deemed contagious or infectious within the meaning of this Act.

Publication of regulations.

VIII. All regulations made by the Governor under the provisions of this Act shall be published in the *Government Gazette*, and shall have effect from and after the date of such publication: and such regulations shall be laid before both Houses of Parliament within fourteen days after the publication thereof if Parliament be then sitting, and if Parliament be not sitting, then within fourteen days after the commencement of the next session.

Magistrates Courts to have jurisdiction under this Act.

IX. The courts of the resident magistrates shall have jurisdiction in any prosecution for the contravention of the provisions of this Act, or any order or regulation made under this Act, in respect of any offence committed within the districts of such magistrates respectively, and in the case of any offence committed in any port or upon the sea within three miles of the shore the court of the resident magistrate of any district in which the person accused shall be found within six months after the commission of the act or offence charged, shall have such jurisdiction.

Any person shall be deemed to have capacity to prosecute as a private prosecutor any person charged with any offence under this Act.

PART II.—QUARANTINE.

Vessels of every kind subject to provisions of this Act.

X. All vessels, as well Her Majesty's ships of war, and the ships of war of other nations, as others, arriving in the ports of this colony, shall be liable to the provisions of this Act, and any regulations made under this Act, concerning quarantine and the prevention of infection.

Notification of infectious disease by Governor and the consequences.

XI. The Governor may notify that any place, whether within or beyond the colony, is infected with any infectious or contagious disease dangerous to the health of the people. Immediately after such notification

- (1) All vessels arriving at any port or place in the colony from or having touched at any such infected place;
- (2) All vessels and boats receiving any person or thing from or out of any vessel coming from or having touched at any such infected place;

- (3) All persons or things on board of any vessel coming from or having touched at such infected place, or on board of any such vessel as is above mentioned in sub-section (2); shall be liable to quarantine. No. 4—1883

XII. Any vessel arriving at any port or place in this colony from any place within or beyond this colony having any infectious or contagious disease on board, or on board of which any infectious or contagious disease may have appeared in the course of the voyage, or arriving under circumstances deemed to be suspicious as to infection or contagion, although such vessel shall not have arrived from any place declared to be infected, and any persons and things on board the same, shall be liable to quarantine. Ships which have had infectious diseases during voyage.

XIII. All vessels and boats, whether coming from a place declared to be infected, or being otherwise liable to quarantine under the provisions of this Act, and all persons (as well pilots as others) and things, whether coming or brought in such vessels or boats, or going or put on board the same, either before or after the arrival of such vessels or boats at any place in the colony, shall perform quarantine in such places for such time and in such manner as shall be directed by the Governor, and shall be subject to all the provisions contained in this Act, or in any regulations made under the authority of this Act concerning quarantine. Vessels, &c., arriving from infected places to be quarantined.

XIV. Until any vessels and boats, persons and things, liable to quarantine shall respectively have performed, and shall be duly discharged from quarantine, no such persons or things shall come or be brought on shore, or go or be put on board any other vessel or boat in order to be brought or come on shore in any place in this colony, except in such manner, and in such cases, and by such authority as shall be directed or permitted by the Governor, or by any regulations made under the authority of this Act. Nothing to be landed till ship discharged from quarantine.

XV. Any commander or master of a vessel arriving at any port or place in this colony from any place beyond, or from, or having touched at any place declared by the Governor to be infected, within the colony, and any person on board thereof, communicating or attempting to communicate with the shore, or with any other vessel, or with any boat from any vessel, or from the shore, or allowing any person on board so to do, otherwise than by signal, before such vessel shall have received pratique from the port officer or health officer, or other person duly authorised in this Act, and before the health flag has been hoisted in token thereof, and any person from the shore, or from any vessel in any of the ports of this colony, or from any boat, except the officers authorized under this Act, boarding or going alongside any such vessel arriving in any of the said ports, or receiving into any boat any parcel or package, or other thing whatever, from on board such vessel, previously to such vessel having received pratique, in the mode hereinafter described, shall be liable on conviction to a penalty not exceeding fifty pounds, and, in default of payment, to imprisonment Penalties for breach of quarantine.

No. 4—1883 with or without hard labour for a period not exceeding six months.

Port Officers and others boarding vessels to remain on board till pratique granted.

XVI. If at any time it should be necessary for the port officer to board any vessel entering a port of this colony, or to allow his boat's crew to board the same, or otherwise personally to communicate with such vessel, with the view of rendering assistance in case of danger, previously to such vessel having received pratique, all such persons who may have so communicated with the said vessel shall remain in quarantine, either on board such vessel, or in their own boat, until such time as the vessel with which they have so communicated may have obtained pratique, on pain of rendering themselves liable to the penalties hereinafter imposed on persons unlawfully communicating with the shore before pratique has been given; and if the vessel with which the port officer, or boat's crew, have communicated as aforesaid, be afterwards placed under quarantine by a competent authority, the said port officer, or boat's crew, shall remain in and be liable to quarantine.

Masters of ships to furnish declaration of health, &c.

XVII. On the arrival of any vessel in any port of this colony, the commander or master thereof shall, upon being furnished by the port officer, or health officer, or other person duly authorized, with a printed declaration of health, according to the form in the second schedule hereto, fill up and sign the same, if he feels himself justified from the perfect state of health of every person on board so to do, and shall return the said declaration, so filled up and signed, to the officer as aforesaid; whereupon such vessel may be granted pratique; and the commander or master shall then hoist the union-jack, or flag of the nation to which the vessel belongs, to the main-top-gallant-mast head, as the health flag, in token of such pratique having been duly granted. But no such pratique shall be deemed or taken to be so granted until duly signified by such health flag having been so hoisted.

Penalty for false statement.

XVIII. If the commander or master of any such vessel shall sign and deliver any declaration of health containing any false statement, or false answer to any question therein inserted, such commander or master shall, upon conviction, be liable to a penalty not exceeding two hundred pounds, or in default of payment, to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to both such penalty and such imprisonment.

If clean bill of health cannot be given inquiry to be made.

Repealed by
1897 Act 23

XIX. If any commander or master of a vessel arriving in a port of this colony should, from the ill state of health of any of the persons on board of his vessel, or from any other circumstances, not deem himself warranted to sign the declaration of the perfectly healthy state of the vessel, the port officer, or other person as the case may, shall in every such case make every necessary inquiry into the state of health of the officers, passengers, crew, and others, and if there should be any sick persons on board into the nature and character of their complaints; and shall, after such inquiry,

either detain the said vessel in quarantine, or give her pratique as to him may appear fitting: Provided that when there may be any reasonable cause of doubt or suspicion, he shall not grant pratique, but shall place the vessel in quarantine, and report thereon, if the vessel is in Table Bay, to the Colonial Secretary, or if in any of the other ports of this colony, to the resident magistrate thereat, or to the justice of the peace or other local authority nearest thereto, in order that further medical advice may be obtained.

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XX. If the port officer or health officer should deem it necessary to place the vessel in quarantine, he shall notify the same to the commander or master thereof, and give him a copy of this Act, and of any Regulations made under this Act concerning quarantine, and order him to hoist a yellow flag at the fore-top-gallant-mast head, and shall forthwith report the same to the Colonial Secretary, or other chief local authority as aforesaid of the district in which the port is situated, in order that the necessary measures may be taken for cutting off all communication with such vessel, for such time as may be needful, and, under proper precautions to be superintended by the health officer, or other person duly appointed, for furnishing the said vessel with any supplies she may be in want of; and if the commander or master of any vessel so placed in quarantine have not a yellow flag on board, the health officer or port officer shall order one to be furnished forthwith, at the expense of the said commander or master, who shall hoist the same, or cause it to be hoisted, as directed, and to be kept up during the day, so long as the vessel may be detained in quarantine, under a penalty not exceeding twenty pounds; and during the night, the commander or master of any vessel so placed in quarantine shall, in lieu of such yellow flag, cause to be hoisted and kept at the fore-top-gallant-mast head, two lighted lanterns, one over the other, under a similar penalty not exceeding twenty pounds.

In case of quarantine, duty of Port Officer.

XXI. In case of the illness, or other necessary absence, of the health officer, the port officer may give pratique to any vessel whereof the commander or master has signed the health certificate as aforesaid: Provided such vessel has not touched at, or communicated with vessels coming from any infected port, in which case the port officer shall not give pratique, but a competent officer shall be expressly appointed to act for and perform the functions of the health officer.

In what cases Port Officer may give pratique.

Repealed by 1897 Act 23

XXII. At any port of this colony for which no health officer or port officer is appointed, the resident magistrate, or any officer of customs, or in the absence of any such officer, any justice of the peace or field-cornet at or near such port, may, in the event of the casual arrival of a vessel thereat, act, or depute some competent person to act, as health officer and port officer; and the said resident magistrate, or other officer as aforesaid, and any person by him deputed to act, is hereby authorised and required, as far as circumstances will permit, to perform all the duties assigned by this Act

Powers of magistrates and Justices of the Peace where no Health or Port Officer.

No. 4—1883 to the health officer and port officer respectively, and is to be considered and obeyed as such.

Power to quarantine.

XXIII. The resident magistrate, or in the absence of such officer, any justice of the peace, at or near any port of this colony other than Table Bay, is hereby authorised and required to detain any vessel in quarantine, and to prevent all communication therewith in case of actual necessity (such necessity to be certified by the health officer or other person duly appointed to visit vessels at such port), and shall forthwith report the same to the Colonial Secretary; and the health officers and port officers at the several ports of the colony are hereby authorised and required, in case of necessity, to place all vessels in quarantine in the manner directed by the provisions of this Act, until report thereof be made to the Colonial Secretary, or to a resident magistrate, justice of the peace, or other competent local authority as aforesaid.

Masters and others in quarantine to be subject to regulations made by competent officer.

XXIV. All commanders or masters of vessels, and other persons liable to quarantine, who may have been placed in quarantine by a competent officer as aforesaid, and all persons having had any intercourse or communication with them, shall be subject, in respect to such quarantine, during the period they are detained therein, to such orders as they may receive from the health officer, or port officer, or other competent officer acting for them; and the said officers are hereby authorized and required to enforce all due obedience to the said orders, and, in case of necessity, to call in others to their assistance: and any person who is liable to or under quarantine, refusing or neglecting to obey such orders, or attempting to evade the performance of quarantine shall, upon conviction, be liable to a penalty not exceeding twenty pounds, and in default of payment, to imprisonment for a period not exceeding three months.

Guards, and power to use force.

XXV. If, in the case of any person placed in quarantine, either on board ship, or in any lazaret, or other place allotted for the performance of quarantine, it should be necessary, for the due security of the public health, that guards be placed over such person, either in boats or on shore, it shall be lawful for such guards, if an attempt at escape should be made by any such person so placed in quarantine, to resist the same by open force, and to use their arms in case of absolute necessity; and such guards shall be held justified for the same, in the event of any bodily injury being inflicted on any such person so attempting to break quarantine.

Powers to be exercised by the Governor.

XXVI. The Governor may do all or any of the following things:—

- (1) Appoint stations or places for the performance of quarantine where all vessels liable to quarantine, and the crews, passengers, and persons on board thereof shall perform the same.
- (2) Appoint lazarets and other places where the crews, passengers, and other persons, and the things which may be on

board the said vessels shall be detained and kept for the performance of quarantine. No. 4—1883

- (3) Appoint and remove superintendents of such lazarets, stations, or places, and such other officers as may be necessary for carrying out the provisions of this Act, or any regulations made in pursuance of this Act concerning quarantine.
- (4) Make regulations concerning quarantine and the prevention of infection, and make such orders, and give such directions as shall appear to be necessary to cut off all communication between any person infected, or under the circumstances likely to be infected, with any contagious or infectious disease, and the rest of the inhabitants of the colony. *4. 11. 199 of 1914*
9. 11/12/14 10612
- (5) Make such orders and regulations and give such directions as he may deem fit for shortening the time of quarantine to be performed by particular vessels, or particular persons and things, or for absolutely or conditionally releasing them or any of them from quarantine.
- (6) Appoint limits around any quarantine station, lazaret, or other places within which it shall not be lawful for any person, or any vessel or boats to go or be brought.
- (7) Attach a penalty for the contravention of any regulation or order made in pursuance of this Act not exceeding twenty pounds, and prescribe a term of imprisonment either with or without hard labour, in default of payment not exceeding three months.
- (8) Order or direct that all or any of the powers, duties, or acts, authorised or required to be performed by the Governor at any port or place in this colony may be exercised, performed, or done by any local authority, or by any officer or person appointed by the Governor subject to such restrictions as he may impose.

XXVII. Any person convicted of any of the following acts or offences shall be liable to a penalty not exceeding one hundred pounds, or to imprisonment with or without hard labour for any period not exceeding six months, or to both such fine and such imprisonment:—

- (1) If being a person liable to quarantine, he shall wilfully refuse or neglect to repair, when required, to a quarantine station, lazaret or other place appointed for performing quarantine.
- (2) If having been placed in a quarantine station or lazaret, he shall escape or attempt to escape from the same before quarantine has been duly performed.
- (3) If being the master or a person in charge of any vessel, liable to perform quarantine, he shall quit, or knowingly permit or suffer any person to quit, such vessel, by going

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- on shore, or by going on board any other vessel, before such quarantine shall be fully performed, unless by licence granted by virtue of any orders or regulations made by the Governor.
- (4) If being the master or person in charge of any vessel, liable to quarantine, he shall not within a reasonable time after due notice given for that purpose, cause such vessel and the lading thereof to be conveyed to the place appointed for such vessel and lading to perform quarantine.
 - (5) If having come in any vessel liable to quarantine, or having gone on board any such vessel, he shall either before or after the arrival of such vessel at any place within this colony, quit such vessel (unless by licence granted by virtue of any orders or regulations made by the Governor), by going on shore, or by going on board any other vessel, or any boat, with intent to go on shore, before such vessel so liable to quarantine shall be regularly discharged from the performance thereof.
 - (6) If he shall wilfully and without leave go within the limits assigned or appointed by the Governor, around any quarantine station, lazaret, or other place for the performance of quarantine.
 - (7) If being a person whose duty it shall be to execute, or carry out any of the provisions of this Act, or any order or regulation made, or direction given under the provisions of this Act concerning quarantine, he shall knowingly or wilfully be guilty of any breach or neglect of his duty.
 - (8) If he shall convey, or remove, or secrete, or conceal for the purpose of conveying or removing, anything from any vessel actually performing quarantine, or from any quarantine station, lazaret, or other place where such thing shall be performing quarantine.
 - (9) If not being authorised under this Act or otherwise, he shall communicate with any vessel placed under quarantine, or with any persons under quarantine on board any vessel or at any quarantine station, lazaret, or other place.
 - (10) If being a superintendent or other person in charge of, or a guard over any vessel, person, or thing performing quarantine, he shall connive at or assist in the breach of any of the provisions of this Act or any regulations made under this Act concerning quarantine, or shall desert from his duty.
 - (11) If he shall contravene any of the provisions of this Act, or of any order or regulations made by the Governor under the provisions of this Act, concerning quarantine in respect of which no other penalty shall have been expressly provided,

XXVIII. Any person may without warrant arrest any person who shall, contrary to the provisions of this Act, or of any order or regulations made under this Act concerning quarantine, have quitted or come on shore from any vessel liable to perform quarantine, or who shall have escaped from or quitted any vessel under quarantine, or from any lazaret or place appointed for performing quarantine, for the purpose of taking such person before any Magistrate or Justice of the Peace. Any Resident Magistrate or Justice of the Peace may grant a warrant for apprehending and conveying any such person to the vessel from which he shall have come or have escaped, or to any vessel or lazaret or place appointed for performing quarantine, or for confining such person in any place of safe custody, not being a public prison, until such person can be conveyed to some place appointed for the performance of quarantine, or until directions can be obtained from the Governor as to the disposal of such person. And until such person shall be conveyed to such place or the Governor shall have given such directions as aforesaid, such resident magistrate or justice of the peace may make any order that may be deemed necessary in that behalf.

No. 4—1883
Powers to
arrest per-
sons break-
ing quaran-
tine.

XXIX. Any health officer, or superintendent of any quarantine station or other place where quarantine is to be performed, may prescribe such measures as may be necessary for cleansing, purifying, and disinfecting any vessel in quarantine, and the passengers and crew thereof, and the cargo therein, and may order the destruction of any clothing or materials which cannot be cleansed, purified or disinfected.

Provisions
for cleansing
and disin-
fecting.

XXX. All things liable to quarantine under this Act may be opened and aired in such place and for such time and in such manner as shall be directed by the Governor by any order, or by any regulations made under this Act.

For opening
and airing
things.

XXXI. During the detention of the crew and passengers of any vessel in quarantine, whether on board or on shore, the commander or master of such vessel shall provide and supply provisions for the said crew and passengers on the same scale as during a voyage. If he shall omit to do so, provisions may be supplied by the superintendent or person in charge of the place at which such vessel is detained, and the expenses incurred in so doing may be recovered by such superintendent or other person, as a debt due from the commander or master, or the owner, or both, and such debt shall be a charge on the vessel.

Supplies to
crews and
passengers
of quaran-
tined ships.

PART III.—INFECTIOUS DISEASES AND HOSPITALS.

XXXII. The Governor may make regulations or give directions for all or any of the following purposes, which regulations and directions shall be acted upon by the local authority immediately any portion of the Colony is affected by or threatened with small-pox, or any epidemic, endemic, infectious, or contagious disease :

Regulations
to be made
or directions
given by
Governor to
local autho-
rity in infec-
ted places.

- (1) For house to house visitation.

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- (2) For the speedy interment of the dead.
- (3) For the conduct and direction of the route of funerals.
- (4) For providing medical aid and accommodation.
- (5) For the detention and isolation of persons suffering from or under circumstances likely to be infected with such disease, and for preventing the spread of disease.
- (6) For the promotion of cleansing, ventilation, and disinfection.
- (7) For preventing the overcrowding of any house or part of a house so as to be dangerous or injurious to the health of the inmates, whether or not members of the same family.

Penalty for
contraven-
tion thereof.

Any person who contravenes any regulation made by the Govern-
nor under this section, or wilfully obstructs any person acting under
the authority of or in carrying out any such regulations, shall
upon conviction be liable to a penalty not exceeding ten pounds,
and in default of payment to imprisonment with or without hard
labour for a period not exceeding three months, or to both such
fine and such imprisonment.

Duties of
local author-
ity.

XXXIII. The local authority shall superintend and see to
the execution of such regulations and directions as aforesaid, and
shall appoint and pay medical or other officers or persons, and do
and provide all such acts, matters and things as may be necessary
for mitigating any such disease, and for superintending or aiding
in the carrying out of such regulations, or for carrying out the
same as the case may require. The local authority may from
time to time commence or direct any prosecution or legal proceed-
ings for or in respect of the contravention of this Act or any
regulations made under this Act.

Power to
order disin-
fection.

XXXIV. Where any local authority is of opinion, on the certi-
ficate of any legally qualified medical practitioner, that the cleansing
and disinfecting of any house or part thereof, and of any articles
therein likely to retain infection, would tend to prevent or check
infectious disease, it shall be the duty of such authority to give
notice, in writing, to the owner or occupier of such house or part
thereof, requiring him to cleanse and disinfect such house or part
thereof and articles within a time specified in such notice. If the
person to whom notice is so given fails to comply therewith, he shall
be liable to a penalty not exceeding ten pounds and the local
authority shall cause such house or part thereof and articles to be
cleansed and disinfected, and may recover the expenses incurred
from the owner or occupier in default. Where the owner or occupier
of any such house or part thereof is from poverty or otherwise
unable, in the opinion of the local authority effectually to carry
out the requirements of this section, such authority may, without
enforcing such requirements on such owner or occupier, cleanse
and disinfect such house or part thereof and articles, and defray
the expenses thereof.

XXXV. When any householder knows that a person within the house occupied by him is suffering from small-pox or any other disease declared by the Governor to be infectious, he shall immediately give notice thereof to the local authority of the place on which he dwells. It shall be the duty of the medical practitioner in attendance in such case to inform the householder as early as possible of the infectious nature of the disease. Any person neglecting or refusing to comply with the provisions of this section, shall be liable to a penalty not exceeding ten pounds.

No. 4—1883
Householder
to give notice
of small-
pox, &c.

*Repealed by
1897 Act 23*

XXXVI. Any local authority may do any of the following things:—

What local
authority
may do.

- (1) Direct the destruction of any bedding, clothing or other articles which have been exposed to infection from any infectious disease, and may give compensation for the same.
- (2) Provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding, clothing, or other articles which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge.
- (3) Provide and maintain vehicles suitable for the conveyance of persons suffering under any infectious disease, and may pay the expense of conveying therein any person so suffering to a hospital or other place of destination.

XXXVII. When any suitable hospital or place for the reception of the sick is provided within the district of a local authority, or within a convenient distance of such district any person who is suffering from any infectious disease, and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, or is on board any ship or vessel, or who is not under medical treatment by some medical practitioner, may, on a certificate signed by a qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed by order of any resident magistrate or justice of the peace to such hospital or place at the cost of the local authority. An order under this section may be addressed to any constable or member of a police force, and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding ten pounds.

Who may
be removed
to hospitals.

XXXVIII. Any person who—

- (1) While suffering from any infectious disease wilfully exposes himself in any street, public place, shop, inn, railway carriage, or public conveyance, or enters any public conveyance without the consent of the owner, conductor or driver thereof, after notifying to such owner, conductor, or driver that he is so suffering; or
- (2) Being in charge of any person so suffering, so exposes such sufferer; or

Penalties
for infected
persons ex-
posing them-
selves.

No. 4—1883

(3) Gives, lends, sells, transmits or exposes, any bedding, clothing, rags, or other things which have been exposed to infection from any such disease; unless the same shall have been disinfected to the satisfaction of the local authority,

shall be liable to a penalty not exceeding ten pounds; and in default of payment to imprisonment with or without hard labour for any period not exceeding three months, and a person who while suffering from any such disease, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, shall in addition be ordered by the court to pay such owner and driver the amount of any loss and expense they may incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance.

Exceptions. No proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags, or other things for the purpose of having the same disinfected, provided such transmission be made in accordance with the instructions of the local authority previously obtained.

Power of summary removal of infected persons found in public places.

XXXIX. Any person found in any road, street, or other public place suffering from small-pox, or any disease declared by the Governor to be deemed contagious or infectious, may be summarily removed by any local authority or person authorised to carry the provisions of this Act into operation, to the residence of such diseased person, or if he shall have none, or none in which he could be properly treated for such disease, to any public hospital or lazaret, or to any place appointed by such local authority, for the reception or detention of persons suffering from contagious or infectious disease, and such person may be detained in any such hospital, lazaret, or other place, until it shall be certified by a qualified medical practitioner that he may safely be discharged.

Disinfection of public vehicles.

XL. Every owner or driver of a public conveyance shall immediately provide for the disinfection of such conveyance, after it has to his knowledge conveyed any person suffering from an infectious disease; and if he fails to do so he shall be liable to a penalty not exceeding ten pounds; but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying into effect the provisions of this section.

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Penalties for letting infected premises on hire.

XLI. Any person who knowingly lets for hire any house, room, or part of a house in which any person has been suffering from any infectious disease, without having such house, room, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of a qualified medical practitioner, as testified by a certificate signed by him, shall be liable to a penalty not exceeding twenty pounds. For the purposes of this section, the keeper of any hotel shall be deemed to let for hire part of a house to any person admitted as a guest into such hotel.

XLIII. Any person letting for hire or showing for the purpose of letting for hire any house or part of a house, who on being questioned by any person negotiating for the hire of such house or part of a house as to the fact of there being or within six weeks previously having been therein any person suffering from any infectious disease, knowingly makes a false answer to such question, shall be liable to a penalty not exceeding twenty pounds, or to imprisonment, with or without hard labour, for a period not exceeding three months.

No. 4—1883
Penalties
for false
answers.

XLIII. Any local authority may provide hospitals or temporary places for the reception of the sick, or persons who may have come in contact with the sick, and for that purpose may

Powers of
local authority
to provide
hospitals.

- (1) Build such hospitals or places of reception; or
- (2) Contract for the use of any premises for the purpose of such hospital or place of reception; or
- (3) Enter into any agreement with any person for the reception of the sick on payment of such annual or other sum as may be agreed upon.

Two or more local authorities may combine in providing a common hospital.

XLIV. Any expenses incurred by a local authority in maintaining in a hospital, or in a temporary place for the reception of the sick (whether or not belonging to such authority), a patient who is not a pauper, shall be deemed to be a debt due from such patient to the local authority, and may be recovered from him or from his estate in the event of his dying in such hospital or place.

Expenses
by local
authority.

XLV. The officers of any local authority, or any person authorised in writing by any such officer, shall have power to enter on any premises for the purpose of carrying out, or superintending the carrying out, of the provisions of this Act, or any regulations framed under this Act.

Powers of
entry, &c.

XLVI. Any person wilfully refusing entrance to any officer of a local authority or any person duly authorised in writing as aforesaid, to any premises, and any person obstructing, or using foul, violent, or insulting language to any such officer or person while in the execution of any of the provisions of this Act, or any regulation made under this Act, shall, upon conviction, be liable to a penalty not exceeding ten pounds, and, in default of payment, to imprisonment, with or without hard labour, for any period not exceeding three months.

Penalties for
resistance.

XLVII. In case of the prevalence of small-pox the local authority may require any person within the limits over which such local authority shall have authority, to give proof that such person has been successfully vaccinated, and if any person who shall not give proof of having been vaccinated, shall refuse to allow himself to be vaccinated, such person shall, upon conviction, be liable successively in respect of each refusal to a penalty not exceeding two pounds, or, in default of payment, to imprisonment for any period not exceeding seven days.

Penalties for
non-vaccinated
person
refusing to
be vaccinated.

No. 4—1883

Removal of
bodies of
persons
dying of
infectious
disease.

XLVIII. Where the body of any person who has died of any infectious disease is retained in a room where persons live or sleep, or where any dead body is in such a state as to endanger the health of the inmates of the house or room in which such body is retained, any resident magistrate or justice of the peace may, upon production of a certificate, signed by a qualified medical practitioner, order the body to be removed at the cost of the local authority to such place as such magistrate or justice of the peace may direct, and may direct the body to be buried within a time to be stated in such order; and unless the friends or relations of the deceased undertake to bury the body within the time so stated, and do bury the same, it shall be the duty of the local authority to cause such body to be buried, but any expense incurred in the removal and burial of the body may be recovered from any person who but for the removal of such body and its burial by the local authority would have been obliged to cause the same to be buried. Any person disobeying or obstructing the execution of any such order made by a resident magistrate or justice of the peace shall be liable to a penalty not exceeding ten pounds.

When Govern-
or may
revoke
power of
local author-
ity.

XLIX. If at any time it shall appear to the Governor that any local authority has failed or neglected or refused to carry out any of the provisions of this Act, or any regulations made under this Act, which it was the duty of such local authority to carry out, the Governor may declare all the powers and authorities vested in such local authority under this Act, to be thenceforth transferred and vested in such other local authority, or in a board consisting of not more than five persons as he may appoint, and may from time to time revoke, alter, or vary any order or direction made under the provisions of this section.

Duties of
District
Surgeons
and others.

L. All district surgeons and medical officers shall give any information they may acquire in regard to the diseases referred to in this Act to the local authority forthwith, and shall be bound to attend to or inspect any case or place, or report on any matter relative to this Act, and the district surgeons shall be entitled to charge and receive from the local authority in all such cases a fee of two shillings and sixpence for each certificate required, and other medical officers a fee of five shillings, actual travelling expenses to be paid in all cases over and above such fees.

PART IV.—VACCINATION.

Interpreta-
tion.

LI. In this part of this Act the words and expressions following shall have the meanings hereafter respectively attached to them, that is to say :—

The word "parent" shall include the father and mother of a legitimate child, and the mother of an illegitimate child.

The words "medical practitioner" shall mean a medical practitioner authorised to practice in this colony, under any law now or hereafter to be in force in this colony.

The term "lymph" shall mean lymph taken from a heifer or from a fully formed vaccine vesicle, on the day week after vaccination, and before any areola has been formed; the subject from which such vaccine lymph is taken being a healthy infant or child who has not previously been vaccinated, or a healthy young heifer.

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LII. The Colonial Secretary shall at all times cause to be kept at such places as the Governor shall appoint, a supply of pure lymph for the purpose of furnishing on application and without payment to district surgeons and to medical practitioners such reasonable quantities of such lymph as may be required. The expense of providing, keeping, and supplying such lymph shall be defrayed out of moneys provided by Parliament for the purpose of this Act.

District
Surgeons to
be supplied
with lymph.

LIII. The Governor may issue regulations providing for the vaccination and revaccination of persons gratuitously by the district surgeons, or persons specially appointed as vaccinators, and for appointing places for the performance of vaccination, and also for giving from time to time notice of the days and hours at which the district surgeon, or other vaccinator appointed, will attend at such place to vaccinate all persons not already successfully vaccinated who may then appear there.

Regulations
for gratuitous
vaccination.

Act 23 of 1880

LIV. When the operation of vaccinating or revaccinating any person over the age of fourteen years is performed by the district surgeon or vaccinator appointed by the Governor without charge to such person, the district surgeon or vaccinator may require such person to attend at the same or some other place on the same day in the following week, in order that such person may be inspected, and the result of the operation ascertained; and the district surgeon or vaccinator shall, if required, deliver to the person vaccinated or revaccinated who shall attend, a certificate stating the result of the operation. If any such person shall fail to attend, or to permit the district surgeon or vaccinator to ascertain the result of the operation, he shall be liable to a penalty not exceeding ten shillings.

Vaccinated
person to
attend to be
inspected.Penalty for
neglect.

LV. The parent of every child born in this colony after the first day of January, one thousand eight hundred and eighty-four, shall within twelve months after the birth of such child, or when by reason of the death, illness, absence, or inability of the parent or other cause, any other person shall have the custody of such child, such person shall within twelve months after receiving the custody of such child, cause such child to be vaccinated by some medical practitioner. As often as any such child shall be taken to a district surgeon, or person specially appointed by the Governor as vaccinator, such district surgeon or vaccinator shall, subject to any regulations framed by the Governor, vaccinate such child without charge.

Children to
be vaccinated
within
one year of
birth.

Act 23 of 1880

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Vaccinated
child to be
produced for
inspection a
week after
vaccination.

20-30 1897

LVI. In every case in which a child shall be vaccinated by a district surgeon or vaccinator appointed by the Governor free of charge, the parent or other person, as the case may be, having custody of such child, shall cause such child to be taken upon the same day in the following week to the district surgeon or vaccinator by whom the operation was performed, in order that he may inspect such child and ascertain by inspection the result of the operation; and if he sees fit take from such child lymph for the performance of other operations; and in the event of the operation being unsuccessful such parent or other person shall, if the district surgeon or vaccinator so direct cause the child to be forthwith again vaccinated, and subsequently inspected as on the previous occasion.

Unsuccess-
ful vaccina-
tion.

LVII. If any district surgeon, vaccinator specially appointed, or medical practitioner shall be of opinion that any child whom he has three times unsuccessfully vaccinated, is not susceptible of successful vaccination, or that a child, brought to him for vaccination, has had the small-pox, he shall deliver to the parent of such child a certificate according to the fact; and the parent or such person as aforesaid shall thereafter not be required to cause such child to be vaccinated.

Penalty for
refusing to
have lymph
extracted.

LVIII. Every parent or person having the custody of any child under the age of fourteen years who shall neglect to have or cause such child to be vaccinated, or, after vaccination, gratuitously to be inspected according to the provisions in this Act respectively contained, or who shall refuse to permit the district surgeon or vaccinator specially appointed to remove or retain a reasonable quantity of lymph from the arm of any such child gratuitously vaccinated according to the provisions of this part of this Act, and shall not in any of the said cases render a reasonable excuse for such neglect shall, upon conviction, be liable to a penalty not exceeding two pounds.

Duties of
Magistrates
when chil-
dren sus-
pected of not
being vac-
cinated.

LIX. If any resident magistrate shall have information or have reason to believe that any child under the age of fourteen years within his district has not been successfully vaccinated, he may cause notice to be given to the parent or person having the custody of such child to procure its being vaccinated within a period to be stated, not being less than seven days, and if such notice be disregarded such resident magistrate may summon such parent or person to appear with the child, before him, at a certain time and place, and if the resident magistrate shall find after such examination as he shall deem necessary, that the child has not been vaccinated nor has already had the small-pox he may, if he see fit, make an order directing the child to be vaccinated within a certain time. If at the expiration of such time the child shall not have been vaccinated or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reason-

able ground for his omission to carry the order into effect, be liable to a penalty not exceeding two pounds. And if any parent or other person as aforesaid, shall fail to appear to any such summons, or to produce such child, such parent or person shall be liable in respect of each act and successively to a penalty not exceeding two pounds.

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LX. No person who has not been vaccinated shall be appointed, or if appointed prior to the taking effect of this Act, promoted to any office in the public service.

No unvaccinated person eligible for civil service.

LXI. Every child admitted to any school which shall be maintained or aided by any grant from public funds, shall be vaccinated by the district surgeon or a vaccinator specially appointed as aforesaid, unless such child shall have been previously vaccinated.

Children attending public schools.

LXII. The Governor may order the inmates of prisons, convict stations, lunatic asylums, reformatories, hospitals, and other places where the poor or sick are received, to be vaccinated upon or after their entrance, and may declare an age after which vaccination or revaccination under this section shall not be compulsory.

Inmates of prisons, &c., &c.

PART V.—CEMETERIES.

LXIII. No cemetery or burial ground shall hereafter be established or opened in, or within the limits assigned for, any city, town, or village in this colony without the leave of the Governor previously obtained.

No cemetery to be established without leave from Governor

LXIV. If it shall be made to appear to the Governor that burials in any cemetery or burial ground now existing or hereafter to be established are, or are likely to be, injurious to the public health, the Governor may by an order or notice to be published in the Government Gazette direct that after a time to be mentioned in such order, not being less than six months from the date thereof, burials in such cemetery or burial ground shall be discontinued, wholly or subject to any exceptions or qualifications mentioned in the same or any subsequent order or notice, and may from time to time postpone the time mentioned in such order or notice for the discontinuance of burials, or otherwise alter or vary any such order or notice.

How and when cemeteries may be closed.

LXV. If after the expiration of the time mentioned in any such order or notice, any person shall bury any body in, or shall act or assist in or shall suffer or permit the burial of any body in any cemetery or burial ground, or within the limits in which burials have by any such order or notice been ordered to be discontinued or prohibited, such person shall upon conviction be liable to a penalty not exceeding fifty pounds.

Penalties for burials after such closing.

LXVI. This Act may be cited as the "Public Health Act, 1883."

Short Title.

THE FIRST SCHEDULE.

Number and Year.	Title.	Extent of Repeal.
No. 1, 1856.	For preventing the spread of Contagious or Infectious Diseases.	The whole.
No. 16, 1857.	To Consolidate the Laws relating to Quarantine and Port Regulations.	The Quarantine Regulations enacted by Sections three to eighteen inclusive and the Schedule A.

THE SECOND SCHEDULE.

FORM OF DECLARATION OF HEALTH.

1. Name of vessel and commander or master.
2. From what port and whither bound ?
3. When sailed.
4. At what intermediate ports or places touched on the voyage, and date of sailing thence ?
5. With what vessel communicated during the voyage.
6. Date of each such communication.
7. Did any contagious or infectious disease prevail at the port from which you sailed ? If so, what was the nature of such disease ?
8. If you touched at any port or communicated with any vessel on the voyage was any contagious or infectious disease prevailing at such port, or on board such vessel ? If so state the nature of the disease.
9. Have you any sickness on board at present ? If so, what is that sickness, and what number of cases have you under treatment ?
10. Has any case of small-pox, or any form of eruptive skin disease, fever, scarlatina, plague, cholera, or other infectious or contagious disease, occurred on board during the voyage ? If so, state the number of cases, and the dates of attack and convalescence or termination of the first and last cases of the disease.
11. Have the clothes and bedding used by those persons who have suffered from contagious or infectious disease during the voyage been either destroyed or passed through boiling water ?
12. What means, if any, were adopted for preventing the spread of any infectious or contagious disease which occurred during the voyage.

I do hereby declare that the several answers to the questions contained in the above Schedule are correct, and that the vessel under my command is in a perfectly healthy state. No. 5—1883

Given under my hand this _____ day of _____ 18

Commander or Master.

NOTE. - If the above declaration of health contains any false statement or answer to any question therein inserted, the commander or master signing the same will be liable to a penalty not exceeding £200, or in default of payment, to imprisonment with or without hard labour for a period not exceeding twelve months, or to both such penalty and such imprisonment. If the vessel is not in a healthy state the words "and that the vessel under my command is in a perfectly healthy state" are to be erased.

No. 5—1883. ACT [September 6, 1883.]

To interpret and shorten the language of Acts of Parliament. *Repealed by Act 5/10*

WHEREAS it is desirable to repeal "The Acts of Parliament Interpretation Act, 1859," and to re-enact the substance thereof, with amendments and additions: 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. "The Acts of Parliament Interpretation Act, 1859," shall be and the same is hereby repealed. Repeal of former Act.

II. In the interpretation of all Acts heretofore passed, or hereafter to be passed by the Parliament of the Cape of Good Hope (including this present Act), and of all bye-laws, rules, regulations, or orders made under the authority of any law, the definitions and other provisions in this Act contained shall be adopted and applied, unless there shall be something in the language or context of any such Act, bye-law, rule, regulation, or order, repugnant to the said definitions and provisions. All Acts to be interpreted according to definitions in this Act.

III. The terms hereinafter set forth shall be read and taken to mean as follows:— Definitions of terms.

"Her Majesty" or "The Queen" or any like expression, shall include the heirs and successors of her present Majesty the Queen.

"Governor" shall mean the officer for the time being administering the government of the Colony: provided that when any act, matter, or thing is by any law directed or required to be done by the Governor it shall mean the Governor with the advice of the Executive Council.

"Order in Council" shall mean any order made by the Governor with the advice of the Executive Council.

"Christian Name," any name prefixed to the surname, whether received at Christian baptism or not.

No. 5—1883

“Constitution Ordinance,” the Ordinance enacted on the third day of April, 1852, by His Excellency the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, for constituting a Parliament for the said Colony.

“Charter of Justice,” the Royal Letters Patent of His late Majesty King William the Fourth, dated the fourth day of May, 1832, for the better and more effectual administration of justice.

“District,” the area subject to the jurisdiction of the Court of any Resident Magistrate.

“Division” or “Fiscal Division,” the area under the administration of a Civil Commissioner.

“Month,” a calendar month.

“Gazette,” the *Government Gazette*.

“Affidavit,” “Oath,” and “Swear,” shall include affirmation, declaration, affirming and declaring in the case of persons by any law, now or hereafter to be in force, allowed to declare or affirm instead of swearing.

“Solemn Declaration,” a declaration made under and by virtue of the provisions of the Ordinance No. 6, 1845.

“Law” shall mean and include any

Act of Parliament,

Government Advertisement or Notice,

Ordinance,

Placaat,

Proclamation,

Regulation or Bye-law made under the authority of any

Law,

Rule of Court,

Or other enactment having the force of law.

Proclama-
tions or
Orders in
Council.

IV. When any act, matter, or thing, is by any law directed or required to be done by the Governor, the notification that such act, matter, or thing has been done may be by Proclamation, under the hand of the Governor, or by order in Council.

From time
to time.

Any such act, matter, or thing or any power authorised to be exercised by the Governor, may be done and exercised from time to time.

Writing or
printing.

V. When anything is directed to be done “in writing” it may be done partly in writing and partly in printing.

How num-
ber of days
to be reck-
oned.

VI. When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, New Year’s Day, Good Friday, Easter Monday, Ascension Day, Whit Monday, Her Majesty’s birthday, or any other day appointed by Proclamation of the Governor as a solemn fast or day of thanksgiving, in which case the time shall be reckoned exclusively of the first and of every other such day also.

VII. When any bye-laws, regulations, rules, or orders are authorised by any law to be made by the Governor, or by any local authority, public body or person, with the approval of the Governor, such bye-laws, regulations, rules, or orders, shall be published in the *Gazette*, and production of a copy of the *Gazette* containing a Proclamation or notice of the making or approval thereof (as the case may be) by the Governor, shall be sufficient evidence of such making or approval. The power to make any such bye-laws, regulations, rules, or orders, shall include the power to alter or amend, and to repeal and make others, provided that the powers conferred upon the Governor by any such law be not exceeded.

