

STATUTES OF NATAL

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REVISED ON BEHALF OF THE
COLONIAL GOVERNMENT

BY

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BEING A

COMPILATION OF THE STATUTES OF THE COLONY OF
NATAL FROM THE YEARS 1845 TO 1899, INCLUSIVE,
WITH FOOT-NOTES, AND WITH APPENDIX
CONTAINING THE ACTS OF 1900.

VOL. III.

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PREFACE TO VOL III.

The Volume which is now issued completes the Compilation of Statutes to the end of the year 1900.

It was not possible to bring the book more nearly up to date, but as the General Index has been compiled within the last few months advantage has been taken of the opportunity it afforded to make reference to the Acts of last Session. It will be seen that every Act of 1901 is referred to under its proper heading.

A few remarks on the scheme of the General Index may be of assistance to the reader.

The Work being in itself an Index, it is assumed that the practitioner seeking a particular enactment will, in the first instance, refer to the proper title. This found he will then be guided by the sub-headings and side-notes. On this assumption it has been considered unnecessary to index many of the shorter titles, or even some of the longer ones where the law is codified in a systematic arrangement, *e.g.*, LANDS CLAUSES CONSOLIDATION and POUNDS. The side-notes in these cases will be found to serve the purpose of a Table of Contents.

The main idea in the framing of the General Index has been to re-classify the subjects. For example, the title MEDICAL PRACTITIONERS is indexed under the headings CHEMISTS AND DRUGGISTS, DENTISTS, MIDWIVES, &c., PHYSICIANS AND SURGEONS, POISONS, and VETERINARY SURGEONS.

On the other hand where a title does not admit of being thus broken up into separate headings, but contains many statutes which jumble together a variety of subjects, sub-headings are picked out and the contents of the title classified under these as conveniently as may be; see for examples MUNICIPAL CORPORATIONS and PARLIAMENT.

The Compiler takes this opportunity of again recording his indebtedness to Mr. G. W. Sweeney, who, in the stress of Parliamentary duties, took over more than his allotted share of the work in connection with the General Index in order to expedite the issue of this Volume and bring the enterprise to its present conclusion.

R. L. H.

Durban, June, 1902

RIFLE ASSOCIATIONS.

RIFLE ASSOCIATIONS.

Law No. 19, 1862.

“To promote the establishment of Rifle Associations for the defence of this Colony.”

[13th August, 1862.]

WHEREAS it is expedient to promote the formation and establishment of Rifle Associations for the defence of this Colony :

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. It shall be lawful for any number of persons residing in any part of this Colony, not being aboriginal natives of South Africa, or descendants of the same, with the sanction of the Lieutenant Governor, to form themselves into Rifle Associations, for rifle shooting and organisation, for purposes of defence : Provided that the said Lieutenant Governor may, in the event of his deeming it expedient to do so, disband any such association.

Establishment of rifle associations.

2. It shall be lawful for every such association to make rules and bye-laws regulating the duties of its members, and for the enforcing of such rules and bye-laws, and by such rules and bye-laws to impose any penalty not exceeding £5.

Rules and bye-laws may be made and fines imposed.

3. It shall be lawful for the Lieutenant Governor, if he shall approve of such rules and bye-laws, to sanction the same by proclamation under his hand, and such rules and bye-laws shall thereupon have the force of law, in the same manner as if the same were inserted in this Law.

Governor to sanction rules and bye-laws.

4. The members of every such association shall have the power of electing such of its members as the association shall deem fit, to act as a committee, or council, or officers, under such terms and conditions as the rules may provide.

Election of committee, &c.

5. Every such association shall be entitled to the benefit of all fines and forfeitures levied under or by virtue of such rules and bye-laws as aforesaid ; and all such fines shall be recoverable in the manner fixed by such bye-laws.

Fines, how recovered and appropriated.

6. This Law shall commence and take effect from and after the publication thereof in the “GOVERNMENT GAZETTE” (A).

Commencement.

(A) Aug. 19, 1862.

ROAD BOARDS.

Law No. 36, 1888.

"To Consolidate the Law as to Road Boards."

[10th December, 1888.]

WHEREAS it is expedient to consolidate and amend the Laws providing for the establishment of Local Road Boards throughout the Colony:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Short title.

1. This Law may be cited as the "Road Board Law, 1888."

Application of Law.

2. The provisions of this Law shall extend to and be in operation in all the Magisterial Divisions of the Colony.

Repeal of Laws.

3. The Law No. 17 of 1883, entitled Law "To provide for the establishment of Local Road Boards throughout the Colony," and the Law No. 19 of 1885, entitled Law "To amend the Road Board Law, 1883," shall be and the same are hereby repealed as and from the day next following that of the promulgation of this Law in the "GOVERNMENT GAZETTE": Provided, that the repeal effected by this Law shall not invalidate or affect—

Savings.

(a) Anything done or suffered before the commencement of this Law under either of the Laws repealed by this Law; nor

(b) Any right or privilege acquired or duty imposed, or liability or disqualification incurred, under either of the Laws so repealed.

Existing Road Boards continued.

4. Nothing in the repeal aforesaid shall be deemed or taken to destroy or affect the constitution, powers, acts, or functions of any Road Board in existence at the time of the taking effect of this Law, which Board shall be in the same state and condition as if it had been elected under this Law, and shall hereafter be subject to the provisions of this Law; and every person whose name shall have been published in the "GOVERNMENT GAZETTE" as a member of any such Road Board shall be deemed and taken to have been duly elected as such member, nor shall any evidence of irregularity or alleged irregularity in his election be admissible to prove the contrary.

Election of new Boards.

5. As soon as conveniently may be after the promulgation of this Law, the Resident Magistrate of each division shall take steps for the election of members of the Local Road Board for such Division: Provided, that every Local Board which shall be in office at the date of the promulgation of this Law shall remain in office till the 31st day of December, 1889; every member of such Board shall then go out of office, and a new election take place: Provided always, that any member so retiring shall, if otherwise qualified, be eligible for re-election.

Qualification to vote or for election.

6. No person shall be capable of being elected or allowed to vote for a member of a Road Board in any Magisterial Division unless his name be on the Voters' Roll for that Division; and he must also own landed property in the same, other than erven in any township or village (A).

(A) See *Holley v. New Hanover Road Board*, 16 N.L.R. 216, as to what constitutes a sufficient qualification.

7. Every Local Road Board in the Colony shall consist of the officer for the time being acting as Resident Magistrate of the Division, who shall be "ex officio" the Chairman thereof, and of five elective members. In the event of the absence of the Resident Magistrate from any meeting of the Board a chairman shall be elected from among the members present. The First Clerk of the Resident Magistrate shall be "ex officio" the clerk to the Local Road Board of the Division. The Chairman of the Board shall in no case have a deliberative vote, but he shall have a casting vote whenever there is an equality of votes. It shall not be competent for the Board to proceed to the despatch of business unless there are four members present. Law 36, 1888.
Constitution of Board.
8. In all elections of members of Local Road Boards the votes of the electors qualified to vote shall be given by means of voting papers, and not otherwise, and the majority of the votes which shall be so given and returned in each Division shall in every such case be binding on such Division. Each voting paper shall be in the form or to the effect set forth in the Schedule Form No. 1 annexed to this Law. Quorum.
9. Every person entitled to vote shall be entitled to give one vote, and no more, for each of any number of candidates not being in excess of the number capable of being elected at any election. Mode of election.
10. The whole of the elected members of every Road Board shall retire at the end of every third year, dating in all cases from the 31st day of December, 1889, and a fresh election shall be held: Provided that nothing in this section contained shall prevent a member going out of office from being re-elected. Number of votes allowed to voter.
11. The ordinary date of the triennial general election of members of a Local Road Board shall be on a convenient day to be fixed by the Resident Magistrate not later than the fourteenth day of December. Members of Board elected triennially.
12. When an election of one or more members of a Local Road Board for any Magisterial Division is to be held, the Resident Magistrate shall, thirty days at least before the day for receiving the duly accepted requisitions of one or more such candidate members, prepare and sign a notice thereof, and publish it by inserting it twice in the "GOVERNMENT GAZETTE," at least once in one or more of the newspapers circulating within the Division, and by affixing it on the knowledge board at the seat of Magistracy. Such notice shall, as near as may be, be in the Form No. 2 as published in the Schedule to this Law (A). Date of triennial election.
13. No person shall be deemed a candidate at any election, nor shall be qualified to be elected as a member of a Local Road Board of any Magisterial Division, unless he has been invited to become such candidate by a requisition signed by at least five qualified voters of such Division, and shall have transmitted such requisition, with his acceptance thereof, to the Resident Magistrate at least fourteen days before such election is appointed to take place. Notification of an election to be held.
14. No person shall sign any requisition to more than the number of candidates to be elected in the same Division, and if any person signs any requisition to more than that number his signature shall be expunged from all requisitions which he has signed. Form of notice.
15. In case the full number of members of a Local Road Board shall not be duly elected, the members for the time being, or in the event of any vacancy occurring in such Board by the death, removal, or resignation, or refusal, or disqualification to act of any members, the other or remaining members of the said Board, not being less in number than the quorum by this Law provided, shall continue to act Requisitions to candidates.
- Number of requisitions.
- Provision for case of full number of members not being elected.

(A) Where only seventeen days' notice had been given, the decision of a Board was quashed under this section (*McKensie v. Clark*, 17, N.L.R. 354).

Law 36, 1888. until the next election or until the completion of the said Board, as if no vacancy had occurred, and as if the number of such Board were complete.

Elections to fill vacancies.

16. If any member of a Local Road Board shall die, resign, become disqualified or incapable of discharging the duties of his office, another member shall be elected in manner herein provided, who shall hold office for the unexpired period for which his predecessor was elected.

Resident Magistrate to take necessary steps to elect members to fill vacancies.

17. In the event of any vacancy occurring in a Local Road Board at any time by the resignation or death of a member, or from any cause whatever, the Resident Magistrate shall take the steps necessary for the election of a duly qualified elector to fill any such vacancy. The steps taken to elect the members of a new Local Road Board and to fill all vacancies in any Board now or hereafter to be constituted, shall be by means of voting papers in the manner hereinafter set forth.

If number of candidates be equal to or less than number of vacancies they are to be returned as elected; but if more, then election to take place.

18. If the number of candidates who have accepted requisitions is the same as that of the vacancies, the persons requisitioned, if duly qualified, shall be deemed to be elected, and the Resident Magistrate shall make a return accordingly without having recourse to a poll and as soon as may be after the expiration of the time within which requisitions must be delivered to the Resident Magistrate. If the number of candidates who have accepted requisitions is less than that of the vacancies, the persons requisitioned, if duly qualified, shall be deemed to be elected, and the Resident Magistrate shall make a return accordingly. If the number of valid requisitions exceeds that of the vacancies, the members shall be elected from among the persons so requisitioned, if duly qualified.

Notification of candidates' names, &c.

19. The Resident Magistrate shall, at least twelve days before the day appointed for the election in any Division, cause the names of the candidates for election thereat, together with the names of the persons who have signed such requisition, to be published as nearly as may be according to the form No. 3 in the Schedule hereunto annexed, by affixing such form to the notice board, or in some other conspicuous place, at the Resident Magistrate's Office.

Issuing voting papers to voters.

20. The Resident Magistrate shall, without unnecessary delay, issue through the post a voting paper in the form or to the effect set forth in Form No. 1 in the Schedule annexed to this Law to each voter to his address as entered on the Voters' Roll, and such voting paper (the Christian name, surname, designation, and residence of the voter as appearing on the roll having previously been filled in by the Resident Magistrate, or some one having his authority) contained in an envelope shall be accompanied by a letter of intimation in the form or to the effect set forth in Form No. 4 in the Schedule hereunto annexed. And each voter upon receipt of his voting paper, if he desires to vote in the election, shall insert in the voting paper the name of the candidate for whom he votes, and the place and date of signature, and affix his subscription thereto in the presence of one witness, who shall personally know the voter, and who shall attest the fact of such voting paper having been signed by the voter in his presence at the place therein mentioned, by signing his name at the foot thereof, and adding his designation and place of residence in the form or to the effect set forth in Form No. 1 in the Schedule hereunto annexed.

Mode of voting.

Return of voting paper.

21. Thereafter the voting paper so signed and attested as aforesaid shall, if the voter desires to vote in the election, be returned through the post, or in some other way delivered to the Resident Magistrate by whom it was issued, so as to reach him not later than the time named for the return of the voting paper. Each voting paper when received back by the Resident Magistrate shall be kept by him,

Law 36, 1888.

Payment to members for travelling expenses.

28. It shall be lawful for any Local Road Board out of the funds voted by the Legislature, and placed at its disposal by the Government, to pay to each member attending any meeting of such Board travelling expenses at a rate in regard to each member not exceeding in the whole Twenty Shillings per diem for every day necessary for journeying to, remaining at, and returning from the place of meeting: Provided, that no member whose ordinary place of residence shall not be distant more than three miles from the place in which any meeting of such Board shall be held shall be entitled to receive any payment for or in regard to his attendance at such meeting either by way of travelling expenses or otherwise.

When member is debarred from voting.

29. No member of any Local Road Board shall vote upon any question in which he may be directly interested (A).

Interpretation of terms.

30. The term "by-road" or "right of way," as in this Law used, shall be taken to mean and apply to a road which is a servitude by deed, prescription, dedication (B), or a way of necessity on the farm or land through or over which it runs and not being one of the roads as set forth in the next succeeding section (C).

Roads not under jurisdiction of Local Road Boards.

31. As soon as may be after the coming into operation of this Law, the Colonial Engineer shall cause to be published in the "NATAL GOVERNMENT GAZETTE" a list of the roads in each Magisterial Division which are maintained by the Government, and such roads shall not come under the jurisdiction of the Local Road Boards.

Parties may agree that decision of Boards shall be final.

32. It shall be lawful for the parties to any dispute which shall be brought before a Local Road Board under the provisions of this Law, if all the parties shall so agree, to enter together into a written agreement that the award or decision of such Local Board shall in all respects, both as to the subject matter of the dispute and as to costs, be final and conclusive and binding upon all the parties. And whenever such an agreement shall have been entered into as aforesaid, the award or decision of the said Local Board shall be final and shall bind the parties, and shall be subject to no appeal from, or alteration by, any Court or Judge.

Powers of Board.

33. Every Local Road Board shall have power and authority to take into consideration all cases of dispute or questions referring to the opening of new by-roads or rights of way or the keeping open of existing by-roads or rights of way, the closing of such by-roads or rights of way as may be no longer needed (D), and the making of alterations in by-roads or rights of way. And also to define and determine the width of any by-road or right of way already existing or hereafter to be opened up or altered under the provisions of this Law: Provided that no alteration shall be made in the width of any such by-road or right of way passing through or between any gardens, cultivated lands, or orchards, or between buildings or homesteads: And provided also, that any such definition and determination

(A) A member is directly interested when he may be individually through his property benefitted or injured by the decision of the Board; but a member so interested is not prevented from sitting on the Board, or from being on a committee of inspection appointed under sec. 36, but may not vote at the Board (*Holley v. Local Board, Umgeni Division*, 10 N.L.R. 141).

(B) The authorities in regard to the

constitution of a "way of dedication" are collected in *Otto's Executor v. Framp-ton*, 17 N.L.R. 114.

(C) The powers of the Board as to setting out roads are confined by this sec. to cases where either rights or needs exist (*Holley v. Local Board, Umgeni Division, supra*).

(D) See definition of "no longer needed" in *Van Rooijen & others v. Van Rooijen*, 17 N.L.R. 361.

shall be subject to confirmation or otherwise as is hereinafter provided for (A). Law 36, 1888.

34. Any Local Road Board established under this Law shall have power, summarily, to order the opening of any road or right of way, which may have been stopped, or in which any deviation has been made, or which has been otherwise obstructed, pending any enquiry or other proceedings that may have been taken relative thereto under this Law; and any person closing up such road or right of way, or committing any act which shall obstruct free traffic along any such road or right of way opened as aforesaid, by or under the direction of the Local Road Board as aforesaid, shall, on conviction, forfeit and pay a penalty not exceeding Five Pounds for every such offence, and in default of payment thereof suffer imprisonment for any period not exceeding one month. Power to order summarily the opening of a road pending an enquiry.

35. The Resident Magistrate shall, as Chairman, be the convener of the Board; and in all cases of dispute, whether they refer to the opening of new by-roads or rights of way or the keeping open of by-roads or rights of way, the closing of such by-roads or rights of way as may be no longer needed, or the making of alterations in by-roads or rights of way, application in writing must be made by the person or persons aggrieved to the Resident Magistrate aforesaid, who shall thereupon call a meeting of the Board appointed as aforesaid, and notify to the disputants, in writing, the time and place fixed for such meeting. A notice specifying the business to be transacted, and the date at which the meeting of the Board will be held, shall be published, for general information, twice in the "GOVERNMENT GAZETTE," and twice in a newspaper published or circulating within the Division (B). The Resident Magistrate shall sign the said notice, and cause its due publication to be made. Procedure for convening a Board.

36. The Board may, if they deem it necessary to the enquiry, make a personal inspection of the road or roads in dispute, or may depute a Committee of their own body, not less than two in number, to visit the spot and report to the Board the result of their enquiries. Inspection by Board or a Committee.

37. All acts hereby authorised or required to be done by the Board, and all questions that may be brought before them, shall be done and decided by the majority of the same who shall be present at any meeting. Majority of Board present to decide questions.

38. Minutes of the proceedings of every meeting shall be entered by the Clerk, in a book to be kept for that purpose, and signed by the Chairman after confirmation at the next subsequent meeting. Minutes.

39. Any Local Road Board shall in any matter in which it has been called upon to adjudicate, require the person complaining to deposit a sum of money not exceeding £25 nor less than £15, in order to provide for the due payment of the expense of holding any enquiry in case such person shall thereafter be required to pay such expense. Such expense shall in no case include any remuneration or travelling expenses to any member of the Board, but shall include costs of advertising, survey, and expenses of a like nature. Deposit to be made by applicant for expenses of enquiry.

40. After the Board shall have arrived at a decision on the question or dispute referred to them, they may employ a licensed Government Surveyor to lay off by survey the road or roads agreed to on the plan or diagram of the land, and the Surveyor so employed shall Surveyor to lay off road decided on by Board.

(A) A "way of necessity" means a "necessary way." In determining the line of a road, the Board must consider how it can be arranged, so as to cause as little inconvenience as possible to the party over whose land it is taken (*Leask*

v. Pellen, 11 N.L.R. 74).

(B) Where notice of meeting was only published once in the *Gazette* and twice in a newspaper, the subsequent proceedings were invalidated (*Clark v. McKenzie*, 16 N.L.R. 100).

Law 36, 1888.
Report of
decision.

Notification of
time limited for
appeal.

Extension of
time.

Inspection of
decision and
minutes.

Costs.

On expiry of
time limited, if
no petition
presented to
Supreme Court
Board's decision
to become final.

Petition
Supreme Court
against decision
of Board.

certify accordingly. Such decision shall be embodied in a written report, which shall be duly attested, and, together with the minutes of proceedings and evidence adduced, shall be deposited in the office of the Resident Magistrate, the Chairman of the Board, and copies of the same shall also be deposited with the Registrar of the Supreme Court to be there filed of record, and the Resident Magistrate shall notify, in the "GOVERNMENT GAZETTE" that, unless, within a period to be defined in the notice, such period not to exceed three months, proceedings shall have been instituted for appealing against such decision, it will become final and conclusive, and subject to no appeal: Provided, however, that where any of the parties interested reside out of the Colony extension of the period within which proceedings for appeal may be instituted may be granted by the Supreme Court, or any Circuit Court, or a Judge in Chambers, on application to that effect being made by the agent of any such parties, to a period not exceeding six months from the date of the first notification in the "GOVERNMENT GAZETTE" aforesaid, and provided such application for extension be made within fourteen days from the date of such notification (A).

41. During the period specified in such notice the decision and the minutes shall be open to inspection by any person who may desire and apply to the Resident Magistrate for leave to inspect the same, and a copy of the said decision shall, within one week after the deposit thereof in the Resident Magistrate's Office, be forwarded by the Resident Magistrate to the Colonial Engineer, for the information of any person who may desire to inspect it.

42. The Board shall decide as to the costs of the enquiry, the record of the same, the expenses of the survey, and all other costs incidental to the cause, and by which of the disputants they shall be paid. Such costs may be sued for and recovered in any competent Court in the Colony, or the award of the Board in reference thereto may be made an order of judgment of the Supreme Court at the instance of the Clerk of the Board.

43. When the Local Road Board shall have given a decision in conformity with the terms of this Law, and when no petition shall have been presented to the Supreme Court in manner hereinafter mentioned, such decision shall, upon the expiry of the time allowed for filing such petition, become and be final, binding, and conclusive, and such decision and the minutes of proceedings upon which the same is based shall be forwarded to and deposited and filed in the office of the Surveyor-General of the Colony, who, upon receipt thereof, shall forward such decision to the Governor, and shall report what amendments of original title deeds, plans, diagrams, deeds of transfer, and other records, such decision will necessitate, and the Governor shall be, and he is hereby authorised and empowered to direct that such amendments shall thereupon be made accordingly.

44. It shall be lawful for any person whom such decision shall or may concern, at any time within the period specified in such notice as aforesaid, to present a petition to the Supreme Court, stating that he feels aggrieved by such decision, and praying the said Court to inquire into and correct the same, and notice of such petition having been lodged shall be given to the Resident Magistrate in whose office the written decision shall have been deposited not later than fourteen

(A) It is not necessary under this sec. for the Board to return a record of *viva voce* evidence taken before it, where it does not appear that any such evidence

has been actually adduced to the Board (*Holley v. Local Road Board, Umgeni Division, 10 N.L.R. 141*).

days from and after the day of presentation thereof: Provided that any number of persons having the same or a similar interest in opposing such decision, may join in petitioning for the correction of the same: Provided also, that it shall be the duty of the Colonial Engineer, or other officer appointed by the Governor, to watch the proceedings at every stage, and to intervene, without notice or summons specially served on him, on behalf of the interests of the Government. Law 36, 1888.

Colonial Engineer may intervene.

45. It shall be lawful for the petitioner, at any time within the period specified in the notice provided for in Clause 40, to move the Supreme Court, without notice, for a rule to show cause why the decision complained of should not be reviewed, for the purpose of being corrected, and why the petitioner should not be entitled to be granted to make good his right to such specific relief as shall be set forth in such rule; and the said Court, as may to justice appertain, shall grant or refuse such rule (A).

Application to Supreme Court for review of decision.

46. Should the said Court see fit to grant such rule as aforesaid, it shall be served upon all such persons as the Court shall direct, and shall be returnable upon such days as the Court shall appoint, and upon such day it shall be lawful for the parties served with the same, or any of them, to appear, and upon affidavit or otherwise to show cause against such rule, and thereupon such rule shall be discharged, or amended, or made absolute, as to the said Court shall seem meet.

Rule to show cause why decision should not be reviewed.

47. In case the said Court shall make such rule absolute or amended as aforesaid a rule of Court, then the said Court shall direct the manner in which the matter in controversy between the applicants and the respondents shall be further investigated, and may take additional evidence, either "viva voce" or by affidavit, or may order an examination before a Commissioner appointed by such Court, and upon interrogatories framed or approved of by such Court, or may direct a Commissioner likewise so appointed to inspect the roads in question and take evidence upon the spot, and such Court shall decide whether the decision in question shall or shall not be affirmed wholly or in part (B).

Manner of further investigation to be directed by Court.

48. As often as the Supreme Court shall refuse a rule to show cause as aforesaid, or having granted such rule shall afterwards discharge the same, or having made such rule absolute, shall ultimately affirm the decision petitioned against, then such decision shall become and be thenceforward final, binding, and conclusive.

If rule refused or discharged Board's decision to become final.

49. If in any case the Supreme Court shall see fit to correct any decision petitioned against, then the said Court may delegate to such fit and proper person or persons as the said Court shall select, the duty of laying off on the plan or diagram of the land, the road, or roads, as altered or amended by such corrected decision, and to show upon the ground the road, or roads, as aforesaid.

If decision corrected Court may delegate duty of laying off road as altered.

50. Any and every decision of any Road Board constituted under the provisions of this Law shall be published for general information twice in the "GOVERNMENT GAZETTE," at least once in one or more newspapers circulating within the Division, and by affixing it on the knowledge board at the seat of Magistracy, as soon as possible after the same shall have been confirmed and effect is given to the same. And no existing by-road or right of way shall be closed, nor shall any deviation or alteration made in any such existing by-road or right of way be enforced, until thirty days have elapsed since such notice as aforesaid was first published in the "GOVERNMENT GAZETTE."

Publication of Board's decision.

(A) See *In re W. G. Horton*, 20 N.L.R. 144.

(B) See *Holley v. New Hanover Road Board*, 16 N.L.R. 216.

Law 36, 1888.

Fencing lands
over which a
by-road passes.

51. Whenever the proprietor or leaseholder of any land over which a by-road or right of way shall pass shall be desirous of fencing such land he shall be at liberty to do so, if he provides swing gates in such fencing so as to allow persons entitled to use such by-road or right of way free access thereto; and such gates shall at all times be kept in proper repair by the proprietor, or in case the land is leased then by the leaseholder thereof. Such gates to be folding gates, and to be swung and have proper fastenings, to be not less than fourteen feet between the posts and not less than four feet high. Any gates erected before the passing of this Law, if coming within the definition of this Law, shall be considered as erected under this Law. Any person failing, within reasonable time, to erect gates as herein specified shall be liable on conviction to a penalty not exceeding Five Pounds.

Penalty for not
closing gates.

52. Any person, not being the proprietor or leaseholder, or not being thereto duly authorised by the proprietor or leaseholder, who shall pass through any gate erected or provided in pursuance of the provisions of this Law, 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 fastened, shall be liable on conviction before any Resident Magistrate to a penalty not exceeding Five Pounds, or in default of payment thereof, to imprisonment, with or without hard labour, for any period not exceeding one month, unless such fine be sooner paid.

Penalty for
unauthorised
opening of
gates.

53. Any person not being the proprietor or leaseholder, or not being thereto duly authorised by the proprietor or leaseholder, who shall open or unfasten any gate erected or provided in pursuance of the provisions of this Law, 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, be liable to a penalty not exceeding Ten Pounds, or in default of payment thereof, to imprisonment with or without hard labour for any term not exceeding two months, unless such fine be sooner paid.

Prosecutions.

54. All contraventions of this Law may be prosecuted summarily before the Court of any Resident Magistrate having jurisdiction, upon the complaint and information of the person placed in charge over any such road as aforesaid, or, in the discretion of the Magistrate before whom such complaint is made, by the Clerk of the Peace or other officer acting in that capacity.

Right of action
for damages for
leaving gate
open not
affected.

55. Nothing in this Law contained shall prevent any person, who deems that he has sustained loss or damage by or in consequence of the leaving open of any gate erected in accordance with the provisions of this Law from bringing an action in any competent Court for the recovery of such loss or damage.

Certain towns
and townships
excluded from
operation of
Law.

56. The towns of Pietermaritzburg and Durban, and any other towns which are or shall come under the operation of the "Municipal Corporations Law, 1872," or Law No. 11, 1881, and the Town Lands thereof, shall not be deemed to be within any County or Division, and shall be excluded from the operation of this Law.

SCHEDULE.**FORM No. 1.***Local Road Board Election.*

Division of

Voting Paper.

I, A.B. (the Christian name, surname, and designation of the voter), entered on the Voters' Lists as residing at (residence as appearing

Schedule.

on the Register), hereby declare that I have not before voted at this election, and hereby give my vote at this election for Law 36, 1888.
Schedule.

.....

Witness my hand this day of 18
(Signed) A. B.

Signed by A. B., who is personally known to me, at the place and of the date above-mentioned, in my presence.

(Signed) C. D.
 (add designation and place of residence.)

FORM No. 2.

Form of Notice.

Magisterial Division of
 Election of Member of the Local Road Board for this
 Division.

Take notice, that an election of Member for the Division
 of will be held on , the day of
 18

Candidates must be requisitioned by writing, subscribed by not less than five electors.

Candidates must be duly qualified, and the requisition paper must state in full the surname and other names of the person requisitioned, with his abode and description.

Requisitions, duly accepted, must be delivered by the candidate himself, or someone on his behalf, at the office of the Resident Magistrate for this Division, before three o'clock in the afternoon of the day of next.

Dated this day of , 18 , at
Resident Magistrate.

FORM No. 3.

Local Road Board Election.

Names of candidates at the election of members of the Local Road Board for the Division of
 to be held on the day of , 18 ,
 together with the names of the persons who have signed requisitions to the candidates.

Candidate ...					
Requested by ...					

Dated at the day of 18
Resident Magistrate.

ROADS (MAIN).

[See "FENCES"; "ROAD BOARDS"; and as to removal of nuisances from Public Roads see Law No. 29, 1874, tit. "ANIMALS (DISEASES)"; see also Law No. 38, 1874, s. 10, tit. "LANDS IMPROVEMENTS, &C."]

Law No. 13, 1865.

"To regulate the employment of Wagons and other Vehicles on the Public Roads and Streets within the Colony of Natal."

[24th August, 1865.]

WHEREAS it is expedient to provide for the safety of travellers, to prevent the practice of riding or driving carelessly or furiously on public roads or streets, and to preserve in good order and repair the roads of this Colony:

BE IT ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The owner of every wagon, cart, or other vehicle used on any public road or street, shall affix or paint, or cause to be affixed or painted, in one or more straight lines, in legible numbers and letters respectively, not less than one inch in height, upon some conspicuous part on both sides of said wagon, cart, or other vehicle, his christian and surname, together with a number on each wagon, cart, or other vehicle, if more than one, in his possession, and also his residence and the name of the county or division in which he resides: Provided, that nothing in this clause shall be construed to extend to any wagon, cart, or other vehicle used solely for the conveyance of private persons or passengers, or to any persons not resident or not having a place of business within the Colony.

Owner's name to be painted on wagons.

Exceptions.

2. Any driver, leader, or any other person who shall drive any wagon, cart, or other vehicle, or shall ride or drive any horse or other animal so carelessly, recklessly, furiously, or negligently as to cause hurt or damage to any person, or any wagon, cart, or other vehicle, or to any goods conveyed in any other wagon, cart, or other vehicle, or so as to endanger the safety of any person, animal, wagon, cart, or other vehicle (A), shall upon conviction thereof forfeit any sum not exceeding Five Pounds.

Furious or careless driving punishable.

3. All drivers or leaders of any wagons, carts, or other vehicles, and all persons riding on horses or other animals, shall upon meeting, or being followed upon any road or street by any other wagon, cart, or other vehicles, or by persons riding on horses or other animals, keep upon the near or left side of the road or street, except as hereinafter provided under the provisions of this Law or any bye-law enacted by the powers hereinafter given: No driver or leader of any wagon, cart, or other vehicle, and no person driving or in charge of cattle, horses, oxen, or other animals, shall wantonly or unnecessarily prevent, hinder, or interrupt the free and rightful passage of any other wagon, cart, or other vehicle.

Rules for vehicles, &c., passing each other.

Passage of vehicles not to be obstructed.

(A) To obtain a conviction under this sec. it is sufficient to show that some person was endangered (*Ismail Affagee and another v. Gilson*, 18 N.L.R. 109).

Law 13, 1865.

No person to crack whips while horses, &c., passing.

Wagons, &c., to have brake and chain.

Brakes not to extend more than 6 inches.

Wagons not to have Rem Schoens.

Ox-wagons to stop till wagons drawn by horses pass.

Unless ox-wagon has leader.

Wagon-driver, &c., breaking open boxes, &c., punishable with fine or imprisonment.

Without prejudice to being otherwise prosecuted.

Acts of omission or commission, contraventions.

Contraventions where cognizable.

Governor may make bye-laws respecting traffic on bridges.

Bye-laws to be published.

4. No person or persons shall crack any whips on any street of borough or town, or on any road, while any vehicle drawn by horses or mules, or any person riding on any horse, is passing along such road when near or close to such person having or using such whips.

5. Every wagon, cart, or other vehicle, save and except those used for conveyance of private persons, shall, so long as the same is used on any road or street, be provided with a brake and chain fit and sufficient for the purposes thereof.

6. No wagon, cart, or other vehicle used on roads, or on any street, shall have brakes extending further on either side than six inches beyond the wheels thereof; and no wagon, cart, or other vehicle used as aforesaid, shall apply or use on any road or street any wooden drags commonly called Rem Schoens.

* 7. Every wagon, cart, or other vehicle drawn by any number of oxen more than two, and used on any public road or street, shall when meeting on any such public road or street any other vehicle drawn by horses be compelled to stop until such other vehicle shall have passed: Provided always, that it shall and may be lawful for every wagon, cart, or other vehicle drawn by oxen and used on any public road or street having a person actually leading the foremost pair of oxen when meeting such other vehicle to pass on without stopping.

8. Any wagon-driver, leader, or any other person employed in or about any wagon, cart, or other vehicle, who shall unlawfully break open any portmanteau, casket, bag, box, chest, bale, case, jar, or any other packet or parcel, or tap or bore any cask, barrel, or the like, or uncork any bottle or flask which may have been entrusted to himself or any other person, or may be under the charge of the owner thereof, for or in order for conveyance or transport in any wagon, cart, or other vehicle, shall be liable to a fine of five pounds, or to imprisonment for three months with or without hard labour: Provided that nothing herein contained shall diminish the liability of such persons to be sued or prosecuted, either civilly or criminally, by the owners of such goods, or any other or others who may be entitled to institute any such civil or criminal prosecution in respect thereof, in accordance with the laws of this Colony.

9. [Repealed by Law No. 31, 1874.]

10. Every breach of this Law, or any part thereof, and the omission to do any act, matter, or thing required to be done and not so done under and in strict accordance with the provisions hereof shall be deemed and taken to be contraventions of this Law.

11. All contraventions of this Law shall be cognisable in any Court of any Resident Magistrate of any county or division within which the offender shall be found, or where the offence shall be committed.

12. It shall be lawful for the Lieutenant Governor by proclamation from time to time and at all times when he may consider necessary, and in his opinion as the construction of each particular bridge may require, to frame and make such bye-laws as the Lieutenant Governor may deem fit and necessary for regulating the traffic and the passage of horses, cattle, and all other animals over all and every such particular bridge; and to enforce the observance of all such bye-laws by imposing any penalty for the contravention of any such bye-law not exceeding five pounds; and in default of payment of such fine, the Court imposing such penalty to have power to imprison the offender for any period not exceeding two months: Provided always, that no such bye-laws shall have any force or effect until the same shall have been published in the "GOVERNMENT GAZETTE," and until the bye-laws in regard to

any particular bridge shall have been printed, in words and figures not less than two inches in length, and displayed on notice boards affixed to both sides of every such particular bridge. Law 13, 1885.

13. Should any wagons or other vehicles be passing to and fro at the same time along any steep hill or cutting or other dangerous part of the road, the wagon or other vehicle coming down such hill or other dangerous place shall be obliged to stop at the most convenient place on either side of the road, and allow sufficient space for the wagon or other vehicle going up hill to pass; but should the driver of any vehicle drawn by horses or mules proceeding in the same direction wish to pass a wagon or other vehicle drawn by oxen he may do so, after having called upon the driver of such last-mentioned wagon or other vehicle to stop. Rules for passing dangerous roads.

14. Natives passing along the roads carrying wood or other goods, or being dressed in their dancing or war costumes, or carrying a shield, shall leave the road whenever any person on horse-back or with any wagon or other vehicle approaches them; and shall not by shouts, or by striking their shields, or by other movements or actions tending to frighten a horse or ox, endanger any rider or any wagon or other vehicle, or any person in or on the same. Natives carrying wood, &c., to leave the road.

15. All fines imposed by this Law shall be paid to Her Majesty, her heirs and successors; and, unless remitted, shall be applied to the uses of the Government of this Colony: Provided, that the Resident Magistrate may in any case award and direct any portion not exceeding one half thereof, to any person or persons who shall have given such information as may have led to the conviction of any offender. Not to frighten horses, &c.

16. For any contraventions of this Law for which no special fine or other punishment is provided, the party, for every such contravention, shall forfeit any sum not exceeding Ten Pounds sterling. Whenever it shall appear to any Resident Magistrate by whom any fine shall be adjudged to be paid, that the person so fined is unable to pay the same, or has made default in the payment of such fine, it shall be lawful for such Resident Magistrate to issue his warrant for committing such offender to gaol for any period not exceeding three months. Disposal of fines.

17. This Law shall commence and take effect from and after the publication thereof in the "GOVERNMENT GAZETTE" (A). Penalty not specified, to be £10 or three months' imprisonment.

Law No. 33, 1874.

"To empower the Lieutenant Governor to declare and define the Main Roads within the Colony; and to regulate the Traffic upon such Roads."

[24th November, 1874.]

WHEREAS it is expedient that power should be conferred upon the Lieutenant Governor to declare and define Main Roads within the Colony, and to regulate or stop the Traffic upon such roads, or any part thereof:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Law may be cited for all purposes as "The Traffic Regulation Law, 1874." Commencement

(A) Aug. 29, 1865.

Law 33, 1874.
Interpretation.

2. The term, "main road," as in this Law used, shall be taken to mean and apply to all trunk or other roads constructed or maintained by the Government of this Colony, and along or over which any of the general traffic of the Colony passes, whether the same reach the confines of the Colony or not.

Main roads to be defined by Proclamation.

3. It shall be lawful for the Lieutenant Governor to declare by proclamation or other public notice, any road, as in the preceding section mentioned, to be a main road, and every road so declared to be a main road shall be particularly defined in the said proclamation or notice.

Traffic may be stopped on main roads, when another has been opened.

4. It shall be lawful for the Lieutenant Governor to stop the traffic along any main road or part thereof, when a sufficient road shall have been opened for traffic, along which traffic may proceed and reach its destination as it would have done had the closed road remained open.

Traffic may be regulated upon roads when there are two from one point to another.

5. It shall also be lawful for the Lieutenant Governor when there are two main roads from one point to another point, to require, on public grounds, that traffic proceeding in one direction shall travel along one of the roads only, and when proceeding in the opposite direction shall travel along the other road only.

Notice of traffic being regulated or stopped, how given.

6. Before traffic is stopped or regulated on any main road, as in the two last preceding sections is provided, seven days' notice must be given in the local newspapers, that the traffic along such road or portion thereof, will be stopped or regulated; and if regulated, shall state fully what regulation is intended: Provided always, that no such proclamation or notice shall take effect till after the lapse of seven days from the date of the publication thereof in the "GOVERNMENT GAZETTE"; and until such proclamation or notice shall have been posted in a conspicuous place at each end of the road therein described.

Vehicles not allowed to use the road, except as indicated.

7. When and as often as the traffic on any main road shall have been declared as aforesaid, to be regulated or stopped, no wagon or other vehicle drawn by any animal shall be allowed to pass or be driven over or along the road, or any portion thereof, over which the traffic has been declared to be regulated or stopped, otherwise than as by proclamation or notice is set forth, and all vehicles passing over or along such road may be stopped by any person authorised thereto by the Civil Engineer of the Colony; and any person driving, or in any way assisting in driving, any wagon or other vehicle along or over such road as aforesaid, shall on conviction forfeit and pay a penalty not exceeding Five Pounds for every such offence, and in default of payment suffer imprisonment for any period not exceeding one month.

Contraventions—how prosecuted.

8. All contraventions of this Law may be prosecuted summarily before the Court of any Resident Magistrate, upon the complaint and information of the person placed in charge over any such road as aforesaid, or, in the discretion of the Magistrate before whom such complaint is made, by the Clerk of the Peace, or other Officer acting in that capacity.

Commencement

9. This Law shall come into operation from and after the publication thereof in the "NATAL GOVERNMENT GAZETTE" (A).

(A) Dec. 1, 1874.

Law No. 19, 1875.

“To Provide for the Construction and Maintenance of the Main Roads of the Colony.”

[17th December, 1875.]

WHEREAS certain rights have been reserved by the Government over most of the lands of this Colony alienated by the Crown, with regard to the construction and repair incidental thereto of the main roads running over these lands; and whereas, it is expedient that such rights where they do exist should be more particularly defined, and where they do not exist to establish the same by enactment:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. It shall be lawful for the Civil Engineer of this Colony or the Officer acting in that capacity for the time being, or other person duly authorised by him thereto, whether the same be employed as superintendent of a road party or not, to enter upon and take possession of so much of any of the Crown Lands of this Colony as may be required for the purpose of any main road, and further to enter upon all lands forming part of the said Crown Lands lying convenient to any main road, and there dig, get, and carry away any stone, clay, or other materials which may be required or serviceable for making or repairing any main road or bridge, culvert, drain, watercourse, or other work thereon.

Power to Civil Engineer, &c., to enter upon Crown Lands, and take materials for Public Works.

2. For the purpose of making any such main road, and generally for any of the objects of this Act, the said Civil Engineer or the officer acting in that capacity for the time being, or the person by him duly authorised, is hereby invested, for the purpose of so doing, with all and singular the legal rights belonging to the Government of this Colony in respect to the taking of any land and the raising and carrying away any materials for making and repairing main roads, whether such rights have been created or reserved by express stipulation of condition in any grant of land, or exist in any way or manner whatsoever.

And to exercise the legal rights belonging to Government.

3. No land to be taken for the purposes of any main road shall exceed one hundred feet in width (A), and except as hereinafter mentioned all material (wood or timber excepted) raised and carried away to be employed in the construction and repair of any main road, or of any bridge, culvert, drain, watercourse, or other work connected with or forming part of the said road, shall be employed and used only in the construction and repair of so much of the road, or of any of the aforesaid works, as lie and are situated within the boundaries of the original grant from which the material has been raised: Provided, that no land be taken or materials be raised or carried away as aforesaid upon which any building may actually be thereon erected without compensation to the proprietor; and that no land be taken or materials raised and carried away without previous notice to the proprietor thereof, by transmitting the same through the Post Office, addressed to said owner's last known place of abode: Provided also, that should the proprietor or occupier object to such materials being raised or taken, such objection shall be referred to the decision of the Resident Magistrate, who, after inspection and investigation shall make such order thereon as to him may seem fair and just.

Width of land for main road.

Materials to be used on land from which they are taken.

In what cases compensation is to be made.

Notice to proprietor of materials required.

Objection how decided.

4. The said Civil Engineer or the officer acting as such for the time being, and all persons duly authorised thereto by him, shall have

Where materials are not obtainable on land through which the road runs.

(A) See Law 9, 1870, s. 15, tit. "OUTSPAN."

Law 19, 1875. power and authority, should no serviceable material for constructing or repairing any of the main roads be found within the boundaries of the original grant through which lies that portion of the main road to be constructed or repaired, to enter upon any land and wherever found to raise and carry away such materials as hereinbefore provided: Provided always, that whenever such materials are carried away from land over which no such rights as aforesaid have been reserved, or from land that the Government may have a legal right to use, but which has been improved by cultivation, irrigation, or otherwise, the said Civil Engineer or other officer as aforesaid shall treat and agree with the proprietor thereof in manner provided by the fifth, sixth, seventh, and eighth sections of this Law, and in all other respects deal with the said proprietor or with the said land as in the said sections provided and set forth.

In what cases an agreement for purchase or hire must be made.

5. If the aforesaid Civil Engineer, or the officer acting in that capacity for the time being, should require to take or use any land for the purpose of a main road, or to dig, get, or carry away any materials for constructing and repairing the said road, over which land no such rights as aforesaid have been created or secured, and belonging to any person who may think proper to require compensation from the said Civil Engineer, or if he should require to use any land or to take any materials from any land that the Government may have a legal right to use, but which has been improved by cultivation, irrigation, or otherwise, he may treat and agree with every such person 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 of such improved land upon such terms and conditions as he shall judge expedient.

Notice to person not agreeing.

6. Should any such person and the Civil Engineer, or the officer acting as such for the time being, not agree upon the purchase money or hire or other recompense to be respectively given and accepted, then the said Civil Engineer or the officer as aforesaid shall cause to be served upon such persons a written notice, offering as recompense or compensation whatever sum of money he shall deem sufficient, and requiring such person to state in writing, within a certain limited time to be specified in the said notice, whether he is willing to accept the sum therein mentioned or not.

Further notice of arbitration.

7. Should any such person refuse to accept the sum offered, or neglect to reply to the notice as in the last preceding section mentioned, then the said Civil Engineer or the officer as aforesaid 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, and for that purpose to transmit to the said Civil Engineer or the officer 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 Civil Engineer or other officer as aforesaid upon receiving the name of the person selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed by the said Civil Engineer or other officer as aforesaid, and by the person claiming such recompense or compensation as aforesaid, and which shall clearly set forth the matter to be determined by the said arbitrators, and shall contain, amongst other things, a direction to the said arbitrators to set off against and deduct from the amount of such recompense or compensation as would otherwise be claimable, the amount at which they shall estimate the benefit and advantage derived or to be derived by the person claiming recompense or compensation by reason of the formation or improvement of the road

Deed of submission.

in regard to which the question has arisen, together with the 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 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.

Law 19, 1875.
Award binding.

8. Any person claiming such recompense or compensation as aforesaid, neglecting or refusing to name some persons to be arbitrators as aforesaid, or to sign the said deed of submission (A), the said Civil Engineer or other person acting in that capacity for the time being may lodge in some bank of the Colony the sum of money offered by him as aforesaid in his first notice in the sixth Section of this Law 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 Civil Engineer or other officer as aforesaid, upon lodging the said sum, shall be authorised and entitled to take and use the land or materials in question as freely as if the said sum had been agreed upon between the parties as the sum to be paid, or had been awarded by arbitrators or an umpire under the provisions of this Law, and as if all acts required for vesting in the Civil Engineer a sufficient title to the use of or property in the land or materials aforesaid had been duly done and performed.

Procedure in case of claimant's default.

9. If any person shall wilfully prevent or assault, or threaten to assault, or obstruct the said Civil Engineer or any surveyor or contractor in the execution of his duty, or any person or persons employed by proper authority and acting within the powers conferred by this Law, in surveying or measuring or laying out any line intended for a main road, or in entering upon any land for the purposes of this Law, or if any person shall wilfully destroy, pull up, or in any way injure any instruments or implements used in public works, or any road work, bridge, culvert, drain, watercourse, or other work whatsoever, every person so offending shall forfeit and pay for every such offence upon conviction before the Court of any Resident Magistrate any sum not exceeding ten pounds sterling, or in default of payment shall suffer imprisonment with or without hard labour for any term not exceeding three months.

Punishment for obstructing officers,

or injuring Public Works, &c.

10. It shall be lawful to erect tents, huts, or other temporary dwellings upon any land contiguous to any main road for the use of the workmen and all other persons employed in and about the construction and maintenance of any main road, and to outspan thereon all wagons and carts used in and about the works, and to depasture all horses and cattle upon the land over which the said main road may run, and upon the construction and maintenance of which the said cattle and horses may be employed for a reasonable time: Provided always, that the owner of the said land suffer no damage by reason of the grazing upon his lands of the said cattle and horses, without being entitled to demand and obtain reasonable compensation for the same, to be determined by arbitration in the manner as hereinbefore provided: Provided also that any objection of the owner or occupier of the land to the site chosen for the erection of the said huts, tents, or other temporary dwellings, shall be referred to the Resident Magistrate of the County or Division, who shall make such order thereon as he may deem fair and just.

Erection of tents, &c., for use of persons employed in Public Works.

Compensation for damage to be determined by arbitration.

Objections how determined.

11. This Law shall be in operation after promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B).

Commencement

(A) As to incidence of costs of arbitration see *Raw v. Resident Engineer*, N.G.R., 6 N.L.R. 49.
(B) February 29, 1876.

Law No. 20, 1875.

“ To Regulate Conveyances carrying Passengers along the Main Roads.”

[17th December, 1875.]

WHEREAS it is desirable to regulate the conveyance of passengers along the main roads of the Colony :

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

License of
passenger
conveyances

1. There shall be payable by the owner of any conveyance used for the carrying of passengers along any main road in this Colony an annual license of One Pound sterling.

Who may grant
license.

2. It shall be lawful for the Resident Magistrate of any district through which such conveyances may be intended to pass to grant such license under his hand, in the form of the first schedule hereto, to any person who shall apply for such license in the form of the second schedule hereto, to keep and use any such conveyance in any part of this Colony.