No. 5—1883
—
Copy of
Gazette,
proof of Bye-
laws, &c.

VIII. When the Governor is by any Act authorised to make rules, orders, or regulations for any purpose in such Act stated, copies of such rules, orders, or regulations shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament be then sitting; and if Parliament be not then sitting, within thirty days after the commencement of the next Session.

Rules, &c.,
made by Go-
vernor, to be
laid before
Parliament.

IX. All Acts of Parliament shall commence and take effect from and after their promulgation in the *Gazette*.

Acts to take
effect from
promulga-
tion in
Gazette.

X. The repeal of any law shall not have the effect of extinguishing any penalty, forfeiture, or liability incurred under such law unless the repealing Act shall so expressly provide, and such law shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement or recovery of such penalty, forfeiture, or liability.

As to penal-
ties under
repealed
Acts.

XI. The repeal of any law whereby any former law was repealed shall not have the effect of reviving such lastmentioned law.

Repeal of
repealed Act
not to revive
former one.

XII. When in any Act sections or words in any prior Act are respectively directed to be omitted, or added, or substituted for other sections or words, in all copies of such last-mentioned Act which shall subsequently be printed the sections or words respectively directed to be omitted shall be omitted, those directed to be added shall be added, and those directed to be substituted for others shall be so substituted, as the case may be.

As to re-
prints of
altered or
amended
Acts.

XIII. When and as often as any public officer is described by his name of office the person designated shall be taken to be the officer for the time being or the person for the time being acting as such officer.

Designation
of public
officers.

XIV. Words of the singular number shall include the plural number, and words of the plural number shall include the singular number, and words of the masculine gender shall include females as well as males.

Singular
and plural,
male and
female, &c.

XV. This Act may be cited for all purposes as "The Interpretation Act, 1883."

Short title.

See 1907 Act 5.

No. 6—1883

No. 6—1883.]

ACT

[September 6, 1883.

Repeat
Ad. of 11

Preamble.

§ 1 To establish Post Office Savings Banks.

WHEREAS it is expedient to afford greater facilities for the deposit of small Savings at interest upon the security of the public revenue and to make the General Post Office of the Colony available for that purpose: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Power of Postmaster-General to establish Savings Banks.

I. The Postmaster-General may, with the consent of the Colonial Secretary, establish Post Office Savings Banks and authorise and direct such of his officers as he shall think fit to receive deposits for remittance to the principal office, and to repay the same under such regulations as the Governor may from time to time prescribe in that respect by notice published in the Government Gazette.

How deposits to be made, entered, reported, and proved.

II. Every deposit received by any officer of the Postmaster-General appointed for that purpose shall be entered by him at the time in the depositor's book, and the entry shall be attested by him, and by the dated stamp of his office, and the amount of such deposit shall upon the day of such receipt, if there be a daily post, or by the next first post if the mail be dispatched less frequently, be reported by such officer to the Postmaster-General, and the acknowledgment of the Postmaster-General, signified by the officer whom he shall appoint for the purpose, shall be forthwith transmitted to the depositor, and the said acknowledgment shall be conclusive evidence of his claim to the repayment thereof, with the interest thereon, upon demand made by him on the Postmaster-General; and, in order to allow a reasonable time for the receipt of the said acknowledgment, the entry by the proper officer in the depositor's book shall also be conclusive evidence of such claim to repayment for twenty days from the lodgment of the deposit; and if the said acknowledgment shall not have been received by the depositor through the post within twenty days, and he shall before or upon the expiry thereof, demand the said acknowledgment from the Postmaster-General, then the entry in his book shall be conclusive evidence of such claim during another term of thirty days.

Limits of deposits.

III. Deposits of one shilling or any number of shillings, or of pounds and shillings, will be received from any depositor at the Post Office Savings Bank, provided the deposits made by such depositor in any year ending on the thirty-first day of December do not exceed one hundred pounds, and provided the total amount standing in such depositor's name in the books of the Postmaster-General do not exceed two hundred pounds, exclusive of interest. When the principal and interest together standing to the credit of any one depositor amount to the sum of two hundred and fifty pounds, all interest shall cease so long as the same funds amount to the said sum of two hundred and fifty pounds.

IV. On demand of a depositor or person legally authorised to claim on account of a depositor, made in such form as shall be prescribed in that behalf, for repayment of any deposit, or any part thereof, the authority of the Postmaster-General for such repayment shall be transmitted to the depositor forthwith, and the depositor shall be absolutely entitled to the repayment of any sum that may be due to him within thirty days, after his demand shall have been made at any Post Office where deposits are received or paid.

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How repayments to be obtained.

V. The officers of the Postmaster-General engaged in the receipt or payment of deposits shall not disclose the name of any depositor, nor the amount deposited or withdrawn, except to the Postmaster-General, or to such of his officers as may be appointed to assist in carrying this Act into operation: Provided that nothing herein contained shall be deemed to limit the authority of the Controller and Auditor-General.

Secrecy to be observed.

VI. The Postmaster-General shall keep separate accounts of all moneys deposited and paid under this Act, and the Treasurer of the Colony shall from time to time, and as often as the account will permit, invest any moneys to the credit of such account in such manner as the Governor may require or approve of, and may as often as occasion may require, or as the Governor may deem expedient, realise or vary any such investments.

Accounts to be kept, and investments made.

VII. The interest payable to depositors shall be at such rate as may from time to time be fixed by the Governor, not exceeding the rate of five pounds per centum per annum; but such interest shall not be calculated on any amount less than one pound, or some multiple thereof, and shall not commence until the first day of the month next following the day of deposit, and shall cease on the first day of the month in which such deposit is withdrawn.

Interest.

VIII. Interest on deposits shall be calculated to the thirty-first day of December in every year, and shall be added to and become part of the principal money.

How calculated.

IX. Every depositor on making a first deposit shall be required to specify his names in full, occupation, and residence, to the officer of the Postmaster-General appointed to receive the deposit, and make, and subscribe with his name, or mark if unable to write, the declaration set forth in the schedule annexed marked "A," to be witnessed by the officer of the Postmaster-General appointed to receive deposits, or by some person known to him, or by some minister of religion in the district in which the depositor resides, or by a Justice of the Peace.

Names and address of depositors.

X. Deposits may be made by a Trustee on behalf of another person in the joint names of such Trustee and the person on whose account such money shall be so deposited; but repayment of the same, or any part thereof, shall not be made without the receipt of both the said parties, or the executors or administrators and the survivor, in the case of the decease of one of them, whose

Trust deposits.

No. 6—1883 receipt either personally or by agent appointed by Power of Attorney, which Power of Attorney may be executed by an infant of or exceeding the age of fourteen years, shall alone be a valid discharge, except in case of insanity or imbecility of the person on whose behalf the deposits were made, when the Postmaster-General may on proof of the fact to his satisfaction allow repayment to be made to the Trustee alone. And in such cases the declaration set forth in the schedule annexed marked "B," shall be signed by the said Trustee.

Deposits for minors. XI. Deposits may be made by, or for the benefit of, any person under twenty-one years of age, and repayment may be made to such minor after the age of seven years in the same manner as if he were of full age. In case of minors under the age of seven years the declaration set forth in the schedule annexed marked "A," shall be signed for and on his behalf by one of the parents, or a friend of such depositor.

Married women. XII. Any postmaster or other officer as aforesaid may pay, under the authority of the Postmaster-General, any sum of money in respect of any deposit made by a married woman, or by a woman who may marry after such deposit, to such woman.

Deposits by Friendly Societies. XIII. The trustees of any friendly society, the rules of which have been certified by the Attorney-General, or of any charitable or provident society approved by the Colonial Secretary, may deposit the funds 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. And in the case of friendly societies the declaration set forth in the Schedule annexed marked "C," shall be signed by one of the trustees, the treasurer, steward, clerk, or other responsible officer, for and on behalf of such society. And in the case of charitable or provident societies, the declaration set forth in the schedule annexed marked "D," shall be signed by one of the trustees, the treasurer, or other responsible officer for and on behalf of such society.

How deposits of intestates and others to be dealt with. XIV. In case any depositor in the said Post Office Savings Bank shall die, leaving a sum of money in the Post Office Savings Bank which, with the interest due thereon, shall not exceed in the whole the sum of fifty pounds, and letters of administration be not produced to the Postmaster-General, or if notice in writing of the existence of a will, and intention to take out Letters of Administration be not given to the Postmaster-General at his principal office within the period of two months from the death of the depositor, or if such notice be given, but such Letters of Administration be not taken out and produced to the Postmaster-General within the period of three months from the death of the depositor, it shall be lawful for the Postmaster-General, after the expiration of the two or three months as the case may be, with the consent of the Attorney-General, to pay and divide such money to and among

such persons as shall appear to be entitled thereto; and every such payment shall be a valid and effectual discharge against any demand or claim made upon the funds of the said Post Office Savings Bank by any other person as being the lawful representative of such depositor; and any such person so claiming as aforesaid shall have his remedy by recourse against the person who shall have received such payments, and not otherwise; and such administration or distribution by the said Postmaster-General shall be entirely free and discharged from all stamps, fees and duties whatsoever: Provided that in case no claims be made on any such money as aforesaid or, if made, shall not be admitted by the said Postmaster-General, or by the determination and adjudication of one of the judges of the Supreme Court, as hereinafter mentioned then, and in every such case, such money shall, subject to any order made by any such judge, be paid by the Postmaster-General into the Guardian's Fund to be dealt with by the Master of the Supreme Court as if such money had been paid in by an executor or tutor.

XV. If any depositor of a sum not exceeding fifty pounds being illegitimate shall die intestate leaving any person who, but for the illegitimacy of such depositor would be entitled to the money due to such deceased depositor, it shall be lawful for the Postmaster-General, with the authority in writing of the Attorney-General, to pay the money of such deceased depositor to any one or more of the persons who, in his opinion, would have been entitled to the same, according to the law of succession *ab intestato* if the said depositor had been legitimate.

As often as the Postmaster-General shall under the provisions of Sections Fourteen or Fifteen of this Act distribute any sum of money deposited in the Post Office Savings Bank, he shall forward to the Master of the Supreme Court an account shewing the sum deposited and the distribution thereof, and such account shall be filed and registered in the same manner as an account rendered by an executor, but free of any fee or duty.

XVI. In all cases wherein a certificate shall be required of the amount of the balance standing in the books of the Post Office Savings Bank for the purpose of obtaining letters of administration, such certificate shall be prepared in the manner set forth in the Schedule annexed marked "E."

XVII. In case any difference shall arise between the Postmaster-General and any depositor in the said Post Office Savings Bank, or any executor, administrator, next of kin, or creditor, or trustee of a depositor who may become insolvent, or any person claiming to be such executor, administrator, next of kin, creditor, or trustee, or to be entitled to any money deposited in the Post Office Savings Bank, then, and in every such case, the matter so in dispute may be referred, in writing, to the summary decision of one of the judges of the Supreme Court; and such judge may in-

No. 6-1883

Illegitimate representatives of deceased depositor.

Account of deposits distributed under Sections 14 or 15 to be forwarded to the Master.

Certificates of amounts deposited.

How disputes between depositor and Postmaster-General to be settled.

No. 6—1883 —————
 quire into and determine the matter in dispute, and his determination and adjudication on the premises shall be final and conclusive and binding on the said parties: Provided that such judge may, if he see fit, make such order for further inquiry and determination of the matter in dispute as he may deem necessary.

Governor may make regulations,
 XVIII. The Governor may make, and from time to time as he shall see occasion, alter, by notice published in the Government Gazette, regulations for superintending, inspecting, and regulating the mode of keeping and examining the accounts of depositors, and with respect to the making of deposits, and to the withdrawal of deposits and interest, and all other matters incidental to the operation of this Act, and all regulations so made shall be binding on the parties interested to the same extent as if such regulations formed part of this Act; and copies of all regulations issued under the authority of this Act shall be laid before Parliament within fourteen days from the date thereof, if Parliament shall then be sitting, and, if not, then within fourteen days from the next re-assembling of Parliament.

Accounts to be laid before Parliament.
 XIX. An account of all deposits received and paid under the authority of this Act, and of the expenses incurred during the year ended the thirty-first of December, together with a statement of the total amount due at the close of the year to all depositors shall be laid before both Houses of Parliament within thirty days after the commencement of each annual session thereafter.

Expenses.
 XX. All expenses incurred in the execution of this Act shall be paid out of such moneys as Parliament shall provide, and such expenses shall from time to time be repaid as far as may be out of the surplus or profits arising from the administration of the funds of the said Post Office Savings Banks.

Short title.
 XXI. This Act may be cited as "The Post Office Savings Banks Act, 1883."

A.

<u>DEPOSITOR'S BOOK.</u>	DECLARATION BY DEPOSITOR ON MAKING FIRST DEPOSIT.
Place	
No.	

In pursuance of an Act of Parliament,
 (Name in full) I,*
 (Residence) of
 (Occupation)
 do hereby declare to the Postmaster-General that I am desirous on my own behalf to become a Depositor in the Post Office Savings Bank. I do further hereby declare that I am not directly or indirectly entitled to any sum or sums standing in the name or names of any other person or persons in the books of the said Post Office Savings Bank;

and I do hereby also testify my consent that my deposits in the said Post Office Savings Bank shall be managed according to the Regulations thereof.

Witness my hand this.....day of.....188...

Signed by the said Depositor in the presence of me

Save and except such benefit as I may be entitled to from being a Member of a Friendly Society legally established; or from such sum or sums as may be standing in my name as Trustee jointly with the name or names and on behalf of any other Depositor or Depositors.

* In the case of Minors under the age of seven years, the Declaration must be made by one of the Parents, or a friend on behalf of the Minor. The date on which a Minor will attain the age of seven years must be stated here.

SEVEN YEARS OF AGE ON THE.....DAY OF.....18... BEFORE WHICH DAY THE DEPOSITS CANNOT BE WITHDRAWN.

B.

DEPOSITOR'S BOOK.

DECLARATION BY THE TRUSTEE OF A DEPOSITOR.

No.....

In pursuance of an Act of Parliament, (Name in full) I, (Residence) of (Occupation) do hereby declare to the Postmaster-General that I am desirous of becoming a Depositor in the Post Office Savings Bank as Trustee of (Name in full) (Residence) (Occupation)

and I do further declare on behalf of myself, and also on behalf of the said.....that we are not either jointly or severally, directly or indirectly, entitled to any sum or sums standing in the name or names of any other person or persons in the books of the said Savings Bank above-mentioned.

Witness my hand this.....day of....., 188...

Signed by the said Trustee in the presence of me

Save and except such benefit as I or he may be entitled to from being a member of a Friendly Society legally established, or from such sum or sums as may be standing in my name as a Depositor on my own account, or as Trustee jointly with the name or names, and on behalf of any other Depositor or Depositors.

* If the person in trust for whom the account is opened be under seven years of age, the date on which he will attain that age is to be stated here.

SEVEN YEARS OF AGE ON THE.....DAY OF.....,18... BEFORE WHICH DAY THE DEPOSITS CANNOT BE WITHDRAWN.

No. 6—1883

C.

DEPOSITOR'S BOOK.

DECLARATION.

Place
No.

I, being the
* of the Friendly Society called the
..... held at
..... in the Division of
..... and duly †
do hereby declare that I am desirous on behalf of the
Trustees of the said Society, of depositing in the Post
Office Savings Bank, the sum of £, and I
hereby declare that this sum is the exclusive property
of the said Society specified in this Declaration and
arises from the contributions of the members of the said
Society ‡

° Insert "Trustee,"
"Treasurer," "Ste-
ward," or "Clerk" as
the case may be.

† Insert "Enrolled,"
"Registered," or
"Certified" as the
case may be.

‡ Insert "and from
Donations" if Dona-
tions have been re-
ceived.

Witness my hand this day of 18..

..... § of the said Society.
Signed in presence of me

§ Insert "Trustee,"
"Treasurer," "Ste-
ward" or "Clerk."

D.

DEPOSITOR'S BOOK.

DECLARATION.

Place
No.

I, being the *
of the †
held at
in the Division of
do hereby declare that I am desirous of depositing the
sum of £ in the Post Office Savings Bank on
behalf of the said

° Insert "Trustee" or
"Treasurer."

† Insert "Charitable
Society," "Provident
Institution" or
"Society," "Charita-
ble Donation or Be-
quests for the Mainte-
nance of Education or
Benefit of the Poor"
as the case may be.

Witness my hand this day of 18..

..... ‡ of the said
Signed in presence of me

‡ Insert "Trustee"
"Treasurer."

DEPOSITOR'S BOOK.

Place.....

No

E.
 POST OFFICE SAVINGS BANK.

It is hereby certified that the Balance standing in the Books of the Post Office Savings Bank to the credit of the Depositorof.....numbered as above, on the.....day of.....in the year 18.... amounts in the whole to the sum of.....

.....
 Controller,
 Savings Bank Department,
 General Post Office, Cape Town

Entered.....

Examined.....

No. 7—1883.] ACT [September 12, 1883.

For the protection of Fish in the Waters of the Zwartkops River and its tidal Creeks, and to prohibit the use of Dynamite and other Explosives for the purpose of catching or destroying Fish in the said River.

WHEREAS it is expedient to make provision for regulating the catching of fish by means of nets in the Zwartkops River, and to prohibit the use of dynamite or other explosives for the purpose of catching or destroying fish in the waters of the said river and its tidal creeks (commonly called "spruits"): 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.

I. It shall not be lawful for any person to lay down, use, or fish with any kind of net in the said Zwartkops River from the sea to the extent of the ebb and flow of the tide, or in any of the tidal creeks thereof, save and except in the months of April, May, and June; and any person committing any such offence shall, upon conviction before the Resident Magistrate of Port Elizabeth or of Uitenhage, either of whom shall be authorized to hear and decide on any charges preferred under this Act, forfeit any net or nets used by him for the purpose of committing such offence, and shall in addition be subject to payment of a penalty not exceeding twenty pounds, and in default of payment to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment. And the said Resident Magistrate may order such

Close season for netting fish.

No. 8—1883 net or nets, or any portion thereof, to be destroyed or sold as he shall direct.

Penalty for using dynamite, &c.

II. Any person who shall at any time use dynamite or other explosive substance with intent or in such manner as to catch or destroy Fish in the said River or in any of the tidal creeks thereof, shall be liable on conviction before such Magistrate to a fine not exceeding twenty pounds, or in the discretion of the Court to imprisonment with or without hard labour for a term not exceeding three months, or to both such fine and such imprisonment.

Half penalty to go to informer.

III. Of all penalties or fines recovered under this Act, and of all moneys received through any sale of nets directed under the provisions of this Act, one-half shall be paid to the person or persons upon whose information conviction and forfeiture shall have been obtained, and the remainder shall be paid into the Public Treasury.

Short title.

IV. This Act may be cited for all purposes as the "Zwartkops River Fish Protection Act, 1883."

No. 8—1883.]

ACT

[September 12, 1883.

To provide for the Management of Locations in the Division of Stockenstrom.

Preamble.

WHEREAS, it is desirable to make better provision for the management of locations in the division of Stockenstrom, not being municipalities: 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:—

Where Act may be proclaimed.

I. In any location in the Division of Stockenstrom in which the "Villages Management Act, 1881," shall now be in operation, it shall be lawful for the Governor to declare this Act to be in operation; and in every such location, and in every location in which the "Villages Management Act" shall hereafter be put in operation, the said "Villages Management Act" shall be read and construed as amended by this Act.

Who eligible to vote for members of the Board.

II. In any location in the division of Stockenstrom, in which the provisions of this Act and the said "Villages Management Act" shall together be in operation, every person who is the owner or lessee, under a lease in writing for the space of not less than one year, of an erf or erven within the said location, and whose name shall appear in the list of voters hereinafter provided for, shall be entitled and qualified to vote for the election of Members of the Boards of Management.

Field-cornets to prepare lists of voters.

III. The Field-cornet of the ward in which such location is situated shall, as soon as possible after the taking effect of this Act, and in the month of May in every year thereafter, prepare or cause to be prepared, a true list, in alphabetical order, of such owners and lessees as in the last Section is mentioned, and shall

forthwith transmit the said list to the Resident Magistrate of the district: Provided that it shall not be necessary to frame any such list for any location in which the said "Villages Management Act" has already been put in force before the month of May, 1884. No. 8—1883

IV. The said Resident Magistrate shall cause the said list to be affixed to the door of his Court Room, with a notice appended thereto to the effect that at a time and place therein mentioned, which time shall not be less than fourteen days from the date of such notice, a Court will be held by him for the purpose of hearing and adjudicating upon objections to the said list and claims to have names added thereto. Lists to be posted.

V. The said Resident Magistrate shall at such Court hear and determine all claims and objections as aforesaid, and may insert the names of persons omitted therefrom, and strike out the names of persons not entitled to appear therein, and the list when so settled and amended shall be the list of voters for the purposes of election of members of the said Boards. Resident Magistrate to determine claims.

VI. At any meeting of voters held for the purposes mentioned in the fifth Section of "The Villages Management Act, 1881," any person qualified to vote at such meeting may be elected to preside in the event of no Resident Magistrate or Justice of the Peace being present thereat, and the person so presiding shall have and may exercise all the powers which any Resident Magistrate or Justice of the Peace would have and exercise if present. In absence of Magistrate, any qualified voter may preside at meeting.

VII. Every person entitled to vote as aforesaid who shall be the proprietor or lessee of more than one erf in any such location shall be entitled to a number of votes in the election of members of the Board of Management for that location, equal to the number of the erven possessed or leased by him. Number of votes equal to number of erven possessed.

VIII. No person who shall be the lessee of a portion of an erf only shall be entitled to be registered as a voter under this Act: but the owner of the erf of which a portion shall be leased shall not, by reason of such lease, be disqualified from being registered. Owners of part only of an erf.

IX. In case the whole of an erf shall be leased under such a lease as in this Act is mentioned, the lessee, and not the owner, shall be entitled to have his name inserted in the said list, and to vote; but in all other cases the owner, and not the lessee, shall be so entitled. Lessees.

X. If two or more persons shall be joint proprietors or lessees of any erf, such one of them as may be chosen or deputed for that purpose by the other or others shall appear and vote in respect of such erf; and in case such persons cannot agree, the person to vote shall be determined by lot. Joint owners.

XI. This Act may be cited as the "Stockenstrom Locations Management Act, 1883." Short title.

No. 9—1883 No. 9—1883.] ACT [September 12, 1883.

7
repealed by
18 Act 12.
 To amend the Law relating to Election Petitions, and to the Prevention of Corrupt Practices at Parliamentary Elections.

Preamble.

WHEREAS it is expedient to amend the law relating to election petitions and to the prevention of corrupt practices at the parliamentary elections: Be it enacted by 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.

I. The laws mentioned in the Schedule hereto to the extent to which the same are therein expressed to be repealed, and so much of any other law as may be repugnant to or inconsistent with the provisions of this Act shall be and the same are hereby repealed.

Definition of terms used.

II. The following words in this Act shall have the meanings hereinafter assigned to them, unless there is something in the context repugnant to such construction, that is to say:

“Constitution Ordinance” shall mean the ordinance mentioned in the said Schedule.

“Election” shall mean an election of a member or members to serve in Parliament.

“Candidate” shall mean any person elected to serve in Parliament, and any person who has received and accepted a requisition as in the thirty-fourth section of the Constitution Ordinance mentioned, and any person who has been nominated as a candidate at an election, with his consent.

“Corrupt practices” or “corrupt practice” shall mean bribery, treating, undue influence and personation or any of such offences as now are or may hereafter be defined by Act of Parliament.

“Prescribed” shall mean prescribed by any rule of court to be made as hereinafter mentioned.

PRESENTATION AND SERVICE OF PETITION.

What petitions may be presented, and to what Courts.

III. A petition complaining

(1) Of an undue return or undue election of a member to serve in either House of Parliament by reason of want of qualification, disqualification, corrupt practices, irregularity, or otherwise; or

(2) That a member of the Legislative Council who has been elected, has ceased to possess the qualification by law required, may be presented to the supreme court, or, in the case of a return or election within the jurisdiction of the eastern districts court or of the high court of Griqualand, either to the supreme court or to the eastern districts court, or high court of Griqualand, respectively, as the case may be, by

(1) Some person who voted or who had a right to vote at the election to which the petition relates; or

- (2) Some person claiming to have had a right to be elected at such election; or
- (3) Some person alleging himself to have been a candidate at such election; and such petition is hereinafter referred to as an election petition.

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IV. With respect to the presentation of an election petition under this Act, the following provisions shall apply:—

Provisions as to such petitions.

- (1) The petition shall be signed by the petitioner or all the petitioners if more than one.
- (2) The petition shall be presented within forty-two days after the result of the election has been proclaimed in the Government Gazette, or, as to a petition against a member of the Legislative Council who has, since his election, ceased to possess the property qualification by law required, at any time.
- (3) Presentation of a petition shall be made by delivering it to the registrar of the court to which it is addressed.
- (4) At the time of the presentation of the petition, or within seven days afterwards, security for the payment of all costs, charges, and expenses that may become payable by the petitioner
- (a) To any person summoned as a witness in his behalf, or
- (b) To the member whose election or qualification is complained of (who is hereinafter referred to as the respondent) shall be given by or on behalf of the petitioner.
- (5) The security shall be to the amount of three hundred pounds; it shall be given either by recognizance, to be entered into by any number of sureties not exceeding four, or by a deposit of money with the registrar of the court, or partly in one way and partly in the other.

V. Notice in writing of the presentation of a petition under this Act, and of the nature of the proposed security, accompanied with a copy of the petition, shall, within ten days after the presentation of the petition, be served by the petitioner on the respondent, either personally or by leaving the same at his usual or last known dwelling-house or place of business; and it shall be lawful for the respondent where the security is given wholly or partially by recognizance, by notice in writing to be served upon the petitioner in manner aforesaid, within twenty-one days from the date of the service on him of such notice, to object to such recognizance on the ground that the sureties, or any of them, are insufficient, or that a surety is dead, or that he cannot be found, or that a person named in the recognizance has not duly acknowledged the same.

Service of petition on respondent.

Security.

VI. Any objection made to the security given shall be heard and decided on by the court to which the petition has been presented, or by a judge thereof. If any objection to the security is allowed, it shall be lawful for the petitioner, within a further time to be fixed by the court or judge, not exceeding ten days, to remove

How objections to security to be dealt with.

No. 9—1883 such objection by a deposit of such sum of money as may be deemed proper by the said court or judge, to make the security sufficient.

If security decided to be insufficient.

If on objection made the security is decided to be insufficient, and such objection is not removed in manner hereinbefore mentioned, no further proceedings shall be had on the petition; otherwise, on the expiration of the time limited for making objections, or after objection made on the sufficiency of the security being established, the petition shall be deemed to be at issue.

Registrar of Court to make list of petitions.

VII. The registrar of the court shall as soon as may be make out a list of petitions under this Act, presented to the court of which he is registrar, and which are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of such list, hereinafter referred to as the election list, open to the inspection of any person making application for inspection thereof. Such petitions shall be tried in the order in which they stand in such list, unless the court shall otherwise order.

TRIAL OF A PETITION.

Provisions for the trial of election petitions.

VIII. With respect to the trial of election petitions under this Act, the following provisions shall apply:—

- (1) The trial of every election petition shall take place before the court to which it has been presented, but if it shall be made to appear to such court that the trial may be more conveniently and properly held elsewhere than at the place where such court is held, it shall be lawful for such court to direct that the same shall take place before a circuit court.
- (2) Every election petition shall be tried with open doors.
- (3) The trial of election petitions may take place in any civil term, upon any day prescribed by any rule or order of court: Provided that the court to which it has been presented, may upon the application of any of the petitioners or respondents, fix any day in or out of term, for such trial or for trial at a circuit court.
- (4) Notice of the time and place at which an election petition will be tried shall be given not less than fourteen days before the day on which the trial is to be held.
- (5) The court before which the trial of any election petition shall take place may adjourn the trial from time to time and from place to place.
- (6) Where, on the trial of an election petition praying the court to determine that some other person than the respondent is entitled to be declared duly elected in place of the respondent, it is proved that any person who voted for the respondent was bribed or treated or subjected to undue influence by any one on behalf of the respondent, or that such person was guilty of personation, every vote given for

the respondent by such person shall be deducted from the total number of votes given for the respondent at the election. If conclusive evidence cannot be obtained as to the number of votes given for the respondent by such person, there shall be deducted from the total number of votes aforesaid as many votes as such person was lawfully entitled to record at the election. No. 9—1883

- (7) At the conclusion of the trial of any election petitions, the court shall determine whether the respondent was duly elected, or whether any, and if so, what person other than the respondent was or is entitled to be declared duly elected; and, in the case of a respondent who is a member of the Legislative Council, and who is alleged to have ceased to possess the qualifications by law required, whether such respondent has ceased to possess such qualifications. If the court shall determine that the respondent was duly elected, such election shall be and remain as valid as if no petition had been presented against the same. If the court shall determine that the respondent was not duly elected, but that some other person was or is entitled to be declared duly elected, the respondent shall forthwith be deemed to have vacated his seat; and the court shall forthwith certify such determination to the Governor, who shall thereupon, by proclamation in the *Gazette*, declare such other person duly elected. If the court shall determine that the respondent was not duly elected, and that no other person was or is entitled to be declared duly elected, or, in the case of a respondent who is a member of the Legislative Council, and is alleged to have ceased to possess the qualification by law required, that he has ceased to possess such qualification, the seat of the respondent shall forthwith be deemed to be vacant, and the court shall forthwith certify such determination to the Governor, who shall thereupon command, in manner provided by the seventy-third section of the Constitution Ordinance, that a new election shall take place for the purpose of filling up such vacancy, and like proceedings shall take place in regard to such new election as are ordered in regard to elections for filling up vacancies by the said seventy-third section.
- (8) Where any charge is made in an election petition of any corrupt practice having been committed at the election to which the petition refers, the court shall, in addition to such certificate, and at the same time, report in writing to the Governor as follows:
- (a) Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at such election, and the nature of such corrupt practice.

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(b) The names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt practice.

(c) Whether corrupt practices have, or whether there is reason to believe that corrupt practices have extensively prevailed at the election to which the petition relates.

(9) The court may at the same time make a special report to the Governor as to any matters arising in the course of the trial, an account of which ought in its judgment to be submitted to the Governor.

(10) A copy of every certificate and report made by any court as aforesaid to the Governor shall, as soon as may be, be presented by him to the House of Parliament, the election of a member of which has been the subject of the trial before such court.

Questions of law may be reserved.

IX. If it shall appear to the judge of any circuit court on the trial of an election petition referred to such court that any question or questions of law as to the admissibility of evidence or otherwise require further consideration by the court, it shall be lawful for the said judge to postpone the determination of the case and the granting of the said certificate until the determination of such question or questions by the court to which the petition was presented, and for this purpose to reserve any such question or questions for the consideration and determination of such court.

Report affirming corrupt practices to be sent to Attorney-General.

X. If the court shall state in the report on the trial of an election petition under this Act that any person has been guilty of corrupt practices or that there is reason to believe that corrupt practices have extensively prevailed at the election to which the petition relates, such statement, with the evidence taken at the trial, shall be laid before the attorney-general, with a view to the institution of any prosecution proper to be instituted under the circumstances.

PROCEEDINGS.

Form of petition.

XI. An election petition under this Act shall be in such form and state such matters as may be prescribed.

More than one respondent.

XII. Two or more candidates may be made respondents to the same petition, and their case may, for the sake of convenience, be tried at the same time, but for all the purposes of this Act such petition shall be deemed to be a separate petition against each respondent.

Petitions relating to same election to be heard together.

XIII. When, under this Act, more petitions than one are presented relating to the same election or return, all such petitions shall, in the list of petitions, be bracketed together, and shall be dealt with as one petition, but such petition shall stand in the election list in the place where the last of such petitions would have stood if it had been the only petition presented, unless the court or a judge thereof shall otherwise direct.

XIV. On the trial of an election petition under this Act notes shall be taken of the evidence given at the trial, and a copy of such evidence shall accompany the certificate made by the court to the Governor.

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Notes of evidence on trial.

RULES OF COURT.

XV. The judges of the supreme court acting in pursuance of any Act for the time being regulating the making of general rules of court, may from time to time make, and alter, rules and orders for the effectual execution of this Act, and the regulation of the practice, procedure, and costs of election petitions, and the trial thereof, and the certifying and reporting thereon.

Rules under this Act.

XVI. Until rules of court have been made in pursuance of this Act, and so far as such rules do not extend, the court to which any election petition shall be presented may make such order in regard to the form and manner or time of proceeding as to such court shall seem fit.

In the absence of rules, Court may make order as to form of proceeding.

JURISDICTION OF COURTS.

XVII. The supreme court and the eastern districts court, and high court of Griqualand, or any circuit court, respectively, shall, subject to the provisions of this Act, have the same powers, jurisdiction, and authority with reference to an election petition pending in or before any such court, and the proceedings thereon, as such courts respectively would have if such petition were an ordinary case within the jurisdiction of any such court.

Jurisdiction of the Courts

WITNESSES.

XVIII. Witnesses shall be summoned and sworn in the same manner as in a trial before any such court as is in the last preceding section mentioned, and shall be subject to the same penalties for perjury.

Summoning witnesses.

XIX. On the trial of an election petition under this Act the court before which the petition is to be tried may examine any witness or any person in court, although such witness or person is not called or examined by any party to the petition. After the examination of a witness as aforesaid by the court as aforesaid, such witness may be cross-examined by or on behalf of the petitioner and respondent, or either of them.

Witnesses not summoned may be examined

XX. No person who is called as a witness at the trial of any election petition shall be excused from answering any question relating to any corrupt practice at or connected with any election then forming the subject of inquiry, on the ground that the answer thereto may criminate or tend to criminate himself: Provided that where any witness shall answer every question relating to the matters aforesaid which he shall be required by the court to answer,

Witness not entitled to refuse to answer because he may criminate himself, but protected from consequences of such answer

No. 9—1883 and the answer to which may criminate or tend to criminate him, he shall be entitled to receive from the court under the hand of the registrar a certificate stating that such witness was, upon his examination, required by the said court to answer questions or a question relating to the matters aforesaid, the answer or answers to which criminated or tended to criminate him, and had answered all such questions or question; and if any information, indictment, or action be at any time thereafter pending in any court against such witness for any offence under “The Corrupt Practices at Elections Prevention Act, 1859,” or any other Act for the prevention of corrupt practices at elections, or for which he might have been prosecuted or proceeded against under any such Act committed by him previous to the time of his giving his evidence, and at or in relation to the election concerning or in relation to which the witness may have been so examined, the court shall, on production and proof of such certificate, stay the proceedings in such information, indictment, or action: Provided that no statement made by any person in answer to any question put to him by or before such court, shall, except in cases of indictment for perjury, be admissible in evidence against him in any proceeding, civil or criminal.

Witnesses' expenses.

XXI. The reasonable expenses incurred by any person appearing to give evidence at the trial of an election petition under this Act according to the scale usually allowed to witnesses on the trial of civil actions in the superior courts of law in this colony, may be allowed to such person, and such expenses shall be deemed to be costs of the petition.

WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

Petition not to be withdrawn without leave.

XXII. An election petition under this Act shall not be withdrawn without the leave of the court to which it was presented, or of a circuit court appointed to try the same, and after such notice has been given as such court may direct.

Substitution of petitioner may be asked.

XXIII. On the hearing of the application for withdrawal, any person who might have been a petitioner in respect of such election to which the petition relates may apply to the court to be substituted as a petitioner for the petitioners so desirous of withdrawing the petition.

Court may order substitution.

XXIV. The court may, if it think fit, substitute as a petitioner any such applicant as aforesaid, and may further, if the proposed withdrawal is in the opinion of the court induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in such security the original petitioner shall be liable to pay the costs of the substituted petitioner.

Security.

XXV. If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within fourteen days after the order of substitution.

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When fresh security required.

XXVI. Subject as aforesaid a substituted petitioner shall stand in the same position, as nearly as may be, and be subject to the same liabilities as the original petitioner.

Substituted petitioners.

XXVII. If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

Costs of withdrawn petitions.

XXVIII. When there are more petitioners than one, no application to withdraw a petition shall be made without the consent of all the petitioners.

Consent of co-petitioners required for withdrawal.

XXIX. An election petition under this Act shall be abated by the death of the sole petitioner or petitioners, but such abatement shall not affect the liability of the petitioner or petitioners to the payment of costs previously incurred.

Abatement by death.

XXX. On the abatement of a petition, any person who might have been a petitioner in respect of the election to which the petition relates may, within twenty-one days after such abatement, apply to the court to which such petition was presented, or any judge thereof, to be substituted as a petitioner, and such court or judge may thereupon, if it or he think fit, substitute as a petitioner any such applicant who is desirous of being substituted, and on whose behalf security to the same amount given as is required in the case of a new petition.

Consequence of abatement

XXXI. A respondent who has given notice that he does not intend to oppose the petition shall not be allowed to appear or to act as a party against such petition in any proceedings thereon, and shall not sit or vote in the House of Parliament to which he had been elected, pending the result of the trial of the petition, and the court shall in all cases in which such notice has been given, report the same to the said President of the Legislative Council or the Speaker of the House of Assembly, as the case may be.

Respondent who has given notice that he will not oppose cannot appear.

COSTS.

XXXII. All costs, charges, and expenses of and incidental to the presentation of a petition under this Act, and to the proceedings consequent thereon, shall be defrayed by the parties to the petition in such manner and in such proportions as the court before which the same is tried or to be tried may determine, regard being had to the disallowance of any costs, charges, or expenses which may, in the opinion of the court, have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or the respondent, and regard being had to the discouragement of any needless expense by throwing the

Court to decide as to costs.

No. 9—1883 burden of defraying the same on the parties by whom it has been caused, whether such parties are or are not on the whole successful.

Taxation of costs. XXXIII. The costs may be taxed and recovered in the same manner as the costs of an ordinary action at law in the superior courts of this colony.

Neglect to pay witness-
ses. XXXIV. If any petitioner in an election petition presented under this Act shall neglect or refuse for the space of one month after demand to pay to any person summoned as a witness on his behalf, or of the respondent, any sum certified to be due to him for his costs, charges, or expenses, and if such neglect or refusal be proved to the satisfaction of the court to which such petition was presented, every person who has entered into a recognizance relating to such petition under the provisions of this Act, shall be held to have made default in his said recognizance, and the registrar of the said court shall thereupon certify such recognizance to be forfeited, and execution may thereupon, by leave of the said court, be sued out thereon at the suit of any such witness or respondent from time to time as occasion may require.

PUNISHMENT OF CORRUPT PRACTICES.

Election agent and canvasser disqualified from voting. XXXV. No voter who within three months before or during any election shall have been retained, hired, or employed for all or any of the purposes of the election for reward by or on behalf of any candidate at such election as agent, canvasser, clerk, messenger, or in other like employment, shall be entitled to vote at such election, and if he shall so vote, he shall be liable upon conviction to a penalty not exceeding fifty pounds, and upon non-payment to imprisonment for any period not exceeding six months.

When corruption by agent unknown to candidate. XXXVI. Where it is found by the court upon an election petition that corrupt practices have been committed by any agent of a candidate for the purpose of procuring the election of such candidate, without the knowledge or consent of such candidate, the election of such candidate if he has been elected, shall be void, and a fresh election shall thereupon be held.

Penalties incurred by unauthorized agents. XXXVII. Any person who shall represent himself to be or professes to be authorised to act as the agent of any candidate for the purposes of his election without the express written authority of such candidate, or in the case of sub-agents without the written authority of some agent authorised as aforesaid, shall upon conviction be liable to a penalty not exceeding one hundred pounds and in default to imprisonment with or without hard labour for any period not exceeding six months, or to both such penalty and such imprisonment.

Penalties incurred by candidates cognizant of corruption. XXXVIII. Where it is found by the court upon an election petition under this Act, that corrupt practices have been committed by or with the knowledge and consent of any candidate, the election of such candidate, if he has been elected, shall be void, and a fresh election shall thereupon be held, and such candidate shall be

incapable of being elected to or of sitting in either House of Parliament during the five years next after the date of his so being found guilty; and he shall further be incapable during the said period of five years No. 9—1883

- (1) Of being registered as a voter and voting at any election for members of parliament in this colony; and
- (2) Of holding any divisional council or municipal office; and
- (3) Of holding any judicial office and of being appointed and of acting as a justice of the peace.