Examination of
conveyance for
purpose of
license.

3. Before any such license shall be granted, the conveyance in respect of which license is applied for shall be exhibited to the Resident Magistrate to whom application shall be made, at his office ; and such Resident Magistrate may upon the examination of such conveyance determine the number of passengers which may be safely and conveniently carried by such conveyance, allowing not less than eighteen inches of the space allowed and provided for sitting for each passenger, and exclusive of the space set apart and allowed for luggage or for any other purpose.

Duration of
license.

4. Every license granted or renewed under the authority of this Law shall be and continue in force from the day of the date thereof to the thirty-first day of December then next ensuing, and no longer : Provided, that whenever any change in the owners or proprietors of any such licensed conveyance shall take place during the continuance of any such license, the said license shall be renewed in the name of the new owners or proprietors upon requisition from them or on their behalf, without fee or charge.

Change of
owners.

Inspection of
licensed con-
veyances.

5. Every conveyance so licensed shall be from time to time inspected by an officer to be appointed for that purpose by the Resident Magistrate through whose County or Division any licensed vehicle may pass, and should such officer determine that such vehicle is in a condition which renders it unfit for the safe conveyance of passengers, he shall report the fact to the Resident Magistrate, who, upon satisfactory proof of the same, shall forthwith issue an injunction prohibiting the use of the said vehicle until, after due repair, it has been approved by the said officer : Provided that no sum shall be paid for inspection exceeding the sum received from fees payable under this Law.

Unlicensed
Passenger con-
veyances
prohibited.

6. It shall not be lawful for any person to keep or use or employ, or be concerned in any way whatsoever in the keeping, using, or employing of any conveyance for the carrying for hire, of passengers along the main roads of this Colony, unless such conveyance shall be licensed under the authority of this Law.

Inscription
upon licensed
conveyances.

7. No conveyance shall be used as aforesaid until there shall be truly painted in words at length, and in legible and conspicuous letters, one inch at least in height, and of a proper and proportionate breadth, and in colour different from and opposite to the colour of the ground on which such letters shall be painted, upon some conspicuous part of each side of such conveyance, and clear of the wheels thereof, so

that the same shall be at all times plainly and distinctly visible and legible, the Christian name and surname of the proprietor or of one of the proprietors of such conveyance; and also the names of the extreme places from and to which such conveyance shall be licensed to travel or go; and also in manner aforesaid the greatest number of passengers allowed to be carried in or by such conveyance. Law 20, 1875.

8. The number of passengers allowed to be carried by any such conveyance shall be reckoned exclusive of the driver; and no child or children in the lap shall be counted as a passenger or passengers; and no child not in the lap, but under seven years of age, shall be so counted unless there shall be more than one such child; and if there shall be more than one such child not in the lap, but under seven years of age, then two of such children shall be accounted equal to one adult person and considered as one passenger, and so on in the same proportion. Computation of number of passengers.

9. No owner or driver of any such conveyance shall permit any lunatic, in charge of a keeper, to travel in the same conveyance with passengers. Restrictions on lunatics travelling.

10. No owner or driver of any such conveyance shall permit or suffer a greater number of persons to be carried in or by any conveyance within the meaning of this Law than, according to the license of any such conveyance and the number painted upon such conveyance, is allowed to be carried or conveyed in or by any such conveyance. Prohibition of carrying excessive number passengers.

11. If the driver of any such conveyance as aforesaid shall quit the box of such conveyance or the horses drawing the same without delivering the reins into the hands of some fit and proper person, or before some fit and proper person shall be placed and shall stand at the heads of the horses and shall have the command thereof, or if any persons so placed and standing at the heads of the horses shall leave such horses before some other fit and proper person shall be placed and stand in like manner and have command of such horses, or before the driver of such conveyance shall have returned and seated himself upon the box and taken the reins, or shall permit any passenger or any person other than himself to drive the horses drawing such conveyance, or if the driver of any such conveyance shall quit the box without reasonable occasion, or for a longer time than such occasion shall absolutely require; or shall neglect to take due care of any luggage, goods, or parcels whatsoever carried by any such conveyance, or shall demand or receive for the fare of any passenger more than the sum which such passengers shall be liable to pay, or more than the money properly chargeable for the carriage of any luggage, or shall assault or use abusive or insulting language to any person travelling or about to travel or having travelled as a passenger with or by any such conveyance, or to any person accompanying or attending upon any such passenger in coming to or going from any such conveyance, every such offender, upon conviction in any of the several cases aforesaid, shall forfeit any sum not exceeding Ten Pounds sterling, or in default of payment suffer imprisonment with hard labour for any period not exceeding three months. Misconduct of driver.

12. If the driver of any such conveyance or any other person having the care thereof, or employed in, upon, or about such conveyance, shall through intoxication or negligence, or by wanton or furious driving, or by or through any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the owner or proprietor of such conveyance or of any other person, every such person so offending shall on conviction forfeit any sum not exceeding Ten Pounds sterling, or in default of payment, suffer imprisonment with hard labour for any period not exceeding Punishment.

Endangering life or property.

Punishment.

Law 20, 1875. three months: Provided that nothing herein contained shall be deemed to affect the right of any person to recover damages for any injury committed as aforesaid.

Proprietor liable if driver not known or discovered. 13. Whenever it shall happen that the driver of any such conveyance shall have committed any offence against this Law, for the commission whereof any penalty is imposed upon such driver, and not upon the proprietor of such conveyance, and such driver shall not be known, or being known cannot be found, then the proprietor of such conveyance shall be liable to every such penalty as if he had been the driver of such conveyance when the offence was committed, and may be indicted and summoned accordingly: Provided always, that if any proprietor shall make out to the satisfaction of the Magistrate, before whom any such complaint or information shall be heard, by sufficient evidence not resting on his own testimony, that the offence was committed without his privity and knowledge, and that no profit, advantage, or benefit, either directly or indirectly, has accrued or can accrue to him therefrom, and that he has used his endeavour to find out such driver and given all reasonable information in answer to inquiries respecting him, such Magistrate shall discharge the proprietor from the penalty.

Proviso, how proprietor may exonerate himself.

Punishment for contraventions generally. 14. Every offender against any portion of this Law, for whom a special penalty is not provided, shall, on conviction, forfeit, and pay a penalty of Ten Pounds sterling, or in default of payment, suffer imprisonment with hard labour for any period not exceeding three months.

Offences, how tried. 15. Every offence against this Law may be heard and determined before any Resident Magistrate in a summary manner, unless it shall be decided by the Resident Magistrate, to whom application shall be made to hear and determine any such contravention as aforesaid that such contravention shall be more appropriately and consistently prosecuted, upon the complaint and information of the Clerk of the Peace before the Court of the Resident Magistrate of the county or division where such offence as aforesaid shall be committed.

Constables to report contraventions. 16. Every constable and officer of the law is authorised and required to report without delay to the nearest Resident Magistrate all contraventions of this Law by any person whomsoever.

What vehicles are excepted from this law. 17. Nothing in this Law contained shall apply to or be held to apply to any conveyance specially hired by any private person or persons, for a particular journey, or for the day or hour.

Commencement 18. This Law shall be in force after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

SCHEDULE No. 1.

Schedule No. 1. Whereas (owner's name), the proprietor of a certain conveyance, being (description of vehicle), has applied to me Resident Magistrate of the Division of , to grant to him a license to authorise him to keep, use, and employ the said conveyance between and

And whereas, I, the said Resident Magistrate, have had this day exhibited to me the said conveyance, and having examined the same, and being satisfied that the said conveyance is calculated safely and conveniently to carry the number of passengers hereinafter mentioned:

Now, therefore, in pursuance of the authority in me vested by Law No. , 1875, I do hereby authorise and license the said to carry and convey between

(A) Feb. 29, 1876.

aforesaid and aforesaid passengers, Law 20, 1875.
 in and by the said conveyance, being the number of passengers the
 said conveyance can conveniently carry, subject to the several regulations
 and provisions of the said recited Law.

This license to cease and determine on the thirty-first day of
 December next.

Given under my hand at this
 day of 18
 Resident Magistrate.

SCHEDULE NO. 2.

To the Resident Magistrate of the Division of
 I, residing in
 , do hereby request that a license may
 be granted to me to keep, use, employ, and let a certain conveyance
 hereinafter described, to be used or employed in the conveyance of
 passengers between and
 Description of conveyance,
 build, colour,
 other particulars
 Dated at
 this day of 18
 (Signature)

Act No. 17, 1899.

"To facilitate the laying of wires for electric lighting purposes across
 public roads."

[15th August, 1899.]

BE IT ENACTED by the Queen's Most Excellent Majesty,
 by and with the advice and consent of the Legislative Council and
 Legislative Assembly of Natal, as follows:—

1. In this Act—

The word "Person" includes a partnership, company, or Corporation; and

The words "Public Road" mean and include any public road
 maintained by the Government, and no other.

2. Any person wishing to carry wires for electric lighting purposes,
 either overhead or underground, across any public road, may apply
 to the Minister of Lands and Works for license to do so.

3. Every application for a license shall show that the consent of
 the owners of the land abutting upon the public road at the point of
 crossing has been obtained, and shall be supported by a diagram prepared
 by a sworn Land Surveyor setting out the direction and position of the
 proposed line of wires.

4. Every application shall be accompanied by a deposit of
 Twenty-five Pounds sterling, and any expense that may be incurred
 by the Government in and about the application shall be paid out
 of the deposit, and the balance shall be returned to the person making
 the deposit.

5. The Minister of Lands and Works shall satisfy himself by
 enquiry that there are no objections to the application, and may there-
 upon grant a license.

Act 17, 1899.

Duration of license.

6. A license shall be in force for seven years from the date of its issue, and may be renewed from time to time for further periods of not more than seven years.

Conditions to be contained in license.

7. A license shall contain conditions regulating the following matters:—

- (a) The securing the safety of the public from injury to person or property.
- (b) The height of the wires over, or the depth of the wires under, a road.
- (c) The strength, material and construction of the poles or pipes.
- (d) Generally, any matters connected with the undertaking.

Works when completed to be examined and certified.

8. No works authorised by any license shall upon completion be put to any use until they shall have been examined and certified to be fit for use by an engineer to be appointed by the Chief Engineer, Public Works Department, and any expense connected with such examination and the obtaining of the necessary certificate shall be borne by the person obtaining the license.

Transfer of license.

9. The Minister of Lands and Works may give permission in writing for the transfer of a license.

Duties of licensee as regards upkeep of works.

10. It shall be lawful for the Chief Engineer, Public Works Department, or his duly appointed deputy, at any time to enter upon and inspect the works authorised by any license, and to give such directions as he may think necessary for the upkeep of the works and for the prevention of damage to property or injury to the person. All such directions shall be at once carried out by the person holding the license, and in the event of his failing to do so it shall be lawful for the said Chief Engineer or his deputy to have them carried out at the expense of the said person in any manner he may think proper.

Cancellation of license for breach of conditions.

11. Notwithstanding the provisions of the preceding section, it shall be lawful for the Minister of Lands and Works to cancel and determine a license granted under this Act if after ten days' notice has been given to the holder of the license of any breach of its conditions, or on his failure to comply with any instruction given by the Chief Engineer as aforesaid, the holder of the license shall fail to make good any such breach of the conditions, or to comply with the Chief Engineer's instructions, within the time appointed by the notice.

Appeal to Minister of L. & W.

12. There shall be a right of appeal to the Minister of Lands and Works against any direction of the Chief Engineer or his deputy, and the decision of the Minister thereon shall be final.

Liability of licensee for defective works or negligence of servants.

13. The holder of a license shall be liable for any damage to property or for any injury to the person occasioned by reason of any defect in the construction of the works, or in any of the materials used thereon, or because of the negligence or default of his servants or employees.

Malicious injuries.

14. Whosoever shall unlawfully or maliciously cut down, break through, dig up, or otherwise injure or destroy any wires or pipes or other works, the construction of which has been duly licensed under this Act, shall be guilty of an offence, and on being convicted thereof shall be liable to a penalty not exceeding Ten Pounds sterling.

ROMAN-DUTCH LAW.

ROMAN-DUTCH LAW.

Ordinance No. 12, 1845.

“Ordinance for establishing the Roman Dutch Law in and for the District of Natal.”

[27th August, 1845.]

1. WHEREAS it has pleased Her Majesty the Queen, by certain Letters Patent, bearing date the 31st day of May, in the Seventh Year of Her Reign, to annex to this Settlement of the Cape of Good Hope, as a part or portion thereof, the district of Natal in South Africa: And whereas, by the said Letters Patent, it is amongst other things provided, that no law, custom, or usage in force within this Settlement should, by virtue merely of the said Letters Patent, extend to or become in force within the said District of Natal; but that it should be competent for the Legislature of this Settlement, subject to the limitations, conditions, and provisions in the said Letters Patent mentioned or referred to, to make, ordain, and establish all such Laws and Ordinances as to them should seem meet for the peace, order, and good government of the said District of Natal: And whereas His Excellency the Governor has declared, by a Proclamation dated 21st August, 1845, by him issued in virtue of certain authority in that behalf in him vested, the limits or boundaries of the said District of Natal, and has defined the Territory or Territories which constitute the said District: And whereas it is expedient, without awaiting the legislative establishment within the said District, of the Court or Courts for the administration of Justice, which is or are now about to be created, to make provision for the establishment of such laws as are immediately and indispensably required for the preservation in the meantime of peace and good order, and the repression of violence, injury, and injustice amongst all persons resident in the said District:

BE IT THEREFORE ENACTED by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that the system, code, or body of law commonly called the Roman Dutch Law, as the same has been and is accepted and administered by the legal tribunals of the Colony of the Cape of Good Hope, shall be, and the same is hereby established as the law for the time being of the District of Natal (A) (as the said District shall, from time to time, be limited and defined by and on behalf of Her Majesty the Queen), and of Her Majesty's subjects, and all others residing and being within the said District. Provided, however, that nothing herein contained shall be deemed or taken to establish within the said District any law or ordinance heretofore at any time made or passed in this Colony by or through the local Government or Legislature thereof, or to give any existing Court or Magistrate of the said Colony any authority or jurisdiction over or in regard to the said District, or to prevent the said system, code, or body of law from being hereafter added to or altered, in regard to the said District, by any competent authority.

2. And be it enacted that it shall and may be lawful for the Governor aforesaid to address to any one or more of Her Majesty's subjects residing within the said District one or more commission or commissions, authorising him or them to exercise within such District

Roman-Dutch Law established as the common law of the District for the time being.

Governor has power to appoint Magistrates.

(A) See Act 39, 1896, s. 21, tit. “COURTS (SUPREME).”

Ord. 12, 1845. the office of a Magistrate, for the purpose of preventing the perpetration therein of any crimes and offences punishable by law, and for the purpose of arresting and committing to custody for trial before the certain Court or Courts now about to be established within the said District any person or persons charged, on sufficient evidence, with the commission of any crimes or offences within the said District which shall have been committed after the date of the publication of this Ordinance in the "GOVERNMENT GAZETTE," as hereinafter mentioned: Provided always, that every such commission shall be revocable at pleasure; and provided also, that any person committed for trial by any such Magistrate who shall not be brought to trial within six months from the date of his commitment, shall, at the expiration of such term of six months, be discharged from custody, upon entering into his own recognisance, conditioned in such sum as shall appear just and reasonable, to appear before any such Court or Courts as aforesaid, when duly summoned so to do, there to answer to any such charge as may be preferred against him.

Commencement

3. And be it enacted that this Ordinance shall commence and take effect from and after the date of the promulgation thereof, by publication thereof in the "GOVERNMENT GAZETTE."

SAVINGS BANK.

SAVINGS BANK.

Law No. 11, 1882.

“To repeal and re-enact, with certain amendments, the ‘Government Savings Bank Law, 1868.’”

[4th September, 1882.]

WHEREAS by Law No. 7, 1868, entitled the “Government Savings Bank Law, 1868,” it is declared expedient to afford facilities for the deposit of small savings, and to give the direct security of the Colonial Revenue to every depositor for re-payment of all moneys deposited, together with the interest due thereon:

AND WHEREAS it is expedient to repeal the said recited Law No. 7, 1868, and re-enact the same with certain amendments:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Law 7, 1868, entitled the “Government Savings Bank Law, 1868,” shall be and the same is hereby repealed: Provided, nevertheless, that nothing herein contained shall invalidate or annul any payments made or receipts given or any proceedings had or taken or entered into under the authority of the said Law hereby repealed.

Repeal.

2. The Colonial Treasurer (A) and such Resident Magistrates or other officers as the Governor may appoint, shall receive deposits at their respective offices from any friendly, benevolent, or charitable society, from tradesmen, mechanics, servants, labourers, children, natives, and other persons, at their discretion, and may reject or refuse to receive deposits in all cases in which they shall think fit so to do.

Who may receive deposits.

3. The Colonial Treasurer (B) and such other officer as may be appointed to receive deposits may also receive such deposits from any person who may be duly appointed to act as curator or guardian of or for any other person disabled by idiocy, lunacy, or unsoundness of mind or minority, and allow interest and make payments as in the case of ordinary depositors, and the receipt of such person so acting as aforesaid shall be a sufficient discharge.

Deposits may be received from curator or guardian of minor, idiot, or lunatic.

4. Such deposit shall in no case be less than Two Shillings nor more than Twenty-five Pounds on any one day.

Maximum and minimum deposit received.

5. The Colonial Treasurer (C) and every officer appointed to receive deposits shall keep a depositors' book, and shall deliver to every depositor a savings bank pass book, and shall at the time of the receipt of any deposit enter in the depositors' book and in the said pass book the amount of each deposit, and attest said entry in every pass book.

Depositors' book to be kept and pass books issued.

6. Every deposit received by any officer appointed for that purpose shall, upon the day of such receipt, be reported by such officer to the Colonial Treasurer (D), who shall enter the same in a depositors' book to be opened by him on account of each officer appointed to receive such deposits.

Officers receiving deposit to report same.

7. All moneys so received by way of deposit shall be received and paid into the Colonial Treasury (E) in the same manner as moneys received on behalf of the Government.

Disposal of deposits.

(A) The words “Controller of the Government Savings Bank” are substituted for the words “Colonial Treasurer” in this section, by Act 28, 1895, s. 1, post.

(B) See note (A).

(C) See note (A).

(D) See note (A).

(E) Act 28, 1895, s. 2, post, substitutes for “Colonial Treasury” the words “Office of the Government Savings Bank.”

Law 11, 1882.

Deficiency in deposit to be made good from Colonial revenue.

Interest on deposits at rate of four per cent.

Maximum amount and minimum time for which interest is allowed.

Accounts not affected by addition or withdrawal for seven years to be carried to "Depositors' unclaimed fund."

Manner in which deposits may be withdrawn.

Proviso.

Governor may make rules.

8. If at any time the moneys received under this Law shall be insufficient to meet the lawful claims of depositors, the Governor may, upon being informed thereof by the Colonial Treasurer (A), authorise by warrant the issue of the amount of such deficiency out of the revenue of the Colony.

9. The interest payable to the parties making such deposits shall be at the rate of four pounds per centum per annum on every complete pound deposited, and shall be computed from the first day of the calendar month next following the day on which a complete pound shall have been deposited, or on which deposits of a less amount shall have made up a complete pound, up to the first day of the calendar month in which moneys are withdrawn: Provided that no depositor shall be entitled to receive interest on any larger sum than one hundred pounds; [and provided also, that no depositor shall be entitled to receive interest on any sum deposited for less than four months (B)].

10. [Repealed by Act No. 29, 1896.]

11. All depositors' accounts, not being deposits made on behalf of minors, which shall not have been affected by the addition or withdrawal of deposits for a period of seven years and upwards may, with the interest which may have been placed to the credit of such accounts, be balanced and closed, and the balances thereof respectively shall be carried in the names of the respective depositors to an account to be called the "Depositors' unclaimed fund." Deposits and any sum transferred to the "Depositors' unclaimed fund" shall, when duly applied for, be paid thereout to the person entitled to receive the same, but without any interest thereon for the period during which it shall have been so transferred and remained to the credit of such fund.

12. The depositor of any sum of money so deposited, or any person duly authorised by such depositor or his executor or other lawful representative, shall be entitled to claim and receive back such sum of money, together with the interest due thereon, or any part thereof, in the manner and upon the conditions following, that is to say:—

if the claimant thereof shall, at the Colonial Treasury (c) or the office where he has deposited the same, deliver or cause to be delivered to the Colonial Treasurer (D), or to the officer with whom he had made such deposit, a notice signed with his name, declaring his intention to withdraw such sum at the expiration of seven days from the date of such notice:

Provided the Governor may, upon recommendation of the Colonial Treasurer, dispense with such notice in cases where it may to him appear expedient; and, on the withdrawal of any money, a receipt shall be signed by the party receiving such money, and such receipt shall be a sufficient discharge to the said Colonial Treasurer and other officers for the sum therein expressed to have been received.

13. The Governor may, with the advice of his Executive Council, from time to time, as occasion may require, make, frame, and alter regulations and rules for superintending, inspecting, and regulating the mode of keeping and examining the accounts of depositors and the custody of the money deposited, and also with respect to the making of deposits and the withdrawal of deposits and interest and the postage and other charges to be paid by depositors, and all other matters and things incidental to carrying this Law into execution, and such rules and such regulations, when published in the "GOVERNMENT GAZETTE," shall have the force of law, and copies of all rules and regulations

(A) See note to secs. 2, 3 and 5.

(c) See note to sec. 7 ante.

(B) Words in brackets are expunged by Act 29, 1896, post.

(D) See note to secs. 2, 3 and 5.

issued under the authority of this Law shall be laid before the Legislative Council within fourteen days from the date thereof, if the Council be then sitting, and if not, then within fourteen days of the next sitting of such Council. Law 11, 1882.
To be laid before
Legislative
Council.

14. An annual account of all deposits received and paid under the authority of this Law, and of all expenses incurred during the year ending 31st December (A), together with a statement of the total amount due at the close of the year to all depositors, shall be laid before the Legislative Council in each year (B). Annual account
to be laid before
Legislative
Council.

15. The annual account to the 31st December (c) in each year in respect of all moneys received and paid under the authority of this Law, shall annually, prior to the 31st of January (d) in each year, be submitted to the Auditor for examination and audit. Annual account
to be submitted
to Auditor.

16. All expenses incurred in carrying this Law into execution shall be paid out of the Colonial Revenue. Incidence of ex-
penditure.

17. No deposit made under this Law shall be appropriated by the Colonial Government for any debt, claim, demand, or forfeiture, claimable by or due to the Colonial Government, nor shall any depositor be prevented from withdrawing any deposit by reason of any such debt, claim, demand, or forfeiture. Deposits not to
be appropriated
by Government,
or withheld for
any debt, &c.

18. No money deposited under this Law by or on behalf of any Native shall be liable to be seized, retained, or interdicted for the purpose of satisfying any judgment obtained against, or liability incurred by, or fine inflicted upon, the tribe, native village, kraal, or collection of kraals, of which such Native depositor is a member, under the provisions of Law No. 10, 1876, entitled "Law to make provision for the Detection and Punishment of Natives wrongfully and unlawfully Stealing, Killing, Stabbing, or Wounding Cattle, and to make provision with regard to the Removal of Cattle from place to place within the Colony," or otherwise: Provided, however, that this exemption shall not extend to any liability incurred by such Native depositor himself in respect of any personal and individual responsibility. Deposits not to
be seized under
Law 10, 1876.

19. This Law may be cited as the "Government Savings Bank Law of 1882," and shall commence and take effect from and after the First day of January, 1883. Short title and
commence-
ment.

Law No. 7, 1884.

"To amend the 'Government Savings Bank Law, 1882.'"

[20th August, 1884.]

WHEREAS it is expedient to make provision for the investment of Moneys in the hands of the Colonial Treasurer, on account of Deposits under the "Government Savings' Bank Law, 1882":

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Governor may from time to time, upon the recommendation of the Colonial Treasurer, direct that any moneys received as deposits under the said "Government Savings Bank Law, 1882," shall be invested in some one or more securities of any Colony or Dependency of Great Britain: Provided that the sum so invested at any one time shall not exceed in amount seven-eighths of the total of the deposits under the said Law. Governor may
direct invest-
ment of De-
posits to the ex-
tent of seven-
eighths of total
amount de-
posited.

(A) Altered to 30th June by Act 29, 1896, post.

(c) See note (A) supra.

(B) See Act 29, 1896, s. 4.

(D) Altered to "July" by Act 29, 1896, s. 3.

Law 7, 1884.	2. [Repealed by Act No. 28, 1895.]
Incidence of expenditure.	3. All expenses of, or incidental to, the investment and management of such moneys shall be paid out of the Colonial Revenue.
Commencement	4. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," and shall be read and construed together with the "Government Savings Bank Law, 1882," as one Law (A).

Act No. 28, 1895.

"To amend the 'Government Savings Bank Law, 1882.'"

[24th August, 1895.]

WHEREAS it is expedient to amend the "Government Savings Bank Law, 1882," and Law No. 7, 1884, entitled Law "To amend the Government Savings Bank Law, 1882";

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Separation of Savings Bank from Treasury department.

1. Sections Nos. 2, 3, 5, 6, 8, and 12 of the Government Savings Bank Law of 1882 are hereby amended by substituting therein for the words "Colonial Treasurer" the words "Controller of the Government Savings Bank."

2. Sections 7 and 12 of the Government Savings Bank Law of 1882 are hereby amended by substituting for the words "Colonial Treasury," the words "office of the Government Savings Bank."

Rate of interest.

3. Section 9 of the Government Savings Bank Law of 1882 is hereby amended by inserting therein, after the words "four pounds per centum per annum," the words "or such other rate as may from time to time be decided upon by the Governor in Council."

Investment of balances.

4. Section 2 of Law No. 7, 1884, shall be, and the same is hereby repealed, and the following section shall be and is substituted therefor:—

All such moneys shall be invested in such manner as may be approved by the Governor in Council, and the interest accruing therefrom shall be paid to the credit of the Colonial Revenue.

Persons may make deposits in trust.

5. It shall be lawful for the Government Savings Bank to receive from any person or persons acting as trustee or trustees on behalf of any depositor or depositors, whether such person or persons is or are himself or themselves a depositor or depositors in the Government Savings Bank, any sum or sums not exceeding the amount ordinarily allowed to be received, subject to the like conditions as are required in the case of any person or persons making any deposit on his or their own account.

Entry of trust accounts.

6. All deposits made by any such trustee or trustees shall be inserted in the books of the Savings Bank in the joint names of such trustee or trustees, and of the person or persons in whose account such sum shall be so deposited.

Discharge given by trustee.

7. The receipt or receipts of such trustee or trustees, or the survivor of them, or the executors or administrators of any sole trustee or surviving trustee, with or without the receipt of the person on whose account such sum may have been deposited, shall be a good and valid discharge to the Bank.

(A) Aug. 26, 1884.

8. Any person desirous of making a deposit in the Government Savings Bank, in his or her own name, in trust for some other person or persons, shall at the time of the making of the first deposit, and at such other time as such depositor shall be required so to do by the Controller of the Government Savings Bank, make a declaration in such form as shall be directed or approved by the Governor in Council that such deposit is made "bona fide" for the person or persons on whose behalf any such deposit shall be required to be made, and that the person or persons on whose behalf such deposit is required to be made, is not or are not entitled, directly or indirectly, to any other funds in the Government Savings Bank.

Act 28, 1895.
Declaration by depositor in his own name as trustee.

9. If any such declaration shall not be true, or if any person shall at any time have or hold or be possessed of any deposit or funds for his or their own use on more than one account in the Government Savings Bank, every such person shall, if any such deposit was made with a fraudulent intention, be liable to forfeit and lose all right and title to any deposit in or to any funds of the Government Savings Bank.

False declarations.

10. It shall be lawful for any Government Savings Bank to pay any sum of money in respect of any deposit already made or to be made by a married woman, or by a woman who may marry after such deposit to any such woman, and the receipt of such woman alone shall be a sufficient discharge notwithstanding her marriage.

Married women.

11. This Act shall be read and construed together with Laws No. 11, 1882, and No. 7, 1884, as one Act.

Construction.

Act No. 29, 1896.

"To further amend the Government Savings Bank Law, 1882."

[6th July, 1896.]

WHEREAS it is expedient to further amend the Government Savings Bank Law, 1882, as already amended by Act No. 28, 1895:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 9 of the Government Savings Bank Law, 1882, is hereby amended by expunging therefrom the following words:—

Amendment of Sec. 9, Law 11, 1882.

And provided also that no depositor shall be entitled to receive interest on any sum deposited for less than four months.

2. Section 10 of the Government Savings Bank Law, 1882, is hereby repealed.

Repeal.

3. Sections 14 and 15 of the Government Savings Bank Law, 1882, are hereby amended by substituting the words "30th June" in place of the words "31st December," occurring in the said Sections, and by substituting the word "July" for the word "January," in the 15th Section.

Amount account.

4. The annual statement to be laid before Parliament in terms of the 14th Section of the Government Savings Bank Law, 1882, of the amount due to depositors, shall not be required to include interest on deposits.

not to include interest.

5. This Act shall commence and take effect from and immediately after the Thirty-first day of December, 1896.

Commencement

SAVINGS BANK.

Act No. 34, 1898.

"To amend the Government Savings Bank Law of 1882."

[15th August, 1898.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Interest on deposits how calculated and how accruing.

1. Interest on every deposit in a Government Savings Bank shall be calculated to the 30th day of June in every year, and shall be added to and become part of the principal money which may be then standing in the depositors' books to the credit of such depositors, and shall bear interest subject to the provisions of Law No. 11, 1882, as amended by Act No. 28, 1895, and Act No. 29, 1896, and interest shall be allowed to them upon the total sum so long as the same shall remain deposited, subject to the provisions in the said Law No. 11, 1882, contained in reference to notices of withdrawals of deposits.

SCAB.

[See "SHEEP (DISEASE IN)."]

SERVANTS.

[See "MASTER AND SERVANT."]

SERVITUDES.

[See "OUTSPAN"; "ROADS."]

SHEEP (DISEASE IN).

Law No. 48, 1887 (A).

“To repeal and re-enact with amendments the Law No. 12, 1882, entitled Law ‘To repeal and re-enact with amendments Law No. 26, 1878,’ entitled ‘Law for the better prevention of the disease in sheep called Scab.’”

[21st November, 1887.]

WHEREAS it is expedient to make better provision for the prevention of the disease in sheep called Scab, and to make the law in that regard applicable to all parts of the Colony, and for that purpose to repeal and re-enact with amendments the Law No. 12, 1882, entitled Law “To repeal and re-enact with amendments the Law No. 26, 1878, entitled Law ‘For the better prevention of the disease in sheep called Scab’”:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Law No. 12, 1882, shall be and the same is hereby repealed, without prejudice to anything done under the said repealed Law, or to the prosecution of any offences against, or recovery of any penalties incurred under the same, and provided that all Inspectors of Sheep already appointed shall be deemed to be Inspectors appointed under this Law.

Repeal of Law
12, 1882.

2. The Governor in Council may from time to time appoint an Inspector or Inspectors of Sheep for this Colony, or for any district thereof, and may from time to time remove or dismiss such Inspector or Inspectors; and every person so appointed shall have full power at any time to inspect any Sheep within this Colony, or the district thereof for which he shall be appointed, wherever such sheep may be kept, driven, or depastured, and shall have, exercise, and discharge within this Colony, or the district thereof for which he shall be appointed, the several powers, authorities, and duties hereinafter mentioned; and if any person shall refuse to allow any Inspector to enter upon his land, pasturage, or premises, or to examine any Sheep belonging to him or in his care or possession, or shall attempt to impede or hinder any Inspector from examining such Sheep, or shall not when required by any Inspector render him every reasonable assistance, or after demand made by the Inspector, shall fail to collect and produce to him within reasonable time his flock of sheep, such person shall, on conviction before any Resident Magistrate, forfeit and pay any sum not exceeding Ten Pounds for each offence.

Governor in
Council may
appoint In-
spectors.

Their powers.

Penalty for
obstructing
them.

3. It shall be the duty of each Inspector appointed under this Law to visit each flock in his district at last once in four months. In the event of any flock being declared by such Inspector to be infected with the disease called Scab, the owner of such flock shall be granted a license, conform. as near as may be, to the form of license set forth in the Schedule hereto marked D, to keep such sheep for a period of two months for the purpose of cleaning the same. Every such license shall contain a condition that the sheep thereby licensed shall be properly dipped a certain number of times, the first dipping to be

Duties of
Inspectors.

License to keep
infected sheep.

(A) See Act 21, 1895, post, empowering the Governor to relax in certain cases the provisions of this Law for dipping sheep on importation into the Colony.

- Law 48, 1887.** made within twenty days from the date of such license, and the owner shall be required to satisfy the Inspector that every sheep so licensed has been properly dipped as required by the license. At the expiry of such license the Inspector shall re-inspect such flock, and should the same be still infected with scab, the license may be renewed for a further period of two months, and the Inspector shall repeat his inspection every two months until such flock is found clean. Every renewed license shall contain requirements as to dipping similar to those contained in the first license. The first license shall be given free of charge, for the second a penalty of Three Pounds shall be charged, and for every subsequent renewal of the license a penalty of £5 until the flock is clean. And every owner who shall neglect or refuse to carry out the conditions of any such license shall, on conviction, be liable to a fine not exceeding £5 for the first offence, £10 for the second offence, and £15 for any subsequent offence: Provided, however, that it shall be lawful for the Colonial Veterinary Surgeon to extend the period for dipping any sheep so licensed, whenever it may appear to him that such dipping at the times required by the license would be dangerous or injurious to such sheep. All payments in respect of renewals of licenses shall be made to the Inspectors for the respective districts, and if not paid within thirty days from the date of any such renewal shall be recoverable by them in the Courts of the Resident Magistrates having jurisdiction in such districts. Any sheep so licensed shall, whenever grazing upon unfenced land be attended by a shepherd, and for every breach of this provision the owner shall, upon conviction, forfeit a sum not exceeding £5.
- Renewal of license.**
- Payments therefor.**
- Licensed sheep to be herded.**
- All sheep to be dipped during the first fourteen days of December in certain years.**
- Possession of sheep to be reported to the Inspector.**
- Penalty for default or false return.**
- Owner of infected sheep to give notice to Inspector and to neighbours.**
- Duties of Inspector thereon.**
- Return to be made to Inspector as per Schedule A.**
4. That every flock-master shall be compelled, during the first fourteen days in the month of December, to dip his sheep once, whether affected or not with the disease called Scab, under a penalty not exceeding £20. This provision to apply in the years 1888 and 1889, and such further period which may be proclaimed by the Governor in Council.
5. It shall be the duty of every person who may be, or may become, possessed of a flock of sheep, to report the circumstance to the Inspector of his district within one month from the date of the commencement of this Law, or within one month from the date of his becoming possessed of a flock of sheep, as the case may be, and at the same time to notify to the Inspector, in writing, the name of his farm and the number and brand of his sheep: Provided, that native owners may give notice verbally. Any owner neglecting to give such notice, or knowingly make a false return, shall forfeit, on conviction, any sum not exceeding £5.
6. It shall be the duty of every owner of sheep which are or may become infected with the disease called Scab, to give notice in writing at once to the Inspector of his district, and to every occupier of adjoining land who may possess a flock of sheep; and any owner of infected sheep neglecting or delaying to give such notice, shall be liable to a fine not exceeding Twenty-five Pounds. And the Inspector, on receiving such notice, as aforesaid, shall thereupon issue, in manner and form aforesaid, a license to keep the infected sheep for the purpose of cleansing the same.
7. Every owner of sheep within this Colony shall, whenever thereunto required by a notice in writing to be personally delivered to such owner, or left at his usual or last known place of abode in the said Colony, fill up a printed form in terms of Schedule hereunto annexed, marked A (which shall be supplied to him by the Inspector), containing a correct account of all the sheep in his possession or custody, with the marks and brands of such sheep, and deliver the same, or cause

the same to be delivered by post or otherwise to the Inspector. And if any such owner shall not, within thirty days after the delivery or leaving of such notice, deliver such account, he shall forfeit and pay, for every such offence, a sum not exceeding Five Pounds. And any person knowingly giving a false return to the Inspector shall be fined a sum not less than Two Pounds nor more than Ten Pounds: Provided that with respect to natives it shall be sufficient that such notice shall be given and account rendered verbally.

Law 48, 1887.
Penalties for default or false return.

8. Every owner of sheep shall, within one month after becoming possessed of sheep, or after this Law comes into operation, if not already registered, register or cause to be registered at the office of the Resident Magistrate in and for the district in which the sheep are depasturing, a description of the mark or brand which the proprietor of such sheep uses or purposes to use in marking or branding his sheep. Every owner now, or hereafter, of sheep above the age of six months kept or depastured on any land, shall cause all such sheep to be marked or branded with such mark or brand as aforesaid, not less than three inches in length, in a conspicuous way, with pitch, paint, or some suitable composition, and if any two proprietors of sheep have similar brands, the Inspector may require any owner of any such sheep to alter the brand or mark to prevent mistakes and confusion. And every owner who shall refuse or neglect to register or deliver such description in manner aforesaid, or to brand such sheep and keep them conspicuously branded, or to alter the brand when required by the Inspector as aforesaid, shall, on conviction, forfeit and pay a sum not less than Two Pounds nor more than Ten Pounds for every conviction: Provided that there shall be an interval of not less than one month between any two convictions. And it shall be lawful for the Resident Magistrate to refuse to register a brand which shall have been already adopted and registered by or for another sheep-owner; and a duly registered and authorised brand or mark shall constitute "*prima facie*" evidence of ownership of any sheep for the purposes of this Law.

Compulsory branding of sheep, and registration of brand.

Penalty for default.

Registered brand to constitute *prima facie* evidence of ownership.

9. Every Inspector or flock-master shall be authorised and empowered to impound unbranded sheep found running on any Crown Lands, Native Location, or Commonage, in any case where no one shall be found to claim the same.

Impounding of unbranded sheep running on certain lands.

The owner of any such impounded sheep who may desire to release them, shall make application to the Resident Magistrate, and shall furnish to him a writing supplied by the poundmaster giving the particulars of such sheep, and such Resident Magistrate, upon being satisfied as to the ownership of such sheep, shall impose a sum not exceeding £5 by way of penalty, upon payment whereof he shall make an order for the delivery of such sheep to the owner, who shall be required to pay pound fees therefor before delivery.

How such sheep are to be released.

10. If any straying or trespassing sheep infected with Scab, which are unbranded, shall be found straying on any private land, or intermixed with any flock of sheep which are clean within the meaning of this Law, it shall be lawful for the owner of such land or flock, or his authorised agent, upon the authority of the Inspector, or, in the absence of the Inspector, upon the recommendation in writing of two neighbouring sheep-farmers first obtained, to destroy such sheep so infected, provided they do not exceed ten in number; and, in the event of the Inspector not being present, the owner or persons causing such sheep to be destroyed shall forthwith report the fact to the said Inspector, who shall forthwith report the same to the Resident Magistrate of his County or Division. But otherwise, and also in case such sheep shall exceed ten in number, then the owner of the land upon which, or of the flock into which, they have so strayed or inter-

Destruction of unbranded infected sheep straying or intermixing with other flocks, when less than ten in number.

If more than ten.

Law 48, 1887.	<p>mixed, shall be empowered to at once dip and clean such sheep, and such sheep, after being so cleaned and dipped, shall be sold by auction; the proceeds of such sale, after deducting expenses, to be devoted, first, towards the indemnification for damage done, and payment for the expenses of the owner of the land or of such flock so injured by their trespass, and the over-plus, if any there be, to be paid into the Colonial Treasury: Provided that such sale shall not be made without the authority of the Inspector of the district, nor until after fourteen days' notice of such sale has been given in the "GOVERNMENT GAZETTE." And provided that such dipping shall not be carried out without the authority of the Inspector, or, in the event of his absence, without the written recommendation of two neighbouring sheep-farmers. All such proceedings taken in the absence of the Inspector shall be reported to the Inspector by the owner or person causing such sheep to be dipped, and the Inspector shall report the same to the Resident Magistrate. And in case such infected sheep are branded, and their owner be known to the owner of the land, or of the flock into which they have strayed or intermixed, then and in that case the owner of such straying or trespassing sheep shall be liable to all the expenses of dipping and cleaning the flocks infected by their trespassing and intermixing, and for any and all damages and expenses occasioned thereby; such damages to be assessed by two neighbouring sheep-farmers, one to be chosen by each party, these two having power to choose a third as umpire; but should the owner of the diseased sheep refuse or neglect to choose an appraiser, then both shall be chosen by the injured party: Provided that such damages are claimed within three months from the date of trespass: And provided further that notice in writing of such trespass of infected sheep shall be given as soon as possible thereafter to the owner thereof; but if the owner of such trespassing sheep shall not be known to the injured party, notice thereof shall be given by the Resident Magistrate of the County in the "GOVERNMENT GAZETTE"; and if within one month after the publication of such notice the sheep shall not be claimed, then it shall be lawful to proceed in the same way as in the case of those found without a brand.</p>
If branded.	
Liability of owner for damages.	
Assessment of damage.	
Notice to owner	
Procedure when sheep are unclaimed.	
Flock held to be infected if one infected sheep be found therein	<p>11. If in any proceedings under this Law, any one sheep in a flock is proved to be infected with the disease called Scab, all the sheep in such flock shall be deemed and taken to be so infected.</p>
Sheep infected or dressed for scab within three months not to be removed without authority of Inspector.	<p>12. If any sheep which shall be or shall have been infected with or dressed for the said disease within a period of three months, shall, without the authority in writing of an Inspector, be removed from any land upon which they shall have been kept or depastured, and driven upon or along any road, or upon, over, or across any land in this Colony not being in the actual occupation of the owner of such sheep, and such road not being within the boundaries of the land in the actual occupation of such owner as aforesaid, the owner of such sheep shall be liable to pay a penalty of not less than Five Pounds, nor more than Fifty Pounds. And no Inspector shall grant an authority in writing as aforesaid unless he shall have satisfied himself, by personal inspection or otherwise, that such sheep are free from the said disease, or unless the owner shall deliver a declaration to him, previously made and subscribed by such owner before some Justice of the Peace (which declaration such Justice is hereby required to take), that such owner believes the sheep intended to be removed to be then free from disease, and such authority in writing shall remain in force for a period not exceeding ten days; and the Inspector granting such authority in writing shall at once notify in writing to the Inspector into whose district the sheep may be removed the fact of his having granted such authority in writing.</p>
When such authority may be given.	
Duration of authority.	

13. If any person against whom any proceedings may be taken under this Law as the owner of any sheep shall deny that he is the proprietor thereof, or that he has any right, title, or interest in such sheep, or if it shall be uncertain who is the proprietor of any sheep in respect of which any proceedings for the recovery of a penalty may have been instituted under this Law, or if the person against whom any owner of any sheep and against whom any order for the payment of any penalty has been made, shall not within three days after the making of such order pay the amount so awarded against him together with the costs, then and in any such case any Resident Magistrate may make an order for the sale of such sheep or so many of them as may appear to be necessary in respect of which such penalty has been imposed; and such penalty and the costs attending the recovery thereof shall be paid out of the proceeds of such sale, and the surplus if any shall be paid to the proprietor of such sheep if claimed within three months from the day of such sale; but if not claimed, it shall be paid into the Colonial Treasury. But no such order as last aforesaid shall affect or alter the liability of any owner who may be convicted under the provisions of this Law.

Law 48, 1887.
Sheep may be sold where ownership is denied or is uncertain, or where penalty is not paid within three days.

14. Any person who shall import or introduce by land into this Colony, save as is hereinafter provided for in this Law, any sheep affected with Scab, and shall cause or suffer it or them to leave the port where landed in this Colony, or the station at which they were introduced, over the boundary into this Colony, at any place other than those defined by this Law and by the regulations to be made thereunder shall, upon conviction, forfeit any sum not exceeding Fifty Pounds.

Penalty for importation or introduction of infected sheep, except in compliance with the law.

15. There shall be established at Van Reenen's Pass, on the Drakensberg; De Jager's Drift, on the Buffalo River, and Hancock's Drift, on the Umzimkulu River, and at such other places as the Governor in Council may, in his discretion, see fit to appoint, Ports of Entry for sheep imported into this Colony, and at each such Port of Entry there shall be a Dipping Tank or Tanks, together with the necessary appliances, for the dipping of all sheep for which permission in terms of Schedule B hereunto annexed, to cross the boundary hereinbefore mentioned, shall be requested.

Establishment of dipping stations.

16. It shall be lawful for the Governor in Council from time to time to appoint an Inspector or Inspectors, who shall reside at any crossing places which may be hereafter fixed upon, and who shall carry out the provisions of this Law as regards all sheep travelling across the boundary at the places of crossing aforesaid, and shall perform such other duties as may from time to time be assigned to him or them by the Governor in Council. The said Inspector so appointed may from time to time be dismissed by the Governor in Council. Any person who shall in any way impede or hinder any such Inspector or Inspectors from examining such sheep, or from branding or dipping the same, or who shall not, when required by any such Inspector, render every reasonable assistance, shall be liable to the same penalty as is fixed for a contravention of the Second Section of this Law.

Governor in Council may appoint Inspectors at crossing places.

Their duties.

Penalty for obstructing Inspectors.

17. Upon application made by an owner of sheep for that purpose, it shall be the duty of the Inspectors to cause the sheep in respect of which such application shall have been made, to be branded with the registered mark of the owner, and also with a Government brand, and to be properly dipped in the Dipping Tank or Tanks established under the Fifteenth Section hereof; and it shall be lawful for the Inspectors to charge for such branding and dipping, fees at the rate

On application, Inspectors to brand and dip sheep.

Charges for branding and dipping.

Law 48, 1887. of not less than [Threepence nor exceeding Sixpence (A)] per head for every sheep so branded and dipped.

Sheep when branded and dipped not to leave station without permit.

18. Whenever such sheep as aforesaid shall have been branded and dipped, they shall not be permitted to leave any such dipping station without a permit having been issued, in terms of Schedule B hereunto annexed, by the Inspector. And each Inspector granting such permit shall at once advise the Inspector of the district to which any such sheep are travelling of the granting of such permit. Such permit shall endure for ten days, to enable the sheep to reach their destination, and such sheep shall from that time be under the supervision of the Inspector of the district, who shall thereupon issue to the owner or person in charge of the sheep a certificate as in Schedule C hereunto annexed, and the said sheep shall thereafter be deemed to have been legally brought into the district.

Sheep arriving from over the Border to be dipped.

19. All sheep brought into this Colony over its borders shall upon arrival at their destination be dipped once, if certified by the Inspector of that district as free from Scab; if otherwise, they shall be twice dipped, in manner as provided in Section 3; the first dipping to be made as soon as possible, and the second dipping within twenty days thereafter. Any breach of this clause shall be punishable by a fine of not less than £5 and not exceeding £20 for each offence.

Owner or lessee of land in Klip River County may bring his flocks across the border into that county once a year for depasturing in the winter, without entering the Colony at a port of entry or dipping the sheep. Proviso.

20. Any flock-master, being the owner or the lessee of land situate in the county of Klip River may bring his flock or flocks across the border into this county once during each year for the necessary pasturing of his flock or flocks on land situate in the said county during the winter months, without being obliged to enter the Colony at any port of entry or to comply with the compulsory dipping insisted upon on that occasion under this Law: Provided, that if such sheep shall be found by the Inspector, after their arrival at their grazing ground, to be scabby, the flock-master introducing such sheep shall be liable to a penalty of not less than £5 nor more than £50. That in all other respects such flock-master shall comply with all other provisions of this Law, and he shall not be allowed to remove such flock or flocks to any other part of this Colony without special permission, for that purpose first had and obtained, from the Inspector of his district.

Dipping to be to the satisfaction of the Inspector.

21. The dipping provided for under this Law shall be to the satisfaction of the Inspector for the district in which the dipping takes place.

Private marks on sheep.

22. Nothing in this Law contained shall prevent any owner of sheep, over and above the brand required by this Law, from cutting his private mark in the ears of his sheep: Provided, that it shall not be lawful to cut (stump) through either one or both of the ears in such a way as would obliterate the private mark of the owner, under a penalty not exceeding Ten Pounds for each sheep so unlawfully maimed or cut in the ears, and the forfeiture of the sheep to the informant or to the owner thereof, if they shall appear to have been stolen or to belong to another person. Every such ear-mark shall be registered at the office of the Resident Magistrate of the district.