XXXIX. Any person other than a candidate found guilty of corrupt practices at an election by any competent court shall during the five years next after the time at which he is so found guilty, be incapable of being elected to and sitting in parliament, and also during the said period of five years Penalties for persons other than candidates guilty of corruption.

- (1) Of being registered as a voter and of voting at any election for members of parliament in this colony; and
- (2) Of holding any divisional council or municipal office; and
- (3) Of holding any judicial office and of being appointed and of acting as a justice of the peace.

XL. If at any time after any person has become disqualified as aforesaid by virtue of this Act, the witnesses or any of them on whose testimony such person shall have so become disqualified shall upon the prosecution of such person be convicted of perjury in respect of such testimony, it shall be lawful for such person to move the court to which the petition was presented, to order, and the said court shall, upon being satisfied that such disqualification was procured by reason of perjury, order that such disqualification shall thenceforth cease and determine, and the same shall cease and determine accordingly. Penalties for perjury under this Act.

XLI. Any person found guilty of corrupt practices as aforesaid, or any candidate whose election has been declared void as aforesaid by any circuit court, may appeal from the decision of such circuit court to the court of appeal of the Cape of Good Hope, and such court of appeal shall affirm, reverse, or alter the decision of such circuit court as justice may require, provided such appeal shall be noted, and prosecuted within the time and according to the manner of proceeding in appeals from circuit courts. Power of appeal.

MISCELLANEOUS.

XLII. No election or return to Parliament shall hereafter be questioned except in accordance with the provisions of this Act. Elections only to be questioned under this Act.

XLIII. On the trial of a petition under this Act complaining of an undue election or return, and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue, in the same manner as if he had presented a petition complaining of such election. When seat claimed for another person than the respondent.

XLIV. This Act may be cited for all purposes as "The Parliamentary Elections Act, 1883." Short title.

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SCHEDULE.

LAWS REPEALED.

Date.	Title.	Extent of Repeal.
3rd April, 1852.	Ordinance (enacted by His Excellency the Governor of the Colony of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof) for constituting a Parliament for the said Colony.	Sections Sixty-six, Sixty-seven and Sixty-eight, so much of the Section Sixty-five as relates to the mode of procedure upon a Petition against a Member of the Legislative Council for want of qualification, and so much of Section Seventy-three as may be repugnant to or inconsistent with this Act.

Superseded by 1884 Act. 13

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ACT

[September 12, 1883.

To Increase the Duties of Customs.

Preamble.

WHEREAS it is expedient to increase the duties of Customs upon articles imported into this colony and liable to such duties: Be it enacted by 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.

I. So much of any Laws relating to the payment of Customs duty as is repugnant to or inconsistent with the provisions of this Act is hereby repealed.

Customs
duty pay-
able.

II. There shall be raised, levied, collected, and paid to Her Majesty in Her Colonial revenue upon articles imported into this Colony, whether in bond or otherwise, the several duties of Customs following, that is to say:

- (1) From and after the eighteenth day of July, 1883, there shall be payable upon
 - Ale or Beer, one shilling the gallon.
 - Tobacco—namely
 - Not manufactured, one shilling the lb.
 - Manufactured (not cigars or snuff), two shillings the lb.
 - Cigars, four shillings the pound, and ten per cent. *ad valorem* in addition.
 - Cigarettes, three shillings the lb. gross weight.
 - Snuff, four shillings for each pound weight.
- (2) From and after the eighteenth day of August, 1883, there shall be payable upon

Dynamite blasting powder and blasting compounds, four- No. 11—1883
pence the lb.

Cartridges, 20 per cent. *ad valorem*, and sixpence per lb. of powder.

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 a raw state, the produce of Africa excepted), one shilling the imperial gallon.

Jewellery, Clocks and Watches, Gold and Silver Plate, and Platedware, 20 per cent. *ad valorem*.

- (3) An addition of fifteen per cent. upon the amount of customs duty now payable upon each and every article other than such as are in this Act mentioned whether a rated article or otherwise.

Provided that

- (1) The payment of such duties shall be subject to the provisions of the third Section of the Act No. 1 of 1864, intituled "An Act for the better protection of the Customs Revenue in certain cases."
(2) As to any ale or beer removed from or taken out of Bond on or after the said eighteenth day July, and before the said eighteenth day August, an allowance of three-pence per gallon shall be made.

III. This Act may be cited as the "Customs Increase Act, Short Title.
1883."

No. 11—1883.]

ACT

[September 12, 1883.]

To repeal the Laws relating to the Municipality of Kimberley, and to make other Provisions in lieu thereof.

WHEREAS the Ordinance No. 17 of 1879, enacted by the Administrator of the then Province of Griqualand West, by and with the consent of the Legislative Council thereof, requires amendment in consequence of the passing of Ordinance No. 21 of 1880, by which confusion and uncertainty have been caused between the Town Corporation of Kimberley and the Mining Boards of Kimberley and De Beer's respectively, so far as the Mining Area allotted to each is concerned, such Mining Area in several instances including the public roads and streets of the township, and leaving the buildings and plots of ground sold by the owner of Vooruitzigt Estate on each side of the said roads and streets within the jurisdiction of the Corporation: And whereas it is expedient and necessary to set at rest such confusion and uncertainty, and that all the provisions respecting the said Corporation of Kimberley

Preamble.

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— be contained in one Act: It is therefore expedient to repeal the said Ordinance No. 17 of 1879, and to re-enact the provisions of the said Ordinance or such of them as it may be deemed right and proper to continue: 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:—

Repeal of former ordinances.

I. The said 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 present 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 published under this Act: And provided, also, that the present Mayor, Councillors and officers shall on the taking effect of this Act, until other persons shall be elected or appointed in their places respectively be, and they are hereby declared to be, the Mayor, Councillors and officers of the Borough of Kimberley created by 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 the liabilities, which are authorised or required to be done or performed by, or are vested in or imposed upon, the Mayor, Councillors and officers respectively of the Borough by this Act.

Except rules made thereunder.

Extent of Kimberley Borough.

II. From and after the promulgation of this Act the Town of Kimberley, including all lands and property within a radius of two miles, measured from the Resident Magistrate's Court-house, situated in Market-square, Kimberley, shall be, and the same is hereby constituted a Borough: Provided that in the direction of Du Toit's Pan and Bultfontein the said radius shall be restricted to the ridge running across the Du Toit's Pan Road.

Body Corporate created.

III. There shall be in the said Borough a body corporate, which shall be styled the "Mayor, Councillors and Burgesses of Kimberley," and by that name shall have perpetual succession, and shall have a common Seal, and shall by that name sue and be sued, and shall by the Council thereof do all acts, and have and enjoy all the rights and privileges, which bodies corporate as such may do and have.

Its constitution.

IV. The Council of the Borough shall consist of a Mayor and Town Councillors, to be elected as hereinafter provided; and it shall be competent for the Council to pay from and out of the funds of the Borough to the Mayor as long as he shall hold office, a sum of money not exceeding five hundred pounds sterling per annum as Table Allowance.

Division into six wards.

V. The said Borough shall be divided into six Wards, to wit:—

No. 1. Central Ward, bounded on the north by a line running from the junction of the Pniel Road and Murray-street, past Kimberley Gaol, to a line four hundred and fifty-four

feet to the north of the junction of Ward-street and Barkly-street; on the south by a line from the corner of Old De Beer's Road and Market-square, to the junction of Jones-street and Market-square, excluding the buildings on the south of Market-square, and thence by a line running from north to south through Jones-street to the junction of Jones-street and Du Toit's Pan Road, and thence in a westerly direction along the Du Toit's Pan Road and Barry-street to the corner of Reitz-street; on the east by Barkly-street and Market-square, to the junction of Old De Beer's Road and Market-square, not including the building on the east side of Market-square; on the west by Pniel Road, Kimberley Goal and Reitz-street.

No. 2. Southern Ward, bounded on the north by the Southern limit of the Central Ward, and including all the land south of Barry-street, east of Jones-street, south of the Market-square and Bean-street, and bounded on the south by the limit of the Borough boundaries as aforesaid.

No. 3. Eastern Ward, bounded on the north and south by the limits of the Borough boundaries as aforesaid; on the west by Giddy-street, Barkly-street, and Market-square; and the south-west by Bean-street, on the west by Lanyon Terrace and the Gladstone Reserve.

No. 4. Western Ward, bounded on the north by Circular Road and Green-street; on the west and south by the limit of the Borough boundaries as aforesaid; on the south-east by Barry-street; on the east by Reitz-street, by the limits of the Central Ward and Pniel Road.

No. 5. Northern Ward, bounded on the north and west by the limit of the Borough boundaries as aforesaid; on the south by Green-street and the Circular Road, comprising all stands on the north side of the Circular Road and Lord-street to the junction of Giddy-street, the corner of the Gaol buildings.

No. 6. Old De Beer's Ward (including the Township of Old De Beer's and the Gladstone Reserve), bounded on the north, south and east by the limits of the Borough boundaries as aforesaid.

VI. The said Council may from time to time, if it shall think fit, alter the names and boundaries of the said Wards; and may, if the increase of the population render it necessary, increase the number of the Wards from six to any number as to such Council may seem expedient, and for that purpose may alter or wholly change the boundaries and limits of any Ward or Wards then existing: Provided, however, that in case of an increase in the number of Wards having taken place, it should afterwards be deemed desirable to reduce such number, it shall be competent for the Council to do so: Provided that the number of Wards in such

Council
may alter
boundaries
of wards.

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Borough shall not be reduced below six, and that the reduction shall not take place unless resolved on by a majority of Councillors, at a meeting specially convened for that purpose, of which one month's prior notice has been published in such local papers as the Council shall select, and at which not less than three-fourths of their number are present, and that such resolution shall receive the sanction of the Governor, and in the event of such reduction, then the boundaries and limits of such Wards may be altered or wholly changed: Provided that in every case in which the Wards shall be increased as aforesaid, the Councillors shall also be increased in number at the election next following the time of such increase of Wards, held for the election of Councillors, so that there shall be two Councillors for every Ward, and for each additional Ward created as aforesaid; and in every case in which after the Wards shall have been increased, they shall again be reduced, then, at the election of Councillors next following the time of such reduction, there shall be a proportionate reduction also in the number of such Councillors, so that no more than two Councillors shall be elected for each Ward.

Two Councillors for each ward.

Qualification of voters.

VII. Two Councillors shall be elected for each Ward, in the manner hereinafter provided.

VIII. Save as hereinafter excepted, every male person of full age, who is the owner or occupier of any immovable property of the value of not less than one hundred pounds, in any Ward of the Borough, in regard to which property no Borough Rate shall, at the time of any election of Councillors or a Councillor of such Ward, be due and in arrear, shall be qualified and entitled to vote at such election in respect of such Ward; and shall have one vote for each candidate: Provided that at any general election, after the passing and promulgation of this Act, he may give two votes for one candidate for such Ward: And provided that the name of such voter shall appear on the Voters' List in manner hereafter provided.

Joint occupiers.

IX. When any immovable property as aforesaid shall be jointly occupied by more persons than one, each of such joint occupiers shall be entitled to vote as aforesaid, in case the value of such immovable property shall be of an amount which, when divided by the number of such joint occupiers, shall give a sum of not less than one hundred pounds for each and every joint occupier.

Persons disqualified from voting.

X. Persons who have been convicted of treason, murder, rape, theft, arson, fraud, perjury, forgery, or illicit dealing in diamonds, and who shall not have received a full pardon, shall be disqualified from voting at any such election.

Roll of voters to be made annually.

XI. On or before the first day of June in every year, the Town Clerk shall make, or cause to be made, a true roll in alphabetical order of all men qualified to vote at the election of Councillors for the Borough, setting forth the name of each person at full length, the place of his abode, his business or quality, the nature of his

qualification, and the Ward or Wards in which he is entitled to No. 11—1883
vote, in the form following:—

*List of persons qualified to Vote at the Election of Councillors for
the Borough of Kimberley.*

Name at full length.	Place of abode.	Business or quality.	Nature of Qualification.	Ward or Wards in which he is entitled to vote.

XII. The Mayor shall cause a copy of the said roll mentioned in the eleventh section to be made, and shall cause the same to be publicly exhibited at the office of the Town Clerk, or in case of there being no such office, then in some other public place within the Borough, and have subjoined to such copy a notice that on a certain day and place, to be therein set forth, and for two days immediately following such day, objections to the said roll shall be heard and determined: Provided that such day so set forth shall be some day before the first day of July of the year then current.

Copy Roll to be exhibited at Town Clerk's Office.

XIII. The Mayor shall in at least one of the newspapers published within the Borough, forthwith notify that such Voters' Roll is so exhibited as aforesaid, and shall also notify the time and place for hearing any such objections, and if there be no newspapers published in the Borough, the Mayor shall notify the same by a notice under his hand, and shall cause such notice to be affixed upon the principal door of the Court-house in such Borough.

Publication of such exhibition; objections.

XIV. Every voter of such Borough shall, on application during office hours to the Town Clerk, be allowed to copy the said roll or to make extracts therefrom free of any cost or charge.

Voters to have access to Roll.

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

How objections to be heard, &c.

XVI. The roll shall be called the Voters' Roll of the Borough, and shall be brought into use on the first day of July, and shall continue to be used for one year then next ensuing.

"Voters' Roll."

XVII. No person shall be eligible to be elected a Councillor for any Ward who is not a rated owner or occupier of immovable property of the assessed value of not less than two hundred pounds within the Borough, or who is the owner or occupier of any such property in regard to which any Borough Rate shall, at the time

Qualification of Councillors.

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No. 11—1883 of the commencement of such election, be due and in arrear, or who is an unrehabilitated insolvent or whose estate is under assignment or composition, or who is disqualified from voting as in the tenth section of this Act provided, or who has a contract or share or interest in any contract made by or existing with the Council, otherwise than as a shareholder in any bank with which such Council may transact business, or in any joint-stock company which may contract with the Council for the lighting or supplying with water, or insuring against fire any property belonging to the said Borough: Provided that different premises or properties owned or occupied in immediate succession shall satisfy this section as fully as if they had been one and the same premises or property.

Requisitions necessary.

XVIII. No person shall be deemed a candidate at an election, or qualified to be elected a Councillor for any Ward, unless he shall have been invited to become such candidate by a requisition signed by at least three qualified voters of such Ward, and shall have transmitted such requisition with his acceptance thereof addressed to the Town Clerk and delivered at his office between the hours of 10 a.m. and 3 p.m. at least fourteen days before such election is appointed to take place.

How notice of election to be given.

XIX. The Mayor, or in his absence the Town Clerk, shall, twenty-one days before the day appointed for any election, by public notice call upon the Burgesses to nominate some fit and proper person or persons to be the Councillor or Councillors for the Ward or Wards named in such notice, and shall, at least ten days before the day appointed for the election in each Ward, cause a list of the names of the candidates for election, together with the names of the persons who have signed such nomination, to be published in such local papers as the Council may select, and to be affixed in some conspicuous place upon or near the Town Hall.

When to take place.

XX. On the second Tuesday in the month of December in every year, an election shall take place of Councillors for the said Borough, and the Councillors as elected in manner hereinafter provided shall take office on the first day of January in the ensuing year, and remain in office for the period of one or more years, as hereinafter provided.

How poll to be taken.

XXI. The Poll in every Ward shall be taken by some person and at a place to be appointed for that purpose by the Mayor, or in case of his absence from the Borough of Kimberley, by the Town Clerk: Provided that, as often as at any general election subsequent to the next ensuing general election after the passing and promulgation of this Act, the number of candidates nominated for any Ward shall not exceed the number of Councillors to be elected for such Ward, no Poll shall be necessary for such Ward, but the candidates so nominated shall be deemed and taken to be duly elected.

Returning officer.

XXII. The Mayor or Town Clerk, as the case may be, shall be the returning officer of the said Borough.

XXIII. Every candidate may, if he think fit, appoint a scruti- No. 11—1885
 neer to see that the votes are fairly taken and recorded. Scrutineers.
Manner of
conducting
election.

XXIV. The election shall take place in the following manner:—
 Every person qualified to vote as in this Act provided, may vote
 for any candidate in his Ward, not being more than the number to
 be elected for the Ward, by delivering to the Polling Officer a
 voting paper written by such voter, or caused to be written by him
 in the presence of the Polling Officer, containing the Christian and
 Surname of the candidate or candidates for whom the elector votes,
 and signed by the person voting, or by the Polling Officer at his
 request, and stating his place of abode, occupation and qualification.

XXV. The Polling Officer shall receive such voting paper, and shall register each vote. Polling
officer to
register
votes.

XXVI. The Poll shall commence at nine o'clock in the forenoon,
 and shall finally close at five o'clock in the afternoon of the same day. Duration
of poll.

XXVII. No enquiry shall, at any election, be permitted to be
 made as to the right of any person to vote except as follows: That
 is to say, the Polling Officer may himself, or at the request of any
 qualified voter, put to any voter the following questions, and no
 other:—Are you the person whose name appears as A. B. No. —
 on the Voters' Roll? Have all the rates assessed and due upon the
 property owned or occupied by you been paid? Have you already
 voted at this election for this ward? Questions
to voters.

XXVIII. If any person shall wilfully make a false answer to
 either of the foregoing questions, he shall be liable to a penalty not
 exceeding ten pounds. Penalty for
false answer

XXIX. At the close of the election, the Polling Officer shall
 transmit in a sealed envelope the voting papers given for each
 candidate to the returning officer, who shall ascertain the number
 of the votes given for each candidate, and the candidate, or so
 many candidates, being equal to the number to be chosen, as shall
 have received the greatest number of votes shall be declared duly
 elected; and such returning officer shall forthwith cause a list of
 the successful candidates, with the number of the Wards for which
 such persons are elected, to be published in manner hereinbefore
 in the nineteenth section of this Act provided. Polling
officer to
forward
voting
papers to
returning
officer.

XXX. At the next ensuing general election of Councillors after
 the passing and promulgation of this Act, the Burgesses appearing
 on the Voters' Roll shall elect, in manner hereinbefore provided,
 two Councillors for each Ward, one of whom, being the one who
 receives the greater number of votes, shall remain in office for a
 period of two years and no more; and the other remaining Coun-
 cillor, being the one who receives the less number of votes, shall
 remain in office for a period of one year and no more; and in case
 there are two or more candidates at the head of the Poll, having
 received an equal number of votes, the returning officer shall deter-
 mine by lot which of such candidates shall take the office for a
 period of two years and which for a period of one year. Councillors
elected for
one or two
years, ac-
cording to
majority at
first election

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At subsequent elections Councillors chosen for two years. In case of death, &c., of Councillor.

XXXI. At every general election subsequent to the said next ensuing general election, the Burgesses appearing on the Voters' Roll shall elect in manner hereinbefore provided, one Councillor to fill the vacancy in each Ward, and he shall remain in office for a period of two years and no more.

XXXII. If any Councillor shall die, resign or become insolvent, or compound with his creditors, or assign his estate for the benefit of his creditors, or shall be convicted of any of the offences in the tenth section of this Act mentioned, or shall be absent without leave from the ordinary meetings of the Council for a period of one calendar month, his office shall be declared vacant, and another Councillor shall be elected in his place and stead, in manner hereinbefore provided, who shall hold office for the remainder of the term for which the Councillor who has vacated office, and whom he shall succeed, would otherwise have remained in office; and should any Ward fail so to nominate a candidate or candidates as in the nineteenth section provided, the Town Clerk shall within seven days thereafter, again call for nominations, and should any Ward fail to nominate a candidate or candidates, as the case may be, on such second call, then such Ward shall be disfranchised, so far as the existing vacancy is concerned, for the remainder of the year, of which liability to disfranchisement the Town Clerk shall give due notice in such second call.

In case of equality of votes.

XXXIII. In case of an equality of votes at any election of Councillors, the returning officer shall determine by lot which of the persons for whom an equal number of votes shall have been given shall be elected, in case such persons cannot be both or all of them elected.

Mayor to be chosen by ballot.

XXXIV. On the Tuesday following the annual general election of Councillors, the Councillors for the following year shall meet and shall elect by ballot from among themselves, by a majority of votes, the Mayor of the Borough for the following year; and every such Mayor shall enter upon his office on the first day of January next after his election, and shall continue therein for one year, and shall during the year of his office be exempt from serving on any jury summoned in Kimberley: Provided that in the case of an equality of votes at election of Mayor, the question between the candidates so equal shall be determined by lot.

Mayor may resign.

XXXV. It shall be lawful for the Mayor to resign his office: Provided he shall give to the Council not less than one calendar month's notice of his intention so to do.

In case of resignation, &c.

XXXVI. If the Mayor shall resign, or shall fail to attend the meetings of the Council for a period of one calendar month, without leave, or shall be convicted of any of the offences in the tenth section of this Act mentioned, the office of Mayor shall be deemed vacant, and the Council shall forthwith elect, out of their own number, a successor for the remainder of the year.

XXXVII. An ordinary meeting of the Council shall take place at least once in every week, and all meetings of the Council shall be open to the public. No. 11--1883
Ordinary meetings once a week. Majority to decide all questions.

XXXVIII. Save where it is otherwise specially provided in this Act, all acts, matters or things hereby authorised or required to be done by the Council, and all questions that may come before it, shall be done and decided by the majority of Councillors who shall be present at any meeting at which not less than five members of the Council shall attend. Quorum.

XXXIX. At every meeting of the Council, the Mayor, if present, shall preside, and in case of his absence, the Councillors present shall elect a Chairman from among themselves, who shall have the power and authority of the Mayor until the Mayor is again present and acting, or until another Chairman is appointed. Mayor to preside, or Chairman.

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

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

XLII. The Mayor or any three Councillors may at any time call a special meeting of the Council: Provided that he or they cause a notice of the time and place of such intended meeting, specifying the object thereof, and signed by him or them, or by the Town Clerk, to be served on every Councillor, either personally or by leaving the same at his usual place of abode, twelve hours at least before such meeting. Special meetings.

XLIII. It shall be lawful for the Council to appoint out of their own body such and so many committees, either of a general or special nature, and consisting of such number of members as to the Council may seem fit for any purpose which in the judgment of the Council would be better managed by means of a committee: Provided, always, that the proceedings of the committees shall be regularly entered in a minute book to be kept for that purpose, and reported to the Council. The Mayor shall be *ex-officio* member of all such committees. Committees.

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

XLV. No Councillor or person holding any office in the gift or disposal of the Council shall, directly or indirectly, have any share or interest in any contract made by or with the Council other- Councillors not to have interest in contracts.

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 Penalty. wise than as a shareholder in any bank with which such Council may transact business, or in any joint-stock company which shall contract with the Council for the lighting or supplying with water, or insuring against fire any property belonging to the said Borough; and any person contravening the provisions of this section shall, upon conviction, vacate his seat, and be liable to a penalty not exceeding fifty pounds.

Auditors. XLVI. On the second Wednesday in the month of January in every year, the Council shall appoint from among the Burgesses two persons to be Auditors to the Borough, who shall continue in office until the same day in the following year, and the Town Clerk shall at least seven days previous call for applications from Burgesses willing to undertake the duty.

Disqualifications for the office. XLVII. No person shall be eligible as an Auditor who shall be a Councillor, Treasurer, Clerk, or other Officer of the Borough, or who shall be an unrehabilitated insolvent, or who shall have been convicted of any crime or offence in the tenth section mentioned, and shall not have received a full pardon for the same.

In case of resignation, &c. XLVIII. If any Auditor shall die, resign, or be declared insolvent or compound with his creditors, or assign his estate for the benefit of his creditors, or be convicted of any crime or offence in the tenth section mentioned, another Auditor shall be elected in his stead on a day to be fixed by the Mayor.

Powers of the Council. XLIX. 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 watercourses, waterpipes, 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 order, establish, hold, alter, or remove markets, 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

Repealed by
 193 Act 31,
 Sec. 37(1)
 in so far as
 it relates to
 rates and
 rateable locations

of such school may be required under any Act which may now or hereafter be in force for this purpose; 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 like casualty; to regulate from time to time the materials of which all future buildings shall be constructed, the distances, space, 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 floors 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 passing of this Act, 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, and other provisions exposed for sale, and to test or analyze 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 plying for hire within the limits of the Borough; to fix a tariff of charges which the owners or drivers of such vehicles so plying may make within a radius of four miles from the centre of Market-square; and to make regulations for the maintenance and control of Native Locations at present existing or hereafter to be created by the Borough Council and for the good government and control of natives and vagrants within the Borough; and provided, further, that no dues or charge for any permit or licence, or any punish-

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see note on page 692.

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*see note on
page 692.*

ment 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 hereinafter in the fifty-fifth section of this Act provided.

Powers of Council not to extend to mining areas.

Exceptions.

L. Save and except as is hereafter in this section 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 present existing or which may hereafter be created; or so as to interfere with the right and privileges of the claimholders of any mine at present existing, or which may hereafter be proclaimed on their depositing floors, whether such depositing floors are situate within or without any such mining area as aforesaid, 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 do at present exist or shall hereafter be constructed or fixed, or are situated or constructed within or without any such mining area: 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 any such mining area, or in connection with any works as aforesaid situate without such area, or that any other of the duties or powers imposed or conferred on the said Council, under the provisions 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 exercising jurisdiction over such mining area or mining works as aforesaid, the nature and sufficient particulars of the work or duty which the said Borough Council may desire to have done and performed; and such Mining Board shall within a reasonable time after receipt of such notice (due regard being had to the nature of the work or duty to be done or performed) 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 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 be performed and carried out by or at the expense of such Mining Board as may be determined by mutual arrangement or by the award of the said arbitrators or umpire: Provided, lastly, 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. No. 11—1883

LII. For the purpose of providing sufficient funds for the construction, maintenance, alteration and repairs of roads, streets and thoroughfares, within the Borough, the Council is hereby authorised to erect toll-houses, turnpikes, toll-gates, or toll-bars, within the said Municipality, and in such places as the said Council shall deem most expedient, for the purpose of collecting tolls, and from time to time to fix the rates of such tolls so to be collected, and also to decide on whom or on what carts, wagons or other vehicles such tolls shall be levied, or whether or not such rates shall be levied on horses, oxen or other animals passing through the aforesaid turnpikes, toll-gates or toll-bars. Toll bars, &c., authorised.

LIII. No toll shall be payable by any officer or soldier or member of any volunteer corps being in proper staff or regimental or military uniform, dress or undress, and on duty, or by any member of constabulary or mounted police force, or any burgher force, or any judicial or civil officer, mail carrier, or other Government servant, whilst travelling on public duty; and, further, no more than one toll shall be payable in any one day, to be computed from twelve o'clock on one night until twelve o'clock on the next succeeding night, for and in respect of the same vehicle or animal. Exemptions from tolls.

LIIII. A separate account shall be kept of all moneys arising from such tolls, and the same shall be applied solely for the purpose of constructing, maintaining, repairing, altering and improving roads, streets and thoroughfares within the Borough. Separate account of moneys from tolls.

LIV. It shall be lawful for the Council, at any meeting at which two-thirds of the members shall be present, to frame from time to time all such Borough regulations as may be within the powers and authority herein given to the Council, and may seem fit for the good rule and government of the Borough. Regulations to be framed

LV. No Borough regulation shall be of force to subject any person to a fine, penalty or payment until it shall have been by the Council submitted to the Governor, and shall have been approved of by him with the advice of the Executive Council, and published in the *Government Gazette*. To be gazetted, &c.

LVI. After any Borough regulation shall have been so published as aforesaid, it shall not be necessary in any proceeding founded upon it to prove that two-thirds of the Council were present at the meeting at which it was framed, nor shall any evidence be received to prove the contrary. Due passing of regulations need not be proved.

LVII. It shall not be competent by any Borough regulation, to punish the contravention thereof in any higher or more severe manner than by a fine not exceeding ten pounds: Provided that it shall be competent for any such Borough regulation to provide that if the person convicted of contravening the same shall not forthwith pay the fine imposed upon him, he shall be liable to be Extent of penalty to be allowed in any regulation.

No. 11—1883 ——— imprisoned, with or without hard labour, for any period prescribed by such regulation: Provided, moreover, that such period must not exceed three months.

Power to acquire lands, &c.

LVIII. It shall be lawful for the Borough of Kimberley to acquire by grant, transfer, devise, purchase, exchange, or otherwise, any lands or buildings for Borough purposes in the district of Kimberley, and to have and to hold the same for the Burgesses of Kimberley: Provided that the consent of the Governor and the majority of the Burgesses be first had and obtained in all cases where the purchase price for such lands or buildings, or the value of the property exchanged for the same, exceeds the sum of one thousand five hundred pounds: And provided that title shall be issued to the Mayor and Councillors for the time being, and the signatures of the Mayor and any two Councillors on behalf of such Borough shall suffice for the valid execution of all deeds, agreements, notarial or other instruments of grant, transfer, purchase, sale, exchange, mortgage, leasing, letting, hiring, or other transaction relating to such lands as aforesaid.

Power to lease lands.

LIX. The Council may, with the consent of the Governor, lease any portion of the lands belonging to the Borough for any period not exceeding fifty years, with or without the option of purchase, and with or without an undertaking to renew such lease as hereinafter provided at such price and upon such conditions as may be approved of by the Governor: Provided that the Council shall, at least one month previous to such intended lease, cause to be published a full and clear statement of the situation, nature and extent of such land, which shall be sold by public auction.

To renew leases.

LX. The Council may, from time to time, renew any such lease for any period not exceeding fifty years: Provided there shall be buildings on the ground of the then value of at least five hundred pounds, in any case in which the lessee shall, two months previous to the expiration of such lease, give notice of his desire or intention so as to renew such lease.

How rental to be fixed on renewal.

LXI. The Council may, on application for the renewal of any such lease, cause the then annual rental of the lease in respect of which such renewal is sought, exclusive of the buildings thereon, to be estimated either by mutual agreement between the Council and the applicant for renewal; or, in case of difference of opinion, then by arbitration.

Power to borrow on debentures.

LXII. The Council may, with the consent of the majority of the Burgesses as provided in section eighty-nine of this Act, and of the Governor first had and obtained, raise by debentures, on or by the sale by public competition of any land belonging to the Council, any sum of money which shall be necessary in order to carry on any public work, and may exchange any portion of the lands belonging to the Council for other lands in the division of Kimberley for public purposes: Provided that the Council shall, at least two months previously to such intended sale or mortgage,

cause to be published a full and clear statement of the situation, nature and extent of such land, and the object and purpose for which the money is required. No. 11—1883

LXIII. The Council may for any of the purposes of this Act, hypothecate or charge by debentures one-third of the Borough rates of the said Borough for a period not exceeding ten years in security for any sum of money to be borrowed by the said Council: Provided that no sums of money shall be capable of being borrowed under the provisions of this section, except with the previous consent of a majority of the said Burgesses as provided in section eighty-nine as aforesaid: Provided, also, that it shall be lawful for the said Burgesses to sanction, and after such sanction, for the said Council to borrow upon the security of the said rates or property of the Borough any sum or sums which may be found necessary not exceeding the sum of ten thousand pounds in any one year. Rates may be hypothecated.

LXIV. Notwithstanding anything in the last two preceding sections contained, it shall be lawful for the Borough Council by resolution of not less than two-thirds of its members, without the consent of the Burgesses, for any of the purposes of this Act, to borrow any sum not exceeding two thousand five hundred pounds: Provided, however, that so long as the above sum shall remain unpaid, the borrowing powers under this section shall cease and determine. Limitation of borrowing powers.

LXV. All streets, roads, and thoroughfares now in existence and running over land the property of the Government or of private persons or companies within the limits of the Borough, and which shall have been already recognised by the Council, and all streets, roads, and thoroughfares which may hereafter be established over such property, with the approval of the Council, shall be vested in the said Council in trust to keep the same open, and as far as may be consistent with the funds at their disposal, in repair for the use and benefit of the Burgesses. May by resolution borrow to extent of £2,500.

LXVI. Every hypothecation aforesaid, or power of attorney for authorising any hypothecation under this Act, shall be under the common seal of the Corporation, and shall be executed by the Mayor and two Councillors, and countersigned by the Town Clerk. Streets, &c., vested in Council.

LXVII. In case the said Council shall require to take or use any land, with or without the buildings, if any, erected thereon, or any frontage or stoep belonging to any premises, for the purpose of making, widening or improving any street, drain, market or public building, or for any other public purpose, or to dig out or carry away any materials belonging to any person or persons within the Borough, or to appropriate or make use of any springs, streams or other supplies of water belonging to any person or persons who shall not be bound in law to allow the Town Council so to do, then, and in that case, it shall be lawful for the said Council, and it is hereby authorised and empowered, to treat and Common Seal.

No. 11—1883 agree with every such person or persons for the purchase or hire as the case may be of any such land, buildings, materials, springs, streams, or other supplies of water as aforesaid, and generally to enter into such contract or contracts relative to the obtaining of such land, buildings, materials, springs, streams, or other supplies of water, upon such terms and conditions as the said Council shall judge expedient; and in case any such person or persons and the said Council shall not agree upon the purchase money, or hire, or other recompense to be respectively given by the one party and accepted by the other, then the amount of recompense or compensation shall be settled by arbitration.

“Lands and Arbitration Clauses Act” to apply. LXVIII. For the purposes of any land taken, and of any arbitration under the provisions of this Act, the provisions of “The Lands and Arbitrations Clauses Act, 1882,” are hereby incorporated.

In case of appropriating lands of absent owners. LXIX. In case the said Council shall, for any purpose in the last preceding section in that behalf mentioned, require to take or use any of the land, with or without the buildings, if any, erected thereon, or to dig or carry away any of the materials, or to appropriate or make use of any springs, streams, or other supplies of water in the last preceding section mentioned, the owner of which shall be absent from the Borough and not represented therein by any agent duly accredited, or shall not be discoverable, it shall be lawful for the said Council, and it is hereby authorised, to cause a notice to be inserted in such of the local papers, if any, as the Council may select, for four successive weeks, describing as accurately as may be the materials, lands, buildings, springs, streams, or other supplies of water which are required to be taken or used, and calling by name on the owner of the said land, buildings, materials, springs, streams, or other supplies of water, if known, or if not known, by inserting the beforementioned notice in the manner herein provided, calling upon all persons concerned to take notice that the said Council is ready and willing to treat with the owner, or any person duly authorised by him, for the recompense or compensation to be made or paid by the said Council for the said land, buildings, materials, springs, streams, or other supplies of water, and requiring such owner to apply within six months from the date of such notice, which shall be the day of its first publication to the said Council, stating the recompense or compensation claimed; and if the owner shall so apply within the said period, then the like proceeding in regard to the agreeing for, or otherwise determining, the recompense or compensation to be respectively given and received, shall in all respects be had and taken, which are prescribed in the last preceding section, precisely as if the said owner or owners had been from the first in actual occupation. And in case such owner shall not apply to the said Council within the said period, then it shall be lawful for the said Council to appoint some competent person, to be approved of by the Civil

Commissioner of Kimberley, to appraise the value of the land, buildings, materials, springs, streams, or other supplies of water required, and such person shall make oath before any Justice of the Peace that he hath, to the best of his judgment, fairly appraised such value, and thereupon it shall and may be lawful for the said Council to pay the sum at which such person shall have valued the land, buildings, materials, springs, streams or other supplies of water in question into the Guardian Fund, to the credit of the party or parties entitled thereto, subject to the same provisions, in all respects, which are provided by the Ordinance No. 105, bearing date the 5th July, 1833, in regard to moneys placed in the said Fund belonging to absent persons; and the said Council upon so paying the said sum shall be authorised and entitled to take or use the said land, buildings, materials, springs, streams, or other supplies of water in question, as freely as if the said sum had been agreed upon between the parties as the sum to be paid, and as if all acts by law required for vesting in the said Council sufficient title to the use of or property in the land, buildings, materials, springs, streams, or other supplies of water aforesaid, had been duly done and performed.

LXX. Notwithstanding anything in this Act contained, and without compensation to the owner, the Borough Council shall at all times have full power and authority, without prejudice, however, to the provisions of the fiftieth section of this Act, to enter upon all streets, roads, and thoroughfares now existing, or hereafter to be constructed within the boundaries of the Borough, as well as upon all land, not being a mining area and not allotted for mining purposes, not built upon, cultivated, or enclosed, within or adjoining the boundaries of such Borough, for the purpose of laying pipes and of making and constructing drains, sewers, culverts, and similar works necessary and proper for the sanitary management and efficient drainage of the Borough.

LXXI. The Council may appoint and maintain such number of watchmen and streetkeepers as to them may seem fit or necessary, and may from time to time make such rules and regulations touching their pay, clothing, allowances and duties, as to them may seem fit.

LXXII. For the purpose of raising the means for making and repairing the roads, streets, market places, bridges, drains, sewers, watercourses, 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 permanent 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 of water-works, fire-engines, police

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Powers of entry on lands, streets, &c.

Watchmen, &c.

Power to impose rates.

Repealed by 1923 Act 21 Sec. 27(1) in so far as relates to native and native boats

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Exemptions
from rates.

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 power to impose, levy, and recover all such market dues, water rates, and pound fees as shall be deemed necessary and reasonable, and shall be authorised by any such Borough regulations as aforesaid; and shall also have the power as often as shall be deemed necessary, and in manner hereinafter 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 buildings 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, nor upon any buildings erected in any mining areas now existing or hereafter to be legally established, and which buildings are exclusively appropriated for the purpose of protecting mining machinery, nor on any mining property used strictly for mining purposes within the mining area, nor on any depositing floors without such area.

Ratepayers.

LXXXIII. 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 provided.

Valuators.

LXXXIV. For the purpose of valuing all and singular the immovable property situate within the Borough, the Council shall and may appoint one or more competent appraisers.

Assessment
Roll.

LXXXV. As soon as any valuation as aforesaid shall be completed, an assessment roll embodying the same shall be compiled, which shall lie in the office of the Town Clerk for the inspection of every owner or occupier of any property included therein, who may, upon all lawful days and at all reasonable times, inspect the same and take extracts therefrom, and the Council shall by public notice announce for general information that it will, upon some day and at some hour and place to be fixed in such notice, hold a Court for the purpose of hearing and determining objections to such valuation: Provided that such notice shall be published fourteen days at least before the day appointed therein for the holding of such Court: Provided, also, that it shall not be necessary in any suit or proceeding for the recovery of any rate, to prove anything further in the nature of due notice of any such valuation as aforesaid than the publication of the notice aforesaid in one or more of the local newspapers.

LXXVI. Upon the day and at the place and hour mentioned in such notice, the Council shall hold a court, and shall hear all objections which may be urged to any valuation by any owner or occupier or other person on his behalf, and shall enquire into the merits of such objections, and for that purpose may take the oath of any person whom it shall see fit to examine (which oath the presiding member of the Council is hereby authorised to administer), and shall confirm or correct any valuation objected to: Provided that the said Court may be adjourned from time to time upon application made by any person objecting who shall show reasonable grounds for not being ready with his proofs, or for the purpose of obtaining further evidence in regard to any case which shall have been partly heard.

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How objections to be heard and determined.

LXXVII. The provisions of the 124th Section of the Municipal Act, No. 45 of 1882, with reference to the right of appeal from the Court of Assessment in the last section mentioned, are hereby incorporated in this Act.

Section 124 of Municipal Act, 45 of 1882 to apply.

LXXVIII. The Council shall annually, in the month of February, make an estimate of the amount of money required for the purposes aforesaid, and shall assess the rate accordingly, and give public notice thereof in such of the local newspapers, if any, as the Council may select, and shall in like manner, if any further or unforeseen expenditure shall become necessary during the same year, make a supplementary estimate thereof and assess a second or further rate, whereof they shall give public notice in like manner: Provided that it shall not be lawful for the Council, in any one year, to levy any rates amounting in the aggregate to more than threepence in the pound on the assessed value of the immovable property, without first obtaining the consent of the majority of the Burgesses present at any meeting specially called for the purpose of giving such consent.

Estimate and Assessment.

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

When rates payable.