Penalty for obliteration.

Registration of earmarks.

Salaries of Inspectors.

23. The Inspectors appointed under this Law shall each be paid at a fixed salary, in lieu of all travelling expenses, such salary to be a sum not exceeding £150 per annum.

Proceedings how instituted.

24. All proceedings for the recovery of any penalty or sum of money and other sums by this Law imposed shall (except where otherwise expressly provided for) be by and at the instance of the Clerk of the Peace of the County, on complaint of an Inspector, or of

(A) Words in brackets are expunged by Law 9, 1893, post, which substitutes "One Penny nor exceeding One Penny-halfpenny."

an owner of sheep, or of any officer of police, and all license fees and penalties shall be paid through the Resident Magistrates into the Colonial Treasury.

Law 48, 1887.
Disposal of fees and penalties.

25. For the purposes of this Law, one or more sheep kept on the same farm shall constitute a flock.

One or more sheep to constitute a flock.

26. This Law shall commence and take effect from and after such date as (after promulgation in the "GOVERNMENT GAZETTE") shall be fixed by Proclamation by the Governor, and this Law may be cited for all purposes as the "Scab Law, 1887" (A).

Commencement

SCHEDULES.

A.

Schedule A.

Return for Sheep Inspector for month

Owner's Name.	Farm or Farms.	Number of Sheep.	Clean Sheep.	Sheep affected with Scab.	Mark or Brand.

B.

18

Schedule B.

No. Permit used

I certify that _____ Sheep, the property of _____, have been inspected and dipped, and are at liberty to be driven on the Public Road from _____ to _____ Brand Earmark.

This permit is in force for ten days.

Inspector.

C.

(No.)

Date

18

Schedule C.

I certify that _____ sheep, the property of _____ have been imported into the Colony from _____ in the manner provided by Law, and are to be driven to and left at _____ District. Inspector,

D.

License under the Scab Law, 1887.

Schedule D.

I certify that _____ No. _____ sheep belonging to _____, on farm _____, in Ward No. _____

(A) Took effect Feb. 1, 1888. See Pn. in G.G. dated Jan. 24, 1888.

SHEEP (DISEASE IN).

Law 48, 1887. County of _____, are affected with Scab, and I hereby grant to the said _____ license to keep the same for two months from date in order to clean them.

The said _____ is hereby required to have the said Sheep dipped twice; the first dipping to be made within twenty days from this date; the second dipping fourteen days later.

Dated this _____ day of _____ 18 _____

.....
Sheep Inspector.

Ward _____ County of _____

I hereby certify that the whole of the above flock of Sheep have been dipped on the dates herein set forth:—

	FIRST DIPPING.	SECOND DIPPING.
	Date.	Date.
Commenced		
Completed		

Date

Owner.

Residing at _____
County of _____

Law No. 9, 1893.

“To amend Law No. 48 of 1887, entitled Law ‘To repeal and re-enact with amendments the Law No. 12, 1882,’ entitled Law ‘To repeal and re-enact with amendments Law No. 26, 1878,’ entitled ‘Law for the better prevention of the disease in Sheep called Scab.’”

[23rd June, 1893.]

BE IT ENACTED by the Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

Reduction of
Dipping Fees.

1. Section No. 17 of Law No. 48 of 1887, shall be, and the same is, hereby amended as follows, namely:—The words “Threepence nor exceeding Sixpence” in the said Section occurring shall be expunged, and the words “One Penny nor exceeding One Penny-halfpenny” inserted in lieu thereof.

Law No. 21, 1895.

“To amend Law No. 48, 1887, by empowering the Governor to relax in certain cases the provisions for dipping sheep on importation into this Colony.”

[8th August, 1895.]

WHEREAS it is expedient to empower the Governor in Council to relax in certain cases the provisions of Law No. 48, 1887, requiring the dipping of sheep on importation into this Colony:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, Law 21, 1895.
by and with the advice and consent of the Legislative Council and
Legislative Assembly of Natal, as follows:—

1. Whenever it shall appear to the Governor in Council advisable, in the public interests, on the occasion of any approaching Agricultural Show, Exhibition, or the like, to be held either in this Colony or elsewhere in South Africa, the said Governor in Council may relax the provisions of Law No. 48, 1887, in so far as they require the dipping of sheep imported or brought into this Colony, and may order and determine that the said Law shall to that extent be suspended, and the requirement of dipping sheep on being imported or brought into this Colony dispensed with in such manner and for such period and for such purposes and under such conditions and precautions as may appear advisable, and may be directed by the said Governor in Council.

The law may be relaxed as to dipping in case of sheep imported in connection with Shows, etc.

SHIPPING.

[See "IMMIGRATION (RESTRICTED)"; "IMMIGRATION (SPECIAL)"; "PORTS AND HARBOURS"; "PUBLIC HEALTH," &c., &c.]

Law No. 4, 1871.

"To facilitate the carrying out in this Colony of the provisions of the Imperial Statute styled the 'Foreign Deserters Act, 1852.'"

[6th September, 1871.]

WHEREAS it is expedient to provide facilities in this Colony for carrying out the provisions of a certain statute passed by the Imperial Parliament, and styled the "Foreign Deserters Act, 1852," and of Orders in Council made under the authority of said statute, by remedying in certain cases the absence in this Colony of proof of publication of such Orders in Council in the "London Gazette";

BE IT ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Magistrate to give effect to Order in Council and apprehend deserters on application by Consul of Foreign Power mentioned in Order.

1. It shall and may be lawful for the Lieutenant Governor, if, and when, and in such cases as he shall deem it necessary or advisable so to do, to direct the publication in the "NATAL GOVERNMENT GAZETTE" of any Orders in Council of Her Majesty, made under the authority of the said above recited Imperial Statute; and such publication shall be, and is hereby declared to be, sufficient publication for Natal, and shall in so far as regards this Colony, be deemed equivalent to publication in the "London Gazette"; and during such time as any such Order in Council remains in force, and subject to such limitations and qualifications, if any, as may be contained therein, every Resident Magistrate, Assistant Resident Magistrate, Justice of the Peace, or other officer having jurisdiction in the case of seamen who desert from British ships in Natal, shall on application being made by a Consul of the foreign power to which such Order in Council relates, or his deputy, or representative, aid in apprehending any seaman or apprentice who deserts from any merchant ship belonging to a subject of such power, and may for that purpose, upon complaint on oath duly made, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, order him to be conveyed on board the vessel to which he belongs, or to be delivered to the master or mate of such vessel, or to the owner of such vessel, or his agent, to be so conveyed; and thereupon it shall be lawful for the person ordered to convey such deserter, or for the master or mate of such vessel, or the owner or his agent (as the case may require), to convey him on board accordingly.

Commencement

2. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Law No. 23, 1875.

"For the Appointment of Shipping Masters, and for other purposes relating to British Shipping registered at or trading with this Colony."

[17th December, 1875.]

WHEREAS by Section 288 of the Act of the Imperial Parliament, termed the "Merchant Shipping Act, 1854," it is, among other things,

(A) Sept. 12, 1871.

enacted that, "If the Governor-General of India in Council, or the respective Legislative authorities in any British possession abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall, in respect of the ships and persons to which the same are applied, be enforced, and penalties and punishments for the breach thereof, shall be recovered and inflicted, throughout Her Majesty's Dominions, in the same manner as if such provisions had been hereby so adopted and applied, and such penalties and punishments had been hereby expressly imposed":

AND WHEREAS the provisions contained in the third part of said Act are enforced and carried out in the United Kingdom by officers termed Shipping Masters (Secs. 122 to 130), to whom certain fees are payable for duties performed by them:

AND WHEREAS it is expedient to apply to this Colony certain provisions of the third part of said Act to all British ships registered at or trading with or being within the jurisdiction of this Colony, and to the owners, masters, and crews of said ships: and also to appoint shipping masters to carry out and enforce such provisions so extended:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Lieutenant Governor may establish a Shipping Office at Port Natal in this Colony; and may appoint, and from time to time remove and re-appoint, a superintendent of such office, to be called Shipping Master, together with such clerks and assistants as may be necessary; and such Shipping Master shall perform the duties and exercise the powers conferred upon a Shipping Master by the aforesaid Act, in so far as may be applicable to this Colony, in regard to all British ships registered at Port Natal, or being within the limits of this Colony.

Establishment of Shipping Office and appointment of Master; duties of Shipping Master.
2. It shall be lawful for the Lieutenant Governor to grant to the Shipping Master, clerks, and assistants appointed as aforesaid, such salaries or other allowances for performing the duties of their respective offices or employments as may from time to time be voted by the Legislative Council.

Salaries.
3. The Shipping Master and clerks so appointed as aforesaid shall, before entering upon their duties, give such security (if any) for the due performance thereof as the Lieutenant Governor may require.

Security for performance of duties.
4. It shall be the general business of the Shipping Master appointed as aforesaid to afford facilities for the engagement of seamen by keeping registers of their names and capacities; to superintend their engagement and discharge in manner provided by the aforesaid Act; and to perform such other duties relating to merchant seamen as are now or may hereafter be legally committed to him.

General business of Shipping Master.
5. The Shipping Master and his clerks and assistants shall not demand or receive any remuneration whatever, directly or indirectly, for any service performed by them, except such salary or allowance as may be legally granted, under pain of dismissal from office.

Officers not to receive anything beyond salaries and allowances.
6. Such fees, not exceeding the sums specified in the Schedule A, hereto annexed, as shall from time to time be fixed by the Lieutenant Governor, shall be payable upon all engagements and discharges effected before the Shipping Master, and a printed list of such fees shall be conspicuously placed in the shipping office; and such Shipping Master, or in his absence a duly authorised clerk, may refuse to proceed with

Fees chargeable for matters transacted at Shipping Office.

Law 23, 1875. any engagement or discharge unless the fees payable thereon are first paid. A true account of all such fees shall be kept by the Shipping Master, who shall pay the same into the Colonial Treasury as part of the General Revenue of the Colony.

How paid and partly reimbursed. 7. Every master of a ship shall at the time of engaging or discharging any seaman or seamen before the Shipping Master, pay the fees hereby made payable in respect thereto, and may in part reimburse himself by deducting from the wages of such seamen (except apprentices) so engaged or discharged, any sums not exceeding the sums mentioned in Schedule B, hereto appended: Provided that if in any case the sums so deducted shall exceed the amount of the fees payable by such master, such excess shall be re-paid by him to the Shipping Master in addition to the fees already paid.

Governor may dispense with transactions at Shipping Office. 8. The Lieutenant Governor may from time to time dispense with the transaction before a Shipping Master, or in a Shipping Office, of any matters required by this Law to be so transacted, and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a Shipping Master, or in a Shipping Office.

Agreement between master and crew. 9. Whenever any agreement is entered into at Port Natal between the master of any British ship, whether registered at or trading with this Colony, and the crew of such ship, it shall contain all particulars, as far as applicable, as are set forth in the 149th and 150th Sections of the Merchant Shipping Act before mentioned, and shall be dated and signed by the respective parties in the presence of the Shipping Master: And if the master of any such British ship carries any seaman to sea without entering into any agreement with him in the form and manner and at the place and time hereby in such cases required, the said master shall for each such offence incur a penalty not exceeding twenty pounds.

Arbitrations by Shipping Master. 10. The Shipping Master shall hear and decide any question between a master and any of his crew which both parties agree in writing to submit to him, and every award so made by him shall be in writing, and shall be binding on both parties; and in any legal proceeding which may be taken in the matter before any Court of Justice, it shall be deemed to be conclusive as to the rights of the parties, and no such submission or award shall require a stamp, and any document purporting to be such submission or award shall be "prima facie" evidence thereof, and the Shipping Master shall receive from the parties a fee not exceeding one pound upon each arbitration, and shall pay every such fee into the Colonial Treasury.

Extension to this Colony of provisions in Imperial Act as to engagement of seamen. 11. And whereas it is further enacted in the said Merchant Shipping Act, 1854, that "every master of a ship who, if such ship is registered in the United Kingdom, engages any seaman in any British Possession, or if such ship belongs to any British Possession, engages any seaman in any British Possession other than that to which the ship belongs, shall, if there is at the place where such seaman is engaged any Official Shipping Master or other officer duly appointed for the purpose of shipping seamen, engage such seaman before such Shipping Master, and if there is no such Shipping Master or officer, then before some officer of Customs; and the same rules, qualifications, and penalties as are hereinbefore specified, with respect to the engagement of seamen before Shipping Masters in the United Kingdom, shall apply to such engagements in a British Possession; and upon every such engagement such Shipping Master or Officer as aforesaid shall endorse upon the agreement an attestation, to the effect that the same has been signed in his presence, and otherwise made as hereby required; and if in any case such attestation is not made, the burthen of proving that the seaman was duly engaged as hereby required shall lie upon the master";

—And whereas, it is expedient to extend and apply in this Colony the provisions of the Act above recited to all British registered vessels in this Colony: Be it therefore enacted that such provisions shall extend and apply to all British vessels registered in this Colony or which shall be within the limits of this Colony.

Law 23, 1875.

12. All the provisions contained in the Merchant Shipping Act of 1854, and subsequent Acts amending the same, having regard to the following matters, viz. :—

Certain other provisions of Imperial Acts extended to this Colony.

- (1) Engagement and discharge of seamen,
- (2) The legal rights to, and payment of, wages,
- (3) The wages and effects of deceased seamen,
- (4) Volunteering into the Navy,
- (5) Provisions, health, and accommodation,
- (6) Discipline,

are hereby extended and applied to the crews of all British ships registered in this Colony, or which shall be within the limits of this Colony.

13. The provisions contained in the 243rd, 244th, 247th, and 248th Sections of the aforesaid Merchant Shipping Act, relating to punishments for offences committed by seamen or apprentices to the sea services, are hereby extended and applied to all crews of British ships, registered in this Colony, or which shall be within the limits of this Colony.

Provisions of secs. 243, 244, 247, and 248, of Merchant Shipping Act extended to this Colony.

14. The provisions contained in the 518th, 520th, and 521st Sections of the aforesaid Merchant Shipping Act, relating to legal procedure, to the punishment of offences, to the recovery of penalties, and to jurisdiction, shall be held to extend as far as applicable to this Colony.

Also of sections 518, 520, 521.

15. All penalties recovered under this Law shall be applied in the same manner and upon the same principles as are set forth in the 524th Section of the aforesaid Merchant Shipping Act.

Application of penalties.

16. In the construction of this Law, the words "Lieutenant Governor" shall signify the person who for the time being shall be lawfully administering the Government of this Colony; and the words "master," "seamen," and "ship," shall respectively have the meaning given to them in and by the Imperial Act aforesaid; and words importing the singular number shall include the plural number; and words importing the plural number shall import the singular number, unless in any such case there shall be something in the subject or context repugnant to such construction.

Interpretation.

17. This Law may be cited for all purposes as the "Local Merchant Seamen's Law."

Short title.

18. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Commencement.

SCHEDULE A (see Section 6).

Fees to be charged for matters transacted at Shipping Offices.

Schedule A.

Engagement of Crews.

In ships under 60 tons	£0 4 0	700 to 800 tons	... £2 5 0
60 to 100 tons	... 0 7 0	800 to 900 „	... 2 10 0
100 to 200 „	... 0 15 0	900 to 1,000 „	... 2 15 0
200 to 300 „	... 1 0 0	Above 1,000 „	... 3 0 0
300 to 400 „	... 1 5 0		
400 to 500 „	... 1 10 0	And so on for ships of larger	
500 to 600 „	... 1 15 0	tonnage, adding for every 100 tons	
600 to 700 „	... 2 0 0	above 1,000, five shillings.	

(A) March 28, 1876.

Law 23, 1875.

		<i>Discharge of Crews.</i>			
In ships under 60 tons	£0 4 0	700 to 800 tons	... £2 5 0		
60 to 100 tons	... 0 7 0	800 to 900 „	... 2 10 0		
100 to 200 „	... 0 15 0	900 to 1,000 „	... 2 15 0		
200 to 300 „	... 1 0 0	Above 1,000 „	... 3 0 0		
300 to 400 „	... 1 5 0				
400 to 500 „	... 1 10 0				
500 to 600 „	... 1 15 0				
600 to 700 „	... 2 0 0				

And so on for ships of larger tonnage, adding for every 100 tons above 1,000, five shillings.

Engagement of Seamen separately.

Two shillings for each.

Discharge of Seamen separately.

Two shillings for each.

SCHEDULE B (see Section 7).

Schedule B. *Sums to be deducted from wages by way of partial repayments of Fees in Schedule A.*

In respect of engagements and discharges of crews, upon each engagement and each discharge:

From wages of any mate, purser, engineer,
surgeon, carpenter, or steward ... 1s. 6d.
From wages of all others, except apprentices ... 1s.

In respect of engagements and discharges of seamen separately, upon each engagement and each discharge—one shilling.

Law No. 10, 1883 (A).

“To Repeal and Re-enact, with certain Amendments, the ‘Shipping Casualties Law, 1881.’”

[12th November, 1883.]

WHEREAS it is expedient that the Law of this Colony relating to inquiry into charges of incompetency or misconduct of Masters or Mates or Engineers of Ships, and to inquire into casualties affecting Ships, should be brought into harmony with Imperial legislation on the subject:

AND WHEREAS it is expedient to repeal and re-enact with certain amendments the “Shipping Casualties Law, 1881”:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Repeal.

1. The said “Shipping Casualties Law, 1881,” shall be and the same is hereby repealed: Provided, however, that this repeal shall not affect the past operation of the said “Shipping Casualties Law, 1881,” nor anything duly done or suffered under the said Law; nor any penalty, forfeiture, or punishment incurred in respect of any offence committed thereunder; nor any investigation, legal proceedings, or remedy commenced thereunder; and any such investigation, legal proceedings, and remedy may be carried on as if this Law had not been passed.

(A) See Act 5, 1895, post, as to references in this Law to the provisions of the Merchant Shipping Acts.

2. It shall be lawful for the Governor, in his discretion, to nominate and appoint any of the Judges of the Supreme Court, or any person or persons, to be a Court or tribunal authorised to make inquiry into the several matters and things set forth in the next succeeding section of this Law.

Law 10, 1883.
Appointment of Courts of Enquiry.

3. The Court so constituted shall have authority to make inquiries into any charges of incompetency or misconduct on the part of masters, mates, or engineers of ships, or as to shipwrecks or other casualties affecting ships in the following cases, that is to say:—

Charges to be inquired into by Court.

- (a) When the incompetency or misconduct has occurred on board of a British ship on or near the Coasts of Natal, or on board of a British ship in the course of a voyage to a port within the Colony of Natal;
- (b) When the incompetency or misconduct has occurred in any part of the world on board a British ship registered in Natal;
- (c) When the shipwreck or casualty occurs to a British ship on or near the Coasts of Natal, or to a British ship in the course of a voyage to a port within the Colony of Natal;
- (d) When the shipwreck or casualty occurs in any part of the world to a British ship registered in Natal;
- (e) When the master, mate, or engineer of a British ship, who is charged with incompetency or misconduct on board of such British ship is found in the Colony of Natal;
- (f) When some of the crew of a British ship which has been wrecked, or to which a casualty has occurred, and who are competent witnesses to the fact, are found in the Colony of Natal.

Wherever such incompetency, misconduct, shipwreck, or casualty as above recited has occurred, the Court shall have the same jurisdiction as such Court would have had if such incompetency, misconduct, shipwreck, or casualty had occurred within the ordinary jurisdiction of the Vice-Admiralty Court of the Colony, but subject to all provisions, restrictions, and conditions which would have been applicable if they had so occurred: Provided that no inquiry shall be held under this Law into any shipwreck, or casualty, or charge of incompetency or misconduct, which has once been the subject of such an inquiry, and has been reported on by any competent court or tribunal in any part of Her Majesty's dominions, or in respect of which the certificate of a master, mate, or engineer has been suspended or cancelled by a Naval Court; and provided also, that where any inquiry has been commenced in the United Kingdom, no inquiry shall be made in the same case under the authority of this Law in Natal.

Court to have same jurisdiction as Vice-Admiralty Court in inquiries under this Law.

No inquiry to be held under this Law the subject of which has been previously inquired into by any competent Court.

4. In all inquiries conducted under this Law the Governor may appoint one or more person or persons of nautical, engineering, or other special skill or knowledge to act as assessors, and to give their opinions to any such Court on any question asked by or upon any fact submitted to him or them by the said Court. And such assessors shall be entitled to put through the President such questions to witnesses as may be necessary to elicit the circumstances under inquiry.

Governor may appoint Assessors.

5. Where any such investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate, or engineer, it shall be held with the assistance of not less than two assessors having experience in the merchant service.

Not less than two Assessors in certain cases.

6. The Judges of the Supreme Court shall from time to time make rules and regulations to regulate the proceedings of the Courts established under this Law.

Judges of Supreme Court to make rules.

Law 10, 1883.

Court to be held with open doors.

Counsel.

Powers vested in Court.

Proceedings and judgment.

Report to be sent to Board of Trade.

Proviso.

Statement of case to be furnished to owner of certificate.

Penalty for not delivering certificate.

Re-hearing of case may be ordered, and final appeal lies to Admiralty Division of High Court of Justice in England.

7. Every Court established under this Law shall be held with open doors, and parties interested in the proceedings or who may be affected by the finding of the Court, shall be entitled to be represented by counsel.

8. The powers of suspending or cancelling the certificate of any master, mate, or engineer of a ship, conferred by the provisions of the Merchant Shipping Acts, 1854 to 1880, upon or after any inquiry or investigation held under the provisions of the said Acts, shall be applicable to and be exercised upon and after any inquiry by any Court or tribunal authorised by this Law. Such power of suspension or cancellation shall be exercised by the Court or tribunal holding the inquiry in the manner provided by section twenty-three of the Merchant Shipping Act Amendment Act, 1862.

9. Every such Court or tribunal shall, at the conclusion of the case, or as soon after as possible, state, in open Court, the decision to which it may have come with respect to cancelling or suspending certificates, or other the subject matter of the inquiry, and shall, with all convenient despatch, transmit the proceedings in such inquiry, together with their decision, to the Governor; and such Court or tribunal shall in all cases send a full report upon the case, with the evidence, to the Board of Trade, and shall also, if it determine to cancel or suspend any certificate, forward such certificate, or any directions it may have given in reference thereto, to the Board of Trade, with its report, so that the said Board may exercise the powers conferred by paragraph four, section twenty-three, of 25th and 26th Victoria, chapter sixty-three: [Provided that in all cases where the suspension of any such certificate shall have been for a period not exceeding three months, and the officer whose certificate has been so suspended purposes to remain in the Colony, such certificate shall be transmitted by the court or tribunal aforesaid, together with the proceeding in such case or inquiry, and its decision, to the Governor, in order that the certificate may be returned to such officer as soon as the sentence expires. In all such cases the Governor shall carefully explain, in the report sent under this section to the Board of Trade, the manner in which such certificate has been disposed of (A)].

10. No certificate shall be suspended or cancelled unless a copy of the report, or a statement of the case upon which the investigation is ordered, and of the charge to be inquired into, shall have been furnished to the owner of the certificate before the commencement of the investigation, nor unless one assessor at least express his concurrence in the report (B).

11. Every master or mate or engineer whose certificate is suspended or cancelled in pursuance of this Law, shall upon demand deliver his certificate to such Court or tribunal by which the case is investigated or tried, or if it is not demanded by such Court or tribunal, shall upon demand deliver it to the Board of Trade, or as such Court or tribunal may direct in writing, and in default shall for each offence incur a penalty not exceeding Fifty Pounds.

12. Whenever any inquiry authorised by or in pursuance of this Law has been held, a re-hearing of the case may be ordered, and if an application for such re-hearing has not been made or has been refused, an appeal shall lie from any order or finding of the Court or tribunal holding such inquiry to the following Court, namely, the Probate, Divorce, and Admiralty Division of Her Majesty's High Court

(A) This proviso is repealed, and another substituted, by Law 4, 1884, s. 2, post.
 (B) Law 4, 1884, s. 3, post, adds words to this section.

of Justice in England: Provided always that no appeal shall lie from any order or finding in any inquiry into a casualty affecting a ship registered in Natal, or from any decision respecting the suspension or cancellation of the certificate of a master, mate, or engineer, unless such certificate has been granted under the authority of the Merchant Shipping Act, 1854, or any Act amending the same, or of the Merchant Shipping Colonial Act, 1869. And such appeal shall be subject to and conducted in accordance with such conditions and regulations as may from time to time be prescribed by general rules made under section thirty of the Merchant Shipping Act, 1876.

Law 10, 1883.
Proviso.

13. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," and may be cited for all purposes as the "Shipping Casualties Law, 1883" (A).

Short title and commencement.

Law No. 4, 1884.

"To amend the 'Shipping Casualties Law, 1883.'"

[20th August, 1884.]

WHEREAS it is expedient to amend the "Shipping Casualties Law, 1883":

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. Every formal investigation or inquiry held under the provisions of the "Shipping Casualties Law, 1883," shall be conducted in such manner that, if any charge is made against any person, that person shall have an opportunity of making a defence.

Person charged to have opportunity of making defence.

2. The proviso to the ninth Section of the "Shipping Casualties Law, 1883," shall be and the same is hereby repealed and the following substituted therefor: "Provided that in all cases where the suspension of any such certificate shall have been for a period not exceeding three months, and the officer whose certificate has been so suspended purposes to remain in the Colony, such certificate shall be transmitted by the Court or tribunal aforesaid, together with the proceeding in such case or inquiry, and its decision, to the Governor, in order that the certificate may be returned to such officer as soon as the sentence expires. In all such cases the Court shall carefully explain, in the report sent under this section, to the Board of Trade, the manner in which such certificate has been disposed of."

Amendment of sec. 9 of Law 10, 1883.

3. Section 10 of the said "Shipping Casualties Law, 1883," is also hereby amended by the addition thereto of the following words:—"Each assessor shall either sign the report, or report in writing to the Board of Trade and to the Governor his reasons for dissenting therefrom."

Court to explain in report to Board of Trade how certificate has been disposed of.
Sec. 10 of Law 10, 1883, amended.

4. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," and shall be read and construed together with the "Shipping Casualties Law, 1883," as one Law (B).

Commencement

(A) Nov. 13, 1883.

(B) Aug. 26, 1884.

Law No. 1, 1890 (A).

"To make Provision in respect to the Appliances to be carried by certain Ships for Saving Life at Sea."

[20th May, 1890.]

WHEREAS by the Act of the Imperial Parliament known as "The Merchant Shipping (Life Saving Appliances) Act, 1888," provision is made for regulating the life saving appliances to be carried by British ships, and certain rules have been made by the Board of Trade under the provisions of the said Act, and it is expedient that the provisions of the said Act and the rules made thereunder should be extended to this Colony so far as they may be applicable:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Masters of ships to see that ship is properly provided.

1. It shall be the duty of the Master of every ship to which the rules contained in the Schedule of this Law apply to see that his ship is provided in accordance with the said rules with such boats, life-jackets, and other appliances for saving life at sea as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

Rules in Sched. incorporated in this Law.

2. The rules contained in the Schedule of this Law, being a portion of the rules made by the Board of Trade under the provisions of the Imperial Act 51 and 52 Victoria, cap. 24, known as "The Merchant Shipping (Life Saving Appliances) Act, 1888," shall be of force in Natal as a portion of this Law.

Provision for repeal or alteration of rules.

3. When and so often as the Board of Trade shall make any new rule in pursuance of the above recited Act, or shall repeal or alter any of such of the rules as are contained in the Schedule of this Law, it shall be lawful for the Governor, with the advice of the Executive Council, to notify by proclamation in the "GOVERNMENT GAZETTE" any such new rule or any such repeal or alteration of an existing rule, with such alteration thereof as may be necessary in order to make the same applicable to Natal; and every such new rule, or repeal or alteration of a rule, so proclaimed shall have the force of law in Natal.

Enforcement of rules.

4. In order to enforce compliance with the rules contained in the Schedule of this Law—

- (a) Any ship surveyor, or engineering surveyor, or other person appointed by the Natal Harbour Board for the purpose, may board and inspect a ship for the purpose of seeing that the ship is properly provided with appliances for saving life at sea in pursuance of the rules:
- (b) If any such surveyor or person finds that any ship is not so provided, he shall give to the Master notice, in writing, pointing out the deficiency, and also what is in his opinion requisite to remedy the same:
- (c) Every notice so given shall be communicated to the Collector of Customs, and the Collector of Customs shall not clear a ship outwards or allow her to proceed to sea without a certificate under the hand of one of the said surveyors

(A) See Act 5, 1895, post as to references in this Law to provisions of Merchant Shipping Acts.

or persons appointed by the Natal Harbour Board as aforesaid, to the effect that the ship is properly provided with appliances for saving life at sea in pursuance of the rules. Law 1, 1890.

5. Any person who shall obstruct a surveyor or other person appointed for the purpose of inspecting a ship, or who shall neglect or refuse to afford such surveyor or other person all reasonable facilities for making an inspection, shall be guilty of an offence, and upon conviction thereof shall be liable to a fine not exceeding Twenty Pounds Sterling, and in default of payment of such fine, then to imprisonment, with or without hard labour, for any period not exceeding six months. Person obstructing surveyor to be guilty of an offence.

6. The Master of any ship who shall, after receiving a notice as provided in sub-section (b) of Section 4 of this Law, neglect or refuse to comply with the requirements of such notice, or who shall attempt to proceed with the ship to sea without having complied therewith, shall be liable to a fine not exceeding Twenty Pounds Sterling, and in default of payment of such fine, then to imprisonment, with or without hard labour, for any period not exceeding six months. Punishment of a Master for not complying with notice of surveyor.

7. Nothing in this Law shall prevent any person from being liable to any punishment to which he would otherwise be liable, provided that he be not punished twice for the same offence. Other punishments.

8. This Law shall apply to British ships only.

9. The expression "British Ship" and the expressions used in the Schedule of this Law, shall have the same meaning as in the Imperial Merchant Shipping Act, 1854 (17 and 18 Victoria, cap. 104). Application of Law.
Interpretation.

SCHEDULE.

"Merchant Shipping (Life-Saving Appliances) Act, 1888," 51 and 52 Victoria, cap. 24 (A). Schedule.

Division A.

Rules and Table for Steamships carrying Emigrant Passengers subject to all the Provisions of the "Passengers Acts."

(a) Ships of this division shall carry boats "placed under davits" having proper appliances for getting them into the water, in number and capacity not less than are given in the following table; the boats to be equipped and of the description defined in the General Rules appended hereto.

(b) Provided that no ship of this division shall be required to carry more boats so placed than will furnish sufficient accommodation for all persons on board.

(c) Masters or owners of ships of this division claiming to carry fewer boats than are given in the following table must declare before the Collector or other officer of Customs, at the time of clearance, that the boats actually placed under davits are sufficient to accommodate all persons on board, allowing 10 (ten) cubic feet of boat capacity per Rule (2), for each adult person, or "statute adult."

(A) But see now 57 and 58 Vic. c. 60, and the rules made thereunder.

Law 1, 1890.
Schedule.

(d) TABLE—

Gross Tonnage.	Minimum Number of Boats to be placed under Davits.	Total Minimum Cubic Contents of Boats to be placed under Davits. L. x B. x D. x '6.
1.	2.	3.
9,000 and upwards ...	14	5,250
8,500 and under 9,000 ...	14	5,100
8,000 " 8,500 ...	14	5,000
7,750 " 8,000 ...	12	4,700
7,500 " 7,750 ...	12	4,600
7,250 " 7,500 ...	12	4,500
7,000 " 7,250 ...	12	4,400
6,750 " 7,000 ...	12	4,300
6,500 " 6,750 ...	12	4,200
6,250 " 6,500 ...	12	4,100
6,000 " 6,250 ...	12	4,000
5,750 " 6,000 ...	10	3,700
5,500 " 5,750 ...	10	3,600
5,250 " 5,500 ...	10	3,500
5,000 " 5,250 ...	10	3,400
4,750 " 5,000 ...	10	3,300
4,500 " 4,750 ...	8	2,900
4,250 " 4,500 ...	8	2,900
4,000 " 4,250 ...	8	2,800
3,750 " 4,000 ...	8	2,700
3,500 " 3,750 ...	8	2,600
3,250 " 3,500 ...	8	2,500
3,000 " 3,250 ...	8	2,400
2,750 " 3,000 ...	6	2,100
2,500 " 2,750 ...	6	2,050
2,250 " 2,500 ...	6	2,000
2,000 " 2,250 ...	6	1,900
1,750 " 2,000 ...	6	1,800
1,500 " 1,750 ...	6	1,700
1,250 " 1,500 ...	6	1,500
1,000 " 1,250 ...	4	1,200
750 " 1,000 ...	4	1,000
500 " 750 ...	4	800
250 " 500 ...	2	400
150 " 250 ...	2	300

Note.—Where in vessels already fitted the required *cubic contents* of boats placed under davits is provided, although by a smaller *number* of boats than the *minimum* required by this table, such boats shall be regarded as complying with these rules.

(e) Not less than half the number of boats placed under davits shall be boats of Section (A) or Section (B) of the General Rules. The remaining boats may also be of such description, or may, in the option of the shipowner, conform to Section (C), or Section (D), of the General Rules, provided that not more than two boats shall be of Section (D).

(f) If the boats placed under davits in accordance with the foregoing table (d) do not furnish sufficient accommodation for all persons on board, then additional wood, metal, collapsible or other boats of approved description (whether placed under davits or otherwise) or approved life rafts shall be carried.

Subject to the provisions contained in paragraph (b) of these Rules, such additional boats or rafts shall be of at least such carrying capacity that they and the boats required to be placed under davits by Table (d) provide together in the aggregate double the minimum cubic contents required by column 3 of that Table. Law 1, 1890.
Schedule.

All such additional boats or rafts shall be placed as conveniently for being available as the ship's arrangements admit of, having regard to the avoidance of undue encumbrance of the ship's decks, and to the safety of the ship for her voyage.

(g) When ships are divided into efficient water-tight compartments, so that, with any two of them in free communication with the sea, the ship shall remain afloat in moderate weather, they shall only be required to carry additional boats or life rafts of one-half of the capacity required by paragraph (f) of these Rules.

(h) In addition to the life-saving appliances before mentioned, ships of this Division shall carry not less than one approved life-buoy (Rule 11 (a), or 11 (b), of the General Rule) for every boat placed under davits. They shall also carry approved life-belts (Rule 10) or other similar approved articles of equal buoyancy suitable for being worn on the person, so that there may be at least one for each person on board the ship.

Division B.

Rules for Sailing Ships carrying Emigrant Passengers subject to all the Provisions of the "Passengers Acts."

(a) Ships of this Division shall carry boats in accordance with the Table (d) provided for Division A, and such boats shall be as far as practicable placed under davits, with proper appliances for getting them into the water; such of these boats as are not placed under davits being so carried that they can also be readily got into the water, to the satisfaction of the Board of Trade officer.

(b) If the boats so carried do not furnish sufficient accommodation for all persons on board, then additional life-saving appliances shall be supplied as for ships in Division (A).

(c) Provided that no ship in this Division shall be required to carry more boats than will furnish accommodation for all persons on board.

(d) Approved life-belts (Rule 10) or other similar approved articles shall be carried as required for ships of Division (A), and also one life-buoy (Rule 11 (a) or 11 (b), for each boat of wood or metal.

GENERAL RULES.

1. BOATS.

NOTE.—All boats shall be properly equipped as provided by these rules.

Section (A).—A boat of this section shall be a lifeboat properly constructed of wood or metal, having for every 10 cubic feet of her capacity computed as in (2) at least $1\frac{1}{2}$ cubic feet of strong and serviceable enclosed air-tight compartments, such that water cannot find its way into them.

Section (B).—A boat of this section shall be a lifeboat properly constructed of wood or metal, having inside and outside buoyancy apparatus together equal in efficiency to the buoyancy apparatus provided for a boat of Section (A). At least one-half of the buoyancy apparatus must be attached to the outside of the boat.

Law 1, 1880.
Schedule.

Section (C).—A boat of this section shall be a lifeboat properly constructed of wood or metal, having some buoyancy apparatus attached to the inside [and] [or] outside of the boat equal in efficiency to one-half of the buoyancy apparatus provided for a boat of Section (A) or Section (B). At least one-half of the buoyancy apparatus must be attached to the outside of the boat.

Section (D).—A boat of this section shall be a properly constructed boat of wood or metal.

Section (E).—A boat of this section shall be a boat of approved form and material, which may be collapsible.

2. Cubic Capacity.—The cubic capacity of a boat shall be deemed to be her cubic capacity, ascertained (as in measuring ships for tonnage capacity) by Stirling's rule; but as the application of that rule entails much labour, the following simple plan, which is approximately accurate, may be adopted for general purposes, and when no question requiring absolutely correct adjustment is raised:—

Measure the length and breadth outside and the depth inside. Multiply them together and by .6; the product is the capacity of the boat in cubic feet. Thus, a boat 28ft. long, 8ft. 6in. broad, and 3ft. 6in. deep, will be regarded as having a capacity of $28 \times 8.5 \times 3.5 \times .6 = 499.8$, or 500 cubic feet. If the oars are pulled in rowlocks, the bottom of the rowlock is to be considered the gunwale of the boat for ascertaining her depth.

3. Number of Persons for boats of Section (A).—The number of persons a boat of Section (A) shall be deemed fit to carry shall be the number of cubic feet ascertained as in 2 divided by 10. Thus a boat whose cubic contents are 500 cubic feet, is deemed to be sufficient for 50 adult persons. The space in the boat shall be sufficient for the seating of the persons carried in it, and for the proper use of the oars.

4. Number of Persons for other Boats.—The number of persons a boat of Section (B), (C), (D), or (E) shall be deemed fit to carry shall be the number of cubic feet ascertained as in (2) divided by eight.

5. Appliances for Lowering Boats.—Appliances for getting boats into the water must fulfil the following conditions: Means are to be provided for speedily detaching the boats from the lower blocks of the davit tackles; the boats placed under davits are to be attached to the davit tackles and kept ready for service at any moment; the davits are to be strong enough and so spaced that the boats can be swung out with facility; the points of attachment of the boats to the davits are to be sufficiently away from the ends of the boats to ensure their being easily swung clear of the davits; the boats' chocks are to be such as can be expeditiously removed; the davits, falls, blocks, eye-bolts, rings, and the whole of the tackling are to be of sufficient strength; the boats' falls are to be long enough to lower the boats into the water with safety when the vessel is light; the life-lines fitted to the davits are to be long enough to reach the water when the vessel is light; and hooks are not to be attached to the lower tackle blocks.

6. Equipments for Collapsible Boats or other Boats and for Life-boats.—In order to be properly equipped, each boat shall be provided as follows:—

(a) With the full [single-banked] complement of oars, and two spare oars.

- (b) With two plugs for each plug-hole, attached with lanyards or chains, and one set and a half of thole pins or crutches, attached to the boat by sound lanyards. Law 1, 1890.
Schedule,
- (c) With a sea anchor, a baler, a rudder, and tiller, or yoke and yoke lines, a painter of sufficient length, and a boathook. The rudder and baler to be attached to the boat by sufficiently long lanyards, and kept ready for use.
- (d) A vessel to be kept filled with fresh water shall be provided for each boat.
- (e) Life-rafts shall be fully provided with a suitable equipment.

7. Additional Equipments for Boats of Section (A) and Section (B).—In order to be properly equipped, each boat of Sections (A) and (B) in addition to being provided with all the requisites laid down in (6), shall be equipped as follows [but not more than four boats in any one ship require to have this outfit]:—

- (a) With two hatchets or tomahawks, one to be kept in each end of the boat, and to be attached to the boat by a lanyard.
- (b) With a mast or masts, and with at least one good sail, and proper gear for each.
- (c) With a life-line, in loops run round the outside of the boat and securely made fast.
- (d) With an efficient compass.
- (e) With one gallon of vegetable or animal oil, in a vessel of an approved pattern, for distributing it in the water in rough weather.
- (f) With a lantern trimmed, with oil in its receiver sufficient to burn eight hours.

8. Number of Persons for Life-Rafts.—The number of persons that any approved life-raft for use at sea shall be deemed to be capable of carrying, shall be determined with reference to each separate pattern approved by the Board of Trade: Provided always, that for every person so carried there shall be at least three cubic feet of strong and serviceable enclosed air-tight compartments, such that water cannot find its way into them. Any approved life-raft of other construction may be used, provided that it has an equivalent buoyancy to that hereinbefore described. Every such approved life-raft shall be marked in such a way as to plainly indicate the number of adult persons it can carry.

9. Buoyant Apparatus.—Approved buoyant apparatus shall be deemed sufficient for a number of persons, to be ascertained by dividing the number of pounds of iron which it is capable of supporting in fresh water by 32. Such buoyant apparatus shall not require to be inflated before use, shall be of approved construction, and marked in such a way as plainly to indicate the number of persons for whom it is sufficient.

10. Life Belts.—An approved life-belt shall mean a belt which does not require to be inflated before use, and which is capable at least of floating in the water for 24 hours with 10lbs. of iron suspended from it.

11. Life-Buoys.—An approved life-buoy shall mean either—

- (a) A life-buoy built of solid cork, and fitted with life-lines and loops, securely seized to the life-buoy, and capable of floating in the water for at least 24 hours with 32lbs. of iron suspended from it: or
- (b) A strong life-buoy of any other approved pattern and material: Provided that it is capable of floating in the water for at least 24 hours with 32lbs. of iron suspended

Law 1, 1890,
Schedule.

from it: And provided also that it is not stuffed with rushes, cork shavings, or other shavings, or loose granulated cork, or other loose material, and does not require inflation before use.

12. Position of Life-Belts and Life-Buoys.—All life-buoys and life-belts shall be so placed as to be readily accessible to the persons on board, and so that their position may be known to those for whom they are intended.

Act No. 5, 1895.

“To amend Law No. 23, 1875, Law No. 9, 1877, Law No. 10, 1883, and Law No. 1, 1890.”

[17th July, 1895.]

WHEREAS by Law No. 23, 1875, entitled Law “For the appointment of Shipping Masters and for other purposes relating to British Shipping registered at or trading with this Colony,” certain provisions of the Act of the Imperial Parliament, termed the “Merchant Shipping Act, 1854,” are extended to Natal:

AND WHEREAS by Law No. 9, 1877, entitled Law “To give effect to certain provisions of the Imperial Merchant Shipping Act of 1876, and to provide for levying of Light Dues on Vessels carrying Deck Cargoes, between the United Kingdom and this Colony,” provision is made to give effect to certain provisions of the Act of the Imperial Parliament termed the Merchant Shipping Act, 1876:

AND WHEREAS in Law No. 10, 1883, reference is made to the Merchant Shipping Acts, 1854 to 1880, and to the Merchant Shipping Act, 1862:

AND WHEREAS by Law No. 1, 1890, entitled Law “To make provision in respect to the appliances to be carried by certain ships for saving life at sea,” provision is made for extending to Natal certain provisions of the Merchant Shipping (Life-Saving Appliances) Act, 1888, and rules made or to be made thereunder:

AND WHEREAS by the Act of the Imperial Parliament 57 and 58 Victoria cap: 60, known as the Merchant Shipping Act, 1894, the said previously existing Merchant Shipping Acts are repealed and re-enacted with amendments:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Wherever in Law No. 23, 1875, or Law No. 9, 1877, or Law No. 10, 1883, or Law No. 1, 1890, or any other Law of this Colony, reference is made to the provisions of the Merchant Shipping Act, 1854, Merchant Shipping Act, 1876, Merchant Shipping (Life-Saving Appliances) Act, 1888, Merchants Shipping Acts, 1854 to 1880, and to the Merchant Shipping Act, 1862, or any other Imperial Act or enactment of any Imperial Act, repealed and re-enacted by the said Merchant Shipping Act, 1894, such reference shall be deemed to be a reference to the said Merchant Shipping Act, 1894, or to the corresponding enactment thereof.

SHOPS (LICENSES).

[See “REVENUE.”]

Construction of
references in
Natal Laws to
the Imperial
Merchant
Shipping Acts.

STANGER (TOWN OF).

SOLICITORS.

[See " ATTORNEYS."]

SPEAKER.

[See " PARLIAMENT."]

SPIRITUOUS LIQUORS.

[See " INTOXICATING LIQUORS."]

STAMPS.

[See " REVENUE."]

STANGER (TOWN OF).

[As to Railway from Stanger to Kearsney and Town Lands affected thereby, see Act 40, 1899, tit. " RAILWAYS."]

Act No. 2, 1898.

"To authorise the grant of a portion of the Market Square of the Town of Stanger to Trustees for the purpose of erecting a Public Library and Hall thereon."

[21st January, 1898.]

WHEREAS it is expedient to set aside a portion of the Market Square of the Town of Stanger for the purposes of a Public Library and Hall:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Governor shall be empowered to grant to trustees, to be appointed by him from time to time, but subject to the provisions of Section 4 of this Act, a certain piece of land more particularly described in the schedule of this Act, upon perpetual trust, for the purpose of a public library and hall. The terms of the trust to be created by the deed of grant shall be first settled by the Governor in Council.

Authorisation of grant of land to trustees for public library and hall.

2. The said piece of land shall be used for the erection and maintenance thereon of a public library and hall: Provided that this

Objects of the trust.

STANGER (TOWN OF).

Act 2, 1898. section shall not be construed to prevent the use of part of the premises for the purposes of a museum or other similar object approved by the trustees, not being inconsistent with the general objects of the trust, and not interfering with the proper use of the library and hall.

Regulations. 3. The trustees shall be empowered to make regulations for the management and use of the said public library and hall. Such regulations shall provide for the library being kept open at reasonable times for public use without any fee or payment. So long as the trustees shall continue to be appointed by the Governor, all such regulations shall be subject to approval by the Governor in Council.

Transfer of trust in event of Stanger becoming a borough or township. 4. In the event of the town of Stanger being brought within the provisions of the Municipal Corporations Law, 1872, or the Townships Law No. 11, 1881, or of any like Act, the Town Council or Local Board, as the case may be, shall be substituted for the trustees appointed as aforesaid, with the like powers and authority as are conferred by this Act.

SCHEDULE.

Schedule. The piece of land, in extent 36.73 perches, situate and being a portion of the Market Square of the Town of Stanger, in the County of Victoria, Colony of Natal, bounded northerly by Rood Street, easterly and southerly by remainder of Market Square, and westerly by Jackson Street.

STATUTES (A).

Ordinance No. 2, 1854,

“ Ordinance for shortening the Language used in Ordinances.”

[24th April, 1854.]

WHEREAS it is expedient to provide by law for shortening the language of Ordinances, and for rendering them more clear and intelligible:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The words, “ Be it enacted that,” at the commencement of any Ordinance shall be deemed and taken to apply to every section thereof, and it shall not be necessary to repeat such words in any subsequent section.

“ Be it enacted that.”

2. [Repealed by Law No. 3, 1887.]

3. This Ordinance shall commence and take effect from and after the promulgation thereof in the “ GOVERNMENT GAZETTE.”

Commencement

Law No. 3, 1887.

“ To provide for the better Construing of Legislative Enactments and other Public or Official Documents.”

[10th January, 1887.]

WHEREAS it is expedient to provide rules for the better application and construing in certain particulars of Legislative enactments and other public or official documents:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The second section of the Ordinance No. 2, 1854, is hereby repealed.

Repeal.

2. The term Law as used herein, and for the purposes hereof, and the term Ordinance as used in and for the purposes of the first section of the said Ordinance No. 2, 1854, shall be deemed respectively to include and to have included any Ordinance or Law or other Act by the Legislature of or for Natal at the time being, other than and except any Act of the Imperial Parliament or Rules or the like issued or to be issued under any such Imperial Act.

Interpretation of terms.

3. When any Law has been or shall be repealed in whole or in part, such repeal shall not be deemed to affect or to have affected any application of the repealed Law to or in respect of any right or liability, privilege, or exemption, liberty or restraint, or the like respectively, having actual existence in Law at the taking effect of such repeal, or to or in respect of the form of any such proceeding in

Effect of repeal of any Law or part thereof.