LXXX. When the Council shall have announced in the local papers the day on which any rate duly assessed under this Act will have become due and payable, it shall be incumbent upon all persons liable to such rate to pay the amount thereof so due to any person whom the Council may have authorised to receive the same, on or before the day fixed in the said announcement for the payment of the same, on pain of being forthwith liable to legal proceedings, at the suit of the Town Clerk, in the name and on behalf

Recovery of unpaid rates

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— of the Kimberley Borough Council, or other duly authorised person for the recovery of the amount: Provided, also, that any occupier who shall have paid any such rate shall be entitled to recover the same from the owner, unless there be an agreement to the contrary.
- Owner, or occupier in absence of owner, liable for rates. LXXXI. 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 and the same action, each for the whole rate, in any competent Court, and recover the same by the judgment and process of the Court: Provided that no occupier of any immovable property shall be liable for any rate which had become due and payable thereon at any time before he entered on the occupation thereof: And provided, further, 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.
- List of arrears to be published. LXXXII. The Council shall, once in every year, publish in at least one of the local newspapers as the Council shall deem fit, a statement of every sum in arrear, the names of the defaulters, and of the property in respect of which the same is due.
- First Valuation. LXXXIII. 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 one year, a fresh valuation shall be made in the same manner as hereinbefore directed with regard to the first valuation.
- Annual valuation. LXXXIV. The Treasurer shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received, and paid out, and of the several matters in respect whereof such sums shall have been received and paid. All such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance sheet thereof made up to the 31st day of December last past and including such day, shall at some time during the month of January in each year, be handed by him to the Auditors, and to such members of the Council as the Mayor shall name, for the purpose of being examined and audited, and such abstract or balance sheet, when found correct, shall be signed by the Auditors, and shall be forthwith published by the Town Clerk in one or more of the local papers.
- Treasurer's accounts. LXXXV. All fines or 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: Provided that no such prosecution as aforesaid shall be commenced later than three months from and after the date of the act or omission upon which such prosecution shall be grounded; and to avoid the provisions of any Borough regulation being evaded, it shall be competent for any officer of the local constabulary force, or
- Fines to be applied to municipal purposes.

municipal officer, personally cognizant of the contravention of any such regulation by any person, or on production or delivery to him of an affidavit duly sworn before a Justice of the Peace by any individual containing information that any regulation has, to his knowledge, been contravened, and stating the date of such contravention, unless otherwise provided by any bye-law, to give notice verbally or in writing to such person to appear before the court of the Resident Magistrate or Police Magistrate for the purpose of having such contravention immediately thereafter heard and determined; and unless such person shall give security for his appearance not exceeding the maximum penalty imposed in and by the said regulation for the offence, such officer shall be justified in detaining him until the hearing of the charge, or he may release such offender with the sanction of the Mayor or the Town Clerk, or such other officer as the Council may authorise, on payment of the penalty provided in such regulation, or such lesser sum as such Mayor, Town Clerk, or such duly authorised officer shall after due enquiry deem to be a sufficient penalty: Provided that in case any person, who shall have given security as aforesaid for his appearance, shall fail and neglect so to appear, then and in that case the said security shall *ipso facto* be and become forfeited and payable to the Treasurer of the Borough.

LXXXVI. The storing of kerosene, dynamite, gunpowder, and other explosive material shall not be permitted, except by Her Majesty's Government, for public purposes in such places as may be approved by Her Majesty's officers, and no other person shall be allowed to keep on any premises or place within the Borough a greater quantity of any such material than licensed so to do by the Council.

Dynamite, &c., to be stored only in specially licensed places.

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

Burial grounds.

LXXXVIII. Any owner or occupier of land within the limits of the Borough wherein is any well uncovered or unfenced so as to occasion danger to life, who shall fail, refuse, or neglect, to comply with any written orders from the Council, directing him to fill in, cover or fence in such well within the time specified in such notice, shall be liable to a penalty not exceeding ten pounds for every day he shall so fail, neglect, or refuse to comply with such written orders as aforesaid, such penalty to be recovered by the Council in any competent Court; and the said Council shall be empowered to cause entry to be made on the said land, and to fill up, cover, or fence in such well or wells, and the cost of such works shall, in

Penalties for unfenced wells.

No. 11—1883 the first instance, be defrayed out of the funds of the Borough, and shall be recoverable from such owner or occupier in addition to such penalty as aforesaid.

How majority of votes of "Burgesses" to be obtained.

LXXXIX. In every case in which it is by this Act provided that the consent of the majority of ratepayers shall be first had and obtained for the purpose of carrying out any of the provisions hereof, the word "Burgesses" shall mean and be understood to refer only to such Burgesses as are entitled to vote for Councillors under the provisions of this Act; and for the purpose of recording their votes, the said Burgesses shall be summoned to appear at a public meeting, by notice published in such of the local newspapers, if any, published within the Borough, as the Council may deem fit, and also by notice affixed in some conspicuous place upon or near the Town-hall, 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; and at every such meeting it shall be lawful for any two or more of the duly qualified Burgesses present to demand a poll of the Burgesses 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 of the local papers, if any, as the Council may deem fit, which poll shall commence at 10 o'clock a.m. and be closed at 3 o'clock p.m. of such day.

Present and future owners liable for rates.

XC. All rates assessed under the authority of this Act shall be recoverable as against the present or future owner or occupier of the property assessed.

Sundays and public holidays.

XCI. Whenever any day is mentioned in this Act as one upon or before which any act is required to be done, or whenever any day which shall be mentioned in any notice issued under the authority of this Act shall happen to fall upon a Sunday or any public holiday, such day shall be read as if the day succeeding such Sunday or such public holiday had been named.

New Corporation liable for debts, &c., of old one.

XCII. The Corporation created by this Act shall be subject and liable to every contract, engagement, debt and demand to which the present Corporation is liable or subject at the time of the taking effect of this Act, and in like manner shall be vested with and entitled to all rates, assets, and claims, which the present Corporation is vested with or entitled to at the time of the taking effect of this Act.

Borough to have benefit of all Municipal Acts, &c.

XCIII. The said Borough shall not be excluded from the operation or benefits of any Act or Acts heretofore passed, or which may hereafter be passed, relative to Municipalities or Town Councils, and of which Acts the said Borough may desire to avail itself by reason merely that the words "Borough" and "Borough Council" do not appear in such Acts.

Short title.

XCIV. This Act may, for all purposes, be cited as the "Kimberley Borough Act, 1883."

No. 12—1883.] ACT [September 19, 1883. No. 12—1883

To Explain and Alter certain Provisions in the Uitenhage Municipality Act, 1877.

WHEREAS, it is desirable to alter in some respects section 35 of Act No. 30 of 1877, called the “ Uitenhage Municipality Act, 1877,” and to explain a certain proviso in section 60 of the same 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.

I. The words “ at which two-thirds of the members shall be present,” in section 35 of Act No. 30 of 1877, shall be expunged, and such section shall be read as if the said words had never been inserted therein. Amendment of Sec. 35 of Act 30 of 1877.

II. The proviso in the 60th section of the said Act No. 30 of 1877, exempting from rating and assessment any immovable property belonging to Her Majesty the Queen, shall be deemed and taken to refer to land or buildings the property of Her Majesty, or the Colonial Government, other than such property as may be beneficially occupied by individuals in their private capacity. Amendment of Sec. 60 of same Act.

III. This Act may be cited as the “ Uitenhage Municipality Amendment Act, 1883.” Short Title.

No. 13—1883.] ACT [September 26, 1883.

To Define and Declare the Powers and Privileges of Parliament.

WHEREAS it is expedient more clearly to define and declare the powers and privileges of Parliament in certain respects: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :— Preamble.

I. The laws mentioned in the schedule hereto, to the extent to which the same are therein expressed to be repealed, shall be and the same are hereby repealed. Schedule of Laws repealed.

II. In the interpretation of this Act

- (1) The term “ President ” shall mean and be taken to apply to the officer or member for the time being presiding over the Legislative Council. Interpretation clause.
- (2) The term “ Speaker ” shall mean and be taken to apply to the officer or member for the time being presiding over and duly elected as such by the House of Assembly.
- (3) The term “ Clerk ” shall be taken to mean the officer holding such appointment under the authority or appointment of the said Legislative Council or the President thereof : or of the House of Assembly or the Speaker thereof.

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(4) The term "House" or "Houses of Parliament" shall mean the Legislative Council and House of Assembly, or either of them.

Power to order the attendance of witnesses.

III. Each House of Parliament and any committee of either House duly authorised by the House to send for persons and papers, may order any person to attend before the House or before such committee as the case may be, and also to produce to such House or committee any paper, book, record or document in the possession or power of such persons.

Such attendance to be notified by Summons.

IV. Any such order to attend or to produce documents before either House shall be notified to the person required to attend or to produce documents by a summons under the hand of the President or Speaker as the case may be; and any such order to attend or to produce documents before any such committee, shall be notified to the person required to attend or to produce documents by a summons under the hand of the Clerk of the House, authorised by the Chairman of the committee; and in every such summons shall be stated the time when and place where the person summoned is to attend, and the particular documents which he is required to produce, and such summons shall be served on the person mentioned therein either by delivering to him a copy of such summons or by leaving a copy of the same with some adult person at his usual or last known place of abode in the colony; and there shall be paid or tendered to the person so summoned, if he shall not reside within five miles of the Houses of Parliament, a reasonable sum for his expenses of attendance according to any standing rule or order in that behalf.

Payment of reasonable expenses.

Attendance of Members before either House.

V. A Member of Parliament who shall be summoned to attend before the House, or a committee of the House, of which he is not a member, shall not be at liberty so to attend without the consent of the House of which he is a member, and shall not be bound so to attend without an order of the House of which he is a member.

Objections to answer questions or to produce papers to be reported to and decided by the House

VI. If any person ordered to attend or produce any paper, book, record or document to either House or to any committee of either House shall refuse to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the President or Speaker or the Chairman of the committee as the case may be, shall report such refusal with the reason thereof, and the House shall thereupon excuse the answering of such question or the production of such paper, book, record or document, or order the answering or production thereof as the circumstances of the case may require.

Houses empowered to punish for certain contempts.

VII. Each House of Parliament may summarily punish for contempt to the extent and according to the Standing Orders thereof by fine and fees or either; and, in case such fine and fees or either so imposed shall not be immediately paid, by imprisonment in the custody of its own officer in such place as the House may direct

until payment shall be made, or for a period not later than until the end of the then existing Session, for or in respect of any of the offences hereinafter enumerated whether committed by a member of the House or by any other person :—

- (1) Disobedience to any order of either House or of any committee duly authorised in that behalf to attend or to produce papers, books, records, or documents before the House or such committee unless excused by the House in manner aforesaid.
- (2) Refusing to be examined before or to answer any lawful and relevant question put by the House or any such committee unless excused by the House in manner aforesaid.
- (3) Assaulting, obstructing or insulting any member in coming to or going from the House or on account of his behaviour in Parliament or endeavouring to compel any member by force, insult, or menace to declare himself in favour of or against any proposition or matter depending or expected to be brought before either House.
- (4) Sending to a member any threatening letter on account of his behaviour in Parliament.
- (5) Sending a challenge to fight to a member.
- (6) Offering any bribe to or attempting to bribe a member.
- (7) Creating or joining in any disturbance in the House or in the vicinity of the House while the same is sitting, whereby the proceedings of such House may be interrupted.
- (8) Any of the contempts from time to time set forth and declared to be such in any standing order of either House.

VIII. For the purpose of punishing any of the contempts aforesaid, the President or Speaker as the case may be, is hereby empowered upon the resolution in that behalf of the House to issue his warrant under his hand, for the apprehension and imprisonment as aforesaid, of any person adjudged by the House guilty of any such contempt, if such fine and fees or either shall not have been paid as aforesaid.

IX. Any person creating or joining in any disturbances in the House during its actual sitting, may be apprehended without warrant on the verbal order of the President or Speaker as the case may be, and may be kept in the custody of the officer of the House until a warrant can be made out for the imprisonment of such person in manner aforesaid.

X. Every such warrant shall contain a statement that the person therein mentioned has been adjudged guilty of contempt by the House, the President or Speaker whereof shall have issued the same, specifying the nature of such contempt; and every warrant shall be sufficient from which it can be reasonably collected that the person mentioned therein has been adjudged guilty of any of the contempts aforesaid, and no particular form shall be necessary to be observed in such warrants.

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President
or Speaker
to issue
warrant.Persons
disturbing
proceedings
of House
may be
arrested
without
warrant.Form of
warrant.

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Sheriff,
constables,
and others to
assist in
execution of
warrant or
verbal order

Gaoler to
imprison.

Doors may
be broken
open in
executing
warrant.

Wilfully
false an-
swers how
punished.

Rules and
orders to be
framed sub-
ject to the
Governor's
approval.

Members
exempt from
service as
jurors or
witnesses,
and from
civil suits in
any Courts,
other than
the Supreme
Court, while
attending in
Parliament.

Provisions
for final
audit by the
Speaker.

XI. The sheriff and his officers and all constables and other persons are hereby required to assist in the apprehension and detention of any person in pursuance of the verbal order as aforesaid of the President or Speaker as the case may be, and also to be aiding and assisting in the execution of any such warrant as aforesaid, and where any such warrant directs that the person mentioned therein shall be imprisoned in any gaol, the keeper thereof is hereby required to receive such person into his custody in the said gaol, and there to imprison him according to the tenor of the warrant.

XII. It shall be lawful for any person charged with or assisting in the execution of any warrant under the hands of the President or Speaker, issued under the authority of this Act, to break open in the day time all doors of places where the person for whose apprehension such warrant was issued is concealed.

XIII. If any person before either House, or before any committee of either House, shall after being duly cautioned as to his liability to punishment under this section give a wilfully and corruptly false answer to any lawful and relevant question material to this subject of inquiry which shall be put to him during the course of any examination, he shall be guilty of an offence, and shall be liable on conviction to be punished in the same manner as though he had been convicted of wilful and corrupt perjury.

XIV. The rules and orders from time to time required in the execution of, or to give effect to, the provisions of this Act shall be framed and adopted by either House; but the same shall not become binding and of force until approved by the Governor, under and subject to the provisions of the seventy-eighth Section of the Constitution Ordinance.

XV. No member of Parliament in actual attendance on either House shall, during such attendance, be required to serve on any jury, or to attend as a witness in any court, other than the Supreme Court, in any civil suit or proceeding; and no such suit or proceeding in which such member shall be a party defendant shall be brought to trial in any court other than the Supreme Court during such attendance. The certificate of the President of the Legislative Council or the Speaker of the House of Assembly, as the case may be, shall be deemed sufficient proof that any such member is in such attendance as aforesaid.

And whereas the House of Assembly on the report of its Public Accounts Committee resolved to exercise the sole supervision over the necessary expenditure incidental to its own internal economy: Be it enacted:

XVI. The provisions of the Audit Act of 1875 (except as hereinafter mentioned), shall not apply or extend to the audit or control of the accounts and appropriations of the House of Assembly; and the audit by the Speaker of the accounts of all payments and receipts in reference to all matters affecting the service of the

House of Assembly shall be taken to be in all respects good and effectual, anything contained in any Act to the contrary notwithstanding: Provided that the Public Accounts Committee of the House of Assembly shall exercise in regard thereto such powers and give such directions as may from time to time be authorised by any order of the House of Assembly.

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XVII. After the passing of the Annual Appropriation Act, the notification by the Controller and Auditor-General, and the authorisation and approval by him of requisitions for expenditure required to be given and issued to the several Ministers respectively, as set forth in the seventh section of the Audit Act of 1875, shall, for the purposes of this Act, apply to and include the Speaker, precisely as if he had been named therein.

Speaker's Requisition for Expenditure authorised.

XVIII. For the purposes of this Act, the person who shall fill the Office of Speaker of the House of Assembly at the time of any Dissolution of Parliament shall be deemed to be the Speaker until a Speaker shall be chosen by the new Parliament.

Speaker to act not withstanding Dissolution of Parliament.

XIX. Nothing in this Act contained shall be deemed or taken to affect or abridge the rights and privileges of Parliament in any manner whatever.

This Act not to affect the rights and privileges of Parliament. Short Title.

XX. This Act may be cited for all purposes as the "Powers and Privileges of Parliament Act, 1883."

SCHEDULE OF LAWS REPEALED.

No. and Year.	Title.	Extent of Repeal.
1. 3rd April, 1852.	The Consitution Ordinance.	The proviso to the 78th Section and so much of said Section as may be inconsistent with this Act.
2. No. 30, 1875.	Audit Act.	So much as may be repugnant to or inconsistent with this Act.

No. 14—1883.] ACT [September 27, 1883.

To Authorise the Borough Council of Kimberley to Raise a Loan for certain Municipal Purposes.

WHEREAS it is expedient to empower and enable the Borough Council of Kimberley to borrow money for the purpose of paying existing liabilities and effecting local improvements, and to levy rates for the repayment of the amount so borrowed with interest,

Preamble.

No. 14—1883

And whereas at a public meeting of the burgesses of Kimberley, convened for that purpose on the 11th day of June, 1883, it was resolved that the said council be authorised to borrow a sum not exceeding one hundred thousand pounds sterling for such 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 :—

Borough Council empowered to borrow to amount of £75,000.

I. The borough council heretofore known as the municipality of Kimberley 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 purposes in the preamble to this Act mentioned, not exceeding in the whole the sum of seventy-five thousand pounds sterling: Provided that after payment of existing debts the said council shall in all cases convene a meeting of ratepayers, by notice of not less than seven days (in at least one of the local papers), and obtain the sanction and approval of such ratepayers in manner as is now or hereafter may be provided by any Municipal Ordinance or Borough Act 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.

Special rates may be imposed.

II. It shall be lawful for the said council to impose, for the purpose of providing for the payment of the interest and also for the payment of the annual contribution in repayment of the principal as hereinafter described of the money or moneys aforesaid, special rate or rates upon the immovable property situate within the borough or municipality of Kimberley, and liable to be rated for borough or municipal purposes; and every rate or tax so imposed by the said council shall be of the same force and effect, and be levied in the same manner as if it had been a tax or rate imposed under the provisions of the Kimberley Municipality Amendment Ordinance, 1879, or of any subsequent Act passed for the purpose of repealing or amending the said Ordinance, or in lieu thereof.

Sinking fund provided for.

III. 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 four 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 four 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 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 mayor in public at a meeting of the borough council.

IV. It shall be lawful for the said council to apply to the payment of the interest and principal, or interest or principal of the money or moneys aforesaid, any funds or moneys coming to the said council from any source whatever, and not specially appropriated or required for any other object.

No. 15—1883
General funds may be used for paying interest or principal.
Separate accounts of moneys raised.

V. The council shall keep, or cause to be kept, a separate and distinct account of all moneys borrowed under this Act; and of the expenditure of such moneys for the purposes aforesaid: And the said council shall yearly, so long as any part of the debt contracted under the authority of this Act shall be owing, prepare and deposit in the town office of Kimberley, for the inspection at all reasonable times of ratepayers, an account showing the particulars aforesaid, and giving any other information which the said council may deem it necessary or expedient to impart: Provided that every such account so to be prepared shall be made up to the 31st day of December in each year, and shall be deposited in the office of the said council not later than the 1st day of March in the year next succeeding.

VI. All moneys borrowed for the purposes of this Act shall be subject to the provisions of the "Public Bodies' Debts Act, 1867": Provided, however, that it shall be lawful for the High Court of Griqualand, in case any Petition shall be presented to such Court under the provisions of the said Act, for enforcing payment of any judgment for the recovery of money borrowed under the provisions of this Act, to assess and impose such rates exceeding one penny in the pound as to such Court shall seem fit, anything in the third section of the said "Public Bodies' Debts Act, 1867," to the contrary notwithstanding.

Provisions of "Public Bodies' Debts Act, 1867" to apply.

VII. The necessary costs, charges and expenses of obtaining this Act, and of obtaining suitable plans, drawings, designs and specifications, and all cost of raising the loans or other expenses incurred in carrying out the provisions of this Act, shall be paid by the said council out of the moneys so to be borrowed as aforesaid.

Costs to be paid out of moneys borrowed.

VIII. This Act may be cited as the "Kimberley Borough Council Loan Act, 1883."

Short Title.

Amended by 1907 Act 16
No. 15—1883.] ACT [September 27, 1883.

To Amend the "Mineral Lands Leasing Act, 1877."

WHEREAS it is expedient to amend the Act No. 9 of 1877, entitled the "Mineral Lands Leasing Act, 1877:" Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

I. The second section of the said Act No. 9 of 1877 shall be read as if the words "for a term not exceeding thirty-one years" therein appearing were omitted therefrom, and the words "for such

Repealing certain words in sec. 2, Act No. 9 of 1877, and inserting other words therein.

N N

No. 16—1883 term as the Governor may prescribe” inserted in lieu of the words
— so omitted.

Repealing II The third section of the said Act No. 9 of 1877 is hereby
sec. 3, Act No. 9 of 1877. repealed.

Short title. III. This Act may be cited as the “Mineral Lands Leasing
Amendment Act, 1883.”

Repealed by 1935 Act 37 sec. 3 (1) whole Act except Sec's 3.5.6.7.
No. 16—1883.] ACT [September 27, 1883.

To Authorise a Company styled the Cape Central Railways
(Limited), to Construct a Line of Railway from
Worcester *via* Robertson to Roodewal (Kogman's
Kloof).

Preamble. **W**HEREAS the House of Assembly did, on the 8th June,
1882, resolve as follows:—“That this House is of opinion
that the extension of a Branch Line of Railway from Worcester
via Robertson to Roodewal in that Division, is desirable and
necessary for the development of the trade of Robertson, Montagu,
Swellendam, Riversdale and part of Caledon, and should be com-
menced at an early date, and that the Government be requested to
undertake this work as soon as possible:”

And whereas Government is unprepared to immediately construct
the said line of railway, but have intimated their willingness to
recommend the granting of a subsidy and other facilities to any
company who will undertake to construct the same:

And whereas a company styled the Cape Central Railways
(Limited), duly registered with a capital of one million pounds
sterling, is willing, and has been formed to undertake the construc-
tion and working of the said railway: and whereas it is expedient
that the said company should be authorised to construct, equip and
work the said railway upon the terms in this Act contained:

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:—

Cape Central
Railways
Company
authorised
to construct
and work
line of
railway as
shown on
plans.

I. The Company styled the Cape Central Railways (Limited),
whereof Sir Alfred Slade, Bart., Ernest Villiers, the Honourable
Wellington Patrick Talbot, Lord Chetwynd, Spencer Chapman,
John Dick Peddie, M.P., John R. Cuthbert are directors, shall be,
and is hereby authorised and empowered to construct, equip,
maintain, and work a railway similar to railway lines already con-
structed 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, at a
junction with the Beaufort West Extension Railway at or near
Worcester, and thence *via* Robertson to Roodewal in that division,
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 incon-

sistent with any of the provisions of this Act, or any deviation or alteration therefrom as hereinafter provided. No. 16—1888

II. The said railway shall commence at such a convenient junction point with the Beaufort West Extension Railway at Worcester as may be hereafter agreed between the Commissioner of Crown Lands and Public Works and the directors, thence across lands belonging to the Consistory of the Dutch Reformed Church at Worcester, and thence across or over or near the following lands and farms, that is to say:—Worcester Commonage, Roodewal, Nootgedacht, Witte Kop, Willige Rivier, Lot 221, Naude's Dam, Kole Fontein, Lange Vallei, Middelburg, Outspan, Hex Rivier or aan de Goree, Goree aan de Breede Rivier, Goree's Hoogte, Zand Rivier, Outspan (Robertson), Over het Roode Zand, Goedemoed, Riet Vallei, Kraaibosch Vlakke (otherwise Kraalbosch Vlakke), Zandvliet, Goree, Roodewal Outspan at Kogman's Kloof: 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 said Commissioner of Crown Lands and Public Works upon the request of the directors.

Route of railway and powers of deviation.

III. The directors may, by any person thereto duly authorised in writing, enter upon any land for the purpose of surveying the same, and of probing and boring in order to ascertain the nature of the soil, or of setting out the line of railway, making full compensation to the occupier of the said land for any damage thereby occasioned, the same to be recoverable by action brought in any competent court within three months from the date when such damage is alleged to have been committed.

Powers to enter upon any lands for purpose of survey.

IV. The directors 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 purposes of this Act, free of charge, so much of any Crown land as shall be required for the construction and maintenance of the said railway, or any other purposes relating to the execution of this Act, and also with the like consent, may enter upon any Crown land lying convenient to the said railway, and dig for, excavate, and carry away all stones, clay or other material required for the purposes of the said railway free of charge: Provided that nothing in this Act contained shall establish any servitude in favour of the said 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.

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

V. 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, or of any works in connection therewith, are hereby

Powers conferred by Road Act No. 9 of 1858 given to the Directors.

No. 16—1888

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 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.

Also protection of Sections 56 and 57 of the same Act.

Provisions in case railway crosses any street or road.

VI. 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.

VII. 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 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.

Repealed by

1925 Act 37

Sec. 3(1)

Directors may act by duly appointed agents.

VIII. 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 as little damage and inconvenience as possible shall be caused to the said railway by such crossings.

IX. 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 in this colony, duly appointed: Provided that notice of every appointment of any such agent, and of his name and address in this colony, shall from time to time be published in the *Gazette*.

Railway not to be opened until certificate of Government officer obtained.

X. The said railway, or any portion thereof, shall not be opened for traffic until it shall have been certified to the Governor by some officer to be by him appointed, that the same is sufficiently completed for the safe conveyance of passengers: Provided that in the event of any difference arising between the officer so appointed and the company, such difference or dispute shall be settled by arbitration.

Regulation of Railways Act, 1861 to apply.

XI. 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."

Regulations as to gates, &c.

XII. 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. No. 16—1883

XIII. All plant and material required for the construction and equipment of the said railway and its appurtenances shall be carried and conveyed over the existing Government lines of railway at a rate not exceeding one penny and one half-penny per ton per mile. Conveyance of plant, &c., on Government lines of railway.

XIV. So soon as the said railway is constructed as far as Robertson, and the Government officer shall have certified that such portion of the said line is sufficiently completed for the safe conveyance of passengers as hereinbefore mentioned, the Governor is hereby authorised to pay to the directors the sum of fifty thousand pounds. And on the completion of the said line to Roodewal, and after the granting of the Government officer's certificate that the whole line is sufficiently completed for the safe conveyance of passengers as hereinbefore mentioned, then the Governor is hereby authorised and empowered to pay to the directors of the said company or their agent the further sum of twenty-five thousand pounds. On completion of the railway to Robertson Governor to pay to the Directors the sum of £50,000.

XV. The directors shall be bound and are hereby required to finish and complete the said railway within three 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. Time for completing railway.

XVI. 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 provision of the Act No. 20 of 1861, entitled "An Act for the Regulation of Electric Telegraphs." Telegraph or telephone to be constructed subject to Act 20 of 1861.

XVII. At any time after the expiration of twenty years from the date of opening for public traffic the said railway or any section thereof, the Colonial Government shall have the right, if so disposed, to purchase from the directors, on giving six months' notice to this effect in three consecutive issues of the *Gazette* of the colony, and the directors shall be bound six months after date of the first publication of the said notice to sell to the Colonial Government the said railway, and also all buildings and plots of land acquired by the company and used in connection with the working of the said railway, together with all rolling stock, engines, carriages, plant, machinery and every matter or thing belonging to or connected with the said railway, as also any telegraph or telephone and apparatus, wire, instruments, and every matter or thing connected with the working thereof in possession of the company under this Act, upon such terms as may be agreed upon between the company and the Colonial Government, and, failing such agreement, at a price to be settled by arbitration. After twenty years Government may purchase the railway, telegraph, or telephone

Arbitration provided for

- No. 17—1883 XVIII. 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.
Name or style of Company.
- XIX. The directors shall and may sue and be sued within this colony by the name or style of the "Cape Central Railways (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.
- Interpretation of terms.
- XX. In this Act, save where there is anything inconsistent herewith, the following terms shall have the meanings set against them respectively :
- (1) "The Company," the Company styled the Cape Central Railways (Limited).
(2) "The Directors," the directors for the time being of the said company.
- Short title. XXI. This Act may be cited for all purposes as "The Cape Central Railways Act, 1883."

Repealed by 1897 Act 27.

No. 17—1883.]

ACT

[September 27, 1883.

To enable the Municipal Council of Port Elizabeth to remove the Native Strangers' Location from its present site, and to sell the ground forming the said site.

Preamble. **W**HEREAS on the 27th June, 1855, a Grant was issued to the Board of Commissioners of the Municipality of Port Elizabeth for the time being, created under and by virtue of the provisions of the Ordinance No. 9, 1836, entitled "Ordinance for the Creation of Municipal Boards in the Towns and Villages of this Colony, on which the local regulations of each shall be founded," of a certain piece of land situate within the limits of the said Municipality, containing five morgen and three hundred and five square roods and eighty square feet, bounded, at the date of the said Grant, on the south-east by an open space between the said land and the Hottentots' Location, and on all sides by the Town Grazing Grounds, as per diagram attached to the said Grant, with full power and authority thenceforth to possess the same in perpetuity, and with permission to dispose of or alienate the same, or any part or parts thereof, on lease for any time not exceeding twenty-one years, in such manner and in all respects as to the Trustees for the time being should seem best fitted to promote the object of the said Grant, on condition that the said land be held in trust as a site for a Strangers' Location, where Hottentots, Fingoes, Kafirs, and other strangers visiting Port Elizabeth may temporarily reside, and for no other purpose; and that the rents, issues, and profits of the same be paid into the Municipal Chest at Port Elizabeth, and be applied for the Municipal purposes of the

said town; and that no part of the said land be leased for a term No. 17—1883 exceeding twenty-one years, subject, however, to all such duties and regulations as were then or should in future be established with regard to such lands.

And whereas by Act No. 31 of 1860, entitled "An Act for constituting the town of Port Elizabeth a Municipality," the said Ordinance No. 9, 1836, so far as the same related to the Municipality of Port Elizabeth, was repealed; and by the fortieth section of the said Act it was enacted that all land or immovable property theretofore vested in the Commissioners of the Municipality should, after the passing of the said Act, be transferred to and vested in the Council of the Municipality of Port Elizabeth.

And whereas by Act No. 14 of 1868 the aforesaid Act No. 31 of 1860 was repealed; and by the fortieth section of the said first mentioned Act it is enacted that all property which should, at the time of the taking effect thereof, be vested in the Town Council of Port Elizabeth, elected under the said Act No. 31 of 1860, should, upon and from and after the 1st January, 1869, be vested in the Council elected under the aforesaid Act No. 14 of 1868, upon the like trusts and purposes for which the same was originally granted or transferred.

And whereas the Town Council of Port Elizabeth, elected under the said Act No. 14 of 1868, who are now by virtue of the provisions of the fortieth section of the said Act the lawful trustees of the said piece of land, are desirous of having the condition upon which the same is now held by them removed, and authority given to them to sell the said land, and to remove the present site for a Strangers' Location to another and more convenient site in the vicinity thereof, which has already been granted for that purpose: Be it enacted by 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. The Town Council of Port Elizabeth are hereby authorised to remove the natives at present residing on the piece of land or location in the preamble to this Act described to the site granted for a new Native Strangers' Location by the Governor of this Colony, by virtue of a Title Deed with a diagram annexed, bearing date the twelfth day of March, one thousand eight hundred and eighty-three; and any native occupying a hut or other dwelling on the said location who shall refuse to remove after a written notice of ninety days, signed by the Town Clerk, for the time being, of the Town Council of Port Elizabeth calling upon him to do so, has been duly served upon him, shall and may be ejected by process of law, to be sued out in the Court of the Resident Magistrate for the District of Port Elizabeth, at the suit of the said Town Clerk, provided that such removal shall be to suitable ground on the new site, of an equal area to that occupied at the time of such removal.

Removal of natives from existing Strangers' Location to new location authorised.

In case of refusal may be ejected by process of law.

No. 17—1883

Natives on new site to be subject to municipal regulations.

II. All natives who shall erect or reside in any hut or other building upon the said new site, or who shall occupy the same, shall be subject to all such Municipal Regulations as are now in force, or which shall hereafter become and be of force or effect with reference to such site, and shall be liable to pay to the Town Council such ground rent as may be fixed by the Municipal regulations, except as hereinafter provided.

Privileges claimable by residents on existing locations.

III. Every head of a family who shall have resided upon the now existing location for a period of not less than three years, shall be entitled to have granted to him a separate and individual title to land within the new site as a building plot of forty feet by sixty feet at an annual quitrent instead and in lieu of the ground rent mentioned in the last section not exceeding thirty shillings; the holder of any such title shall be entitled to sell and transfer the land held under it to any other person being a native but to none others: Provided, however, that no such sale or transfer shall be made without the consent of the said Council of the Municipality thereto being first had and obtained in writing: Provided further that the plot or portion of ground in the present location occupied by the native so removing shall after his removal become the property of the Town Council, and cease to be liable to any claim or condition under the grant.

Compensation to owners of huts, houses, or other buildings.

IV. The Town Council shall make compensation to the owners of any huts, dwelling-houses, or other buildings on the present site or location which shall be pulled down or removed by the Council, for the value of the same, to be ascertained by a competent appraiser, to be approved of by the Civil Commissioner of the Division, and in case the owners of such huts, dwelling-houses, or other buildings shall refuse to accept payment of the value so ascertained, the amount of compensation to be paid to such owners shall be settled by arbitration. For the purpose of every such arbitration the provisions of the "Lands and Arbitration Clauses Act, 1882," shall apply: Provided however, that no compensation shall be awarded to strangers who shall have come upon, or in respect to any huts or buildings which shall have been erected upon the present site or location after the passing of this Act.

Arbitration.

Compensation for churches and school buildings.

V. Should it happen, by reason of the enforced removal of any of the natives described in the first section of this Act, that in the opinion of the trustees or other proprietary body owning any church or school building to which such natives may have been attached, any loss or damage may accrue, such trustees or other proprietary body may, if they think fit, claim compensation therefor from the Town Council, and unless the amount of such compensation be mutually agreed upon, it shall be ascertained by arbitration, as provided in the fourth section of this Act.

Town Council empowered to sell and alienate existing location.

VI. In case the Town Council shall exercise the authority hereby in the first section of this Act bestowed on them, the condition upon which the said piece of land is now held in trust by the said

Council, namely, as a site for a Strangers' Location, where Hottentots, Fingoes, Kafirs, and other strangers visiting Port Elizabeth may temporarily reside, shall be cancelled and revoked, and the said Council shall thenceforth hold the said piece of land free and discharged from the said condition, and may sell and alienate the same, or any part thereof, as if the condition contained in the grant of the said piece of land had never existed.

VII. The proceeds arising from the sale of any portion of the said piece of land, after payment of the amount of compensation aforesaid, shall be applied to the erection, by the Town Council, on the new site, of buildings or dwellings suitable for the occupation of Native Strangers.

VIII. This Act may be cited for all purposes as the "Port Elizabeth Native Strangers' Location Act, 1883."

No. 18—1883.] ACT [September 27, 1883.
To Amend "The Cape of Good Hope General Loans Act,
1881:"

WHEREAS it is expedient to amend "The Cape of Good Hope General Loans Act, 1881," and to make further provision for declaring the terms and conditions applicable to loans authorised to be raised by the Parliament of the Cape of Good Hope: 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. So much of the said recited Act or of any other law as may be repugnant to or inconsistent with the provisions of this Act is hereby repealed.

II. As often as by any Act passed heretofore or hereafter authority shall have been or shall be given to raise any sum of money, and the Governor shall determine to raise such sum or part thereof upon debentures, such debentures may be issued in this Colony, in England, or elsewhere, in sums of one hundred pounds, or any multiple of one hundred pounds, upon the best and most favourable terms obtainable, anything in the second section of the said "Cape of Good Hope General Loans Act, 1881," to the contrary notwithstanding.

III. As often as Colonial stock shall be put up for public tender under the provisions of the third section of the said recited Act, and the tenders received shall be deemed unsatisfactory, or tenders for a portion only of the amount to be issued shall be accepted, it shall be lawful for the Treasurer of the Colony to issue the whole or part of such stock, 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 highest rate offered by tender, or if no tenders shall have been received, at not less than par.

No. 19—1883
Expenses of raising loan.

IV. The charges necessarily incurred in raising any loan including discount (if any), commission (if any), and all incidental expenses, shall in future be a first charge against the amount raised: and in the case of a loan raised for any public work, such charges shall be deemed to form part of the cost of such work.

Powers of Governor in investing Sinking Fund.

V. As often as by the terms and conditions upon which any loan shall have been or shall hereafter be raised provision shall be made for investing such portion of the fund as under the provisions of the fifth and sixth sections of the said recited Act shall be applicable for the redemption of such loan, the Governor shall have and may exercise in addition to the powers by the said Act conferred the powers following:—

- (1) He may appoint two or more persons to invest such fund by purchase of Cape of Good Hope Government debentures or stock of any description.
- (2) He may give directions as to the securities to be purchased, and for the care and safe custody thereof, or for the cancellation of any Colonial debentures or stock certificates purchased.
- (3) He may make all necessary provisions and rules for carrying out and giving effect to such terms and conditions.

Title and construction of Act.

VI. This Act shall be construed as one with "The Cape of Good Hope General Loans Act, 1881," and this Act and the said Act may be cited together as "The Cape of Good Hope General Loans Acts, 1881 and 1883."

No. 19—1883.] ACT [September 27, 1883.

For the Establishment, Working and Management of Alluvial Digging and Mines of Precious Stones and Minerals.

Preamble. **W**HEREAS it is expedient to amend and consolidate the laws relating to alluvial diggings and mines within 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 Ordinances and Acts.

I. The several Ordinances, Proclamations, Resolutions of the Legislative Council of Griqualand West, and Government Notices, specified in the first Schedule to this Act, and all and singular the provisions of any other Act, Ordinance, Proclamation, Regulation, Notice, or Order of whatever nature, which may be repugnant to or inconsistent with the provisions of this Act, are hereby repealed.

DIVISION I.

Application for prospecting licence.

II. Any person, save as hereinafter excepted, shall be at liberty to take out, at the office of the civil commissioner for the division within which the prospecting licence hereinafter referred to shall

*vide Act
12/11/83*

be applied for, a licence to prospect or search for precious stones or minerals on crown lands or on lands the title to which is subject to a reservation to the Crown of precious stones and minerals within such division; which licence shall be in the form in the second schedule to this Act, and shall bear a stamp of the value of one pound sterling for each month.

III. A prospecting licence shall give the right to prospect and search for precious stones and minerals on crown lands, or lands subject to a reservation to the Crown of precious stones and minerals on the land specified in such licence, and on the spot to be selected by such prospector as hereinafter provided, and for the period mentioned, without the consent of the owner or proprietor of such lands as aforesaid; and no one shall be allowed to prospect or search for precious stones or minerals on crown lands, or lands subject to a reservation of precious stones and minerals to the Crown, without obtaining such licence.

IV. Every holder of a prospecting licence shall have the right of grazing for six horses or mules, or for sixteen oxen, and of taking wood and water for his domestic use, on payment to the proprietor or occupier of the land where such licence is exercised, of ten shillings per diem.

V. Every person taking out a prospecting licence shall enter into a bond for the sum of two hundred pounds, with sureties to be approved of by the civil commissioner in the sum of one hundred pounds each, for the due and proper repair of any surface damage done by him on any land of right occupied by any quitrent tenant or lessee.

VI. Any person applying for a prospecting licence shall be bound to specify the farm and as near as may be the place where he is desirous of searching for precious stones or minerals; and the civil commissioner shall immediately on his granting a prospecting licence to such applicant as aforesaid, cause a written notice of the granting of such licence to be sent and delivered to the owner or occupier of the farm or place where such licence is to be exercised, or to be left at his last known place of residence, and shall also cause a written notice of the granting of such licence to be posted outside the office of such civil commissioner.

VII. After the posting of such notice the civil commissioner shall cause to be opened at his office a list of such persons as may wish to subscribe their names under the name of the licensed prospector aforesaid, in manner hereinafter provided. And any person shall, on personal application, at the office of the civil commissioner aforesaid, at all reasonable times, between the time of the posting of such notice as aforesaid and the proclaiming of the place subject to such prospecting licence as aforesaid, either as an alluvial digging or mine as hereinafter provided, and, on payment of a fee of two shillings and sixpence, be entitled to subscribe his name on the list aforesaid below the name of the licensed pro-

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Extent of licence.

Grazing right secured to holder of licence.

Bond to be entered into by holder of licence.

Notice of issue of licence to be served on owner of property.

List of persons desirous of subscribing their names below that of the licensed prospector to be opened at the Civil Commissioner's Office.

No. 19—1883 spector and the name of the last subscriber, if any, in a book to be kept at the office of the civil commissioner for the purpose aforesaid, and such list shall be headed with the name of the prospector and the farm or place where he shall be entitled to prospect.