(A) As to the meaning of construing a later enactment as one Law with an earlier one, see judgment of Connor, C.J., *In re Holman*, 5 N.L.R.

Law 3, 1887.

Repeal not to affect repeal effected by repealed Law.

Meaning of terms specified in Schedule.

Date on which Laws begin to operate.

Application of this Law.

Not to occasion construction of any Law in opposition to the wording thereof.

Commencement

reference to any such subject as aforesaid as shall have been begun at or before such taking effect (A).

4. Such repeal as is referred to in the last foregoing section hereof shall not be deemed to affect or to have affected any repeal express or implied originally effected by the repealed Law.

5. The words and terms respectively specified or referred to and numbered in the first column of the Schedule hereto shall, when and as occurring in any Law, be deemed to mean and have meant or to include and have included, as the case may be, the words, terms, and meanings respectively set opposite thereto, and similarly numbered in the second column of the said Schedule: Provided always, that the provisions of this section and of the said Schedule shall be deemed also to apply and to have applied to any document of a public or official or statutory nature originating in this Colony.

6. Any Law to be hereafter enacted shall be in operation on and after the day next following that of the promulgation of such Law as a Law in the "NATAL GOVERNMENT GAZETTE."

7. The provisions of this Law shall apply to and in respect of the construing and interpretation of itself, save and except its first section.

8. No provision of this Law shall be deemed so to apply to the construing of any part of any other Law or document, or later, as to occasion any such construing thereof in whole or in part as is clearly in opposition to the meaning of what is to be construed as shown by the wording thereof, or of other parts of such Law or document, or of other context thereto.

9. This Law shall be in operation at the like period as to it as is provided for as to future Laws by the sixth section hereof.

SCHEDULE.

	First Column.	Second Column.
Schedule.	(1) Pronouns of Masculine Gender.	(1) To include the same pronouns in the Feminine or Neuter Gender.
	(2) Words in the Singular Number.	(2) To include the same words in the Plural Number.
	(3) Words in the Plural Number.	(3) To include the same words in the Singular Number.
	(4) Month.	(4) To mean calendar month; or from one part in a calendar month to the corresponding part in another calendar month, as the case may be.
	(5) Year.	(5) To mean twelve successive calendar months, or from one part in a month in one year to the corresponding part in the month of the same name in another year, as the case may be.
	(6) Oath or Swear.	(6) To include any form of deposing which at the time being is legal in such a case.
	(7) Writing.	(7) To include contents of any document.

(A) Where a prior Act, or part of a prior Act, is incorporated with a subsequent Act it is the same thing as if the words of the prior Act had been repeated in the subsequent Act; and

the repeal of the former Act will not take away the effect of the words which are so repeated in the latter Act by incorporation (per Galloway, C.J., in *Reg. v. Marotshimpi*, 17 N.L.R. 268).

First Column.	Second Column.	Law 3, 1887.
(8) Governor or Lieutenant-Governor.	(8) To include the Officer administering the Government of the Colony for the time being.	
(9) Any other official designation.	(9) To include any duly made acting appointment to the office for the time being.	

Law No. 14, 1888.

“To extend and define the meaning of the word ‘Native.’”

[24th September, 1888.]

WHEREAS it is expedient to define and extend the meaning of the word “Native,” contained in certain Laws and Ordinances of the Colony of Natal:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The words “Native” or “Native of this Colony,” whenever used in any Ordinance, Law, Proclamation, Regulation, Rule, or Order lawfully made or issued, shall be deemed to mean and to have meant, and to include and to have included, all members of the Aboriginal Races or Tribes of Africa, south of the Equator, including liberated Africans, commonly called Amandawo, who are not exempted from the operation of Native Law in terms of Law No. 28 of 1865: Provided, that Griquas and Hottentots shall not come under the provisions of this Law: Provided further, however, that the provisions of Law No. 22 of 1878, entitled “Law to prohibit the sale and disposal of Spirits and other intoxicating Liquor to persons of the Native Race,” shall extend and be applicable to Griquas and Hottentots (A).

Definition of terms “Native” and “Native of this Colony.”

Griquas and Hottentots.

2. The provisions of any such Ordinances, Laws, Proclamations, Regulations, Rules, or Orders in so far as the same may affect or be applicable to the Natives of Natal, civilly or criminally, shall extend and apply to, and be in force over and among any members of the Aboriginal Races or Tribes of Africa, south of the Equator, as defined in the preceding Section, while, and so long as any such Native shall be sojourning in, or be resident in Natal.

Natives sojourning or resident in Natal.

3. In any proceeding, civil or criminal, against any person cited or summoned as being a Native within the provisions of this Law, unless the person so cited or summoned shall prove to the satisfaction of the Court that he is not a Native subject to the provisions of this Law, he shall be deemed and taken by the Court to be a Native, and subject to the operation of this Law.

Persons cited or summoned as Natives to be deemed Natives unless they prove the contrary.

Law No. 10, 1891.

“To amend Law No. 14, 1888, entitled ‘Law to extend and define the meaning of the word Native.’”

[17th July, 1891.]

BE IT ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The following words shall be added to the first Section of Law No. 14, 1888, that is to say:—and to persons exempted from the operation of Native Law in terms of Law No. 28, 1865 (B).

Amendment of sec. 1, Law 14, 1888.

(A) Law 10, 1891, post, adds words to this sec., but as Law 22, 1878, is repealed by Act 38, 1896, (tit. “INTOXI-

CATING LIQUORS”) this proviso and Law 10, 1891, appear to become obsolete.

(B) See note (A), ante.

Law No. 14, 1893.

"To provide for the establishment of Responsible Government in Natal" (A).

[3rd July, 1893.]

Meaning of
"Governor in
Council."

11. The words "Governor in Council" in this Act, or any other Act or Law appearing, shall mean the Governor acting with the advice of the Executive Council.

Construction of
words "Legis-
lative Council"
occurring in
existing Laws.

41. The Law No. 1 of 1870 shall henceforth be construed as if the word "Assembly" appeared therein whenever the word "Council" is used, except in the enacting Clause.

Where any existing Law prescribes that documents are to be laid before the Legislative Council, such documents shall in future be laid before the Legislative Council and Legislative Assembly. And where in any existing Law the words "Legislative Council" occur, they shall, unless the context otherwise indicates, be read as if they were "Legislative Council and Legislative Assembly."

(A) See this Law in full, ante, tit. "PARLIAMENT."

STOCKBROKERS.

STOCKBROKERS.

Law No. 31, 1888.

“To provide for the Licensing of Persons to be Stock or Share Brokers.”

[12th November, 1888.]

WHEREAS it is expedient to provide that none but fit and proper persons shall be permitted to carry on the occupation or business of Stock or Share Brokers within this Colony:

BE IT ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. It shall not be lawful for any person to carry on the occupation or business of a stock or share broker, or to be engaged in the occupation or business of negotiating, transacting or conducting for reward any sale or purchase or other dealing in Government or other stocks, in scrip or shares, whether issued or not, in any joint stock or other company, association or body, or in any marketable or negotiable security whatsoever, without having first obtained a license in that behalf from the Treasurer of the Colony in the Form A in the Schedule to this Law annexed, which license shall be covered by a stamp or stamps of the value of £10.

Persons requiring license.

2. No such license as in the last section mentioned shall be issued to any person who shall not, when applying for such license to the Treasurer of the Colony, produce and lodge with the Treasurer of the Colony a certificate of fitness in the Form B, in the said Schedule, under the hand of the Resident Magistrate of the Division, or the official performing the functions of Resident Magistrate in any division wherein the applicant may reside: Provided, that no licensed stock or share broker shall carry on his occupation or business at any place by or through any agent other than a licensed share or stock broker.

Certificate of fitness.

3. It shall not be lawful for such Resident Magistrate to grant such certificate to any person not of full age, or to an uncertificated insolvent, or, without leave of the Supreme Court, to any person disqualified in accordance with the provisions of the fifth or ninth sections of this Law.

Agents to be licensed brokers.

Disqualifications.

4. If any person shall, in any transaction whatever, act, or attempt to act, as a stock or share broker as aforesaid, or employ any other person so to act for or under him, without having been duly licensed as aforesaid, every such person, and every person so acting for or under him, shall be liable to a penalty of not less than £10, or more than £50, which shall be recoverable in the Court of the Resident Magistrate of the division where any such person resides, or where he may have acted or attempted to act.

Penalty for unlicensed broking.

5. A list containing the names and addresses of all stock or share brokers in this Law referred to, who shall from time to time have been licensed as such, shall be kept at the Treasury, and published quarterly in the “GAZETTE,” and a further list of such stock or share brokers as may be carrying on business in any division shall be kept at the office of the Resident Magistrate of that division, or in the office of the official performing the duties of Resident Magistrate in any division in this Colony, and if any such stock or share broker shall be convicted in any criminal court of, or of being accessory to the crimes of theft, fraud, perjury, or forgery, or any crime of greater or equal magnitude, or if the Supreme Court, or any judge thereof, or any Circuit Court, shall in any action, suit, or other proceeding prosecuted or defended

List of brokers, where kept.

Causes for which broker may be removed from list.

Law 31, 1888. before such court or judge, and to which such stock or share broker shall be a party, or in which his conduct or mode of dealing shall be called in question, certify (as such court or judge is hereby empowered to do) to the Treasurer of the Colony that such stock or share broker has been convicted of such crime, or has been guilty of any fraudulent or dishonest dealing shown in evidence in such action, suit, or other proceeding as aforesaid, and that he ought to be disqualified from acting as a stock or share broker altogether, or for such period as shall be mentioned in such certificate, then such stock or share broker shall accordingly be disqualified, his license shall be deemed to be cancelled, and his name shall thereupon be removed from the list of licensed stock or share brokers either absolutely or for the time mentioned in such certificate: Provided always, that the said stock or share broker may apply to the Supreme Court, under circumstances which the said court may deem special, for leave to take out a license and carry on business as a stock or share broker, notwithstanding such certificate as aforesaid.

Notice to be given to Treasurer and Resident Magistrate of intention to practise.

6. In order that the lists at the Treasury and the offices of the Resident Magistrates provided for by this Law shall be duly kept, it shall be the duty of every stock and share broker as aforesaid, before he shall commence or carry on business at any place under such license as aforesaid, to publish a notice to that effect in the "GAZETTE," and to give notice in writing to the Treasurer and to the Resident Magistrate of the division wherein he may desire to carry on his occupation or business, of his intention so to do, and his place or places of business, and he shall also give like immediate notice of his intention to cease to carry on his said occupation or business at such place as aforesaid, and in case of his opening a new place of business in another division the same provisions shall apply. Any person contravening the provisions of this section shall, upon conviction before the Resident Magistrate of the division be liable to a penalty not exceeding £10.

Penalty for contravention.

Other duties payable by brokers not affected.

7. Nothing in this Law contained shall be construed to relieve any stock or share broker from the payment of any license or other fee or duty now by law payable by brokers, or in any way to alter the law relating to stamps, licenses, or duties (A).

Duration of license and apportionment.

8. All stock or share brokers' licenses shall be annual, and shall expire on the 31st December in the year during which they are taken out: Provided, however, that for and in respect of any such license, which shall be taken out upon or after the 1st day of July, there shall be payable only one-half of the appointed sum, but if such license be taken out at any time before the 1st July, then there shall be no deduction.

Offences by brokers.

* 9. Any stock or share broker, licensed under the provisions of this Law, who shall complete any executory or executed contract of sale and purchase of any Government or other stocks, or of any scrip or shares, whether issued or not, in any joint stock or other company, association or body, or of any marketable or negotiable security whatsoever, without forthwith preparing and delivering to, or holding for the purchaser and seller, bought and sold notes, setting forth the true names and residences of the purchasers and sellers of such stocks, scrip, or shares, provided, that in the case of such purchaser or seller residing outside the Colony the true name of the broker employed by such purchaser or seller shall suffice, duly stamped according to law, and any such broker as aforesaid who shall personally and for his own account, or for account of any firm or partnership wherein he shall have an interest, either buy or sell, save through another duly licensed

(A) See Act 43, 1898, ss. 37-39, ante, tit. "REVENUE, I."

stock or share broker not interested in the transaction, any such stock, scrip, share, or security as aforesaid, or shall fail to fulfil any of the conditions above mentioned, shall be guilty of an offence and shall be liable upon conviction to a fine of not more than £20, recoverable in the court of the Resident Magistrate of the division wherein the offence was committed, and the said Resident Magistrate shall be authorised, and is hereby bound and required, upon the conviction of any such offender against whom one or more previous convictions under this section shall be duly proved, to prepare a certificate setting forth all such convictions, including the conviction upon the charge then before him, and that the offender ought to be disqualified from acting as a stock or share broker for such period as shall be mentioned in such certificate, not exceeding three months, and to forward such certificate forthwith to the Treasurer of the Colony, who shall thereupon cause the name of such offender to be removed during such period from the list of licensed stock and share brokers (A): Provided, however, that the person named in any such certificate may apply to the Supreme Court, by motion, on notice to the Treasurer of the Colony, for relief against the operation of such certificate, and if he shall satisfy the Supreme Court that on account of special circumstances he should be relieved, it shall be competent for the said court to order either that the name of such person shall not be removed from or if removed shall be restored to the said list, or that the period during which his name shall be removed from the said list shall be reduced, and in any case the said court may order that the period during which his name shall be removed from the said list shall commence from a date to be fixed by the said court: Provided further, that the stamp upon every Broker's Note as aforesaid shall be of the value of One Penny Sterling (B).

Law 31, 1888.

Stamp on Broker's Note.

Commencement and Short Title.

10. This Law shall come into force on the First day of January, 1889, and may be cited for all purposes as the "Stock or Share Brokers' Admission Law, 1888."

SCHEDULE.

A.

Schedule.

Stock and Share Broker's License at £

.....Division.

I, the undersigned hereby grant License to.....
of.....
 to carry on the business of a Stock or Share Broker at.....
for the period, from the.....
 day of....., 18....., to the 31st day of
 December, 18....., he, having paid
 the sum of.....for this License.

Dated at the.....Office at.....
 in the Colony of Natal, this.....day of.....
 18.....

.....
 Treasurer of Natal.

(A) Where a Broker sued in respect of Bills of Exchange given in consideration of certain shares, in the purchase of which this sec. had been contravened by him, the contract could

not be enforced (*Cook & Co. v. O'Flaherty Bros. & Statham*, 10 N.L.R. 171).

(B) See Act 43, 1898, Schedule III (item "Broker's Note") tit. "REVENUE."

STOCKBROKERS.

Law 81, 1888.

B.

Certificate of Fitness.

I,.....
 Resident Magistrate of.....
 do hereby certify that no reason has been shown to me why

 whose place of business is situated at.....
 should not receive a License as a Stock or Share Broker.

.....
Resident Magistrate.

Office of Resident Magistrate,
....., 18.....

SUBMARINE CABLES.

[See "CRIMINAL LAW VIII."]

SUNDAY.

Law No. 24, 1878.

“To provide for the better observance of the Lord’s Day, commonly called Sunday.”

[9th September, 1878.]

WHEREAS it is expedient to make provision for the better observance in this Colony of the Lord’s Day, commonly called Sunday :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. It shall not be lawful for any person to trade, or deal, or keep open any shop, store, or place for the purpose of trade or dealing on the Lord’s Day.

Trading, &c., on Lord’s Day prohibited.

2. It shall and may be lawful for any apothecary, chemist, or druggist to vend any medicines or drugs, and to keep open his shop, store, or other place for the purpose of vending the same on any part of the Lord’s Day; and provided also that it shall be lawful for any licensed innkeeper or eating-house keeper to keep open any inn or eating-house, and to supply any person, who is a traveller or lodger, at such inn or eating-house with the necessary provisions on any part of the Lord’s Day; and provided also that it shall be lawful for any butcher or baker respectively to vend meat and bread, and to keep open any shop, store, or other place for the purpose of vending the same on the Lord’s Day at any time before nine o’clock in the morning; and for any dairyman or fishmonger respectively to vend milk and fish, and to keep open any shop, store, or other place, for the purpose of vending the same on the Lord’s Day at any time before nine o’clock in the morning, and between six and eight o’clock in the afternoon.

Exceptions.

3. It shall and may be lawful for any dealer in Indian stores, to sell any rice, dholl, oil, ghee, spices, or other Indian food stuffs, and to keep open any shop, store, or other place for the purpose of selling the same on the Lord’s Day at any time before nine o’clock in the morning.

Indian stores.

4. Nothing herein contained shall extend to prevent any contractor from supplying on the Lord’s Day, Her Majesty’s Naval or Military Forces with any article specified in his contract, nor to prevent any ship chandler from supplying any ship with anchors, cables, or anything which they may stand in need of in cases of necessity.

Provision as to army contractors and ship chandlers.

5. No market shall be held, nor shall any goods, merchandise, cattle, or other live stock be allowed to be sold or offered therein for sale on the Lord’s Day.

Markets and sales of goods prohibited.

6. Every offence committed against this Law may be heard and determined by any Resident Magistrate within whose jurisdiction such offence shall be committed, or within which the offender shall be found; and any such Resident Magistrate may summon such person to appear before him at a time and place mentioned in such summons, and on the appearance of the party accused, or in default of such appearance upon proof of the service of such summons, the said Resident Magistrate shall proceed to examine into the matter, and if upon the confession of the party accused, or upon the oath of one or more credible witness or witnesses, the party accused shall be convicted of having committed the offence charged, such offender shall pay such penalty not exceeding Ten Pounds, and not less than Five Shillings sterling, as such Resident

Jurisdiction of Magistrate relative to offences against this Law.

Penalty.

Law 24, 1878. Magistrate shall determine, and in default of such payment shall be liable to imprisonment with or without hard labour for any period not exceeding fourteen days.

Disposal of fines.

Proviso as to boroughs.

Private prosecutions.

Provisions of this Law to be extended to Boroughs on application.

This Law not to affect Ord. 32, 1846, and Ord. 9, 1847.

Commencement

7. All fines imposed by this Law shall be paid to Her Majesty, her heirs and successors, and, unless remitted, shall be applied to the uses of the Government of this Colony: Provided always, that any fine imposed for any contravention of this Law committed in any Municipal Borough shall be paid into the Borough Fund of the Borough where the contravention shall have been committed.

8. Any private person may prosecute any person charged with having committed any offence against the provisions of this Law.

9. The provisions of this Law shall not apply to any township within this Colony which has already, or may in future be constituted a Borough in the manner therefor provided by the "Municipal Corporations Law, 1872": Provided, however, that it shall be lawful for the Lieutenant Governor by proclamation under his hand and seal, to extend the provisions of this Law to any such Borough on the application of the Council of any such Borough, founded on resolution carried by a majority of votes at any meeting of such Council duly convened for the consideration of the question, of which at least 14 days' notice shall be given to each member thereof.

10. The provisions of this Law shall in no way affect or repeal any of the provisions of Ordinance 32 of 1846, entitled "Ordinance for amending the Law regarding certain Rules of Court" and Ordinance 9, of 1847, entitled "Ordinance for regulating the sale of wines and spirituous and fermented liquors within the District of Natal" (A).

11. This Law shall commence and take effect from and after the date of the publication thereof in the "NATAL GOVERNMENT GAZETTE" (B).

SUPREME COURT.

[See "COURTS (SUPREME)."]

SURETIES.

[See "BONDS"; "CONTRACTS"; "CONTRIBUTION AND INDEMNITY."]

SURGEONS.

[See "MEDICAL PRACTITIONERS."]

(A) As these Laws are repealed by Acts 39, 1896 and 38, 1896, respectively, the sec. is obsolete.

(B) Dec. 17, 1878.

SURVEYS.

SURVEYS.

Law No. 8, 1883.

“To make provision for a Trigonometrical Survey of the Colony of Natal.”

[12th November, 1883.]

WHEREAS it is expedient to make provision for the preparing, making, and performing of certain Surveys connected with a Trigonometrical Survey of the Colony of Natal:

AND WHEREAS, by a Respectful Address to the Governor passed by the Legislative Council on the Fifteenth day of December, 1880, the Council did approve of the insertion in the Supply Bill for 1881 of an item of £2,000 towards a Trigonometrical Survey of the Colony:

AND WHEREAS, in pursuance of the said Address, the Governor has entered into arrangements with Her Majesty's Government for the employment of a detachment of Royal Engineers for the purpose of making a Trigonometrical Survey of the Colony:

AND WHEREAS it is necessary to acquire power to enter upon lands in the Colony for the purpose of preparing, making, and performing the said Surveys, and erecting beacons on some of said lands:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Governor may nominate and appoint such Engineers, Surveyors, and other persons as may be required to prepare, make, and perform such Surveys; and it shall be lawful for such Engineers, Surveyors, and other persons so appointed, by themselves, their servants, horses, wagons, or other vehicles, and the animals drawing the same, to enter upon any land, whether belonging to the Crown or a private individual, for any purpose connected with the making of such Surveys, and to erect and maintain thereon any signals or beacons for the purpose of a Trigonometrical Survey of the Colony or any part thereof; and it shall also be lawful for any of the officers or their servants employed in such Survey to take material for the purpose of erecting or repairing any signal or beacon required in connection with the Survey: Provided that no injury be done thereby to any land which has been improved by cultivation or otherwise, or if such injury be done, then the owner or owners shall be entitled to compensation, such compensation to be determined in the manner hereinafter set forth.

Officers appointed to make surveys to have power to enter upon lands and to take material for erecting or repairing signals or beacons.

Compensation.

2. If any person shall unlawfully and wilfully injure, remove or destroy, or cause to be injured, removed, or destroyed, any signal or beacon erected for any of the aforesaid purposes, whether such signal or beacon be upon his own property or not, he shall be liable to a fine not exceeding Fifty Pounds Sterling, and in case of non-payment thereof, to imprisonment, with or without hard labour, for any term not exceeding Three Months.

Penalty for injuring, removing, or destroying signals or beacons.

3. If any person shall obstruct, hinder, or prevent any person duly authorised by the Governor in that behalf, or the servants, horses, wagons, or other vehicles employed in the works, and the animals drawing the same, from entering upon land for any of the aforesaid purposes, or from erecting, examining, or repairing any signals or beacons as aforesaid, or from doing what may be required for the purpose of

Penalty for obstructing officers, &c., engaged in survey.

Law 8, 1883. such Survey as aforesaid, he shall be liable to a fine not exceeding Twenty Pounds Sterling, and in default of payment thereof, to imprisonment with or without hard labour for any term not exceeding Two Months.

Right of entry upon lands on notice given. 4. Any Engineer, Surveyor, or other person who shall be so appointed under the provisions of this Law, may, upon giving not less than twenty-four hours' notice to the registered proprietor, if resident within the Colony, and if not so resident, then to his agent if possible, or the occupier, enter upon any lands upon which he may deem it necessary to enter for the purposes of surveying, and to do all acts necessary for the purpose of such Trigonometrical Survey: Provided that any such notice shall not hold good for more than one month; and provided that compensation be made to the owner or occupier thereof for any damage thereby occasioned, the amount of such compensation to be decided by the Resident Magistrate of the County or Division, whose decision shall be final: due notice of the Magistrate's inquiry into the claim to be previously given to the Surveyor by the complainant; and upon the day fixed in such notice the Magistrate may determine and decide upon the amount of compensation to be paid in respect of any such damage, and may award the amount of costs incidental to such inquiry, and determine by whom such costs shall be paid. Such compensation, and the costs, if any such should be so awarded against the Colonial Government, shall be a charge upon and be defrayed out of the General Revenue of the Colony.

How compensation for any damage occasioned is to be ascertained.

Authorisation of necessary expenditure. 5. The Governor is authorised and empowered to pay out of the General Revenue, subject to the vote of the Legislative Council, all salaries and expenses necessarily incurred in and about the preparation, making, and performing of such Surveys.

Contraventions of this Law, how to be prosecuted. 6. All contraventions of this Law may be prosecuted before the Court of the Resident Magistrate of any Division in which the offender resides; but the person condemned may, if he feels himself aggrieved, appeal to the Supreme Court, or the Circuit Court for the District, as the case may be, first paying the penalty and giving security to the satisfaction of the Resident Magistrate for the costs of the appeal.

Commencement 7. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Law No. 39, 1888.

"To remedy defects in Surveys of Land."

[See this Law under tit. "REGISTRATION (DEEDS)."]