Declaration to be made by successful prospector. VIII. It shall be the duty of any person who shall find any precious stones or minerals whilst prospecting under such licence, forthwith to make a solemn declaration of the finding of the same, and to lodge such declaration with the civil commissioner of the division, and any person who shall fail to do so shall be liable, upon conviction thereof before any magistrate, to forfeit his licence, and to pay a fine not exceeding fifty pounds sterling; and in default of payment to be imprisoned with or without hard labour for any period not exceeding six months.

Successful prospector entitled to privilege of selecting claims. IX. Any holder of a prospecting licence under the provisions of this Act who shall prove to the satisfaction of the civil commissioner that he has found any precious stones or minerals under such licence, shall be entitled to select twenty claims at the place where such precious stones or minerals shall have been found, and shall receive a certificate from the civil commissioner that he is so entitled: Provided, however, in no case shall more than one certificate be granted for any one such place as aforesaid.

Limit of area under prospecting licence. X. No person shall be entitled under a prospecting licence to dig or search for minerals or precious stones within five hundred yards of the place where any person shall be at the time digging or searching for minerals or precious stones under and by virtue of a prospecting licence without his consent, and any person contravening this section shall be liable to a penalty not exceeding fifty pounds, and in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

Licence to be produced to the owner of property, whenever called for. XI. Every person searching for precious stones or minerals by virtue of a prospecting licence shall exhibit such licence on being required to do so by the owner or occupier of the farm or place on which he is so searching, and on his failure or refusal so to do he may be treated by such owner or occupier as an ordinary trespasser; and no person shall be entitled under such prospecting licence as aforesaid to dig or search for precious stones or minerals within two hundred yards of any house or building occupied or used by the owner or occupier of the property, nor upon any land under cultivation or required for the purposes of irrigation, without the consent in writing of such owner or occupier, nor upon any diggings which have been duly declared abandoned as hereinafter provided.

Notice of finding precious stones, &c., to be made by Civil Commissioner and securing prospector's right. XII. So soon as a prospector has lodged a declaration of the finding of precious stones or minerals, the civil commissioner shall, with all convenient speed, cause a notice of such declaration to be posted outside his office, which notice shall clearly describe the place where the precious stones or minerals have been found and the name of the declarant, and thereupon the prospector's right to prevent any one from searching for precious stones or minerals

within a radius of five hundred yards, as hereinbefore provided, No. 19—1883 shall cease and determine.

XIII. The Governor after the lodging of such declaration as aforesaid may take such steps as he may deem fit for the purpose of testing the character and the payable qualities of the place on which precious stones or minerals have been declared to have been found, and for this purpose may appoint such duly qualified person on such salary or allowance as he may think fit, and may authorise the expenditure of such sums of money as shall be deemed necessary for the purposes of such testing as aforesaid.

Governor to take steps to test value of any site.

XIV. Any person who shall make such declaration as aforesaid whilst prospecting or otherwise, well knowing that the precious stones or minerals declared to have been found were by himself or by some other person placed or deposited in or on the spot, or in the soil or stuff dug out, or removed from the spot in which such declarant was prospecting, or where the discovery of such precious stones or minerals is declared as aforesaid to have been made, and were not naturally situated in or on the spot or in the soil or stuff where they were declared to have been found or discovered, or well knowing that the said precious stones or minerals were not found or discovered in or on the place where they were declared to have been found or discovered, shall upon conviction be liable to such punishment as is by law provided for the crime of perjury.

Penalty for making false declaration.

XV. Any person who shall wilfully place or deposit, or be accessory to the wilfully placing or depositing of any precious stones or minerals in any spot or place for the purpose of inducing any person to make such solemn declaration as aforesaid, or for the purpose of misleading the Governor as to the payable nature of a spot or place where precious stones or minerals have been declared to have been found, and previous to such spot being proclaimed an alluvial digging or mine, or being let out on a lease as hereinafter provided, shall be guilty of the crime of contravening the provisions of this Act, and shall upon conviction thereof suffer such punishment as shall be by law provided for the crime of fraud.

The placing of minerals, &c., on places where not naturally found, punishable as fraud.

XVI. In any proceedings taken for the contravention of the last preceding section, if the accused person shall be proved to have placed or deposited or to have been accessory to the placing or depositing of any precious stone or mineral in any place where the finding thereof would be likely to lead any person to make a declaration of the finding of the same, or would tend to mislead the Governor, he shall be taken to have so placed or deposited such precious stone or mineral in contravention of the last preceding section, unless he shall produce satisfactory evidence to the contrary.

Persons so chargeable with fraud shall be deemed guilty unless the contrary be proved.

DIVISION II.

XVII. Every place shall be deemed and taken to be an alluvial digging or mine, as the case may be, which has been or shall be duly declared as such respectively.

Definition of alluvial digging or mine.

No. 19—1883 XVIII. Whenever precious stones or minerals shall be discovered in or upon crown lands, or upon property the title to which is subject to a reservation of minerals or precious stones in favour of the Crown, and the Governor shall be satisfied that precious stones or minerals do exist in payable quantities, it shall be lawful for the Governor to declare that such area as shall be described, shall be an alluvial digging or mine as the case may be, and the Governor shall be empowered to make all such rules, orders, regulations or bye-laws as he may deem necessary or expedient for the proper laying out, surveying, enlargement or contraction of any mining areas and depositing floors in connection with such alluvial digging or mine, as also for the expropriation of and compensation for cultivated lands or buildings which may be included in any area so proclaimed, and generally all matters and things connected with the proper and efficient working of such digging or mine.

Appoint-
ment of in-
spectors, &c. XIX. At every alluvial digging or mine the Governor may appoint such inspectors, registrars, or other officers, as may be deemed requisite, who shall receive such salaries or allowances out of the public funds as may be deemed necessary, and whose duties and authorities shall be fixed and determined from time to time by the Governor.

Certificates
of registra-
tion to be
issued. XX. Every claimholder not holding a title under the provisions of Griqualand West Ordinance No. 6 of 1880, shall receive a certificate of registration in the form contained in the third schedule to this Act: Provided that no firm or joint-stock company shall be entitled to be registered as holding claims except in the name or names of not more than two persons resident at the alluvial digging or mine in which such claims shall be situated as the duly accredited agent or agents of such firm or joint-stock company, and such agent or agents shall be responsible for all matters connected with the claim or claims for which he or they shall be so registered, exactly as if such claim or claims were registered in his or their own name or names as his or their property: And provided further that no claimholder in any alluvial digging shall be bound to accept a title under the provisions of the Griqualand West Ordinance No. 6 of 1880, aforesaid, in place of the certificate of registration hereinafter provided for.

Stamp
chargeable
for certifi-
cate of
registration. XXI. Every certificate of the registration of a claim or portion of a claim, in any alluvial digging, shall be written on or covered by a stamp of not exceeding ten shillings, and in every mine the certificate of such registration shall be covered by a stamp of ten shillings for each month for which each claim or portion of a claim is registered, payable in advance.

Hypothecation
of
claims. XXII. Any claimholder desirous of hypothecating his holding in any alluvial digging or mine may effect such hypothecation at the office of the registrar of claims, and the same shall be duly entered in a book to be kept for that purpose, and a certificate of hypothecation shall be granted in the form contained in the fourth schedule to this Act.

XXIII. Every certificate of hypothecation shall bear a stamp of two shillings and sixpence for every claim or portion of a claim hypothecated in any alluvial digging or mine.

No. 19—1883
Stamp chargeable for such hypothecation.

XXIV. Every certificate of transfer of a claim or portion of a claim in any digging or mine, shall bear a stamp of not less than two shillings and sixpence, but if the sum for which such claim is sold shall be more than fifty pounds, then the certificate shall bear stamps, being for transfer duty, at the rate of ten shillings for every hundred pounds or portion of one hundred pounds of the purchase money, but in no case shall transfer dues exceed the sum of fifty pounds in respect of any one claim or portion of a claim.

Stamp chargeable for certificate of transfer.

XXV. No transfer of any claim shall be made until the same shall have been registered by the proper officer duly appointed in that behalf, and no such registration shall be made until all rates, liens, licence moneys, royalties or rents due and payable in respect of the property to be transferred shall have been paid.

Conditions under which transfer shall be made.

XXVI. In all cases where two or more claimholders in any alluvial digging shall amalgamate their respective claims, the certificate of the transfer effected for the purpose of carrying out such amalgamation shall bear stamps at the rate of ten shillings for every hundred pounds or portion of one hundred pounds of the assessed value, or if there shall be no assessment, of the declared value of the claims so amalgamated: Provided that the amount of stamps shall in no case exceed the sum of twenty-five pounds.

Stamps of 10s. per £100 chargeable for certificate of transfer when claim is held by two or more persons.

XXVII. In all cases where two or more claimholders in any mine shall amalgamate their respective claims, the provisions hereinbefore enacted in the last preceding section, with respect to similar cases at an alluvial digging, shall apply *mutatis mutandis* to such mine; save and except that in any such case the certificate, or deed of transfer granted under the provisions of Griqualand West Ordinance No. 6, 1880, shall bear stamps at the rate of five shillings for every hundred pounds of the assessed or declared value, and that the stamps aforesaid or transfer duty shall in no case exceed the sum of two hundred pounds.

Stamp of 5s. per £100 chargeable in certain cases.

XXVIII. The Inspector of any alluvial digging or other officer duly appointed in that behalf, is hereby empowered to ask, demand, sue for, recover and receive all licence moneys, royalties, rents or transfer dues in respect of any claims in such digging; and to declare as abandoned any claims in respect whereof any such licence moneys, royalties or rents shall be in arrear for a space of thirty days.

Inspector to receive licence moneys or dues.

XXIX. In the event of any claim in an alluvial digging situate on crown lands, or upon property the title to which is subject to a reservation of minerals or precious stones in favour of the Crown, becoming submerged in consequence of the rising of any river near to which or on the bed of which such claim is situated, and in the event of such claim by reason thereof becoming practically unworkable, the registered owner of such claim shall, if such claim be

Release of liability of claimholder in case of floods.

No. 19—1883 ——— practically unworkable on the day when the monthly licence money, royalty, or rent is due and payable, be relieved from the payment of the ordinary monthly licence money as aforesaid in respect of such claim for the next ensuing month; and in lieu thereof the inspector shall grant him a certificate of reservation, bearing a stamp of one shilling for the next ensuing calendar month, and in like manner from month to month; which certificate shall entitle him to be registered for each month, so long as the said claim shall continue to be so submerged.

Claims
declared as
abandoned.

XXX. Any alluvial digging or mine situate on crown lands, or on private property the title to which is subject to a reservation of minerals or precious stones in favour of the Crown, in which digging or mining operations shall not be and shall not have been for a period of twelve weeks carried on in five claims in all in such digging or mine, to the satisfaction of the inspector and in respect of which the licences on not less than one-tenth of all the claims in such digging or mine shall not have been paid for a period of two months, may be proclaimed abandoned; and shall forthwith on such proclamation be closed: but such digging or mine may at any time, under and subject to the provisions of this Act, be again proclaimed an alluvial digging or mine, as the case may be.

Governor
may grant
lease of
abandoned
claims.

XXXI. It shall at all times be lawful for the Governor to grant a lease of any abandoned alluvial digging or mine or any portion thereof when the same is situate on crown lands or property the title to which is subject to a reservation of minerals or precious stones in favour of the Crown, after the same has been declared abandoned, and to frame regulations for the granting of such leases, and in any lease so granted the following terms and conditions shall, amongst others, be inserted:—

- (a). The lease shall be for a term of five years, with a right of renewal from time to time at the option of the lessee.
- (b). The rent reserved shall be a royalty of not less than one pound per centum on the gross amount realized by the sale of precious stones or minerals yielded by the property leased, to be paid from time to time as the same are sold, and payment of a sum at the rate of not less than four pounds per month per morgen or portion of a morgen so leased, which latter amount shall be payable half-yearly in advance.
- (c). The lease shall be granted solely for the purpose of digging or mining operations.
- (d). The lessee shall be bound during the term of his lease, to carry on digging or mining operations, to the satisfaction of the inspector, due regard being had to the special circumstances of each case.
- (e). The lessee shall have power to sub-let subject to the approval of the Governor, and any such sub-lease shall be registered under the provisions of the Griqualand West Ordinance, No. 16 of 1880.

Provided that in the case of any abandoned mine being situate on property the title to which is subject to a reservation of minerals and precious stones in favour of the Crown, the lessee as aforesaid shall be entitled to occupy a sufficient area for depositing floors and sites for reef-tipping or other mining purposes beyond the margin of the mine proper, and the proprietor of such property shall be entitled to receive from the lessee by way of compensation for the ground required or leased with such abandoned mine as aforesaid, such sum as may be determined by mutual agreement or by arbitration.

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XXXII. Whenever it shall be shown to the satisfaction of the Governor, that precious stones or minerals occur in any tract or area of alluvial deposit upon crown land or on property the title to which is subject to a reservation of precious stones or minerals in favour of the Crown, and if, after due publication of the application for the lease of such tract or area, there shall not have been received by the inspector of claims for the district, before a time specified in the notice, applications from ten or more duly qualified miners for mining claims in such tract or area, it shall be lawful for the Governor to grant a lease of such tract or area, and also of sufficient ground adjoining thereto as shall be deemed necessary for the working of the same to the person making application therefor, upon similar terms and conditions as those in the last preceding section set forth.

Governor
may grant
lease of
crown lands
in which
minerals,
&c., exist.

XXXIII. The owner of any property the title to which is subject to a reservation to the Crown of precious stones or minerals, and on which any alluvial digging is declared, or any abandoned alluvial digging or mine, or tract or area as aforesaid is leased for digging operations, shall (unless, where a lease has been granted as aforesaid, such owner be himself the lessee or a joint lessee) be entitled to demand and receive from the public treasury as full compensation for any surface damage he may sustain or may have sustained by the declaring and opening of such digging half of the licence moneys, rents or royalties collected by the Government in respect of such digging, or leases, as aforesaid: And the persons appointed in that behalf shall be bound to keep books showing the amount of all such moneys, and shall account for and pay over to such owner at the end of every half year all sums of money due to such owner as aforesaid, and shall afford to such owner, at all reasonable times, inspection of such books.

Compensation to
owners of
property
where crown
reservation
exists.

XXXIV. For the purpose of working any mine situated on crown land or on private property the title to which is subject to a reservation of precious stones or minerals in favour of the Crown, the Commissioner shall be and hereby is empowered to cause the claims in such mine to be surveyed by some duly qualified person, as also a sufficient area around such mine, for the purpose of depositing floors, tipping sites and all other matters and things connected with the proper and efficient working of the mine; and to

Surveys of
mines.

No. 19—1883 — frame a plan of the said survey, which plan shall lie at the office of the civil commissioner of the division in which such mine is situate, and shall be open for public inspection at all reasonable times. The area so surveyed may from time to time be altered and enlarged at the discretion of the said Commissioner as the necessities of the mine may require.

Depositing areas. XXXV. To every licensed claim in any mine which may hereafter be established under the provisions of this Act there shall be attached the right to use and occupy one acre of ground hereinafter called a depositing site, in the neighbourhood of or in proximity to such mine (but so as not to encroach on a reserve of two hundred yards around the margin of such mine) for the purpose of depositing soil, reef or shaly ground, and for the purpose of sinking wells, laying tramways or doing and performing other works, matters and things in connection with mining operations; and in respect of every such depositing site the owner of the soil shall be entitled to charge a sum not exceeding one pound per month, payable in advance.

Governor to make rules for Diggers' Committees. XXXVI. It shall at all times be lawful for the Governor to make such rules and regulations for the election of diggers' committees at all alluvial diggings as he may deem fit, and to define from time to time as occasion may require, the duties, powers, functions and authorities of such diggers' committees, and to make rules for the guidance of the same.

Governor to direct mode of election of such Committees. XXXVII. The Governor may direct that one diggers' committee shall be elected for one or more alluvial diggings as he may deem advisable, and in such manner as he may deem fit.

Governor may abolish Committee. XXXVIII. The Governor may at any time direct that any diggers' committee shall be abolished or dissolved.

DIVISION III.

Mining Boards, election and qualification of. XXXIX. Whenever a mine shall be or shall have been declared as such it shall be lawful for the Commissioner to order the election of a mining board, and (subject to the provisions hereinafter contained) to frame all such rules and regulations as he may deem expedient for the more efficient management and control of such mine and of mining areas by such mining board, and each mining board shall elect a chairman and frame rules for its own guidance in its proceedings, and bye-laws for the management of the mine and mining area of the mine for which it is elected, and for the payment of the chairman and officers of the board, which rules and bye-laws shall have legal force and effect on being promulgated in the *Government Gazette*, with the approval of the Governor and Executive Council, and shall remain in full force and effect, and shall govern every mining board or any body for the time being invested with the powers of a mining board, and the mine for which they are passed, until cancelled, altered, or amended, by any mining board, or representative body having proper authority

so to cancel, alter, or amend the same. The Governor may from time to time fix and determine the number and mode of election of members of any such mining board. The following persons shall be qualified as members of mining boards, to wit:—

- (a) Claimholders, in the Mine for which such Board is to be elected.
- (b) Directors or nominees of companies holding claims as aforesaid.
- (c) Registered accredited agents of holders of claims as aforesaid.
- (d) Resident nominees of companies having their head office beyond the boundaries of any portion of the Colony in which this Act shall be in force.

XL. Save as hereinafter excepted every *bona fide* holder of rateable claim property in the mine, and every duly authorised representative of such *bona fide* holder, or of any company *bona fide* holding rateable claim property in the mine, shall be entitled to vote for candidates to be elected for the mining board in manner hereinafter provided. The assessed value of rateable claim property in any mine at the time of election, whether such assessment has been made under any Act, Ordinance, or legal enactment in force previous to the framing of this Act, or whether the same has been made under the provisions of this Act, shall be divided by the number of claims registered in such mine, and the amount so arrived at shall be the unit voting power and unit value, and shall carry one vote. Any voter possessing either individually or in his representative character, claim property assessed as aforesaid at double the value of such unit voting power, shall be entitled to two votes; if possessing property aforesaid of treble such unit value, he shall be entitled to three votes, and so on in like proportion.

Who qualified to vote for members of Mining Board.

XLI. Any person holding or representing property in the mine which is assessed at a value below the unit value or voting power aforesaid, may unite with any other person or persons in a like position, and such united or amalgamated value shall carry a right to vote to the number of unit values or voting powers made up by such amalgamation. No vote shall be given in respect of any property in a mine the rates upon which shall be in arrear and unpaid for a period of six calendar months; or which shall be held or owned by any person who shall be insolvent, or shall have assigned his estate for the benefit of his creditors. Any member of a mining board deriving his qualification from any such property, shall, *ipso facto*, cease to be qualified or to hold office as a member of such mining board.

Holders of property may unite to acquire property qualification to vote.

XLII. All voting for candidates may be cumulative, and each voter shall be entitled to multiply the number of votes he is entitled to, according to the number of unit values as aforesaid, by the number of members to be elected, and may distribute such votes amongst the candidates as he may think fit.

Conditions for voting.

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Assessment
of claims.

XLIII. As soon as possible after the taking effect of this Act, an assessment of the claims in every mine shall take place, and thereafter in the same month of each year a fresh assessment shall be made. In case any assessment of any mine exists at the time of the passing and promulgation of this Act, such assessment shall remain in full force and effect, until an assessment of such mine under the provisions of this Act, shall have been made.

Existing
bye-laws,
&c., to be
retained un-
til altered
under this
Act.

XLIV. All existing resolutions, rules, regulations, or bye-laws having the force of law at any mine at the time of the passing and promulgation of this Act shall, in so far as they are not inconsistent with or repugnant to any of the provisions of this Act, continue in full force and effect until cancelled, altered, or amended by any resolution, rule, regulation, or bye-law, made or passed, respectively, under the provisions of this Act.

Mode of
assessment
of value of
claim pro-
perty.

XLV. For the purpose of assessing the value of claim property in a mine for rating purposes, two competent persons shall be appointed as assessors, one by the mining board and the other by the Commissioner, and the said assessors as soon as they shall have been so appointed, and shall have accepted office, and before proceeding to their duties as assessors shall choose a referee. There shall be a fresh election or appointment of assessors, and a referee under the provisions of this Act for each assessment to be made; provided that the same assessors or assessor or referee may be appointed in manner herein provided for any subsequent assessment.

Under
certain cir-
cumstances
Commis-
sioner may
appoint
assessor.

XLVI. In the event of there being no mining board in existence at any mine, and no assessment of the rateable claim property in such mine upon which the election of a mining board can proceed, it shall be lawful for the Commissioner to appoint a person or persons for the purpose of making such assessment.

Referee,
power of
Commis-
sioner to
appoint.

XLVII. In the event of the assessors so appointed as aforesaid, failing or refusing to appoint a referee, within one week after the acceptance of such appointment, the Commissioner shall have power to appoint a referee. Every referee shall, if the assessors fail or refuse to assess the value of the claim property in any mine for which they may be appointed, or any portion of such property, proceed to assess the value of such property or portion thereof.

Power
to take evi-
dence by
assessor.

XLVIII. The assessors, or assessor, or referee, as the case may be, shall have power to summon witnesses and take evidence upon oath, and the decision of the assessors, or in case of dispute, of the referee, or in case there be only one assessor as hereinbefore provided, then of such assessor, as to the assessment of any claim property in any mine, shall be final, subject only to the powers of appeal granted by the eleventh section of Act No. 40 of 1882, and which said section is hereby incorporated with this Act.

Duration of
assessment.

XLIX. All assessments made under the provisions of this Act for any mine shall remain in full force and effect until another and fresh assessment shall have been made for such mine.

L. The expenses incurred in connection with the assessment of any mine shall be borne by the mining board of such mine, or if there be no mining board by the owners of claim property in such mine *pro rata*, according to the assessed value of the claims in such mine. As soon as any assessment or valuation as aforesaid shall have been completed, an assessment roll embodying the same shall be compiled and placed in the office of the mining board, or in case there be no mining board, then outside the office of the resident magistrate for the district in which such mine is situated, for the inspection of any owners of property in the mine at all lawful and reasonable times, and a day or days fixed by the assessors to hear and consider objections thereto.

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Defrayment
of expenses
of assess-
ment.

LI. Every mining board shall be empowered to levy from time to time rates for the general purposes of the mine upon the claims in the mine, and to fix tariffs for the removal of reef and water from the mine or the margin thereof, and the rates so levied, and the tariffs so fixed, shall be passed as bye-laws: Provided that reasonable notice, to the satisfaction of the Commissioner, shall in all cases be given of the intention of any mining board to submit any such bye-laws to the Governor for his approval.

Rates may
be levied by
mining
boards or
claims.

LII. Every Mining Board shall be empowered to levy from time to time rates upon all property in the mining areas, used or held to be used for mining purposes, and all moneys so received by rates shall be applied to the general purposes of the mine.

Rates may
be levied on
property in
mining
areas.

LIII. When any rate is duly levied, the mining board shall give reasonable public notice of the day on which the same shall become due and payable, and all persons liable to pay the same shall do so on or before the day fixed in the said notice.

Notice of
rate to be
made public

LIV. All rules, regulations, bye-laws framed under the provisions of this Act shall, on due promulgation in the *Gazette*, have the full force and effect of law: Provided that the same may be at all times repealed, altered, or amended by means of other rules, regulations, or bye-laws framed and promulgated as aforesaid.

Regulations
under Act to
have force of
law on publica-
tion in
*Government
Gazette*.

LV. All claim property in any mine shall be exempted from the payment of any divisional council or municipal rate.

Exemption
from divi-
sional or
municipal
rates.

LVI. The Governor may upon petition from the majority of voters for the mining board, representing not less than half of the assessed property in the mine, dissolve the mining board, and may, by notice in the *Gazette*, direct the election of a new mining board for such mine, or appoint a board in terms of the provisions of the fifty-eighth section of this Act.

Power of
Governor to
dissolve
Mining
Board.

LVII. No resolutions of any mining board shall have any force or effect unless a quorum to be fixed by bye-laws approved by the Governor be present and assisting at the passing thereof, and in every case of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote.

Voting at
mining
boards.

LVIII. If any mining board shall not for a period of two months have a sufficient quorum for the transaction of business, or

Dissolution
of mining
board and
appoint-

No. 19—1883 shall not for the same period meet for the transaction of business, or shall for a like period fail, neglect, or refuse to deal with the requirements of the inspector, or to submit the same to arbitration as hereinafter provided, such mining board shall *ipso facto* be dissolved, and in case of such dissolution, or in case there shall not be for other reasons any mining board in existence, it shall be lawful for the Governor to appoint a board of three persons, of whom the inspector shall *ex-officio* be a member and chairman, and who shall have all the power and exercise all the duties of a mining board, and shall do all things necessary for the working of the mine until such time as the Governor may direct that a mining board or another mining board shall be elected, and such board so elected shall have taken office.

When greater part of mine becomes private property mining board to be dissolved. LIX. In the event of nine-tenths in assessed value of any mine becoming the property of one person, or firm, or partnership, or company, the mining board then existing shall be dissolved, and no fresh mining board, whilst the mine is so held, shall be elected or appointed.

Settlement of claims against mining boards. LX. In case any mining board shall cease to exist or shall have ceased to exist, or shall be dissolved under the provisions of either of the two last preceding sections and until the election of a fresh mining board, it shall be lawful for any person having any claim against such board to continue any action already instituted or to commence legal proceedings against the members of the outgoing or last subsisting mining board, as representing such board, and to proceed with such proceedings to the final end and determination of the same just as if such mining board had not ceased to exist or been dissolved, and such person shall have the same remedies at law as if such mining board were duly constituted under the provisions of this Act. And in the event of the election of a fresh mining board or the appointment of a board in terms of the fifty-eighth section, such mining board shall stand and be in the same position as regards outstanding liabilities as the outgoing mining board, and all actions previously instituted shall be continued and carried on against such fresh mining board, or board appointed as aforesaid, without interruption of any kind.

Borrowing powers of mining boards. LXI. Every mining board shall be and hereby is empowered to borrow from time to time such sum or sums of money as may be required for the purpose of liquidating debts incurred or for the due and efficient working of the mine under its control, on debentures, or otherwise, upon security of special rates to be levied upon the claims under its control and on such terms and conditions as may be agreed on: Provided that the sanction and approval of the same by registered holders of claims in such mine representing not less than three-fifths of the assessed value of such mine, shall previously have been obtained by the mining board at a meeting of claimholders to be specially called for that purpose by public notice of not less than fourteen days in the *Gazette* and local newspapers

(if any), or in such other manner as the Governor may from time to time order and direct. No. 19—1883

LXII. In the event of proceedings being taken under the “Public Bodies Debts Act,” 1867, upon any judgment obtained against any diggers’ committee, mining board, or board appointed under the provisions of this Act, in respect of any debt or liability contracted for any loan or moneys raised after the passing of this Act by such committee or board, the third section of the said “Public Bodies Debts Act” shall be read and construed as if both the provisos therein contained were omitted therefrom; provided that all the liabilities of any such committee or board existing at the time of the passing of this Act shall be a first charge upon any loan or moneys raised by it under the provisions of this Act.

Proceedings
against
mining
board under
“Public
Bodies
Debts Act.”

LXIII. Any duly elected mining board at any mine which shall be in office at the time of the taking effect of this Act shall remain in office and exercise all powers and perform all duties by this Act provided to be exercised and performed by a mining board elected under the provisions of this Act, until such time as a mining board shall be elected and take office under the provisions of this Act: Provided that the Governor shall forthwith order that any mine for which there is a mining board existing at the time of the passing of this Act, shall proceed to elect a fresh mining board under the provisions of this Act: And as soon as such mining board shall be duly elected, he shall proclaim some day, being not less than ten clear days from the date of election of such fresh mining board, when such mining board shall take office, and the original or existing mining board shall cease to exist, and such fresh mining board shall hold office until the thirty-first December in this year, and thereafter the term of office of each successive mining board shall be until the thirty-first December in the year for which it may be elected: Provided that every mining board shall retain office until its successor has been duly elected, and shall exercise the same duties and powers as theretofore.

Mining
boards
already in
existence
not affected
by Act until
re-elected
under its
provisions.

LXIV. In the event of any mining board, body or officer for the time being representing the claimholders of any mine recovering judgment in any competent court against any defaulting claimholder for liens registered or for arrear rates, and the claim property in respect of which liens shall be registered or rates shall be so in arrear, shall be attached in execution of the judgment aforesaid, the said board shall be empowered to buy in such claims at the execution sale for any sum not exceeding the amount of liens or arrear rates and taxed costs under levy.

Purchase of
claims at
execution
sales by
boards.

LXV. From and after the promulgation of this Act, a claim in any mine shall be considered as abandoned whenever the same shall have been abandoned in accordance with any rule, regulation, ordinance, or law heretofore in force, or when the registered and rightful owner of the same shall give notice in writing to the inspector, or if held under the provisions of Griqualand West

Definition of
abandoned
claims.

No 19—1883 Ordinance No. 6 of 1880, to the registrar of deeds, of his intention to abandon the same.

Power of boards, &c., to dispose of claims, or otherwise, for benefit of mine.

LXVI. Any claim legally abandoned or purchased in terms of the sixty-fourth section shall be the property of the mining board, body, or officer for the time being representing the claimholders at the mine where such abandoned claim is situate, and such board, body, or officer shall, saving all lawful demands of any creditor holding a lien against such claim, and subject to the provisions of the last preceding section, be entitled to dispose of, hold, or otherwise deal with the same, as he or they may deem expedient for the benefit of the mine generally, but shall not be liable for any registration fees, taxes or charges in respect of such claim, nor to work down or make safe the same, unless the bye-laws of any mine shall determine otherwise: Provided that any neighbouring claimholder shall be entitled to work down and make safe any claim so purchased or abandoned at his own expense should he desire to do so on being served with a notice by the inspector or other officer appointed in that behalf that such claim is dangerous to life or limb, and shall be entitled to register a lien for the value of the work so done according to the tariff fixed by the mining board as hereinbefore provided against such claim.

Granting of certificates to persons entitled to register a lien against claim.

LXVII. Any person entitled under the provisions of this Act, or of any ordinance, rule, regulation or bye-law now in force, or which may hereafter be promulgated to register a lien against any claim or claims in any mine shall apply to and obtain a warrant in that behalf from the inspector of the mine in which such claim or claims shall be situated, which warrant shall be filed in the office of the registrar of claims; and the registrar or other officer duly appointed in that behalf, shall grant to such person a certificate in the form contained in the fifth schedule to this Act, and every such certificate shall bear a stamp of ten shillings.

Liens, existing or registered, to be recoverable in any competent court.

LXVIII. All existing liens and all liens which shall be registered hereafter against any claim or property in any mine, shall entitle the persons in whose favour such liens are registered to recover the amount thereof by action in any competent court from the owner or registered holder of such claim or property: Provided, however, that no greater sum shall be recoverable under or by virtue of any lien than the amount which may be realised by the sale of the claim or property against which the same is registered, and such claim or property shall alone be liable to be taken or sold in execution of any judgment given in any such action aforesaid.

Provisions in event of expansion or divergence of mineral soil; registered claimholders to pay to Government $2\frac{1}{2}$ per cent. on the gross returns.

LXIX. In the event of its being discovered at any depth from the surface of any mine, that the soil containing precious stones or minerals shall expand or diverge in any direction, the registered claimholders in such mine shall be entitled to follow such soil in all its dips, angles, and variations, and the soil containing precious stones or minerals lying outside of the actual declared boundaries of claims at the time of the discovery of such expansion or diver-

gence shall be held to be the common property of the then registered claimholders in such mine, and shall be worked at the expense and for the benefit of such claimholders in *pro rata* shares and proportions according to the assessed value of the several holdings in such mine; provided that the then registered claimholders in such mine shall pay to the Government, or person in whom the reservation of precious stones and minerals is vested, an amount equal to two and a half per centum on the gross returns of all precious stones or minerals found in such additional area of soil as aforesaid: provided, always, that in case of any mine under the control of any mining board, body, officer, or company, it shall be the duty of any person who shall make the discovery of the mine expanding or diverging beyond the known or declared boundaries, to notify the same to the registrar of claims or other officer charged with the duty of registering claims within seven days from such discovery, and the registrar shall thereupon post a certificate of such information on the office door of the registrar of claims, and shall forward written notice thereof to the mining board, body, officer, or company, who shall be, and hereby is, empowered to test the alleged discovery, and should the same be verified, shall forthwith convene a meeting of claimholders for the purpose of considering in what manner such divergence or expansion of additional area shall be worked or dealt with, claimholders voting on the basis of the provisions of the fortieth section of this Act: provided, further, that the person so discovering the divergence or expansion of additional area aforesaid shall be entitled to claim from the mining board, body, officer, or company, a refund of all reasonable costs, charges and expenses to which he may be put in sinking shafts, tunnels, or works necessary for the purpose of reporting the nature of the mine at such greater depth; and should such person neglect or refuse to notify the discovery by him of any divergence or expansion of the mine within the time limited as aforesaid, he shall not be entitled to claim any refund of moneys laid out by him as aforesaid, and shall, in addition, be liable to a penalty not exceeding five hundred pounds sterling, to be recovered by the mining board, body, officer, or company in any competent court; and provided, lastly, that any claimholder shall be at liberty at the meeting called by the mining board, body, officer, or company on the notification of the registrar of mines or other officer as aforesaid, to decline forthwith to share in the expenses or profits derived for the working and development of any such divergence or expansion of additional area so discovered; and such claimholder so electing not to share as aforesaid, shall not be entitled to take part or vote at such meeting or in any further proceedings connected with such additional area.

Penalty for neglect to notify any divergence or expansion of mine.

LXX. The following order of preference for amounts which may now be due and owing or may hereafter become due and owing

Order of preference for amounts due on any claim.

Q Q

No. 19—1883 upon or in respect of any claim in any digging or mine, is hereby established, viz. :—

1. Claim licences,
2. Rates and dues lawfully imposed in respect of such claim or claims,
3. Expenses of work done by any diggers' committee or mining board by order of the inspector,
4. Liens for work done to or on claims by virtue of this act or any bye-law,
5. Conventional hypothecations,
6. Fines or penalties recovered in any court in respect of such claim or claims.

Governor may proclaim regulations, &c., for working of claims and machinery.

LXXI. It shall be lawful for the Governor from time to time to proclaim rules and regulations concerning the granting of miners' certificates, entitling persons to hold and work claims in any alluvial digging or mine, and to fix the fees to be charged for such certificates, and concerning the manner of working claims and machinery at any digging or mine, and for the regulation of all works within the mining area, in so far as the protection of life and limb is concerned, and generally for the proper management of all diggings and mines, and to fix the penalties for the breach of such rules and regulations not exceeding those in the next succeeding section mentioned, and such rules and regulations shall, on being proclaimed, have the force and effect of law at the digging or mine referred to in such proclamation as aforesaid, until the same are cancelled, altered or amended by any subsequent proclamation made under and by virtue of the provisions of this section.

Penalty for mining or digging without prospecting licence.

LXXII. Any person mining or digging for precious stones or minerals without a prospecting licence, or without a claim licence, on crown land or on private property containing a reservation of minerals in favour of the Crown, shall on conviction, be liable to a penalty not exceeding one hundred pounds, and, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding twelve months; and any person who may be convicted before a competent court of contravening any of the regulations framed under the provisions of this Act shall be liable to such penalties as may be by the said regulations prescribed, not in any case exceeding one hundred pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months.

Transfer dues, limit of.

LXXIII. The transfer dues payable under the provisions of the Griqualand West Ordinance No. 6 of 1880 shall in no case exceed the transfer dues payable under the provisions of this Act, anything in any ordinance, act, proclamation or legal enactment to the contrary notwithstanding.

Recovery of fines, &c., by law.

LXXIV. All fines and penalties imposed under the provisions of this Act or of any rules, regulations or bye-laws to be framed and proclaimed in manner hereinbefore provided shall be recoverable

in the court of the resident magistrate for the district in which such digging or mine is situate. No. 19—1883

LXXXV. All actions brought by or against a diggers' committee or mining board shall be brought by or against the chairman of such committee or board. By or against whom actions are to be brought.

DIVISION IV.

LXXXVI. Whenever any alluvial digging or mine shall have been already opened or shall be opened to the extent hereinafter defined upon any land the property of any private owner, the title to which land is not subject to any express reservation of precious stones or minerals in favour of the Crown, or whenever any precious stones and minerals shall be discovered upon any land as aforesaid, and the owner of such land shall desire to establish an alluvial digging or mine on such property, and shall have sold or let or given licence to work mining or digging claims on such property exceeding in number twenty-four such claims, or to search for precious stones or minerals on such property over a surface or surfaces to an extent of twenty thousand square feet in all or upwards, such claims or licences in each case to be worked by any number of persons exceeding seventy in all, or whenever in the vicinity of any claims worked on such private property as aforesaid a population shall be settled for the time being of upwards of one hundred persons, the place where such claims or such licences shall be worked, or shall lie to be worked, shall be deemed to be an alluvial digging or mine, and may be proclaimed and defined as such in like manner as if the same were situate on crown land, save that the amount of licence money, rent, or royalty to be paid for each claim shall be fixed by the owner of such property as aforesaid. Alluvial diggings or mines upon private properties where there is no express reservation in favour of the Crown.

LXXXVII. The proprietor of any private property the title to which is not subject to any reservation of precious stones or minerals in favour of the Crown, and on which any alluvial digging or mine may under the provisions of this Act be proclaimed, shall contribute ten per cent. of any licence moneys, rents, or royalties received by him in respect of such digging or mine for the purpose of defraying the public expenditure necessary for the maintenance of order and good government, and the protection of life and limb, within the defined limits of such digging or mine or mining area, and shall keep proper books, showing the amount of all such moneys received by him as aforesaid; and in case no such books are kept by such proprietor or such books are irregularly kept, then and in that event such proprietor shall pay such sums as may be necessary to defray the public expenditure as aforesaid, whether such proprietor has received out of the licence moneys, rents or royalties payable in respect of claims sufficient to defray such expenditure or not; provided that nothing in this Act shall be taken to interfere with or affect any existing agreement entered into between the Govern- Contribution by private proprietors on which diggings or mines are proclaimed.

No. 19—1883
—
ment and any owner of such private property as aforesaid respecting the amount to be paid by such owner for the purpose of defraying the expenditure necessary for the maintenance of order and good government at any alluvial digging or mine situate on such property as aforesaid.

Provision
in regard to
abandoned
claims in
such mines.

LXXXVIII. Every abandoned claim in any mine, situate upon land the title to which is not subject to any reservation of minerals or precious stones in favour of the Crown, shall become the property of the mining board, body, or officer mentioned in the sixty-sixth section of this Act, under and by virtue of the provisions of the said section, unless the owner of such land shall, within thirty days after he shall have received written notice from any officer duly appointed in that behalf of the fact that such claim has been abandoned, signify to such officer in writing his willingness to take upon himself all the liabilities and responsibilities of an ordinary claimholder in respect of such claim. In the event of his so signifying his willingness as aforesaid, he shall thereupon become and be subject to all the laws, rules, and regulations applicable to other claimholders in such mine in respect of such claim.

Act to
apply to
mines on
lands not
subject to
reservation
of minerals.

LXXXIX. Save as hereinbefore stated, all the provisions of this Act relating to mines and diggings upon crown land, or land the title to which is subject to a reservation of minerals or precious stones in favour of the Crown, shall be held applicable to all duly proclaimed mines and diggings situate upon land the title to which is not subject to such reservation as aforesaid.

DIVISION V.

Application
of provisions
of Act.

LXXX. The provisions of this Act shall apply only to the territory of Griqualand West and such other districts as may be from time to time proclaimed mining districts within this colony.

Construc-
tion and in-
terpretation

LXXXI. In the interpretation of this Act unless repugnant to the context the following words and expressions shall have the meaning following:—

The word “claimholder” shall be taken to include partnerships and joint-stock companies.

Save all existing rights, the word “claim” shall be taken to mean any portion of ground assigned for mining purposes of a size to be from time to time proclaimed by the Governor.

The words “reef or shaly ground” shall be taken to apply to the shale rock or soil outside and around diamondiferous claims, and shall not include what is commonly known as “floating shale,” or shale and rock in or covering the actual claims.

The word “minerals” shall be held to mean gold, silver, or platinum.

The word “Commissioner” shall mean the Commissioner of Crown Lands and Public Works.

Short title.

LXXXII. This Act may be cited for all purposes as “The Precious Stones and Minerals Mining Act, 1883.”

THE FIRST SCHEDULE.

No. 19—1883

Enactment.	Title.	Extent of Repeal.
Proclamation by Governor Sir H. Barkly, No. 71. dated October 27, 1871	Establishing Diamond Diggings, Office of Inspector of Claims, Diggers Committées, and their duties and Powers.	The whole.
Griqualand West Ordinance No. 10, 1874.	Ordinance to provide more effectually for the working of Diggings and Mines in the Province of Griqualand West.	The whole.
Griqualand West Ordinance No. 14, 1874.	Ordinance to regulate and define the manner of voting for the election of Members of Mining Boards under the provisions of the sixth section of Ordinance No. 10 of 1874.	The whole.
Government Notice by the Commissioners Administering the Government of Griqualand West, No. 62, 28th November, 1871.	Giving Inspectors and Sub-Inspectors of Mines powers to grant interdicts.	The whole.
Griqualand West Government Notice No. 332, 9th December, 1876.	Publishing Resolution of Legislative Council cancelling Clause 2, Section V, and Clause 1, Section VI, of Schedule to Ordinance No. 10 of 1874.	The whole.
Griqualand West Government Notice No. 156, September 6th, 1877.	Publishing Resolution of Legislative Council repealing Clause 9, Section VI. of Schedule to Ordinance No. 10 of 1874, and Government Notice No. 182 of 1876.	The whole.
Griqualand West Ordinance No. 12 of 1876.	Ordinance to repeal the 18th Clause of Section 1 of the Schedule to Ordinance No. 10 of 1874.	The whole.

THE FIRST SCHEDULE—(continued.)

Enactment.	Title.	Extent of Repeal.
Griqualand West Ordinance No. 15 of 1879.	Ordinance to declare the applicability to the Du Toit's Pan Mine and Bultfontein Digging of a certain portion of the Rules and Regulations contained in the Schedule to Ordinance No. 10 of 1874, from the date of the promulgation of the said Ordinance, and to continue the same in force.	The whole.
Griqualand West Proclamation No. 8, dated September 30th, 1880.	Promulgating Amended Schedule to Ordinance No. 10 of 1874.	The whole.
Griqualand West Ordinance No. 6, 1880.	Ordinance to provide fixity of Tenure in certain Mines and Diggings in the Province.	Section V.
Griqualand West Government Notice No. 86, 7th May, 1877.	Publishing Resolution of Legislative Council enacting addition of Clause 9 to Section V. of the Schedule to Ordinance No. 10 of 1874.	The whole.

SECOND SCHEDULE.

Prospecting Licence.

Civil Commissioner's Office,

18 .

Whereas A. B. has duly complied with the provisions of Section No. _____ of Act No. _____, of 188____, licence is hereby granted to him to search and prospect for precious stones and minerals on the farm _____ within the Division of _____ for the period of _____ months from _____ to _____

Note :—This licence does not give any right to prospect on private property where there is no reservation of precious stones or minerals in favour of the Crown, without the consent of the owner of such private property; nor within five hundred yards of any person already prospecting and searching for minerals or precious stones under or by virtue of a prospecting licence, without his

consent; nor within two hundred yards of any house or building No. 19—1883
 occupied or used by the owner or occupier of the property; nor
 upon any land under cultivation, without the written consent of
 such owner or occupier; nor upon any duly declared abandoned
 digging.

THIRD SCHEDULE.

Form of Recognizance.

Before me _____ Distributor of Stamps for _____
 on the _____ day of _____ 18____, A.B., residing at _____
 acknowledges himself to be indebted to our Sovereign Lady the
 Queen in the sum of Two hundred pounds, and C.D. and E.F.
 severally acknowledge themselves to be indebted to our said
 Sovereign Lady the Queen in the sum of One hundred pounds, to
 be levied upon their and each of their goods and lands, upon
 condition that if the said A.B. shall make due and proper repair
 of any surface damage done by him on any land upon which
 he shall have obtained a licence to prospect for precious stones or
 minerals, of right occupied by any quitrent tenant or lessee, then
 this recognizance shall be void, or else to remain in full force.

FOURTH SCHEDULE.

Certificate of Registration.

This is to certify that _____ of _____
 is the registered holder of Claim No. _____ alluvial
 digging (*or mine as the case may be*), and that the licence money
 for the same has been paid in advance up to the _____,
 18 _____.

Office of the Registrar of Claims of
 Alluvial Digging (*or mine, as the case may be.*)

Registrar.

FIFTH SCHEDULE.

Certificate of Hypothecation.

This is to certify that Claim No. _____ in the
 Alluvial Digging (*or mine, as the case may be*), has this day been
 hypothecated by _____ the registered holder of such
 claim to _____ of _____ for the sum
 of £ _____.

Office of the Registrar of Claims of
 Alluvial Digging (*or mine, as the case may be.*)

Registrar.

SIXTH SCHEDULE.

Certificate of Lien.

This is to certify that _____ of
 is the registered holder of a lien against Claim No. _____
 situated in _____ Mine in
 the sum of £ _____
 Office of the Registrar of Claims of _____ Mine,
 18 _____

Registrar.

Repealed by 1897 Act-13.
 No. 20—1883.]

ACT

[September 27, 1883.

For Raising a Sum not exceeding One Million Pounds
 Sterling for the Public Service.

Preamble.

WHEREAS it is expedient and necessary that the Governor should be empowered to raise and take up upon loan from time to time such sums of money not exceeding one million pounds as may be required for the public service: 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:—

Power to raise £1,000,000 for public service.

I. It shall be lawful for the Governor to raise and take up upon debentures or treasury bills to be issued in this colony or in England, such sum of money as from time to time shall seem to him fit and necessary for the exigencies of the public service not exceeding in the whole the sum of one million pounds to be applied as may be needful towards payments to be made for the public service, authorised or to be authorised by Parliament.

Interest and capital charged on general revenue.

II. Such debentures or treasury bills shall bear interest at a rate to be agreed upon by the Governor, and the capital sum and interest shall be charged and chargeable on and payable out of the general revenue of the colony.

Debentures payable at par.

III. Such debentures or treasury bills shall be payable at par, at such time or times, or after such notice as the Governor shall, before issue thereof, fix and determine.

Account of money received and expended to be kept.

IV. An account shewing the amount of all such debentures or bills issued under the authority of this Act, and the moneys realised thereby, and the expenditure thereof, or of so much as shall have been expended, vouched by the Controller and Auditor-General, shall be laid before both Houses of Parliament within fourteen days after the commencement of the next session thereof.

Provisions of "Cape of Good Hope Loans Act, 1881," not to apply. Short Title.

V. The provisions of "The Cape of Good Hope General Loans Act, 1881," shall not be deemed to apply to the loans authorised by this Act.

VI. The short title of this Act shall be "The Temporary Loans Act, 1883."

No. 21—1883.] ACT [September 27, 1883. No. 21—1883

To Authorise the Raising of Money for certain Public Purposes.

WHEREAS it is expedient to authorise the raising of money for the construction of public works and for certain public purposes: Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

I. It shall be lawful for the Governor from time to time as occasion may require, to raise and take up sums of money not exceeding one million nine hundred and forty-two thousand and forty-eight pounds to be applied to the several purposes mentioned in the schedule to this Act annexed.

Power to borrow
£1,942,048.

II. This Act may be cited as the "Public Loan Act, 1883."

Short Title.

SCHEDULE.

1. For carrying on and improving the Harbour Works of East London	£100,000
2. For carrying on and improving the Harbour Works of the Kowie	40,000
3. For the Houses of Parliament	100,000
4. For the Railway Bridge over the Orange River, near Hope Town	60,000
5. For Loans under the "Local Works Loans Act, 1882"	130,000
6. For Public Buildings, Magistrate's Court and Offices at Port Elizabeth	10,000
7. For repayment, in part, of Sums advanced from Revenue	1,500,000
8. For Compensation to be paid to Europeans who sustained loss in consequence of the action of Colonial Forces during the late Basuto Rebellion	2,048
	<hr/>
	£1,942,048

Spent:

No. 22—1883.] ACT [September 27, 1883.

For Applying a Sum not exceeding Sixty-nine Thousand One Hundred and Fifty-five Pounds Four Shillings and Tenpence 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 sixty-nine thousand one hundred and fifty-five pounds four shillings and tenpence sterling, in addition to and

Preamble.

R R

No. 23—1883 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:—

Revenue charged with £69,155 4s. 10d. I. The Public Revenue of the Colony is hereby charged with a sum not exceeding sixty-nine thousand one hundred and fifty-five pounds four shillings and tenpence sterling, which sum shall be applied in the manner following, that is to say:—

Application of moneys.

(1) For unauthorised expenditure beyond the amounts voted or appropriated for the service of the financial year ended 30th June, 1882, the sum of thirty-four thousand four hundred and seventy-five pounds ten shillings and tenpence 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 1881-82;" [G. 7—'83] page 293, 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 thirty-four thousand six hundred and seventy-nine pounds and fourteen shillings sterling, as more fully described in the aforesaid Report, page 380.

Short Title. II. This Act may be cited as the "Unauthorised Expenditure Act, 1883."

Repealed by 1896 Act 36.

No. 23—1883.]

[ACT

[September 27, 1883.

To Enable the Port Elizabeth Harbour Board to make Regulations for the better Management of the Port and Harbour of Port Elizabeth.

Preamble.

WHEREAS no sufficient power is vested in the Port Elizabeth Harbour Board to make regulations for the general management of the said harbour and the quays and jetties thereof, or regulations having for their object the imposition of certain duties and charges upon the landing and shipping of goods at wharves and jetties, and to fix the rate of tonnage by measurement or weight of such goods, and to impose charges upon steam tugs, steam launches, passenger cargo and other boats plying for hire within the said harbour, and for regulating the rates which the owners thereof shall be entitled to charge, and for the inspection of such tugs, launches, or boats, and the machinery and gear thereof, and for regulating the number of passengers which may be carried therein, and for imposing penalties for the breach of any such regulations: And whereas it is desirable that such powers should be supplied:

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. It shall be lawful for the Commissioners of the Port Elizabeth Harbour Board, with the approval of the Governor, to make all regulations necessary for attaining the objects in the preamble to this Act mentioned, and to pay all costs and charges of enforcing the same. Any person contravening any such regulations shall be liable on conviction to such penalties as may be fixed and declared in such regulations not exceeding a fine of ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Commissioners of Port Elizabeth Harbour Board to have power to make regulations.

Penalty for contravention of regulations.

II. This Act may be cited as the "Port Elizabeth Harbour Board Regulations Act, 1883."

Short Title.

Repealed by 1892 Act-32.

No. 24—1883.]

ACT

[September 27, 1883.

Provide for the command of the Colonial Forces during any vacancy in the Office of Commandant-General, and for the Amalgamation of the Wings of the "Cape Mounted Riflemen."

BE it enacted by 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.

I. During any vacancy in the office of Commandant-General of the Colonial Forces all duties and powers which are by any law imposed upon, vested in, or discharged by such Commandant-General are hereby imposed upon, and vested in, and shall be discharged by such officer as shall for the time being be, or be by the Governor appointed to act as, Senior Officer of the Colonial Forces.

During vacancy in Office of Commandant-General Senior Officer to perform duties.

II. The Governor may make regulations for or in respect of the performance of such duties by the Senior Officer, and for furnishing such reports and returns by the Senior Officer, or by other officers to him, as may be deemed necessary.

Governor may make regulations respecting duties, reports and returns.

III. Notwithstanding anything contained in the "Cape Mounted Riflemen Act, 1878," the Governor may constitute the force called the "Cape Mounted Riflemen" one division, and when so constituted all duties and powers by the said Act directed to be performed and exercised by the field officer commanding either wing thereof shall be performed and exercised by the officer then commanding the said force.

Wings of C. M. Riflemen may be constituted one Division.

IV. This Act may be cited as the "Colonial Forces Command Act, 1883."

Short Title.

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No. 25—1883 No. 25—1883.] ACT [September 27, 1883.

For Raising a further Sum of One Hundred Thousand Pounds Sterling, for carrying on the Extension of the Breakwater, and Construction of the Outer Harbour of Table Bay.

Preamble. **W**HEREAS it is necessary to provide a further sum of One Hundred Thousand Pounds Sterling for carrying on the extension of the Breakwater and construction of the Outer Harbour of Table Bay: 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:—

Power to raise Loan of £100,000. I. It shall be lawful for the Governor to raise a further sum not exceeding One Hundred Thousand Pounds sterling, from time to time, as occasion may require; and all moneys so raised shall be applied to the purposes in the preamble to this Act mentioned.

Application of Moneys. II. 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 to such application, have and exercise all the powers conferred upon such Board by any such Act.

Short Title. III. The short title of this Act shall be "The Table Bay Harbour Board Loan Act, 1883."

Repealed by 1916 Act 32. No. 26—1883.] ACT [September 27, 1883.

For Raising a further Sum of Fifty Thousand Pounds Sterling for carrying on certain Harbour Works at Port Elizabeth.

Preamble. **W**HEREAS it is expedient to provide a further Sum of Fifty Thousand Pounds Sterling for carrying on certain works necessary for the improvement of the Harbour of Port Elizabeth: 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:—

Power to Governor to raise £50,000. I. 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 received shall be applied to the purpose in the preamble to this Act mentioned.

Money to be entrusted to Port Elizabeth Harbour Board. II. The application of the moneys to be raised as aforesaid shall be entrusted to the "Port Elizabeth Harbour Board," appointed under the provisions of any law relating to the management of the Harbour of Port Elizabeth, and the said Harbour Board shall, in respect of such application, have and exercise all the powers conferred upon such Board by any such law.

Short Title. III. The short title of this Act shall be the "Port Elizabeth Harbour Loan Act, 1883."

Repealed by 1916 Act 20. Except 23 + 25.
No. 27—1883.]

For Establishing an Incorporated Law Society for the Colony of the Cape of Good Hope.

WHEREAS it is expedient for the maintenance and advancement of sound legal learning and correct and uniform practice and discipline amongst the members of the professions of Attorneys and Notaries in this Colony, and also for the superintendence of the professional training, studies and examination of persons hereafter desiring to be admitted to practice in such professions, and for the regulation of their admission thereto, and for promoting the formation of a Law Library at Cape Town, to establish and incorporate a society at the Cape of Good Hope for the promotion of the said objects:

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:—

I. A society consisting of a President, a Vice-President, a council and members shall be established at the Cape of Good Hope, consisting of Attorneys and Notaries duly authorised to practise as such in the said Colony, and shall be a body politic and corporate by the name of "The Law Society of the Cape of Good Hope," and by such name shall have perpetual succession, and shall adopt and have a common seal, and shall be capable both of purchasing and holding property, movable and immovable, and of selling, mortgaging, transferring, leasing or otherwise disposing of any such property, and of suing and being sued in its corporate capacity, and of doing all other matters and things incidental or appertaining to a body politic: Provided that it shall not be lawful for the said society to sell, mortgage, transfer, lease or otherwise dispose of any immovable property to which it may become entitled without the approbation and concurrence of two-thirds of the members present at a general meeting.

Incorporation of, and authorities conferred on "The Law Society of the Cape of Good Hope."

II. The council of the said society, including the president and the vice-president, shall consist of nine members, exclusive of such *ex-officio* members as are hereinafter provided for. The first president of the society shall be Charles Aken Fairbridge, and the first vice-president shall be Casper Hendrik van Zyl, and John Robertson Reid, John Blake Buissinne, Henry Knight Tredgold, Frederick Samuel Phillipson Stow, Edward Philip Solomon, William Edward Moore and Charles Christian de Villiers, shall be the first members of the council of the said society, and shall hold office until the election of new officers as hereinafter provided. And it shall and may be made lawful for the president so appointed to receive and consider applications from attorneys and notaries desirous of becoming members, and for a majority of the members of the said council present at a meeting to be convened by the president, after three weeks notice, to agree or refuse to enrol the applicants as

Constitution of the council.

Mode of electing members.

No. 27—1883 members of the society: Provided, however, that such refusal shall not debar the rejected candidate from again applying to be enrolled, or from being enrolled as a member of the society, after the first general meeting hereinafter mentioned: Provided, also, that the president shall cause true and proper minutes of the proceedings at such meetings to be recorded in a book kept for the purpose, including the names of all persons enrolled, as well as those refused. So soon as convenient after there shall have been enrolled in the manner aforesaid members sufficient to make up the number of the members of the society, including the president, vice-president and the council aforesaid, to twenty-five, it shall be the duty of the president, by notice in the *Government Gazette* of not less than six weeks, to convene a general meeting of all the members aforesaid for the purpose of electing a council in the place of the council appointed by this Act. And as soon as may be after the election of the new council aforesaid, the said council shall proceed to the election from among its members of a new president and vice-president, it being expressly provided that the existing president, vice-president and council shall remain in office and exercise all their functions until the final election and appointment of the new president, vice-president, and council, whereupon their appointment shall cease, and thereafter every election of a new council, and every election by such new council of a president and vice-president, shall take place in exactly the same manner and after the same notice as is by this section determined for the election of the first new council and president and vice-president. At any meeting it shall be competent for members residing more than twenty-five miles from the place where the meeting is held to vote by proxy, but no persons residing within twenty-five miles of such place shall be allowed to vote by proxy. No person not being an attorney shall have the privilege of becoming a member of the council.

Minute Book to be kept.

Election of President and Vice-President.

Duration of office of first President, &c.

Fresh election at the end of three years.

President of meetings.

III. The president, vice-president and council so first appointed shall continue in office three years. At all meetings of the council four members, including the president or vice-president, or other presiding member, shall form a quorum. At least ten members of the society shall be required to form a quorum at any meeting.

IV. At the expiration of three years from the date of their taking office the president, vice-president and council shall retire from office, and be succeeded by a new president, vice-president and council, to be elected in the manner provided by the second section of this Act: Provided, however, that the president, vice-president and members of the council retiring as aforesaid, or any of them, shall be eligible for re-election.

V. The vice-president shall, in the absence of the president, perform all duties and functions appertaining to the office of the president, and preside at the meetings of the council: Provided that any meeting of such council at which neither the president nor the vice-president shall be present may elect its own chairman.

VI. In case any member of the said council shall die or resign or be absent from the colony for the space of six months, or be absent from six consecutive meetings of the council, his office shall become vacant. All vacancies occurring under the provisions of this section shall be filled by election at a duly convened meeting of the society, and any member so elected to fill any such vacancy shall be elected to hold office until the expiration of the term during which the person in whose place he shall have been elected would have been entitled to hold office.

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In case of office becoming vacant.

VII. The president and vice-president shall respectively continue in office for three years, unless during that period he shall die, resign, or cease to be a member of the council, or be absent from the colony for the space of six months, in any of which cases his office shall become vacant and another member of the council be elected in his room and stead, who shall continue in office until the expiration of the term during which his predecessor would have been entitled to continue in office.

Duration of office of elected President, &c.

VIII. The said council shall have power from time to time at their meetings, to be held at the times and places to be directed by the bye-laws of the society, to appoint and elect in the manner to be directed by such bye-laws, such persons as they shall think fit, being attorneys or notaries practising within the said colony, or being persons who shall have so practised and shall have voluntarily retired from such practice (not being barristers or advocates), to be members of the society.

Who eligible to be elected members of the society.

IX. In case any member of the society shall in consequence of the order of any court of competent jurisdiction be rendered incapable by reason of malpractice or other professional misconduct of practising in the courts of justice of this colony or any of them, or as a notary in this colony, such person shall forthwith cease to be a member of the society.

Who shall cease to be members.

X. Subject and without prejudice to the powers hereinafter vested in the general meetings of the society, the council shall have the sole and entire management of the society and of the income and property thereof for the uses, purposes and benefit of the society, and shall have the sole and exclusive right of nominating and appointing a secretary, treasurer, librarian, lecturer, and such other officers, clerks, attendants and servants as they may deem necessary or useful to the society, and of removing them if they shall think fit, and shall prescribe their respective duties: And it shall and may be lawful for the council or any three or more of them to assemble and meet together as often as they shall think fit until the passing of the bye-laws of the society, and from and after the passing of such bye-laws, at such times and places as shall be directed by the said bye-laws, and from time to time to do all such acts as shall appear to them or the majority of the council then present necessary or fitting, to be done in order to carry into full operation and effect the object and purposes of the society: Pro-

Powers of the council.

No. 27—1883 — vided always that the same be not inconsistent with or repugnant to this Act or any existing bye-law, ordinance, or regulation made, ordered, or agreed upon at any special general meeting of the society, or the laws and statutes of this colony.

Bye-Laws. XI. At any general meeting it shall and may be lawful for the members of the society, or such of them as shall be then present, to ordain and make such and so many bye-laws, rules, orders and ordinances as to them or the major part of them shall seem necessary, convenient and proper for the good government of the society and of the members and affairs thereof, and the manner in which any vacancy in the council shall be supplied, and for regulating the times and places at which meetings of the council shall be held, and the manner of appointing or admitting persons to be members of the society, and of removing or expelling members from the society, and for convening the ordinary or any special meetings of the members, and for establishing, maintaining, and regulating the use of a law library, and generally for carrying out the objects for which the society is founded, with reasonable penalties and fines to be contained in such bye-laws on the offenders for non-performance of or for disobedience to the same, and the said bye-laws, rules, orders, ordinances, penalties and fines, or any of them, from time to time to alter, change or annul as the said general meetings shall think requisite; provided all such bye-laws, rules, orders, ordinances, penalties and fines be reasonable and not repugnant or contrary to the laws or statutes of this colony, and provided they be approved by the Attorney-General for the time being.

When first general meeting to be held. XII. A general meeting of the members of the society shall be held within three calendar months after the election of the first president, vice-president and council, for the making and ordaining of bye-laws, rules, orders and ordinances for the government of the society; and an annual meeting shall thereafter be held at Cape Town in the month of June in every year, or as soon thereafter as conveniently may be, for the said purposes and for other purposes of the society; and other meetings shall be held from time to time as occasion shall require. All meetings, other than the annual general meetings of the members of the society, shall be held at such times and places as shall be determined by the majority of the members of the society present, in person or by proxy, at meetings held for the purpose of deciding when and where such meetings shall be held: Provided that members not present shall have the right to vote by proxy on the question of the time when and place where such meetings shall be held.

Annual meeting. Proxies. Who to preside. XIII. At all general meetings the president of the society, if he shall be present, and if not, then the vice-president, and in the absence of the president and vice-president then some one of the members of the council to be chosen by the council, and in the absence of the president, vice-president, and all the members of the

council, then some member of the society, to be chosen at the meeting, shall preside as chairman. No. 27—1883

XIV. Subject to the exemptions allowed by this Act or by regulations made under the authority thereof, no person shall, after the taking effect thereof, be admitted to practise as an attorney or notary, except upon production to and registration with the council and the Registrar of the Court to which application for admission shall be made of a certificate of having passed one of the examinations in law and jurisprudence referred to in the third section of the Act 12 of 1858 of the University of the Cape of Good Hope, and a true copy of all articles of clerkship shall be registered with the council of the society, and a fee of two guineas paid for such registration within three months of the execution of such articles: Provided, however, that nothing in this Act shall apply to the admission or registration of the articles of any person who shall have been articulated with a view to admission as an attorney or notary previous to the taking effect hereof.

Before admission as Attorneys all candidates must pass one of the University Law Examinations.

XV. Such of the provisions of this Act as affect the admission of persons to practise as attorneys shall apply *mutatis mutandis* to persons applying to the Eastern Districts Court or the High Court of Griqualand for admission to practise as attorneys; and all the laws regulating the admission of attorneys in the Supreme Court shall apply to persons seeking to be admitted as such in the Eastern Districts Court or the High Court of Griqualand, and anything repugnant to or inconsistent with the said provisions in any existing Proclamation, Ordinance, or Act contained shall be, and the same is hereby repealed. Subject to such exemptions as are in this Act mentioned, no person applying after the taking effect of this Act to the Supreme Court, or the Eastern Districts Court, or the High Court of Griqualand for admission as an attorney shall be entitled to an order for such admission until he shall have lodged with the registrar of such of the above mentioned courts as he shall apply to, a certificate from the council of the society of his having duly complied with the provisions of the fourteenth section hereof, or those hereinafter in the eighteenth section mentioned.

Provisions to apply to candidates for admission to E.D. Court and High Court of Griqualand.

XVI. For every certificate lodged with or obtained from the said council, the person to whom the same refers shall pay to the society such fees in respect of the same as may from time to time be determined by regulations, to be made by the council in accordance with the provisions of this Act: Provided that such fees shall not exceed the sum of one guinea.

Fees for certificate from society

XVII. A certificate of having passed the examination prescribed by Section XIV. of this Act shall not be required from any person exempted by the tenth Section of the Solicitors' Act, 1877, of the Imperial Parliament (40 & 41 Vic., Chap. 25).

In what cases certificate not required.

XVIII. No person practising or entitled to practise in the United Kingdom of Great Britain and Ireland, as attorneys, or solicitors, or writers to the signet in Scotland, shall be required to

Attorneys, &c., of United Kingdom not required to produce council's certificate.

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produce a certificate of having passed the examination prescribed by the fourteenth section of this Act, but every such person shall produce to and register with the council of the society sufficient proof of his legal authority to practise in England, Scotland or Ireland, and shall, upon payment of the fee as provided for in the sixteenth section hereof, obtain a certificate from the council and lodge the same with the registrar of the court as provided in the fifteenth section hereof.

Existing rules, &c., as to such Attorneys, &c., to continue.

Notice of applications to admit, suspend, &c., Attorneys to be given to council.

Proceedings in regard to any member of society suspected of misconduct.

XIX. Save as in the eighteenth section hereof appears nothing in this Act shall affect the acts, rules and regulations now in force respecting the admission of English, Scotch and Irish solicitors and writers to the signet to practise in the courts of this colony.

XX. Due notice shall be given to the council of the society of all applications to the court to admit, suspend, or strike off the roll any attorney or notary, and the society shall be entitled to appear and be heard either in opposition to or in support of any such application.

XXI. If it shall appear to the council, or be represented to them by a requisition in writing signed by two or more members of the society, that there is reason to suppose that any member of the society has been guilty of conduct which in the absence of satisfactory explanation would render him unfit to remain a member of the society, the council shall send to such member a statement in writing of the conduct imputed to him, and shall appoint a special meeting of the council for the consideration of the subject. At least twenty-one days' notice of such meeting shall be given to such member in order that he may be present and be heard if he shall think fit. If at such meeting or any adjournment thereof the council shall be of opinion that such member ought to be excluded from the society, they shall state their opinion thereon in the form of a report to be laid before a special general meeting of the society, and such member shall be liable by the order and resolution of the majority of such meeting to be excluded from the society, and immediately upon such order or resolution being passed he shall cease to be a member thereof. But no order shall be made at any such meeting for the exclusion of any member unless ten members at least shall be present at the time appointed for the chair to be taken at such meeting, or within half an hour afterwards. But it shall be competent to call another meeting to consider the same question of the expulsion of such member.

In case of Attorneys &c., not members of the society.

XXII. If the council shall become cognisant of any professional or alleged professional misconduct of any attorney or notary, whether such attorney or notary be a member of the said law society or not, after due examination into the circumstances, and in case there is in their opinion, or in the opinion of a majority of them, a *prima facie* case against such attorney or notary, it shall be incumbent on the president, on behalf of the said society, to bring the circumstances to the notice of the Supreme Court by

application thereto for the striking off the rolls or other punishment of the accused party, of which due notice shall be given to him, and the members of such council in the *bonâ fide* exercise of their duty and discretion herein shall not be liable to any action or suit for damages for defamation of character, libel, or any other cause at the hands of any party against whom any such application shall have been unsuccessfully made.

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XXIII. The Eastern Districts Law Society, as now established under articles of association of 15th January, 1883, shall within three months after the passing of this Act file and register in the office of the Registrar of the Supreme Court, a true and correct copy duly certified by the president of the said society of said articles of association; and any other law society hereafter to be established within this colony, shall in like manner, within three months after the execution of the like or similar articles of association, file the same with the Registrar of the Supreme Court, and any amendments or alterations made and agreed to, from time to time, of such articles of association, under the authority thereof, shall in the like manner, be filed and registered in the said office of the Registrar of the Supreme Court.

Provisions in regard to the "Eastern Districts Law Society."

XXIV. The president of the Eastern Districts Law Society, and of any other Law Society now established, or hereafter to be established within this colony, under similar articles of association, shall, *ex-officio*, be members of the council of the said society by this Act established.

President thereof to be *ex officio* member of this Society.

XXV. Nothing in this Act contained shall be taken to affect the constitution and object of the Eastern Districts Law Society as now established, or the constitution and object of any other law society to be hereafter established within this colony, under similar articles of association.

Constitution of E.D. Law Society not affected by this Act.

XXVI. This Act may be cited for all purposes as "The Incorporated Law Society Act, 1883."

Short Title.

see 1909 Act 29 sec. 13.
No. 28—1883.]

ACT

[September 27, 1883.

To Amend and Consolidate the Laws regulating the Sale of Intoxicating Liquors.

WHEREAS it is expedient to amend and consolidate the laws 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.

I. 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 offences committed against, or proceedings commenced or pending under any of such repealed laws, and except as to subsisting licences

Repeal of repugnant Laws.

No. 28—1883 — which shall, during the interval between the coming into operation of this Act and the expiration of such licences respectively, be deemed and judged of in respect of the sales and dealings which they shall be held to authorise, and the liabilities which the holders thereof shall incur, as if the said repealed laws still remained in force.

Exemptions from operation of this Act.

II. Nothing in this Act shall apply

- (1) To any person selling any spirituous or distilled perfume or perfumery ;
- (2) To any apothecary, chemist, or druggist who may administer or sell any spirituous, distilled, or fermented liquors, for medicinal purposes ;
- (3) To any person engaged in agriculture who may sell, upon the property occupied by him, intoxicating liquors in quantities of not less than seven gallons at one time, such liquors being the produce of grapes or other fruits respectively of his own growth or purchased or procured by him : Provided that such liquors shall be distilled or made upon such property and shall not be drunk or consumed on his premises ;
- (4) To any such person as in the last preceding sub-section mentioned, who may sell any liquors, being such produce as aforesaid, upon any public market, or to any licensed dealer ;
- (5) To any sheriff, messenger, or other officer acting under the authority of any court, judge, or magistrate ; or to any officer of customs, in the exercise or discharge of his duty ;
- (6) To any auctioneer selling by auction liquor in quantities not less than such as are authorised to be sold under a wholesale licence belonging to a licensed dealer upon the licensed premises of such dealer, or belonging to any such person as is mentioned in sub-section (3) upon the property occupied by such person.

Interpretation clause.

III. In this Act, if not inconsistent with the context :

- “ Intoxicating liquor ” or “ liquor ” means any spirits, wine, ale, beer, porter, cider, perry, or other fermented, distilled, spirituous or malt liquor of an intoxicating nature, and every drink with which any such liquor shall have been mixed.
- “ Licence ” means any licence for the sale of liquors granted under this or any other Act now or hereafter to be in force relating to the sale of such liquors.
- “ Licensing court ” or “ court ” means the licensing court of the district wherein a licence is intended to take effect.

LICENCES.

Licence to be issued by Distributor of Stamps.

IV. The licences authorised to be granted under this Act shall be issued by the distributors of stamps, respectively, in Cape Town, and in the several districts of the colony, and such distributors shall, in regard to the issue of such licences, and any privileges

allowed or granted to the holders thereof, to be noted or endorsed upon any licence, conform to the provisions of this Act, and any regulations to be made by the Governor relating to the performance of their duties under this Act. No. 28—1883

V. For or in respect of licences granted or renewed, or transfers or removals of licences or privileges allowed to the holders of licences under and in terms of this Act there shall be payable and paid to the public treasury such sums of money to be collected by means of stamps as are prescribed in the second schedule hereto. Fees for licences as in Schedule II.

VI. Licences under this Act may be granted of the several descriptions following, that is to say :— Description of licences.

- (1) Wholesale Licences.
- (2) Retail Licences.
- (3) Bottle Licences.
- (4) Temporary Licences.
- (5) Club Licences.

VII. In regard to licences granted under this Act the following definitions and provisions shall apply : Definitions and provisions in regard to licences.

- (1) A "wholesale licence" shall authorise a dealer to sell and deliver liquors in quantities of not less than five gallons if in cask, or one unbroken case containing not less than twelve reputed quart, or twenty-four reputed pint bottles, to be delivered at one time, such liquors not to be consumed in or upon the seller's house or premises.
- (2) A "retail licence" shall authorise the sale of liquor in any quantity on the premises therein specified between the hours of six in the morning and nine at night on any day other than Sunday, Christmas Day, and Good Friday ; or between such other hours as may be fixed by the licensing court under the provisions of this Act ; such liquors according to the conditions of the licence to be consumed in or upon the seller's house or premises, or otherwise.
- (3) A "bottle licence" shall authorise the sale on the premises therein specified, but not elsewhere, of liquors in bottles, and not to be drunk or consumed in or upon the premises for which the licence is granted. Under any such licence not less than one reputed quart bottle of liquor made in the colony, nor less than one bottle of imported liquor of any size shall be sold at one time to one person.
- (4) A "temporary licence" shall authorise the dealer, being also the holder of a retail licence, to sell liquors by retail at any place of recreation or public amusement for the period stated therein, subject to such restrictions and conditions as the resident magistrate authorising the issue of the same shall think fit.
- (5) A "club licence" shall authorise the sale and supply of liquor in any quantity to the members of a club, at any time, for consumption on the premises ; provided that no

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place of accommodation, entertainment or refreshment shall be considered a club where others than members or the invited guests of such members are allowed entry or accommodation, or where others than members are charged or permitted to pay for any refreshment or accommodation they may obtain therein.

Who disqualified from obtaining licences.

VIII. No licence shall be granted or transferred to any person or to the wife of any person

- (1) Holding office or appointment under government ;
- (2) Occupying premises of which any constable or member of a police force is the proprietor or landlord, or in which such constable or member has any interest ;
- (3) Convicted of selling liquor without a licence until after a period of one year subsequent to the date of such conviction ;
- (4) Licensed to sell or otherwise deal in diamonds or keeping a native eating house in any district in which the Diamond Trade Act of 1882 is or shall hereafter be in operation.

Licensed places to have entrance to public street, &c.

IX. No retail licence or bottle licence shall authorise the sale of liquors in any town or village otherwise than in premises having the bar entrance opening in or towards a public street or thoroughfare. No licence shall authorise the sale by auction of liquors in quantities less than such as may be sold under a wholesale licence.

Club licences.

X. Club licences may be obtained at any time upon application to the distributors of stamps, in the district in which the club premises are situated.

Every club licence shall be issued to the chief manager or steward of the club. No transfer of any such licence shall be necessary upon any change of any such manager or steward, but the person for the time being holding any such office shall be entitled to the privileges granted by the licence, and subject to all duties and liabilities imposed upon the holder thereof.

When certificate of licensing court not required.

XI. No certificate from a licensing court shall be required in respect of the granting of the following licences:—

- A wholesale licence for the sale of liquors in any municipality, or in any town or village which is the seat of a court of resident magistrate : or
- A licence for the sale of liquors at any railway refreshment room : or
- A temporary licence : or
- A club licence.

WHOLESALE LICENCES.

Within short limits wholesale licences to operate.

XII. Any person may upon application to the distributor of stamps obtain a wholesale licence for the sale of intoxicating liquors within the limits prescribed for any municipality, or within the limits of any town or village which shall be the seat of a court of resident magistrate : and for the purposes of this section the limits of any such town or village, not being a municipality, shall

if defined for the purposes of the "Villages Management Act, No. 28—1883 1881," be such limits, and if not so defined, shall be deemed to be a circle of two miles in diameter, having the court-room of the resident magistrate's court for its centre.

XIII. No wholesale licence for the sale of liquors beyond the limits of any municipality or of any town or village as in the last preceding section defined, shall be granted except upon the certificate of a licensing court, as in this Act provided.

Certificate when licence is for place beyond Municipality, town or village. Companies.

XIV. Wholesale licences may be issued in the name of a company or co-partnership where two or more persons carry on business as a company or co-partnership in the same house or premises.

XV. Any person holding a wholesale licence may store any liquors in any number of stores or places approved of by the resident magistrate and described in or endorsed upon the licence, but no one of such stores or places shall be distant from any other such stores or places more than two miles.

Number of wholesale stores within 2 miles, unlimited.

XVI. Any auctioneer having a wholesale licence may sell by auction liquors at any sale held by him.

Auctioneers.

LICENCES ON RAILWAYS.

XVII. Licences for the sale of intoxicating liquors at any railway station refreshment room, upon property owned or occupied by the Government of the colony for railway purposes, shall be granted, and shall be obtainable upon and subject to the conditions following:—

Repealed by 1916 Act 22

Conditions on which licences to be issued for railway refreshment rooms.

- (1) The lessee or occupier may apply in writing to the Commissioner of Crown Lands and Public Works, or any officer of the railway department whom the said commissioner may appoint for that purpose, for a certificate to obtain a licence.
- (2) The said commissioner or such officer may, if he sees fit, issue a certificate authorising the grant of a retail licence by the proper stamp officer to the applicant for any period not exceeding one year to expire on the thirty-first day of March next after issue.
- (3) Every licence so granted shall be renewable by the like authority for any period not exceeding one year.
- (4) Any licence so granted may be transferred by the authority of the said commissioner or such officer as aforesaid.
- (5) Under any such licence liquors shall be sold only within a reasonable time before and after the arrival or departure of any train at a station.
- (6) Any licence granted under the authority of any such certificate may at any time be cancelled by the said commissioner.
- (7) For or in respect of any such licence issued for a year there shall be paid such sum as is prescribed by the said second Schedule, and for any period less than a year one-

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twelfth of the said sum for every month for which or the part of which the said licence is granted.

TEMPORARY LICENCES.

Place of recreation.

XVIII. Any person being the holder of a retail licence may apply to the resident magistrate for a certificate authorising the distributor of stamps to issue a temporary licence for the sale of liquors at any place of recreation or amusement.

What Magistrate's certificate must specify

XIX. The resident magistrate to whom any such application shall be made may, if he shall see fit, grant a certificate wherein shall be stated the name of the applicant, the place where such temporary licence is to be granted, the number of days during which sales are authorised, and such restrictions and conditions as such magistrate may impose: the time mentioned in any such certificate may be extended, but the licence shall not endure for longer than eight days in all.

NATIVE LOCATIONS AND AREAS.

No licence in Native Locations without permission of Governor.

XX. No licence shall be issued for the sale of liquor within the limits of any native location established or to be established under the provisions of the "Native Locations Act, 1876," or the "Native Locations Amendment Act, 1878," or any Act hereafter to be passed for regulating native locations except with the permission of the Governor.

Governor may define area within which no licence shall issue.

XXI. In districts where aboriginal natives of South Africa are located or resident, or are congregated upon public or other works or mines, the Governor may define areas within the limits of which it shall not be competent for any licensing court to authorise the grant of a licence for the sale of liquor except with the permission of the Governor. Any licence issued in contravention of this and the last preceding section shall be void.

Liquor not to be supplied to Native Locations, &c.

XXII. Save and except as to any liquor administered medicinally no person shall sell, supply, or give to any aboriginal native any liquor within the limits of any native location or area proclaimed as aforesaid. Any person who shall sell, supply, or give liquor in contravention of this section shall be liable upon conviction to the same penalties and forfeiture of licence, respectively, as are provided for selling liquor without a licence.

RESTRICTIONS UPON THE ISSUE OF NEW LICENCES.

How objections to increase of licence to be made.

XXIII. The voters registered for the election of members of Parliament within the limits of any field-cornetcy, municipality, or place where the "Villages Management Act, 1881," is in operation, or, where a municipality is divided into wards, within the limits of any ward, may not less than four days before the annual meeting of the licensing court lodge with the resident magistrate of the district in which such voters reside, a memorial or memorials objecting to the increase of the number of licensed premises for

the sale of liquor under any retail licence or bottle licence or under licences of both descriptions within the limits of such field-cornetcy, municipality, or place, or ward of a municipality as the case may be. No. 28—1883

XXIV. With respect to every such memorial the following provisions shall apply :— What provisions applicable.

- (1) It may be in the form marked A in the third Schedule, or to the like effect.
- (2) It shall contain the name in full of every voter signing the same, corresponding to the name as registered on the list of registered voters, and his place of residence or business.
- (3) Annexed or appended to such memorial there shall be a declaration signed by the person by whom the signatures were collected in the form as nearly as is material marked B in the said third Schedule.

XXV. Any person who shall

- (1) Falsely append the name of any other voter to any such memorial; or
- (2) Make any declaration in form or in substance corresponding to the form marked B in the third Schedule containing any wilfully false statement,

False representations, &c.

shall be liable, upon conviction, to a penalty not exceeding fifty pounds, and in default of payment to imprisonment with or without hard labour for any period not exceeding six months, or to both such penalty and such imprisonment.

XXVI. The resident magistrate receiving any such memorial shall cause the names appearing thereon to be compared with the list of registered voters, and he may strike off therefrom any names which are either illegible, or do not appear in the list of registered voters, or do not correspond with any name in such list, and shall ascertain and certify the number of names of registered voters appearing properly to be appended to such memorial: Provided that any person whose name has been so struck off may appear in person before the resident magistrate, or before the licensing court, and upon satisfying such magistrate or court that he is a registered voter, and signed the said memorial, his name may be restored: and any person may, in like manner, appear and have his name withdrawn, or, if forged or improperly appended, struck off. Magistrate to strike off names not being those of registered voters.

XXVII. If it shall appear that such a majority (as hereinafter mentioned) of the voters registered within the limits of the field-cornetcy or other locality in question object to the grant of any new licence increasing the number of licensed premises as aforesaid, then it shall not be competent for the licensing court to grant any certificate which shall have the effect of increasing the number of licensed premises of the description referred to in the memorial or memorials Majority required to prevent increase of licences.

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- (1) During one year then ensuing, if such majority shall exceed one-half of the voters then registered within such limits.

LICENSING COURTS.

Licensing
Court.Constitu-
tion thereof.

XXVIII. A Court for the consideration and determination of applications for or relating to the granting, renewal or transfer of licences for the sale of intoxicating liquors is hereby constituted, and shall be held in and for each district of the colony.

Such Court shall consist of

- (1) The resident magistrate, or in the absence of the resident magistrate, the assistant resident magistrate (if any).
- (2) The mayor, or chairman of any or each municipality within the district, unless disqualified under the provisions of this Act, and in case such mayor or chairman shall be disqualified, the council or commissioners of the municipality may elect one of their number instead.
- (3) Three members of the divisional council of the division which includes such district, to be chosen in the manner provided by this Act.
- (4) Such justices of the peace, not being more than two in number, as the Governor may appoint to be members: Provided that no justice of the peace being in the Civil Service shall be so appointed, or shall continue to be a member if he shall enter the Civil Service after appointment.

Who dis-
qualified
from being
members of
licensing
court.

XXIX. The following persons shall be disqualified for election or appointment, or if elected or appointed, of continuing, as members of a licensing court, that is to say:

- (1) The holder of any licence for the sale of intoxicating liquors.
- (2) Any brewer or distiller, other than an agriculturist distilling only from fruit the produce of his own property or purchased by him.
- (3) Any person interested or concerned in partnership with any holder of such licence as aforesaid, or with any brewer or distiller.
- (4) Any paid officer, or agent of any co-partnership or society interested in the sale or the prevention of the sale of intoxicating liquors.
- (5) Any person employed, directly or indirectly, as an agent for the purpose of making application for a licence for any other person, or any partner of any person so employed as an agent.

And no person being the owner or landlord of, or the agent or manager of or a partner in, any trade or calling carried on upon any premises licensed or about to be licensed, or the holder of any mortgage bond upon such premises, shall take part in the discussion or adjudication upon any application for or relating to any licence for such premises.

Any person so disqualified acting or sitting as a member of a licensing court shall be liable to a penalty not exceeding fifty pounds for every offence. No. 28—1883
Penalty.

XXX. Before the last day of February in every year, and as often as a vacancy shall occur, the divisional council of the division which includes one or more districts may at a duly convened meeting thereof, by a majority of the votes of the members present elect three members of such council to be members of the licensing court for the district, or three members for each district in case more than one district shall be included in such division. Divisional
Council to
elect three
members of
court.

XXXI. The justices of the peace to be appointed members of the licensing court by the Governor as aforesaid shall be appointed annually, or on the occurrence of any vacancy. Annual ap-
pointment
of J. P.'s
as members.

XXXII. Every member of the divisional council so elected, and every justice so appointed as aforesaid, shall hold office until the last day of December in the year in which he is appointed, unless his office shall be vacated by death, resignation, ceasing to be a member of such council, or justice of the peace, or to reside in the division or district, as the case may be. Duration
of office.

XXXIII. A meeting of the licensing court open to the public shall be held in each district on the first Wednesday in the months of March and September in each year, for the purpose of taking into consideration all applications for the granting of such licences as require a certificate from such court, to authorise their issue, and for the renewal, transfer or removal of any licences for or in respect of which proper notice shall have been given. Days of
meetings of
the court.

The meeting to be held in the month of March shall be the "annual licensing meeting."

XXXIV. Three members of a licensing court shall form a quorum for the dispatch of business. Quorum.

If a quorum be not present at any licensing meeting on the day appointed or advertised, or at any adjournment of a meeting on the appointed day, the said meeting or adjournment shall stand adjourned from day to day until a quorum can be present to hold such meeting. Adjourn-
ment in
absence of
quorum.

XXXV. Any meeting of a licensing court may be adjourned from time to time as such court may determine. Adjourn-
ment
generally.

XXXVI. The resident magistrate shall, if present, preside at every meeting of the licensing court; in the absence of the resident magistrate, the assistant resident magistrate (if any) shall preside; and in case there shall be no such assistant magistrate present, the members present shall elect one of their number to preside. President
of court.

The officer or person presiding shall in case of an equality of votes have a casting as well as a deliberative vote.

XXXVII. The magistrate or member presiding at any meeting of the licensing court shall, within seven days, cause to be forwarded to the treasurer of the colony and the distributor of stamps of the district, a list signed by him specifying the names and places of Lists of
certificates
to be sent to
distributor
of stamps.

No. 23—1883 residence of all persons to whom certificates shall have been granted by the court for obtaining or renewing licences, and the nature of the licence authorised to be granted or renewed.

Power to insist on accommodation for travellers.

XXXVIII. The licensing court may, as a condition of the granting of any retail licence, require that the holder thereof shall, during the continuance of his licence, provide for the accommodation of travellers such number of rooms and stabling for such number of horses as such court may deem necessary for the convenience of the public: and may also require such holder to make provision for sufficient means of egress in case of fire, and for proper drainage and sanitary arrangements and conveniences upon the licensed premises.

“Midnight” and “Sunday” privileges.

XXXIX. 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, on payment of such additional sum as may be prescribed in that behalf, an extension of the time prescribed for the sale of liquors until not later than twelve o'clock at night, or authority to keep open his licensed house during such hours of Sunday, Christmas Day, or Good Friday as such court shall think fit for the refreshment of *bona fide* travellers. Such extension or authority shall respectively be termed “Midnight privileges” and “Sunday privileges.”

Evidence before court on oath.

XL. When any licensing court shall deem it necessary to take evidence respecting any question to be determined by such court, such evidence shall be given on oath (which oath the person presiding is hereby authorised to administer) and shall be filed of record in the office of the resident magistrate of the district.

Perjury.

XLI. If any person shall, upon any examination before any licensing court, wilfully and corruptly give false evidence, such person shall be deemed and taken to be guilty of perjury.

APPLICATIONS FOR OR RELATING TO LICENCES.

When and how applications for licences to be made.

XLII. On or before the last day of the months of January and July any person desiring to obtain at the next licensing meeting

A wholesale licence in respect of the issue of which a certificate is required from the licensing court: or

A retail licence in respect of the issue of which such certificate as aforesaid is required: or

A bottle licence: or

The renewal of any licence other than a licence in respect of which notice is not by this Act required to be given: or

The removal of any licence from the licensed premises to any other premises in the same district: or

The transfer of a licence by the holder to any other person, may make application, in writing, addressed to the resident magis-

trate of the district setting forth the nature or description of the licence required to be obtained, renewed, removed, or transferred, as the case may be, and of the place, stating the number or name (if any) of the house, and the street or road where the business is intended to be or is being carried on, or in case of the transfer of a licence the name of the person to whom the same is desired to be transferred. No. 28-1883

XLIII. The resident magistrate receiving any such applications as are in the last preceding section mentioned shall cause a notice to be posted in some conspicuous place at or in his office and to be published in some newspaper circulating in the district in which the court is held, containing the name of the applicant, nature of the application, description of the premises referred to in the application, the day on which and the place where the court will sit for hearing such application. Magistrate
to post
notice of
applications

Such notice shall be posted and published fourteen days at least before the sitting of the said court, and a copy thereof shall be sent by post or otherwise to every member constituting such court: Provided that no licence authorised to be granted by any such court shall be capable of being questioned by reason that any such notice was not duly posted, published, or sent as aforesaid.

XLIV. In case any application for the granting, renewal, or transfer of any licence which ought, under the provisions of this Act, to have been made on or before the last day of January or July, as the case may be, shall through inadvertence not be made in due time, but shall be made within ten days after the appointed day, the Attorney-General may, if he shall see fit, authorise the consideration of such application by the licensing court at the next meeting or any adjournment thereof, upon condition of payment in case the application shall be granted or allowed of such sum as the Attorney-General may determine, not being less than five pounds, and upon such terms, as to notice to be given, as the said Attorney-General may prescribe. Cases in
which
Attorney-
General may
authorise
applications
not made in
proper time
to be con-
sidered.

Such sum of money shall be denoted by stamps, to be affixed to the licence, issued and cancelled as by law required.

XLV. In case the applicant for any licence shall die, or shall become insolvent after applying for the grant or renewal of a licence, but on or before the day for considering such application by the licensing court, such court may, if it shall think fit, grant a certificate for such licence to the widow of any deceased applicant, or to the executor, curator bonis, or trustee, as the case may be, of the estate of such applicant. In case of
death, &c.,
of licensed
person.

XLVI. Any chief constable or member of a police force, and any person residing in the city, town, village, or field-cornetcy wherein a licence or a renewal of a licence is applied for, may object in writing or personally at any meeting of a licensing court to the granting or renewal of such licence. Who may
object to
licences or
renewals.

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OBJECTIONS.

What objections may be made.

XLVII. The objections which may be taken to the granting of a licence may be one or more of the following :—

- (1) That the applicant is of bad fame or character, or of drunken habits, or has previously forfeited a licence, or has been convicted of selling liquor without a licence within a period of three years ; or
- (2) That the premises in respect of which the application is made are out of repair, or have not reasonable accommodation.
- (3) That the licensing thereof is not required in the neighbourhood, or that the premises are in the vicinity of a place of public worship, hospital, school or native location, or that the quiet of the place in which such premises are situated will be disturbed if such licence is granted.
- (4) That the number of previously licensed premises is sufficient for the requirements of the neighbourhood.

Cases in which court may itself raise objections.

XLVIII. The licensing court may of its own motion take notice of any matter or thing which in the opinion of the members thereof would be an objection to the granting of a licence, or to the renewal, transfer or removal of a licence, although no objection has been made by any person.

In any such case the court shall inform the applicant, and shall adjourn the further consideration of the application, should the applicant so request, for any period not less than four days in order that the person affected by such objection may be afforded an opportunity of replying thereto.

The court shall after any such adjournment give notice in writing, signed by the president, of the cause of objection to the person affected thereby, and of the day on which the adjourned application will be considered.

Municipalities and Village Boards may object.

XLIX. The council or commissioners of any municipality or the board of management of any village or community in which the "Villages Management Act, 1881," is in operation, may authorise any person to appear before the licensing court for the purpose of objecting on behalf of the inhabitants to the granting or renewal of a licence in such municipality, village or community, as the case may be.

RENEWAL OF LICENCES.

Renewals.

L. At the annual meeting of the licensing court any licensed person who has held a licence for three years or upwards in respect of the same premises shall, subject to the provisions in this Act contained and without notice, be entitled to obtain from such court a certificate authorising the renewal of such licence : Provided that

Provisos.

- (1) Such licence has not been allowed to expire.
- (2) Has not been forfeited or cancelled, or become void from any cause.

(3) The applicant has not been convicted of any offence against this Act or any other Act relating to the sale of intoxicating liquors during the preceding three years. No. 28—1883

(4) The said court may vary the conditions upon which such licence shall be renewed.

LI. Upon application for the renewal of any licence the licensing court may refuse to grant a certificate of renewal if it shall be proved that such licence is liable to be forfeited under the provisions of this Act. When renewal may be refused.

LI. The objections that may be taken to the renewal of any licence may be all or any of the following : Objections to renewals.

(1) That the applicant is of bad fame and character, or of drunken habits.

(2) That the licensed premises are out of repair, or are not kept in a clean and wholesome state.

(3) That the business is conducted in an improper manner and drunkenness permitted upon the licensed premises.

(4) That the conditions upon which the licence was granted have not been satisfactorily fulfilled.

(5) That a licensed place is no longer required in the neighbourhood.

LIII. In case of objections to the renewal of any licence, the persons objecting shall cause notice of the intention to object and grounds of objection to be given to the applicant at least two days before the sitting of the licensing court. If such notice shall not have been given, such court may notwithstanding, if it see fit, adjourn the hearing of the application to a future day, and require the attendance of the holder of the licence on such day, and may then consider the objections and determine thereon. Notice of objections to belodged.

LIV. When the renewal of any licence is refused for some reason personal to the licensed person, the licensing court may, if it see fit to do so, adjourn to such day not being less than fourteen nor more than thirty days after such meeting. When licence refused for personal reasons.

Application (not being by the person so refused) for a licence of the same description as that refused in respect of the same premises may be heard and determined at such adjourned meeting.

LV. In case the renewal of a licence held by any person shall be refused by the licensing court, and such person shall not during the preceding twelve months have been convicted of any offence against this or any other Act relating to the sale of intoxicating liquors, he shall, upon payment of a proportionate part of the cost of a licence such as then held by him, be entitled to obtain a licence for a period of three months. Three months extension to certain persons to whom renewal refused.

TRANSFER AND REMOVAL OF LICENCES.

LVI. Any person being the holder of a licence (other than a temporary or club licence) who shall during the currency thereof sell or dispose of his business or the house or premises in respect In case of sale, &c. of licensed premises.

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of which such licence was granted, may make application to the resident magistrate for a temporary transfer of such licence to the purchaser of such business or to the purchaser or lessee of such premises, as the case may be: and such magistrate, and any two members of the licensing court may, if they think fit, and upon proof of payment by the applicant of the sum prescribed for such transfer, by memorandum endorsed upon the original licence, grant temporary transfer of such licence accordingly.

Licensed person removing to other premises.

LVII. The holder of any licence (except a temporary licence) who may desire to remove his licence from the licensed premises to any other premises in the same district not distant more than one mile, may make application to the resident magistrate to authorise such removal: and such magistrate and any two members of the licensing court, if satisfied that to wait for the next meeting of the licensing court would subject such holder to serious loss or inconvenience, and if they think fit, may, upon payment of the sum prescribed, authorise such removal after notice of such application shall have been given by advertisement in a newspaper circulating in the district for not less than fourteen days, and in such other manner as may by the said magistrate and members be directed; provided that in case objections be made to the removal of the licence to the premises proposed by any person who would be entitled to object to the granting of a licence for such premises, such removal shall not be authorised as aforesaid.

Transferees to apply for licence at next Court.

LVIII. Any person to whom a licence may be temporarily transferred and any person who may be authorised to remove his licence to other premises shall at the next licensing meeting apply for a licence in the same manner as if he were not a licensed person: Provided that if any such application shall be made at the September meeting of the court, and be allowed by such court, an endorsement thereof shall be made upon the existing licence, which shall, subject to such endorsement, be of force during the unexpired term thereof.

Objections to transfer, &c.

LIX. Any objections which may be taken to the granting or renewal of a licence may in like manner be taken to the transfer or removal of a licence.

When transfer or renewal refused.

LX. In case the temporary transfer of a licence, or the removal of a licence as aforesaid shall not be ratified by the action of the licensing court at the next meeting upon consideration of the application then made in respect thereof, such licence shall, as to the person to whom the same was originally granted, or in respect of the premises originally licensed, as the case may be, remain unimpaired.

Holders of temporary licence in same position as person represented by them.

LXI. Any person to whom a licence may be temporarily transferred, or who may be carrying on or conducting the business of licensed premises as the widow, or curator bonis, or executor of the estate of any deceased person, or as trustee of the estate of any insolvent, or as approved agent of any such widow, curator,

executor, or trustee, shall, until the end of the period for which the licence was granted, possess all the rights and be subject and liable to all the duties, obligations and penalties of the original holder of the licence. No. 28—1883

LXII. In case of the death of the holder of any licence, the widow (if any) or the executor of the deceased person, and failing the appointment of an executor, any curator bonis appointed by the Master of the Supreme Court for taking charge of the estate of such deceased person, or any person approved of by the resident magistrate, and in case of insolvency, the trustee of the estate of such insolvent, may carry on the business until the next meeting of the licensing court, either personally or by an agent approved of by any writing under the hand of the resident magistrate, without any formal transfer of the licence. Curators,
Executors,
Trustees,
&c.

LXIII. In case of the marriage of any woman who shall have obtained any licence, such licence shall confer on her husband the same privileges, and shall impose upon him the same duties, obligations and liabilities as if such licence had been granted to him originally. Rights of
woman
marrying to
pass to her
husband.

DUTIES AND LIABILITIES OF LICENSED PERSONS AND OTHERS.

LXIV. Every holder of a licence under this Act shall produce such licence within a reasonable time after production thereof is demanded by any resident magistrate, justice of the peace, excise officer, chief constable or member of any police force. Production
of licence.

LXV. Every licensed person, except the holder of a temporary licence or club licence, shall cause to be painted and fixed, and shall keep painted and fixed on the front of the premises in respect of which his licence is granted, in a conspicuous place, and in letters two inches at least in length, his name, with the addition of the word "licensed," and of words sufficient to express the business for which the licence has been granted. No person who is not licensed shall have any words or letters on his premises importing that he is licensed, and no licensed person that he is licensed in any way other than that in which he is duly licensed. Licensed
persons to
have name,
&c., painted
in front of
his premises

LXVI. The licensing court may, if it shall see fit, require the holder of any retail licence in any city, town or village to keep a lamp affixed over the door of the licensed premises, or within twenty feet thereof, and lighted during such hours as such court shall determine. Lamp may
be ordered
to be kept.

LXVII. The holder of every retail licence which shall have been granted on the condition of providing accommodation to travellers, who shall fail or refuse, except for some sufficient reason to be judged of by the resident magistrate, to supply lodging, meals or accommodation to travellers, shall, for each offence, be liable, on conviction, to a penalty not exceeding ten pounds. Penalty
for not
providing
stipulated
accommoda-
tion for
travellers.

LXVIII. No person shall recover any sum of money or maintain any suit at law on account of any liquor sold by him on credit Price of
liquor con-
sumed on
premises.

U U

No. 28—1883 to any person for consumption on the premises, except in the case
cannot be of liquor supplied in moderate quantities with meals to any person
sued for. actually lodging with such first mentioned person.

Pledges
forbidden. LXIX. No person shall receive in payment, or as a pledge or
security for any liquor or entertainment supplied in and from his
licensed premises, anything except current money, cheques on
bankers, or orders for payment of money.

Penalty. The person to whom anything pledged in contravention of this
section shall belong shall have the same remedy for recovering
any such thing, or the value thereof, as if it had not been pledged.

No payment
in advance. No person shall receive payment in advance for any liquor to be
supplied: Any payment so made in advance may be recovered,
notwithstanding that any liquor may have been supplied subse-
quently to such payment.

Duties of
Police. LXX. It shall be the duty of the chief constable or chief
officer of the police to report to the licensing court any licensed
premises which are out of repair, or have not reasonable accom-
modation, or proper or sufficient sanitary or drainage requirements,
and any case in which the holder of a licence shall be of drunken
habits, or shall keep a disorderly house.

Right of
entry. LXXI. Any chief constable or officer of police, or any constable
or policeman authorised in writing by the resident magistrate, chief
constable, or police officer, may, during the hours for which the
premises are licensed, enter on any such premises, and inspect and
examine every room and part of such premises, for the purpose of
reporting, as in the last preceding section is required, as to the state
and condition of the premises.

Returns
to be laid
before
Licensing
Court. LXXII. At every meeting of the licensing court, a return shall
be laid before such court by the clerk to the resident magistrate of
the district showing:

- (1) The name of every applicant for a licence, and of every
licensed person who shall, since the previous annual meeting
of the court, have been convicted of any crime or offence,
the nature of such crime or offence, and the penalty or
punishment imposed.
- (2) In case of a previous conviction within three years, the
particulars of such previous conviction.

OFFENCES.

Offences by
licensed
persons. LXXIII. The holder of any licence who shall be guilty of any
of the following acts or offences shall upon conviction be liable in
respect of each act or offence to a penalty not exceeding ten pounds:
that is to say, if he shall

- (1) Permit drunkenness, or any violent, riotous or quarrelsome
conduct to take place upon his premises.
- (2) Sell liquor to any person already in a state of intoxica-
tion or by any means encourage or incite any person to
drink liquor.

- (3) Knowingly harbour or suffer to remain on his premises any constable or policeman during any time appointed for such constable to be upon duty unless for the purpose of keeping or restoring order, or in the execution of his duty.
- (4) Suffer any unlawful game or gambling to be carried on on his premises.
- (5) Permit his premises to be a brothel, or the habitual resort or place of meeting of reputed prostitutes.
- (6) Sell or knowingly permit to be sold to any person apparently under the age of fifteen years, any description of spirits, or permit or suffer any such person to drink any such spirits upon his premises.
- (7) Keep his licensed premises open for the sale of liquor, or sell or expose any liquor for sale, during any time when he is not authorised by the licence to sell, or allow any liquors purchased before the hour of closing to be consumed on such premises.

*Repealed
by act 29
§ 1.*

And in the case of a second or subsequent conviction every such holder shall be liable to a penalty not exceeding forty pounds.

LXXIV. Every person who shall be guilty of any of the following acts or offences shall upon conviction be liable in respect of each act or offence to a penalty not exceeding twenty pounds: that is to say, if he shall

Offences generally.

- (1) Wilfully mix or cause to be mixed with any liquors any injurious, poisonous, or deleterious ingredient or material to adulterate the same for sale.
- (2) Sell, or keep or offer for sale any liquor with which any ingredient or material injurious to the health of persons drinking such liquor has been mixed.

LXXV. Any person who shall contrary to the provisions of this Act sell, deal in or dispose of intoxicating liquors without a licence, or sell or offer, or expose for sale any such liquors at any place where he is not authorised by his licence to sell the same, shall upon conviction be liable to the following penalties, that is to say:

Penalties for dealing without licence.

For the first offence a penalty not exceeding twenty-five pounds, and in default of payment being made or security given for the same, to imprisonment with or without hard labour for any period not exceeding three months unless such penalty be sooner paid or levied.

For a second offence a penalty not exceeding fifty pounds, and in default of payment or security as aforesaid being made or given, to imprisonment with or without hard labour for any period not exceeding six months, unless such penalty be sooner paid or levied.

For a third or any subsequent offence a penalty not exceeding one hundred pounds, and in default of payment or security as aforesaid being made or given, to imprisonment with or without hard labour for any period not exceeding twelve

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months, unless such penalty be sooner paid or levied ; or to both such penalty and such imprisonment.

In addition to any other penalty imposed by this section, the convicting magistrate or special justice of the peace, as the case may be, may in case of a second or subsequent conviction of any person for any offence in this section mentioned, within three years previously adjudge that such person shall, if he be the holder of a licence under this Act, or the holder of a retail shop licence, forfeit such licence, or both such licences if both be held by such person, and that the offender be disqualified from taking out any other retail shop licence during the remainder of the then current year, and also from holding any licence for the sale of intoxicating liquors for any term of years or at any time.

Cases when
licence
becomes
forfeited.

LXXVI. The holder of any retail licence or bottle licence shall be liable to forfeit such licence

- (1) If he shall permit any other person to manage, superintend, or conduct the business of the licensed premises during his absence for a longer period than one month without the consent, in writing, of the resident magistrate.
- (2) If he shall, whether present in such premises or not, permit any unlicensed person to be in effect the owner of the business of the licensed premises, unless with the consent of the licensing court.
- (3) If (being the keeper of any inn or hotel) he shall fail to provide and maintain the accommodation required according to the conditions prescribed by the licensing court granting such licence.
- (4) If (except in the case of fire, tempest, or other cause beyond his control) he shall allow the licensed premises to become ruinous or dilapidated.
- (5) If he shall permit his premises to be a brothel, or if he shall sell liquor to any person already in a state of intoxication.
- (6) If he shall be twice convicted of selling, offering or keeping for sale any adulterated liquor.
- (7) If he shall be convicted of any offence under this Act, and a previous conviction within the preceding six months of the same or any other offence under this Act shall be proved.
- (8) If he shall be convicted of any crime and sentenced to imprisonment without the option of a fine.

What
need not be
proved in
prosecutions

LXXVII. In any proceeding relative to any offence under this Act it shall not be necessary to show that any money actually passed, or that any liquor was actually consumed, if the court hearing the case be satisfied that a transaction in the nature of a sale actually took place, or that any consumption of liquor was about to take place ; and proof of consumption, or intended consumption of liquor, on licensed premises by some person other than the occupier, or a servant in such premises, shall be evidence

that such liquor was sold to the person consuming or about to consume the same by or on behalf of the holder of such licence. No 28-1883

If any vendor of ginger or other beer, soda water, lemonade, or the like drinks, not being duly licensed, shall supply liquors to mix or be taken with such drink, he shall be deemed to have sold such liquor.

LXXVIII. Any licensed person may refuse to admit to or may turn out of the premises in respect of which his licence is granted any person who is drunk, or who is violent, quarrelsome or disorderly, whether drunk or not, and any person whose presence on his premises would subject him to a penalty under this Act, and may refuse to serve any such person with liquor. Any such person, who upon being requested by such licensed person, or his agent or servant, or any constable or policeman, to quit such premises, refuses or fails to do so, shall be liable to a penalty not exceeding five pounds; and all constables or policemen are required on the demand of such licensed person, agent or servant, to expel or assist in expelling every such person from such premises, and may use such force as may be reasonably necessary for that purpose.

Who may be refused admission to licensed premises.

LXXIX. Nothing in this Act contained shall

(1) Preclude any person who is licensed to sell liquor to be consumed on the premises from selling such liquors at any time to any person lodging in his house or to any *bona fide* traveller.

Lodgers and travellers.

(2) Preclude the sale at any time at any railway station of liquors to persons arriving at or departing from such station by railroad, by any person duly licensed in that respect.

A person for the purposes of this Act shall not be deemed to be a *bona fide* traveller unless the place where he lodged during the preceding night is at least three miles distant from the place where he demands to be supplied with liquor, such distance to be calculated by the nearest public thoroughfare.

"Traveller" defined.

LXXX. Every person who, by falsely representing himself to be a traveller or a lodger, buys or obtains, or attempts to buy or obtain at any premises any liquor during the period for which such premises are to be closed under this Act or otherwise, shall upon conviction be liable to a penalty not exceeding five pounds.

False representations.

LXXXI. Where any riot or tumult occurs or is expected to occur in any place, the resident magistrate, or any two justices of the peace, may order any or every licensed person in or near such place to close his premises during any time which such magistrate or justices may see fit.

Closing during riot, &c.

LXXXII. Any person acting by order of any resident magistrate or two justices of the peace may use such force as may be necessary for closing such premises: Any person resisting or obstructing the execution of any such order, and any licensed person selling liquor in contravention of such order, shall upon conviction be liable to a penalty not exceeding fifty pounds.

Force may be used.

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Persons found on premises when seizure made, to give name and addresses.

Penalty.

LXXXIII. Any constable or member of a police force may demand the name and address of any person found on premises in which he seizes or from which he removes any liquor under the provisions of this Act, and if such person shall fail upon such demand to give his name or address, or shall give a name or address which the constable, or other person demanding the same, has reasonable grounds to believe is false, he may apprehend such person without warrant, and take him as soon as possible before a resident magistrate or justice of the peace. Any such person who fails to give his name and address when so demanded, or gives a false name or address, shall, upon conviction, be liable to a penalty not exceeding five pounds.

Evidence of being unlicensed.

LXXXIV. In any proceeding against any person for selling, or allowing to be sold, any liquors without a licence, such person shall be deemed to be unlicensed unless he shall produce his licence or give other satisfactory proof of his being licensed. The fact of any person not holding a licence having any sign or notice importing that he is licensed upon or near his premises, or having a house or premises fitted up with a bar or other place containing bottles, casks, or vessels, so displayed as to induce a reasonable belief that liquor is sold or served therein, or of there being on such premises liquor concealed, or more liquor than is reasonably required for the persons residing therein, shall be deemed *prima facie* evidence of the unlawful sale of liquor by such person.

Penalties for contravention of Act.

LXXXV. Any person convicted of contravening any of the provisions of this Act for or in respect of which no penalty is specially provided, shall be liable to a penalty not exceeding twenty pounds, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months; and when a penalty has been provided for any offence without any period of imprisonment in default of payment thereof then the person convicted of such offence shall be liable

To imprisonment with or without hard labour not exceeding one month if the penalty do not exceed five pounds; or

To imprisonment with or without hard labour not exceeding three months if the penalty exceed five pounds;

Unless such penalty be sooner paid.

JURISDICTION OF RESIDENT MAGISTRATES AND JUSTICES OF THE PEACE.

Magistrates to have jurisdiction. *as sealed by 7th Act 2.*

LXXXVI. All offences against this Act shall be cognisable before the resident magistrate, or any special justice of the peace within whose jurisdiction such offences shall have been committed, and any such resident magistrate or special justice of the peace may impose the penalties respectively by this Act provided.

Warrants to search.

LXXXVII. Any justice of the peace, if satisfied by information on oath that there is reasonable ground to believe that liquor has been or is being sold or kept for sale at any place, whether a

building or not, in which or where such liquor is not authorised to be sold, or in any vehicle, may grant a warrant under his hand by virtue whereof it shall be lawful for any constable or member of a police force at any hour within a time to be stated in such warrant, or if no time be stated, within fourteen days from the date thereof, to enter, and if need be by force, the place or vehicle named in the warrant, and every part thereof, and search for liquor therein, and to seize and remove any liquor found therein which there is reasonable ground to believe or suppose is in such place or vehicle for the purpose of unlawful sale, and the vessels containing such liquor.

LXXXVIII. In the event of any person being convicted of selling or keeping for sale any liquor which he is not authorised to sell, any liquor seized under the authority of this Act and the vessels containing such liquor shall be forfeited and sold and the proceeds thereof paid into the public treasury.

LXXXIX. The resident magistrate of any district may by an order in writing, forbid the selling of liquor to any person who shall within the space of three months have been thrice convicted of drunkenness, or, who having been twice so convicted shall also have been convicted of assault;—or

By excessive drinking of liquor misspends, wastes or lessens his estate, or greatly impairs his health, or endangers the peace of his family.

Every such order shall be in force during such time as the said magistrate may determine, not however exceeding twelve months, in the district wherein the same was granted and in any other district into which such person may remove or be. Every licensed person who shall with a knowledge of such prohibition sell to any such person any liquor, and every other person who with such knowledge shall give to, purchase or procure for such prohibited person any liquor shall on conviction be liable to a penalty not exceeding five pounds, in respect of each offence.

MISCELLANEOUS PROVISIONS.

XC. For the purposes of this Act Cape Town and the district thereof and the Cape district shall be deemed and taken to be one district.

XCI. Any licensed person being the keeper of any inn or hotel, to whom any person shall be indebted for board or lodging, or for the keep or expenses of any horse or other animal left with or standing at livery in the stables of such licensed person, shall be entitled to cause to be sold any property which may have been deposited with him or left in the house he keeps, or on the premises belonging thereto, subject to the following provisions and conditions:—

- (1) No such property shall be sold unless the same shall have been for the space of one month in the charge or possession

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Forfeiture
of seized
liquors.

Power to
forbid sell-
ing by licen-
sed persons.

Cape Town
and district
and Cape
District
one district.

Proceedings
of landlords
in regard
to persons
who have
left without
paying.

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of such licensed person without such debt being paid or satisfied.

- (2) If the address of the debtor shall be known to such licensed person, notice in writing shall be given or sent by post prepaid, informing him that unless within ten days from the date of such notice the debt be paid or satisfied, the property in question will be sold.
- (3) If the address of the debtor shall not be known, notice shall be given by advertisement in some newspaper circulating in the district at least once a week during three weeks of the intended sale.
- (4) If after the expiration of the period stated in any such notices respectively, the debt shall not be paid, the person having custody of any such property may require the messenger of the court of the resident magistrate of the district to sell such property by auction.
- (5) The messenger if so required shall make an inventory of such property, and deal therewith precisely as if such property had been property attached by legal process. Such messenger shall lodge with the clerk of the court of the resident magistrate all documents and accounts which in the case of the execution of a writ he would be required to lodge, or such as the resident magistrate may order or require.
- (6) The messenger after payment out of the proceeds of any sale of the fees and charges due to him in respect of such sale, according to the scale allowed in civil process, and upon taxation thereof by the clerk of the court, shall pay to the licensed person the amount due to him, including the cost of postage on, or of advertising any such notice, as aforesaid, and if there be any surplus such surplus shall be paid to the debtor.

When such person's property may be sold.

XCII. Any property which may have been left in charge of any such licensed person, and not reclaimed within six months, may, after notice such as is in last preceding section has been given, be sold by the messenger provided in the manner aforesaid.

Who may prosecute under the Act.

XCIII. Any person may prosecute any offender for contravening the provisions of this Act: and in any summons or information it shall be sufficient to set forth the offence charged in the words of this Act or in similar words without inserting or negating any exception, exemption, or qualification, but any such exception, exemption, or qualification may be proved by the defendant.

Half fine may go to prosecutor.

XCIV. The court before which any offence against this Act shall be prosecuted may direct that any portion not exceeding one-half of any penalty imposed and recovered, shall be paid or awarded to any person who may have given such information as shall have led to the conviction of the offender; and when any prosecution

shall have been conducted by any field-cornet one-half of the penalty imposed and recovered shall be awarded to such field-cornet as remuneration for his trouble in conducting such prosecution.

XCV. For the purposes of levying any penalty imposed under the provisions of this Act execution may be levied upon all goods and chattels found on the premises upon or in respect of which the offence shall have been committed, whether the said goods and chattels be or be not the absolute property of the person upon whom the penalty was imposed. The provisions of this section shall not apply to goods the *bona fide* property of lodgers or travellers or of persons who may leave or deposit such goods for safe custody, or convenience, or for the purpose of being worked by any handicraftsman.

Levying for penalties.

XCVI. If through any accident or omission anything required by this Act to be done is omitted to be done, or is not done within the time fixed, the Governor may order all such steps to be taken as may be necessary to rectify any error or omission, and may validate anything which may have been irregularly done in matter of form, so that the intent and purpose of this Act may have effect.

Errors which may be rectified by Governor

The Governor may also authorise the holding of a special meeting of any licensing court in the event of any emergency requiring that a special meeting should be held.

XCVII. The Governor may from time to time make, alter, and revoke regulations, not being contrary to the provisions of this Act, for regulating the proceedings and meetings of licensing courts, prescribing the forms of licences, notices and other documents to be used, and generally for the more efficient administration of this Act.

Governor may frame regulations for Licensing Court.

XCVIII. This Act shall come into operation on the first day of January, one thousand eight hundred and eighty-four, and may be cited as the "Liquor Licensing Act, 1883."

When Act to come into force.

Short Title

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

Number and Year.	TITLE.	Extent of Repeal.
No. 6, 1844.	Ordinance for regulating Sales by Auction.	The Eleventh Section.
No. 9, 1851.	Ordinance for the better regulation of the Sale of Wines and Spirituous and Fermented Liquors.	
No. 10, 1860.	An Act to make better provision for the granting and withholding of Licences to Sell Wines and Spirituous and other Liquors.	
No. 2, 1868.	The Retail Wines and Spirits Act, 1868.	The whole.
No. 8, 1875.	The "Wines and Spirits Act, 1875."	
No. 11 of 1876.	An Act to amend the Law relating to the Sale of Wines and certain other Liquors by Auctioneers.	
GRIQUALAND WEST.		
No. 16 of 1879.	Ordinance for consolidating and amending the Laws relating to the Sale of Intoxicating Liquors.	
No. 19 of 1880.	"Liquor Law of 1879 Amendment Ordinance, 1880."	

THE SECOND SCHEDULE.

Sums payable for or in respect of Licences granted or renewed, and privileges allowed under the "Liquor Licensing Act, 1883."

1. For a Wholesale Licence, to endure for one year from the date of issue thereof Thirty pounds.
2. For a Retail Licence at any Railway Restaurant, to endure for one year from date of issue thereof Thirty pounds.
3. For a Retail Licence for a Refreshment Room at a Theatre, to endure for one year from the date of issue thereof Fifteen pounds.
4. For a Club Licence to endure for one year from date of issue thereof Eighteen pounds.
5. For a Bottle Licence for one year, ending on the last day of March, or for the renewal thereof Thirty pounds.
6. For a Bottle Licence for six months, ending on the last day of March, after the issue thereof Fifteen pounds.

7. For a Retail Licence for one year, ending on the last day of March, and for a renewal of any such licence, if issued in respect of any place or premises :
 - (1) Within any municipality, or within five miles of the limits of a municipality Forty pounds.
 - (2) Not within any municipality, or within such limits Thirty pounds.
8. For a Retail Licence for six months ending on the last day of March after the issue thereof, half the sum payable for such licence for a year
9. For the allowance of midnight privileges an additional sum of Five pounds.
10. For the allowance of Sunday privileges an additional sum of Five pounds.
11. For the removal of a Licence to other premises Two pounds.
12. For the transference of a Licence to a person other than the person to whom the Licence was granted Two pounds.
13. A Temporary Licence—A sum to be fixed by the Resident Magistrate authorising the issue thereof, not being less per diem than Ten shillings.

THE THIRD SCHEDULE.

A.

Form of Memorial of Registered Voters objecting to an increase in the number of licensed premises.

To the Licensing Court for the district of

We, the undersigned, registered Voters residing within the limits of the [*Field-cornetcy, Municipality, or other area, describing it*] of do hereby object to the increase of the number of licensed premises or the sale of liquor within the said [*field-cornetcy, or as the case may be*] under any Retail Licence [or Bottle Licence, or if the objection be to the increase of both descriptions of licence, describe both].

SIGNATURES.

Names in full.	Places of Residence.

B.

Declaration to be made by the person collecting signatures to a Memorial.

I, A. B., of, do hereby declare that the persons whose names appear upon the above (or annexed) Memorial marked A. signed the said Memorial in my presence; that such persons are respectively resident within the limits of the field-cornetcy (*or as the case may be*) of, and that the names of such persons appear upon the list of registered voters for the District of

A. B.

Witness :
C. D.

x x 2

No. 29—1883

No. 29—1883.]

ACT

[September 27, 1883.

Spent.

To apply a sum of Money for the service of the year ending the 30th day of June, 1884.

BE it enacted by 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 £2,073,122.

I. The public revenue of the Colony is hereby charged towards the service of the year ending the 30th day of June, 1884, with a sum of two million and seventy-five thousand one hundred and twenty-two pounds sterling, in addition to the sum of four hundred thousand pounds sterling, provided for by the Act No. 1 of 1883.

To be applied as in Schedule.

II. 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 and Supplementary Estimates of the expenditure for the year ending 30th June, 1884, with the notes to such estimates submitted to and approved by Parliament.

And to no other purposes.

III. 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.

Members' expenses, &c., for present session provided for.

IV. It shall be lawful to pay personal and travelling allowances to members of the Legislative Council and House of Assembly in respect of the present ordinary session of Parliament, in accordance with the provisions of the ninetieth section of the Constitution Ordinance, as amended by the first section of the Act No. 6 of 1879, precisely as if no such payments had been made in respect of the special session of Parliament already held during the present calendar year.

Short Title.

V. This Act may be cited for all purposes as the "Appropriation Act, 1883."

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	638,857	577,541	1,216,398	1,108,399
II. Ministerial Department of Treasurer of the Colony	50,258	1,129,532	1,179,790	9,279
III. Ministerial Department of Attorney-General	40,610	15,275	55,885	42,330
IV. Ministerial Department of Commissioner of Crown Lands and Public Works	116,056	1,157,352	1,273,408	1,251,718
V. Ministerial Department of Secretary for Native Affairs	73,032	8,907	81,939	63,396
Grand Totals ..	918,813	2,888,607	3,807,420	2,475,122
Less amount provided for by Act No. 1 of 1883 ..	..	..	..	400,000
Total required to be voted ..	..	..	..	2,075,122

No. 30—1883.] ACT [September 27, 1883.

To Regulate the Erection and Maintenance of Dividing Fences.

Repealed by Act 17/12/81

WHEREAS it is expedient that the erection and maintenance of dividing fences between adjoining properties should be regulated: Be it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Preamble.

PRELIMINARY.

- I. In this Act, if not inconsistent with the context,
 - “To repair” shall include to trim, keep and maintain a live fence or ditch or part thereof.
 - “Occupier” shall include any person, company, co-partnership, or public body in actual occupation of, or entitled as owner to occupy any land alienated from the Crown.

Interpretation Clause.

No. 30—1883

“Dividing Fence” shall mean a fence separating the lands of different occupiers, of a kind which such occupiers may agree upon, or in the event of disagreement, which may be settled by arbitration.

Exemption of Crown Lands.

II. This Act shall not apply to any Crown land not alienated, nor shall the public treasury be liable to make any contribution towards the construction or repair of any dividing fence between the land of any occupier and any Crown land.

“Lands and Arbitration Clauses Act, 1882,” incorporated.

III. For the purposes of any arbitration under the provisions of this Act, the provisions of the “Lands and Arbitration Clauses Act, 1882,” are hereby incorporated.

PART I.—PROVISIONS APPLICABLE TO PROCLAIMED DIVISIONS.

Act in force where Governor may proclaim.

IV. The provisions of this part of this Act shall be in operation in such divisions or field-cornetcies as the Governor shall by Proclamation prescribe: and from a date to be by such Proclamation fixed and appointed.

Governor may suspend Act when requested by any Divisional Council.

V. If the Divisional Council of any division shall by resolution request the Governor to suspend the operation of this Act within such division or any field-cornetcy therein, the Governor may suspend this Act accordingly: And if such council shall by resolution request the Governor to bring this Act again into operation the Governor may bring it into operation accordingly: Provided that no such resolution shall be proposed until notice of the intention to propose the same shall have been given at an ordinary meeting of the council previously held, and until such notice shall have been published in the newspaper in which the notices of the council are usually published at least once a week during three weeks.

Fence between lands of different occupiers to be at cost of each.

VI. The occupiers of adjoining lands not divided by a sufficient fence shall be liable to join in or contribute to the construction of a dividing fence between such lands, in such proportions as may be agreed upon between them, or in default of agreement in the proportions to be settled by arbitration.

Notice to any person required to contribute towards making fence.

VII. Any person desiring any other person to contribute to the construction of a dividing fence under the provisions of this Act may serve on such person a notice in writing to fence, which shall specify the boundary to be fenced, and the kind of fence proposed to be constructed, and shall contain a proposal for fencing the same. If within three months after the service of any notice to fence, the person serving and the person served with such notice do not agree as to the kind of fence to be erected and the position thereof, and what proportion of the expense of constructing the same is to be contributed by them respectively, any of such matters as to which there shall be no agreement, shall be settled by arbitration. In making any award, the arbitrator or arbitrators shall be guided as to which kind of fence such arbitrator or arbitrators shall order or award to be constructed, by the kind of fence, if any, usually constructed in the place where it is proposed to erect such fence.

Arbitration provided for.

VIII. If the person serving and the person served with such notice agree as to the matters aforesaid relating to the construction of such fence, or if, in default of such agreement, an arbitrator or arbitrators is or are appointed and make an award, and in either case either of such persons fail within the time named in that behalf in such agreement or award, or, if no such time be named, within six months after the date of such agreement or award, to perform his part of such agreement or to comply with such award, then the other of such persons may construct the whole fence as agreed upon or prescribed by such agreement or award, and may recover such part of the cost of constructing the same as may have to be contributed by the other of such persons in any court of competent jurisdiction.

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 In case of refusal to comply with Award, &c.

IX. If any person shall be called upon under this Act to join in or contribute to the construction of any dividing fence, and such person shall be unable or unwilling, sooner or otherwise, to pay the amount or any part thereof, which he shall be or become liable to pay, and shall, within one month after the amount which he is liable to pay shall have been fixed, give notice to the person calling upon him to join or contribute as aforesaid, that he desires to pay such amount by instalments as hereafter mentioned, the amount payable by such person, or such part thereof as he shall not be willing to pay sooner or otherwise as aforesaid, together with interest thereon at the rate of six per centum per annum, shall be paid by such person by equal yearly instalments, such instalments to be so calculated and fixed that the said capital sum and interest shall be wholly paid off in a period of fifteen years from the date which he shall have given such notice as aforesaid, as more particularly shown in the first schedule: Provided that notwithstanding such notice, and the payment of any instalment as aforesaid, it shall be lawful for any such person at any time during the said fifteen years, to pay the value at that time of the unpaid instalments in one sum, as shown in the second schedule.

When contributions may be paid by instalments.

X. When the occupier of any land is absent from the colony or cannot be found or any land is unoccupied, the occupier of any adjoining land shall insert in the *Gazette*, and in a newspaper (if any) published or circulating in the district in which such land is situated, at least once a month during six consecutive months, a notice addressed to the occupier of such land, describing him as the occupier of such land, requiring him to contribute to the construction of a fence, and may then proceed *ex parte* to obtain from the resident magistrate of the district an order authorising the construction of such fence, and specifying the kind of fence to be constructed, and the position thereof, and may construct a fence in compliance with such order; and if afterwards during the continuance of such fence, any person shall go into occupation of such adjoining land, he may, within one month thereafter, serve any person who, if such fence were not in exist-

Proceedings in case of absent owners.

No. 30—1883 ———
 ence, would be liable to contribute to the construction of a fence in the place thereof, with a copy of such order, and shall, after the expiration of one month from the date of such service, be entitled to recover one-half the then value of such fence; but if such order so made *ex parte* be deemed by such person to be inequitable, he may require the matter in question to be settled by arbitration.

Tenant to pay interest on cost of fences.

XI. When any fence is constructed under the provisions of this Act dividing any lands held by any person as tenant of any landlord from any adjoining lands, such tenant shall pay yearly during the continuance of his lease the interest, calculated at six per cent. per annum, upon one-half of the cost of such construction: Provided, however, that no tenant whose unexpired term of lease does not exceed one year shall be liable to pay any such interest.

Tenant, with right to purchase, to pay cost of fence in addition to purchase money.

XII. Any tenant having a right to purchase any land occupied by him at a fixed rate, shall, on the completion of the purchase, pay to his landlord, in augmentation and as part of the purchase-money, any sum paid by such landlord under the last preceding section, together with any interest upon such sum as the tenant shall not previously have paid to his landlord.

Repairs.

XIII. When any dividing fence made or to be made shall be out of repair or become insufficient, the occupiers of land on either side thereof shall be liable to the cost of repairing such fence, in the same proportion that the occupiers contributed, or were liable to contribute, towards the cost of constructing the same.

Notice of repairs to occupier of adjoining land.

XIV. The occupier of any land separated from any adjoining land by a dividing fence may serve a notice upon the occupier of such adjoining land, requiring him to assist in repairing such fence, and if such occupier shall refuse or neglect for the space of one week after the service of such notice to assist in repairing such fence, it shall be lawful for such first-mentioned occupier to repair such fence and to demand and recover of and from such occupier his portion of the cost of repairing the same, as provided for construction: Provided that, if any dividing fence, or any portion thereof, shall be destroyed by accident, the occupier of land on either side may immediately repair the same without notice, and shall be entitled to recover his proportion of the expense as above provided for from the occupier of the adjoining land: Provided that in case such dividing fence shall have been destroyed by fire, or by the falling of any tree, or by the trespass of any cattle, the occupier through whose neglect (if any) such fire shall have originated, or have caused injury to the fence, or such tree shall have fallen, or such cattle shall have caused such injury, shall be liable to repair the entire of the fence so damaged as aforesaid.

Mutual rights of recovery of moneys under this Act.

XV. All moneys recoverable under this Act, in respect of the construction or repairing of any fence by any person serving any notice to fence or repair, or under any *ex parte* order or award, may be recoverable from any person liable to contribute to the cost

of constructing or repairing such fence who is served with notice to fence or repair, or with such *ex parte* order or award, or any person who may come in and defend under the provisions of this Act any proceedings consequent on such notice, or the service of such order or award; and all such moneys recoverable by any person served with such notice may be recovered from the person serving the same, or any person liable to contribute to the construction or repair of such fence as tenant of whom the person serving such notice may hold the lands bounded by such fence.

XVI. Nothing in this part of this Act contained shall be deemed to affect any substantial fence already erected at the time of the coming into operation of this Act.

Act not to apply to existing fences.

PART II.—PROVISIONS APPLICABLE TO THE COLONY.

XVII. The provisions of this part of this Act shall be in operation throughout the Colony.

Part II applicable to whole Colony.

XVIII. If the occupier of any land shall have erected or hereafter erect, a fence on the boundary of his land, and any other person shall adopt any means by which such fence shall be rendered of beneficial use to himself, and shall avail himself of such fence or portion thereof, such person shall be liable to pay to the occupier of the land whereon such fence is erected, interest on half the then value of so much of such fence as such person shall use or avail himself of, at the rate of six pounds per centum per annum, for so long a period as he shall continue to use or avail himself of such fence; and shall also, so long as aforesaid, be liable for one-half the cost of repairs of so much of such fence as aforesaid.

Person using another one's fence to pay interest on half its cost.

XIX. Where a fence is erected on the boundary of any land, and any adjoining land is at the time of the erection of such fence Crown Land excepted from the application of this Act, then the occupier thereafter of such adjoining Crown Land shall, within six months after a demand in writing made upon him, pay to the occupier of the land upon which, or the boundary of which such fence was erected, a reasonable portion, not exceeding one-half of the then value of such fence: And if any difference shall arise as to the amount to be paid, such difference shall be settled by arbitration.

When fence divides land from Crown Land subsequent occupier of latter to pay a portion of the cost.

XX. Where any fence is to be erected on land covered with bush, the person erecting such fence shall be entitled to clear the bush for a width not exceeding six feet on each side of such fence, and may remove any tree standing in the immediate line of any such fence: and the cost of such clearing shall be added to and form part of the cost of the erection of such fence, and in case the person erecting such fence shall be entitled to recover in respect of such cost of erection from any other person, the cost of such clearing shall be apportioned accordingly.

Bush may be cleared for fencing.

No. 30--1853

Soil may be used in making ditch and bank fence.

Posts, rails, &c.

Proviso when river is the boundary between lands.

Damages against person neglecting to clear inflammable matter from boundary line.

Right of way to construct fences.

XXI. The occupier of any land may, in making a ditch and bank fence dividing his land from any adjoining land, make a ditch on such adjoining land (Crown Land inclusive), and use the soil taken therefrom towards making a bank, or he may make the ditch in his own land, and place the bank on such adjoining land.

Where a dividing fence is made of posts and rails, or wire, or palings, the posts of such fence shall, as nearly as may be, be placed on the boundary line.

XXII. When a river, creek, or natural water-course forms the boundary of contiguous lands, but is not capable of resisting the trespass of animals liable to be impounded, it shall be competent for the occupiers of such contiguous lands to agree upon such a line of fence on either side of such river, creek, or natural water-course as shall secure such fence from the action of floods, and in the event of their not agreeing upon such a line of fence, the line of fence to be erected, and whether any and what compensation in the shape of an annual payment shall be paid to either of the parties occupying such contiguous lands in consideration of loss of occupation of land shall be settled by arbitration: Provided that the occupation of lands on either side of such line of fence shall not be deemed adverse possession, and shall not affect the title to or possession of any such lands, save for the purposes of this Act.

XXIII. If the occupier of any land shall clear the same of inflammable materials for the space of fifteen feet from any fence dividing such land from the land of any other occupier, and such other occupier shall neglect or omit so to clear his land, and any damage from fire shall happen to such dividing fence through such neglect or omission, the occupier so neglecting or omitting to clear shall, at his own cost and charge, cause such fence to be repaired and re-erected within the space of one month after the same shall have been so damaged, and in case he shall refuse or omit to repair or re-erect the said fence within such space of one month, it shall be lawful for the occupier of the land contiguous to the said fence who shall have cleared the same of inflammable material as aforesaid to repair or re-erect such dividing fence, and all sums of money which shall or may be so expended or laid out under the provisions of this section shall be deemed and taken to be money paid to the use of the occupier in default: Provided that nothing herein shall be deemed to take away or interfere with the right of any person to sue for and recover compensation for or in respect of any damage or injury to any fence occasioned by the reckless or negligent use of fire.

XXIV. Every person engaged in constructing or repairing a fence under this Act, his agents and servants, may, if there be no available access thereto over the land of such person, with or without cattle, carts or other vehicles, at all reasonable times during such construction or repairing, enter upon the contiguous lands,

and do thereupon such acts, matters, and things as are necessary or reasonably required to carry into effect the construction or repairing of such fence: Provided that nothing herein contained shall authorise the entry for the purposes aforesaid upon any land in cultivation or in or upon any garden, plantation, or pleasure ground without the consent of the owner; or shall authorise any person to cut down, lop, or injure any fruit or ornamental tree or shrub without such consent.

XXV. In case any dividing fence made under the provisions of this Act shall cross any public or private road, there shall be a swing gate erected at such crossing in lieu of a fence; and such gate shall be of such size and description as the divisional council of the division shall fix and determine; and the provisions of this Act shall apply to such gate as if it were part of such fence, and it shall be lawful for such divisional council to make such regulations as to the erection of any such gate as to it may seem fit.

XXVI. Any person may come in and defend any proceeding under this Act, against any tenant of such person, in consequence of which such person may ultimately incur any liability; and any defence which the person originally proceeded against might set up shall be available to the person so coming in to defend.

XXVII. Proceedings for orders and for the recovery of sums of money may be taken before the court of the resident magistrate of the district in which the defendant resides in respect of questions arising between occupiers of property liable to the provisions of this Act, notwithstanding that the decision of any such question shall be beyond the ordinary jurisdiction of such resident magistrate.

XXVIII. Nothing in this Act contained shall be deemed or taken to affect any covenant, contract, or agreement made, or hereafter to be made, relative to fencing between landlord and tenant, or between occupiers of adjoining land.

XXIX. This Act may be cited as "The Fencing Act, 1883."

No. 30—1883

THE FIRST SCHEDULE.

Table of equal instalments payable at the end of each year for fifteen years, corresponding to amounts payable under the ninth section of this Act.

Amount payable.			Equivalent Instalments payable at the end of each year for fifteen years.		
£1	£0	2 1
2	0	4 1
3	0	6 2
4	0	8 3
5	0	10 4
6	0	12 4
7	0	14 5
8	0	16 6
9	0	18 6
10	1	0 7
20	2	1 2
30	3	1 9
40	4	2 4
50	5	3 0
60	6	3 7
70	7	4 2
80	8	4 9
90	9	5 4
100	10	5 11
200	20	11 10
300	30	17 9
400	41	3 8
500	51	9 8
600	61	15 7
700	72	1 6
800	82	7 5
900	92	13 4
1000	102	19 3
2000	205	18 6
3000	308	17 9
4000	411	17 0
5000	514	16 3

NOTE.—Yearly instalments for any sum not mentioned in this table, such as £2,345 may be obtained as follows:—

£2,000	gives	£205	18	6
300	„	30	17	9
40	„	4	2	4
5	„	0	10	4
Therefore £2,345	„	£241	8	11

THE SECOND SCHEDULE.

No. 31—1883

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

Number of Instalments, £100 each.		Aggregate Value.
1	.. ..	£100 0 0
2	.. ..	194 6 10
3	.. ..	283 6 9
4	.. ..	367 6 0
5	.. ..	446 10 3
6	.. ..	521 4 9
7	.. ..	591 14 8
8	.. ..	658 4 9
9	.. ..	720 19 7
10	.. ..	780 3 5
11	.. ..	836 0 2
12	.. ..	888 13 9
13	.. ..	938 7 8
14	.. ..	985 5 4
15	.. ..	1029 10 0

NOTE.—The aggregate value of instalments of any other amount may be readily obtained from the above table, by simple proportion.

*Value
act 13/12 84
act 14/12 1883*

No. 31—1883.] ACT [September 27, 1883.

To make further Provision for the Regulation of Police, and to Fix the Amount to be contributed by the Municipality of Cape Town for Police purposes.

WHEREAS it is expedient to make further provision for the regulation of police and to increase the amount to be contributed by the Town Council of Cape Town towards the annual cost of the police required for the municipality of Cape 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:—

I. The laws mentioned in the schedule hereto to the extent to which the same are therein expressed to be repealed, shall be and the same are hereby repealed.

II. The several powers and authorities vested in the Resident Magistrate of Cape Town and the district thereof and the Cape district by the third section of the Act No. 11, 1860, intituled "An Act for abolishing the Offices of Judge and Superintendent of Police of Cape Town, and Deputy Superintendent of Police of Cape Town," are hereby vested in the Commissioner of Police for the police district comprising the divisions of the Cape (including Cape Town) and Simon's Town: Provided that the Governor may vest such powers and authorities in such other officer or person as

Preamble.

Repeal of repugnant laws.

Powers given to Resident Magistrate under Act 11 of 1860, transferred to Commissioner of police.

No. 31—1883 to him shall seem fit, and thereupon the powers of the Commissioner of Police shall cease.

Such Commissioner may never-theless prosecute before Magistrate. III. Nothing in this Act contained shall prevent any such commissioner or other person from prosecuting any case which might be determined by himself before the court of the resident magistrate of any district in which the offence was committed, or in which the offender shall be.

Half the cost of Cape Town Police to be paid by Town Council. IV. The Town Council for the time being of the city of Cape Town shall pay over yearly on or before the thirty-first day of March one half part or share of the expense incurred for the maintenance of the police required for the purposes of the municipality of Cape Town in lieu and instead of the proportion of one-fourth mentioned in the forty-seventh section of the "Cape Town Municipality Act, 1882." Provided the yearly sum to be paid shall not exceed four thousand pounds.

Items in second Schedule. V. The items which shall for the purpose of such contribution as aforesaid be included in the expense of the police force shall be such as are included in the second schedule, and the said Town Council shall not be liable to contribute towards any further charge which may be incurred for or in respect of the said police or of any additional police engaged hereafter without the concurrence of the said Town Council.

Amendment of Police Regulation Act, 1882. VI. The word "last-mentioned" occurring between the words "such" and "person" in the thirty-first section of the "Police Regulation Act, 1882," shall be omitted, and the word "first-mentioned" there inserted: and the said section shall be read and construed as so amended.

Short Title. VII. The short title of this Act shall be the "Police Regulation Act, 1883."

FIRST SCHEDULE.

L A W S R E P E A L E D .

No. and date.	Title.	Extent of Repeal.
Ordinance No. 2, 1840.	"For improving the Executive Police of Cape Town and the district thereof, for defining the powers and duties of the said Police in certain cases, and for promoting the peace and good order of the said Town."	So much as may be repugnant to or inconsistent with this Act.
Act No. 22, 1858.	To fix the amount to be contributed by the Municipality of Cape Town towards the Expense of the Executive Police of Cape Town.	The second, third, fourth, and fifth sections.
Act No. 11, 1860.	"For abolishing the offices of Judge and Superintendent of Police of Cape Town, and Deputy Superintendent of Police of Cape Town."	The third Section.
Act No. 44, 1882.	"Cape Town Municipality Act, 1882."	The forty-seventh and forty-eighth Sections.

SECOND SCHEDULE.

No. 32--1883

Police Force for the City of Cape Town, in respect whereof the Town Council of Cape Town is liable to contribute in terms of the "Police Regulation Act, 1883 :"

One Inspector,
Four Sub-Inspectors,
Five Sergeants,
One Detective,
Sixty-seven Constables,
Clothing and Accoutrements,
Forage,
Remounts,
Medicines,
Miscellaneous.

No. 32—1883.]

ACT

[September 27, 1883. *See 1908 Act. Sec. 5a.*

To Provide for the Repression of Thefts of Ostrich Feathers and of Skins. *See 1909 Act! Sec. 4.*

WHEREAS the Theft of Ostrich Feathers prevails extensively throughout the Colony and is increasing, and whereas the Theft of Skins is also prevalent, and it is desirable to repress such crimes: 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.

I. It shall not be lawful for any person to deal as a buyer of ostrich feathers for purposes of trade unless such person shall have obtained a licence so to deal: Provided, however, that this prohibition shall not apply to any person purchasing ostrich feathers at any public sale. Such licence shall be in the form A., set forth in the schedule to this Act.

Buyers of Ostrich Feathers to be licensed.

II. Every purchaser of ostrich feathers under a licence as in the last preceding section provided, shall keep a book in which he shall forthwith enter, or cause to be entered, as to ostrich feathers purchased by him

To keep special book. Entries therein.

- (a) The date of the purchase of such feathers.
- (b) The number, or weight, and description of feathers purchased.
- (c) The name, residence, and occupation of the vendor.
- (d) The price given.
- (e) What has satisfied the purchaser that the vendor had a right to sell such feathers.

Such entry shall be in the form B., set forth in the schedule to this Act, and such book may be inspected free of charge at all reasonable times by written order of any Resident Magistrate, Justice of the Peace, or Field-cornet.

Form in Schedule.

No. 32—1883

Penalty for contravening the above.

III. Any person who shall without a licence buy ostrich feathers for purposes of trade, as in the first section of this Act mentioned, or any person buying ostrich feathers, who shall neglect to make entries with reference thereto in a book kept for that purpose as provided in the last preceding section, or any person who shall refuse to allow the production and inspection of such book, shall be liable upon conviction to a penalty of not exceeding Twenty-five Pounds, and in default of payment of the same to imprisonment with or without hard labour for any period not exceeding six months.

See
908
201-39
Lic. 5/4-1

Licence £5. Penalty for contravention of section I.

IV. There shall be payable annually the sum of ^{Five} Pounds for the licence in the first section of this Act mentioned: and every person contravening such section shall on conviction before any competent court be liable to a fine of not exceeding 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.

Lic.

Suspected persons may be apprehended without warrant.

Repealed by
893 Act-35.

Penalty for possession of feathers not properly accounted for.

V. If there be reasonable grounds to believe that any person is or has been in unlawful possession of ostrich feathers, it shall be competent for any Justice of the Peace, Field-cornet, Landholder or Police Constable to apprehend such person without warrant and to convey him in custody before any Resident Magistrate having jurisdiction, and if it be found that he is or has been in possession of ostrich feathers, and is not able to give a satisfactory account of his possession of such feathers to such Magistrate he shall on conviction be liable to pay a fine of not exceeding Two Hundred Pounds, or to be imprisoned with or without hard labour, for any period not exceeding two years, or to both such fine and such imprisonment.

Persons with hides and skins not properly accounted for.

Penalty.

VI. If any person is found conveying any skin or hide, and on being questioned thereto, is unable to give a satisfactory account of his possession of such skin or hide, it shall be lawful for any Justice of the Peace, Field-cornet, Landholder or Police Constable to apprehend such person without warrant and to convey him before any Magistrate having jurisdiction, and upon conviction such person shall be liable to pay a fine of not exceeding One Hundred Pounds, or to be imprisoned with or without hard labour for not exceeding twelve months, or to both such fine and such imprisonment.

Penalty for wrongful &c. arrest.

VII. 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. No. 33—1883

VIII. This Act may be cited as the "Ostrich Feathers and Skins Theft Repression Act, 1883." short title.

SCHEDULES.

[A.]

Form of Ostrich Feather Buyer's Licence.

I,, Distributer of Stamps in....., on this.....day of....., 188.., do hereby certify that is authorised to carry on the Trade of a Buyer of Ostrich Feathers for One Year, ending on the, 188.., and no longer.

.....
Distributor.

[B.]

Form of Entry to be kept by Licensed Buyer.

Register of Ostrich Feathers purchased by....., a Licensed Buyer.

188

Date of Purchase of Feathers.	Number or Weight and Description.	Name, Residence, and Occupation of the Vendor.	Price Given.	What has satisfied the Purchaser that the Vendor had a right to sell such Feathers.

No. 33—1883.] ACT [September 27, 1883.

To Provide for the Holding of Inquests in cases of Fire.

WHEREAS it is expedient to make provision for conducting investigations and holding inquests in cases of Fire: Be it therefore enacted by the Governor of the Cape of Good Hope, Preamble.

z z

No. 33—1883 with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:—

Interpreta-
tion clause. I. In the interpretation of this Act, unless repugnant to the context,

“Inquest” or “Fire Inquest” shall mean an inquest or enquiry under the provisions of this Act.

“Magistrate” shall mean any Resident Magistrate or Justice of the Peace.

Inquest in
case of fire
under sus-
picious cir-
cumstances. II. If any fire shall occur whereby any house or building or any property shall be destroyed or injured, and such information shall be given as to satisfy any Magistrate that there are reasonable grounds for believing that such fire originated under suspicious circumstances, an inquest shall be held.

Magistrate
to proceed to
place of fire
and hold
inquest. III. Any Magistrate receiving such information as in the last preceding section mentioned shall, without unnecessary delay, proceed to the spot where the fire occurred, and shall make an inquest as to the cause or origin of such fire, and as to the nature or extent of the damage and injury which it has occasioned.

May sum-
mon anyone
to give
evidence. IV. For the purpose of making such inquest, the Magistrate shall summon and bring before him all such persons as he may think necessary, and whom he deems capable of giving information or evidence concerning such fire, and shall examine such persons on oath, and shall reduce their examinations to writing.

Penalty for
non-atten-
dance of
witnesses. V. If any person summoned as a witness shall not attend pursuant to such summons, then such person so making default shall, unless some reasonable excuse be proved by oath or affidavit, be liable to be fined by the Magistrate issuing such summons such sum, not exceeding ten pounds, as such Magistrate shall think fit, and such Magistrate may issue his warrant for the apprehension of such person so making default.

Oaths to
be admin-
istered. VI. The Magistrate presiding at any inquest shall administer to the persons appearing to give evidence such oaths or other solemn forms as *mutatis mutandis* are in use in criminal cases; and the forms of summonses and of warrants of apprehension set forth in the Schedule to this Act shall, as near as may be, be used in all matters to which such forms refer.

Contempts. VII. All contempts committed by witnesses or others before or in regard to any inquest, shall be dealt with in like manner, *mutatis mutandis*, as contempts committed by witnesses and others before any Resident Magistrate's Court.

Power to
issue war-
rant of ap-
prehension. VIII. Nothing in this Act contained shall prevent any person authorised by law to issue warrants of apprehension or authorised to apprehend offenders or supposed offenders from acting in all respects as regards such warrants or such offenders, whether an inquest shall or shall not have been commenced, precisely as if this Act had not been passed.

Witnesses'
Expenses. IX. All witnesses summoned or attending to give evidence before any fire inquest shall be entitled to receive their expenses as

if summoned to give evidence at a criminal trial or preparatory examination. No. 33—1883

X. If the Magistrate upon any such inquest shall see reason to believe that any crime or offence has been committed in connection with such fire by any person who can be made amenable to justice, the Magistrate shall cause such person to be apprehended in order that a preparatory examination may be instituted against him. Magistrate may commit suspected person for trial.

XI. At the close of such inquest the Magistrate shall report in writing to the Attorney-General, or in the districts over which the court of the eastern districts or the high court of Griqualand exercises jurisdiction, to the Solicitor-General or Crown Prosecutor, as the case may be, as to the cause or origin of the said fire, whether in his opinion it was kindled by design or was the result of accident or negligence, stating the full particulars of the case and the conclusions at which he shall in regard to it have arrived. Reports of inquests, &c., to be transmitted to Attorney-General.

XII. In case upon any such inquest it shall appear that there were reasonable or probable grounds for suspecting or believing that the fire originated under such circumstances as to tend to the inference that it was wilfully or criminally occasioned the expense of the inquest shall be paid by the public treasury; if otherwise such expense shall be paid by the person requiring or demanding the holding of the inquest. How expenses of inquests be paid

The certificate of the Attorney-General, Solicitor-General or Crown Prosecutor, as the case may be, as to the liability for the payment of such expense by the treasury or by any such person shall be final and conclusive.

XIII. Any Magistrate called upon to hold an inquest may require the person demanding the same to deposit a sum of money or to enter into a recognizance with or without sureties for the due payment of the expense of holding such inquest in case such person shall thereafter be required to pay such expenses. Magistrate may require deposit from person demanding inquest.

XIV. In case any action shall be brought upon or in respect of any policy of insurance against risk of fire, and the court before which such action is tried shall determine that the plaintiff is not entitled to recover upon such policy by reason of fraud or other sufficient ground, it shall be competent for such court if it shall see fit to order that the expenses incurred in the holding of any inquest into the origin or cause of the fire (if such inquest shall have been held), shall be deemed and taken to be part of the costs to be paid by the plaintiff against whom costs shall have been adjudged. In actions on policies of insurance failing for fraud, &c, costs of inquest may be given against the plaintiff.

XV. This Act may be cited as the "Fire Inquests Act, 1883." Short Title.

SCHEDULE.

FORM OF PROCESS FOR SUMMONING WITNESSES.

Fire Inquest for the District of _____ .

To _____ (name of the constable or person to whom the process is directed). You are hereby required in Her Majesty's name to summon _____ A. B. (describe him particularly) that he appear before me at _____, on the _____ day of _____, 18—, at the hour of — in the ^{fore} } noon (as the case may be),
_{after} }
 then and there to be examined at an inquest concerning a fire which occurred at _____ on _____ (state the place and time). Therein fail not at your peril.

Dated at _____, this _____ day of _____, 18—.

Resident Magistrate or Justice of the Peace.

FORM OF WARRANT FOR APPREHENSION OF A DEFAULTING WITNESS.

Fire Inquest for the District of _____ .

To _____ (name of person to whom the process is directed), and constables and other officers of the law proper to the execution of criminal warrants.

Whereas A. B., of _____ (describe him particularly as in the summons) who was duly summoned to appear before me at _____ (name the place as in the summons) then and there to be examined at an Inquest concerning a Fire which occurred at _____, on _____ (stating the place and time), hath refused or neglected so to do to the great delay and hindrance of justice, these are therefore in Her Majesty's name to command you to apprehend and bring before me the body of the said A. B., that he be dealt with according to law: and for so doing this shall be your warrant.

Dated at _____, this _____ day of _____, 18—.

Resident Magistrate or Justice of the Peace.

No. 34—1883.]

ACT *

No. 34—1883

To Provide for the Disannexation of Basutoland from the Colony of the Cape of Good Hope.

WHEREAS it is desirable that Basutoland should cease to form part of the Colony of the Cape of Good Hope ; and whereas Her Majesty's Imperial Government has expressed its willingness to provide for the future Government of Basutoland upon certain conditions ; and whereas it is expedient that due provision should be made for relieving this Colony from all responsibility for or in connection with the Government of Basutoland : Be it enacted by 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.

I. The Act No. 12, 1871, intituled " An Act for the Annexation to the Colony of the Cape of Good Hope of the Territory inhabited by the tribe of people called Basutos," shall be and the same is hereby repealed.

Repeal of Act No. 12, 1871.

II. From and after the taking effect of this Act, there shall be paid annually to Her Majesty's High Commissioner, or such other officer as Her Majesty may be pleased to appoint in that behalf, as a contribution towards any deficiency that may arise in the revenues of the Government of Basutoland, out of the public revenue of this Colony, such sum, not exceeding twenty thousand pounds, as may be hereafter from time to time agreed upon by and between Her Majesty's Imperial Government and the Government of this Colony.

Annual contribution, not exceeding £20,000, towards any deficiency in the revenues of Basutoland.

III. This Act shall come into operation when the Governor shall by Proclamation declare that Her Majesty has been pleased to allow and confirm the same.

To come into operation by Proclamation.

IV. The short title of this Act shall be "The Basutoland Disannexation Act, 1883."

Short Title.

* Reserved for the signification of Her Majesty's pleasure.

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* Not in force as regards Transvaal; the proclamation required by the 15th section not having yet been published, Jan., '84. [Ed.]

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ORDINANCES.		
Charter of Justice.....	So much as is repugnant or inconsistent and Sections 42 and 43..	No. 5 of 1879, and No. 40 of 1882.
Constitution Ordinance...	So much as is repugnant; so much of Section 89 as limits use of English language; so much of Section 65 as relates to procedure upon Petition against Member's return; so much of Section 73 as may be repugnant to Act 9 of 1883; the proviso to the 78th Section and so much as may be inconsistent with Act 13 of 1883; the words "50 days" in Section 90; and Sections 66, 67 and 68	Nos. 6 & 36 of 1879, No. 1 of 1882. Nos. 9 and 13 of 1883.
1832.—No. 89	Sections 4 and 5	No. 9 of 1882.
1833 " 97	The whole	" 28 of 1881.
1836 " 9	So much as has not already been repealed	" 45 of 1882.
1840 " 2	So much as may be repugnant to or inconsistent with Act 31 of 1883, and Sections 13, 15, 16, 18, 19, 21, 22, 23 and 29	{ " 31 of 1883. and " 27 of 1882.
1844 " 2	The whole	" 45 of 1882.
1844 " 6	Section 11	" 28 of 1883.
1845 " 15	Section 3, so much as relates to Powers of Attorney	" 10 of 1879.
1846 " 1	So much as has not already been repealed	" 4 of 1882.
1847 " 23	The whole	" 4 of 1882.
1847 " 25	Sections 13, 15, 16, 18, 19, 20. ..	" 27 of 1882.
1848 " 8	The whole	" 45 of 1882.
1851 " 9	Section 39 and the whole	" { 27 of 1882. 28 of 1883.
1882 " 5	The whole	" 45 of 1882.

Enactments repealed wholly or in part.	Extent of Repeal.	By what Acts Repealed.
ACTS.		
1855.—No. 2	So much as has not already been repealed	No. 27 of 1882.
1856 „ 1	The whole	„ 4 of 1883.
„ 8	The whole	„ 2 of 1883.
„ 20	So much as is repugnant	„ 16 & 40 of 1882.
„ 23	So much as has not already been repealed	„ 4 of 1882.
1857 „ 9	Section 7	„ 16 of 1882.
„ 16	The Quarantine Regulations enacted by Sections 3 to 18 inclusive and the Schedule A	„ 4 of 1883.
„ 21	The whole	„ 4 of 1882.
1858 „ 6	The whole	„ 16 of 1882.
„ 15	So much as has not already been repealed	„ 4 of 1882.
„ 22	Sections 2, 3, 4 and 5	„ 31 of 1883.
1859 „ 2	The whole	„ 4 of 1882.
„ 12	The whole	„ 5 of 1883.
1860 „ 10	The whole	„ 28 of 1883.
„ 11	Sections 3 and 4	{ „ 9 of 1882, and 31 of 1883.
„ 15	The whole	„ 45 of 1882.
1861 „ 1	The whole	„ 44 of 1882.
„ 23	The proviso in the 1st Section excluding Joint Stock Banking Company	„ 11 of 1879.
„ 37	The whole	„ 2 of 1883.
1862 „ 2	The whole	„ 4 of 1882.
„ 3	So much as has not already been repealed	„ 4 of 1882.
1864 „ 13	The whole	„ 45 of 1882.
„ 21	Sections 24, 25 and 26, and so much as may be repugnant	„ 5 of 1879.
„ 30	So much as has not already been repealed	„ 4 of 1882.
1865 „ 1	The whole	„ 28 of 1881.
„ 13	So much as is repugnant	„ 12 of 1879.
1867 „ 1	The whole	„ 44 of 1882.
„ 8	The whole	„ 27 of 1882.
„ 17	Section 6, words in the 1st proviso beginning “save and except” and ending with “are hereby substituted.”	„ 18 of 1879.
„ 22	Section 11	„ 23 of 1879.
1868 „ 2	The whole	„ 28 of 1883.
„ 6	The whole	„ 4 of 1882.
„ 7	The whole	„ ”
„ 21	The whole	„ 2 of 1883.
„ 29	Section 13	„ 14 of 1880.
1870 „ 4	The whole	„ 37 of 1882.
„ 10	So much as is repugnant	„ 29 of 1881.
1871 „ 12	The whole	„ 34 of 1883.
1872 „ 1	Section 7	„ 32 of 1879.
„ 19	The whole	„ 22 of 1883.
„ 22	Sections, 2, 3, 4 and 5	„ 26 of 1881.

Enactments repealed wholly or in part.		Extent of Repeal.	By what Acts Repealed.
Acts.			
1874	No. 9	The whole	4 of 1882.
1875	8	Section 8 and the whole	{ 27 of 1882, 28 of 1883.
	30	So much as may be repugnant or inconsistent	13 of 1883.
1876	10	Section 12 and so much as is repugnant. So much as limits the fine, &c., which may be imposed by Special J.P.	{ 27 of 1882. 40 of 1882.
	11	The whole	28 of 1883.
	24	The whole	26 of 1882.
1877	8	Section 59	7 of 1880.
	10	The whole	37 of 1882.
	14	The whole	4 of 1882.
	30	Section 35, words "at which two-thirds of the members shall be present" expunged and proviso to Section 60 amended	12 of 1883.
	38	Section 3	40 of 1882.
	39	So much as is repugnant So much relating to Appeals from High Court as may be repugnant	40 of 1882. 12 of 1880.
		Section 5, so much as limits the representation of Kimberley in the House of Assembly	13 of 1882.
1878	2	So much as is repugnant	33 of 1882.
	10	The whole	10 of 1882.
	15	Sections 8, 11 and 13	12 of 1879.
	19	The whole	2 of 1879.
1879	5	Section 2, so much as limits the number of Puisne Judges to five Section 7, so much as limits number of Appeal Court to four, and so much of the remainder as is repugnant	{ 40 of 1882. and 12 of 1880.
	23	Section 24, the word "hereinafter" expunged, and "hereinbefore" substituted	12 of 1880.
	23	So much as limits jurisdiction of Special J.P.	40 of 1882.
	25	The whole	4 of 1882.
	31	The whole	29 of 1882.
	33	The whole	37 of 1882.
	38	Section 4, for "Act No. 8 of 1877" read "6 of 1877," and in Schedule; line No. 7 deleted and another line substituted	9 of 1880.
1880	12	So much as is repugnant or inconsistent	40 of 1882.
	17	The whole	18 of 1882.
1881	29	So much as limits the Jurisdiction of a Special J.P.	40 of 1882.
1882	44	Sections 47 and 48	31 of 1883.

Enactments repealed wholly or in part.	Extent of Repeal.	By what Acts Repealed.
GRIQUALAND WEST STATUTES.		
1871.—Proclamation, Oct. 27	Establishing High Court. So much as may be repugnant to Act 40 of 1882	No. 40 of 1882.
1871.—Proclamation No. 71	The whole	,, 19 of 1883.
1871.—Govt. Notice No. 62	The whole	,, 19 of 1883.
1872.—Proclamation No. 55	The whole	,, 4 of 1882.
1874.—Ordinance No. 10	The whole	,, 19 of 1883.
1874.—Ordinance No. 11	The whole	,, 4 of 1882.
1874.—Ordinance No. 14	The whole	,, 19 of 1882.
1876.—Govt. Notice No. 332	The whole	,, 19 of 1883.
1876.—Ordinance No. 7	So far as such applies to Borough of Kimberley	,, 11 of 1883
1876.—Ordinance No. 12	The whole	,, 19 of 1883.
1877.—Govt. Notice No. 86	The whole	,, 19 of 1883.
1877.—Govt. Notice No. 156	The whole	,, 19 of 1883.
1877.—Ordinance No. 2	The whole	,, 22 of 1882.
1879.—Ordinance No. 15	The whole	,, 19 of 1883.
1879.—Ordinance No. 16	The whole	,, 28 of 1883.
1879.—Ordinance No. 17	The whole	,, 11 of 1883.
1880.—Proclamation No. 8	The whole	,, 19 of 1883.
1880.—Ordinance No. 6	Section 5	,, 19 of 1883.
1880.—Ordinance No. 10	The whole	,, 11 of 1883.
1880.—Ordinance No. 19	The whole	,, 28 of 1883.