(A) Nov. 13, 1883.

TAXES.

[See as to Customs, Licenses, Stamps, &c., tit. "REVENUE," and as to Transfer Dues, "REGISTRATION (DEEDS)."]

Law No. 15, 1876.

"To provide for the Valuation of Immovable Property in Natal."

[11th November, 1876.]

WHEREAS certain Resolutions in reference to the Land and Property Tax Bill No. 1, 1876, were adopted by the Legislative Council of Natal on the 25th day of September, and were transmitted by Address No. 11, 1876, for His Excellency the Lieutenant Governor's information:

AND WHEREAS in order to give effect to the said Resolutions, it is necessary to make provision by Law for the appointment of Valuers to value all immovable property in Natal, as set forth in the said Resolutions:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Lieutenant Governor may nominate and appoint two fit and proper persons to be Valuers under this Law, for every County or for every such Division, as may be selected for them by the Lieutenant Governor, and they shall make a valuation on the spot, of the houses and other buildings and lands in such County or Division, each valuation being shown separately, and shall proceed on such valuation in such manner and under such regulations as the Lieutenant Governor in Council shall order, direct, and appoint, and in case of difference, they shall nominate a third person to decide; and they shall, at the time of such valuation, deliver to the owner or occupier of such property or land, if present or applied for, a notice of such valuation according to such form as shall be given by the Lieutenant Governor.

Governor may appoint two valuers for every County or Division to make a valuation of houses, buildings, and lands.

2. The Lieutenant Governor shall further nominate and appoint a Central Board of Valuers, consisting of not less than three, nor more than five members, who shall examine Reports of the Valuations of the local Valuers, and if they shall think proper, appoint a day or days, and call before them such local Valuers, personally to examine them as to the valuations made by them; and after such examination the Board shall finally approve of the valuations made in the first instance, or make such revisions and alterations therein as to them shall seem just and equitable, and such revised valuation shall be published in the "GOVERNMENT GAZETTE," together with a notice calling upon all interested parties, within one month from the date of such publication, to lodge their objections, if any, to such valuation, in writing, supported by proof duly sworn to, and the Board shall decide on all objections so made, and such decisions shall be published in the "GOVERNMENT GAZETTE," and shall be final.

Central Board of Valuers to revise valuations of local Valuers;

mode of proceeding.

3. The Lieutenant Governor is authorised and empowered to pay out of General Revenue all expenses necessarily incurred in and about the preparing and making the valuation of immovable property as required by said Resolutions; and such also as shall be necessarily incurred by the Central Board, under sanction of the Lieutenant Governor; and all such expenditure shall be repaid to General Revenue from the special tax hereafter imposed on immovable property, and shall be included in the first assessment made on immovable property.

Expenses incurred under this Law to be paid out of General Revenue, but to be repaid from the special tax hereafter imposed on immovable property.

Law 15, 1876.

Power of Valuators to enter upon property for purposes of valuation.

4. Any Valuator or Valuators appointed under this Law shall have power, from time to time, to enter into and upon any land or house, or other building, for the purpose of making and carrying on any valuation authorised by this Law: Provided always, that in every case in which it shall be necessary for any such Valuator or Valuators to enter into any house or building, or any garden, orchard, or pleasure ground, and when the owner or occupier thereof may oppose or refuse to allow each such entry, such Valuator or Valuators shall give three days' notice to the owner or occupier of such house, building, garden, orchard, or pleasure ground, requiring to be permitted to enter same; and at any reasonable time after delivery of such notice it shall be lawful to make such entry, such Valuator or Valuators doing as little damage as may be in the execution of the powers granted to them under this Law.

Commencement

5. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Law No. 50, 1887 (B).

"To impose certain duties on Occupied Dwellings."

[21st November, 1887.]

WHEREAS it is expedient to increase the Public Revenue by a Tax on Occupied Dwellings:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Scale of duty.

1. Upon every structure occupied as a Dwelling within the Colony (and not hereafter exempted) there shall be payable to the Colonial Revenue in each and every year, during the subsistence of this Law, a duty to be assessed and levied upon the following scale:—

(a) A House occupied by Natives and exempted under Law 13 of 1875	... ..	14s.
(b) House occupied by a Free Indian introduced into the Colony under the Indian Immigration Laws	... ..	14s.
(c) The duty on Houses occupied by other persons than those named in Sub-sections (a) and (b) shall be upon the following scale:—		
A House of less value than £100	... ..	15s.
A House of the value of £100, and of a less value than £250	... ..	20s.
A House of the value of £250, and of a less value than £500	... ..	30s.
A House of the value of £500, and of a less value than £750	... ..	40s.
A House of the value of £750, and of a less value than £1,000	... ..	50s.
A House of the value of £1,000, and of a less value than £1,500	... ..	70s.
A House of the value of £1,500, and of a less value than £2,000	... ..	90s.
A House of the value of £2,000 and over	... ..	120s.

(A) Dec. 26, 1876.

(B) The tax authorised by this Law has never been imposed.

2. The following structures and buildings shall be exempt from the duty imposed by this Law :— Law 50, 1887.
Exemptions.

- (a) Native Huts which now pay a Native Hut Tax of 14s. under Law 13 of 1875.
- (b) Any House not occupied for six months in the twelve months prior to the 1st of May in any year.
- (c) Houses occupied by Indentured Indian Immigrants.
- (d) Houses provided free of charge by employers for Free Indians who have been in the said employer's service for the first six months of the year.
- (e) Houses provided free of charge by employers, and occupied by, and used solely for, Natives in their service.
- (f) All Government Buildings, and buildings which are exempt from the payment of local rates.

3. Valuations of Dwellings shall be made in the manner following : Mode of valuation.
Each householder shall, in the month of May in each year, forward to the Resident Magistrate of his District a declaration in a form to be passed by the Governor in Council, setting out the value of the dwelling occupied by him. The said Resident Magistrate shall have the power to declare the value of the dwelling referred to in the declaration ; and the decision of the said Resident Magistrate shall be final as regards the class to which any building, wherever situate, may belong.

4. When a building is used partly as a dwelling and partly for other purposes, the portion used as a dwelling shall alone be valued for the purposes of this Law. Buildings used partly as dwellings and partly for other purposes.

5. The Governor in Council is authorised and empowered to appoint proper persons to assist the Magistrates in classifying dwellings according to their character and value, and in preparing and issuing notices, and in receiving declarations, and in carrying out the objects of this Law. Power of Governor to appoint person to assist Magistrate.

6. The Governor in Council shall have the power to exempt from payment under this Law any building or class of buildings which shall appear to require such exemption, and which have not been specified in this Law. Governor empowered to exempt buildings.

7. Payment of the tax shall be made on the first day of July in each year to the Resident Magistrate of the District in which the dwelling is situate. Duty payable on 1st July.

8. If any person liable for the duty shall make default in the payment thereof for the space of thirty days after the first day of July, he shall be liable to pay in addition to the duty a sum equal to one-fifth thereof, and such additional sum shall, together with the original duty, be deemed to be the tax payable under this Law. Penalty in default of payment.

9. The duty shall be payable by the occupier of the dwelling. Duty payable by occupier.

10. The Governor in Council is authorised and empowered from time to time to make, alter, and amend rules and regulations for the better carrying out of this Law, and such rules and regulations shall have full force and effect after publication in the "GOVERNMENT GAZETTE," and in one newspaper in Maritzburg and Durban. Governor empowered to make rules.

11. If any person shall contravene any of such rules and regulations, or shall fail to forward to the Resident Magistrate of his District the declaration required by Section 3 of this Law, he or she shall be liable for each offence to a penalty not exceeding 40s., to be recovered by any Clerk or Deputy Clerk of the Peace, with costs. Penalty for contravening rules.

12. If any person shall make a false declaration with respect to his dwelling, with the intention of defrauding the Revenue, he or she shall be held to have contravened this Law, and may be prosecuted for such offence by any Clerk of the Peace in the Court of the Resident Magistrate of the District, and on conviction may be sentenced to a Penalty for making false declaration. How to be enforced.

Law 50, 1887. fine not exceeding £25, or, in default of payment, to imprisonment for a term not exceeding three months.

Moneys payable under Law recoverable by distraint.

13. Any sums of money payable under this Law may be distrained for upon the goods and chattels of the defaulter by a summary writ of execution signed by the Clerk of the Resident Magistrate, and the costs of and attendant on the writ of execution may be added to the tax: Provided that no such writ shall issue unless one month's notice shall have been given through the post or otherwise to the occupier of the dwelling.

Notice to be given to occupier.

Commencement

14. This Law shall, after publication on the passing thereof, become Law, and shall take effect from and after the promulgation of "The Natal Loan Law, 1887," as a Law in the "NATAL GOVERNMENT GAZETTE" (A).

Law No. 1, 1888.

"To amend Law No. 50, 1887, entitled 'Law to impose certain duties on Occupied Dwellings.'"

[11th April, 1888.]

BE IT ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Repeal of Sec. 14, Law 50, 1887, Substituted enactment.

1. The Fourteenth Section of Law No. 50, 1887, entitled "Law to impose certain Duties on Occupied Dwellings," is hereby repealed.

2. In lieu of said Fourteenth Section of the said Law No. 50, 1887, there shall be enacted the following Section:—

This Law shall commence and take effect from and after such date as the Governor, with the advice of the Executive Council, shall fix and appoint by Proclamation in the "NATAL GOVERNMENT GAZETTE": Provided that no such Proclamation shall be issued before the 31st day of December, 1889 (B).

Commencement

3. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (C).

(A) This sec. is repealed by Law 1, 1888, post; and, as no Proclamation has been issued as is provided for by the repealing enactment, the above Law is

not in force.

(B) No Proclamation has been issued, therefore Law 50, 1887, is not in force.

(C) April 17, 1888.

TELEGRAPH.

[See "COPYRIGHT"; "POST OFFICE."]

Law No. 11, 1863 (A).

"For the Construction and Regulation of Electric Telegraphs."

[28th July, 1863.]

WHEREAS it is expedient to provide for the construction, regulation, and protection of lines of Electric Telegraph:

BE IT ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Lieutenant Governor, with the advice of his Executive Council, may authorise the establishment and construction, either by individuals or co-partnership, of such line or lines of electric telegraph as he may think fit; and for the purpose of facilitating the construction and maintenance of such line or lines of telegraphs, such person or persons, and others acting under his or their authority, may enter into and upon such lands belonging to Her Majesty the Queen, as may be required for the construction of such line of electric telegraph, and of any other work incident or relative thereto, and may erect, set up, and maintain all necessary masts or poles for the supporting of any cord or wire of such line, or bury or lay such cord or wire in the ground.

Governor may authorise construction of lines of electric telegraph upon Crown lands.

2. For the purposes of the construction and maintenance of any such electric telegraph, the person or persons so authorised, as hereinafter provided, to construct the line of telegraph, and others authorised by him or them, are hereby empowered, for the purpose of so doing, to enter into and upon any lands belonging to private parties, or corporate bodies, or public companies, and erect, set up, and maintain all necessary masts or poles for the supporting of any such cord, or wire, or line, or bury or lay such cord or wire in the ground: Provided, that no such land be taken without previous notice to the proprietor thereof; and if any dispute arises as to land required under the provisions of this section, or to any other matter or thing in reference to the taking or using of the same, the said dispute shall be referred to the decision of the Colonial Engineer, who is hereby empowered to determine and settle such dispute.

Authorised lines of telegraph may be constructed upon private lands.

3. If any person or persons so authorised to construct any line of electric telegraph should require to use any land to which injury or damage may be done by using the land, such person or persons may treat and agree with the owner of any such land for compensation for the use of any such land.

Compensation for damage to private lands.

4. If such owner of land and such person or persons so authorised to construct an electric telegraph line should not agree upon the compensation to be given and accepted, then the said person or persons so authorised as aforesaid, shall cause to be served upon any such owner a written notice, offering as compensation or recompense whatever sum of money he or they shall deem sufficient, and requiring such owner to state, in writing, to the said person or persons so authorised

Mode of settling differences as to amount of compensation.

(A) Repealed by Law 6, 1864, s. 1, post, in so far as repugnant to or inconsistent with that Law. See also Law 5, 1874, s. 8, post.

Law 11, 1863. as aforesaid, within a certain limited time specified in said notice, whether such owner is ready to accept the sum therein mentioned or not; and if such owner should refuse to accept the sum offered, or neglect to reply to said notice, then the said person or persons so authorised as aforesaid, shall, by another notice in writing, call upon such owner to refer to arbitration the recompense or compensation to be paid to such owner, and for that purpose to transmit to him or them, within a certain reasonable time specified in notice, the name of some person whom he shall select to be an arbitrator upon such arbitration; and the said person or persons so authorised as aforesaid, upon receiving the name of the arbitrator so selected, shall nominate a second arbitrator, and shall cause a deed of submission to be prepared, which shall be signed by both parties, and which shall contain, amongst other things, power to said arbitrators, in case of difference of opinion, to call in an umpire, whose decision shall be final, and the award so made shall be binding and conclusive, and may be pleaded in any proceedings at law brought for or on account of the same subject matter; and if any such owner, claiming recompense or compensation should neglect or refuse to name some person to be arbitrator, or to sign the deed of submission, then the person or persons so authorised to construct said line of electric telegraph, may lodge in some joint-stock bank in the Colony the sum of money offered by him or them as aforesaid in his first notice, for and on account of, and at the risk of said owner, who shall be at all times entitled to draw the same out of said bank as his absolute property, and the said person or persons so authorised to construct said line of electric telegraph, shall be authorised to use the land in question, as freely as if said sum had been agreed upon between the parties as the sum to be paid, or had been awarded under this section, and as if all acts of law required for vesting in him or them a sufficient title to the use of the land aforesaid, had been duly done and performed.

Compensation for land, or materials from land, the property of minors under guardianship payable to the Master of the Supreme Court.

5. In case any person or persons so authorised to construct any line of electric telegraph shall require to use any land, or to dig out or carry away any materials belonging to any minor or other person under guardianship or curatorship, then the guardian or curator, as the case may be, shall be authorised, in his capacity as such guardian or curator, to treat and agree with him or them for compensation for the use of land, or taking of 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 monies which shall, either by agreement or arbitration, be payable by the said person or persons so authorised to construct any line of electric telegraph for or on account of any land or materials in this section mentioned, shall be paid by him or them to the Master of the Supreme Court, 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 monies; and if in any case any person of full age shall, by way of fide commissary limitation, or any limitation of a like nature, be entitled to a life or other limited interest in any such land as aforesaid, in which a minor or other such person as aforesaid under guardianship or curatorship shall be also interested in remainder or expectancy, then the whole value of the land or materials, as fixed by contract or 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 in the land, will be entitled for life, or for the other period limited, to draw the interest payable upon 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 monies, the property of minors or persons under disability, are 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 monies.

Law 11, 1863.

6. It shall be lawful for the person or persons as aforesaid, and any person authorised by them, to carry any line of electric telegraph upon, along, or across any public or private road, or any shore of the sea: Provided, that any cord or wire of such line as shall be carried along any such road, or within eighty feet of the centre, shall be placed at least ten feet from the ground; and that any such cord or wire which shall cross any such road above ground, shall, where it crosses, be at least fourteen feet from the ground; and provided, that the free use and enjoyment of any such road shall not be hindered or obstructed, and that no mast or pole shall be erected within eighty feet of the centre of any road, without permission in writing of the Colonial Engineer first had and obtained, nor within at least ten feet of any dwelling-house erected or in the course of erection.

Authorised lines of telegraph may be carried upon, along, or across public or private roads, &c.

7. Any person who shall wilfully in any way injure, disturb, obstruct, or interrupt the free use or working of any line of electric telegraph, or any works incidental thereto or connected therewith, or shall wilfully attach any string, wire, or any conductor or other thing to any line of communication, or any part thereof, without the authority of the superintendent of the said line, or shall wrongfully and maliciously obstruct, hinder, or prevent the forming, constructing, completing, or maintaining any such line of communication, or any part thereof, shall, upon conviction, forfeit a sum not less than Five Pounds, nor more than One Hundred Pounds, or be imprisoned, with hard labour, for any period not exceeding six calendar months, or to both fine and imprisonment.

Penalties for injuring, disturbing, or interrupting the free use or working of any line.

8. Any person who shall, without permission, enter any telegraph office, and refuse to quit the same when requested by the person in charge of such office, or shall wilfully obstruct or impede any officer or servant employed on any line of telegraph in the discharge of his or her duty, shall be liable to a fine not exceeding Five Pounds, or to imprisonment for any term not exceeding three months.

Penalty for impeding telegraph officers in discharge of duty.

9. Any clerk or messenger who shall be employed in the working of any line of electric telegraph, who shall fraudulently or maliciously secrete, make away with, alter, or omit to transmit any message which he may have received for transmission or delivery; or, not being witness in a court, shall divulge the contents of any message or dispatch transmitted or conveyed, or to be transmitted or conveyed, without the consent of the person sending or receiving such message or dispatch, shall, upon conviction, be liable to a fine not exceeding One Hundred Pounds, or to be imprisoned, with or without hard labour, for a period not exceeding six calendar months, or to both such fine and such imprisonment.

Penalty for improper conduct of telegraph officers.

10. Any person who shall fraudulently or maliciously transmit, or cause to be transmitted, any message or intelligence which he knows to be false, shall, upon conviction, be liable to a fine not exceeding

Penalty for transmitting false intelligence.

Law 11, 1863. One Hundred Pounds, or be imprisoned, with or without hard labour, for any period not exceeding six calendar months, or to both such fine and such imprisonment.

Jurisdiction of Magistrate's Court.

11. The Court of the Resident Magistrate in whose county or division any offence under this Law shall have been committed, shall have jurisdiction to try such offence, but shall not be competent to punish in any higher or more severe manner than by a fine not exceeding Ten Pounds Sterling, or by imprisonment, with or without hard labour, for any period not exceeding three months.

Superintendent of line may prosecute.

12. The superintendent of any line of electric telegraph, or any person authorised by him, and acting on his behalf, shall be competent to prosecute any such offender as aforesaid in the Court of the Resident Magistrate for any offence committed against, or in respect of such line of electric telegraph, without previously applying to, or being authorised by, the Public Prosecutor; and all fines or penalties recoverable under this Law, shall be paid to Her Majesty, her heirs and successors; and, unless remitted, shall be applied to the use of the Government of this Colony: Provided, that the Court inflicting such fine or penalty may, in any case, award and direct any portion thereof, not exceeding one-half, to be paid to any person or persons who shall have given such information as may have led to the conviction of any offender.

Portion of fine may be awarded to informer.

Masts or poles to be removed from private lands required for building purposes.

13. In any case where the owner of any land used by any electric telegraph company, shall require said land, or any portion thereof, to erect any building thereon, the said electric telegraph company, upon one month's notice in writing having been given to their manager or secretary, or left at their principal offices in Pietermaritzburg or Durban, shall, previous to the expiration of said month, remove, or cause to be removed, the masts or poles erected, or the cords or wires buried or laid, on the part or parts of the land so required as aforesaid, and may erect masts or poles, or bury or lay the necessary cords or wires, in their lieu or stead; and for the using of any land necessary to replace the masts or poles, or bury or lay the cords or wires so removed, the company are hereby invested with all the powers conferred on them by this Law of originally using lands for these purposes, subject to the conditions on them imposed, and provided that said masts or poles shall be erected at a distance of ten feet at least from any dwelling-house erected under this clause.

Cords, wires, or lines to be raised higher or buried deeper if obstructing occupiers in use of private lands.

14. In any case where the occupier of any land used by any Electric Telegraph Company shall be obstructed in the free use of any portion of such land, by reason of the insufficient height of any such cord, or wire, or line, above the surface of the ground, or by reason of the insufficient depth at which any such cord, or wire, or line may be buried beneath the surface of the ground, the said Electric Telegraph Company, upon notice in writing having been given to their manager or secretary, or left at their principal offices in Pietermaritzburg, or Durban, shall, within one month from such notice having been given, raise or cause to be raised to a sufficient height from the ground, not exceeding fourteen feet, or bury, or lay, or cause to be buried or laid to a sufficient depth below the surface of the ground, not exceeding two feet, such cord, wire, or line traversing such portion of land.

Masts and poles to be protected from injury.

15. Any person or persons authorised as aforesaid to construct any line of electric telegraph, shall be, and are hereby bound and required to fence around, or otherwise to protect, each and every pole or mast, so that the same cannot be injured or thrown down by cattle rubbing against the same; and further, to guard and protect said masts or poles, or use such prevention, that said poles or masts cannot be burned by fire, arising from burning grass.

16. Any electric telegraph company may sue and be sued in the name of their manager or secretary for the time being in all Courts; and in all cases where it is necessary to serve any writ, summons, declaration, notice, or other proceeding upon the said company, service personally on the manager or secretary for the time being, or left at the office of the company, shall be deemed good and sufficient service.

Law 11, 1863.
How company may sue and be sued.

17. The proprietors of any line of electric telegraph are hereby empowered to make rules and regulations defining and fixing the amount of fees, rates, or dues, to be demanded and received for the conveyance or transmission of any message or communication, and also for the transmission or conveyance of such messages and communications by means of such line, and generally for the management, working, and maintenance of any such line of communication, and any such rules or regulations to alter or vary, and make such others as may be expedient: Provided that such rules or regulations shall have no force or effect until approved of by the Lieutenant Governor, and until, after such approval, the said bye-laws or regulations are published in the "GOVERNMENT GAZETTE"; and all messages and communications shall be sent for all persons in regular succession, without delay, favour, or preference; and no persons shall be permitted to occupy the telegraph by sending messages or communications of unreasonable length, so as to impede the speedy transmission of messages or other communications.

Rules and regulations.

No preference allowed.

18. This Law shall not apply to any electric telegraph company until such company shall have, by a Private Law passed by the Legislative Council of Natal, incorporated therewith the provisions and clauses of this Law, save so far as they shall be expressly varied or excepted by any such Law of Incorporation: Provided always, however, that the provisions of this Law are hereby extended to, and conferred on, Charles James Wollaston, or his assigns, for the purpose of constructing a line of telegraph between the Point, Durban, and the City of Pietermaritzburg.

Application of Law.

19. This Law shall commence and take effect from and after the publication thereof in the "GOVERNMENT GAZETTE," after the passing thereof (A).

Commencement

Law No. 6, 1864.

"For securing Precedence to Public Telegrams."

[16th September, 1864.]

WHEREAS the public interests require that messages and communications on Her Majesty's Service should be entitled on all and every line of electric telegraph to precedence of any other messages and communications:

BE IT ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. So much of the Law No. 11, 1863, entitled "Law for the Construction and Regulation of Electric Telegraphs," as is repugnant to or inconsistent with the provisions of this Law, is hereby repealed.

Law 11, 1863, repealed, so far as repugnant hereto.

2. The Lieutenant Governor shall and may nominate officers in Her Majesty's service or employment of the degree, rank, and station, to be from time to time specified in a list which shall be published in the

Governor to nominate officers to transmit messages.

(A) Aug. 4, 1863.

Law 6, 1864.

"GOVERNMENT GAZETTE," and furnished to the various electric telegraph offices in the Colony, to send or transmit messages on Her Majesty's service per lines of electric telegraph.

Government messages to have in transmission priority over all other messages.

3. If any officer so nominated as aforesaid requires any electric telegraph company to transmit any message on Her Majesty's service, such message shall, notwithstanding anything contained in Law No. 11, 1863, have priority over all other messages, and the company shall, as soon as reasonably may be, transmit the same, and shall, until transmission thereof, suspend the transmission of all other messages: Provided always, that no private messages shall be suspended when in course of transmission except when specially directed by the officer requiring said official message to be transmitted.

Penalty for refusing such precedence to Government messages.

4. Any company, or any person or persons, refusing to grant such precedence as aforesaid to any message or communication on Her Majesty's service when called upon so to do, shall, for every such act of refusal, be liable to the payment of a fine not exceeding One Hundred Pounds, and in default of payment thereof to imprisonment for any period not exceeding six months.

Contraventions of this Law, how to be prosecuted for.

5. All contraventions of this Law shall be prosecuted by indictment by the Attorney-General at the suit of the Queen, in the usual manner before the Supreme or any Circuit Court, and all penalties imposed by this Law may be sued for and recovered by the Attorney-General at the instance of the Queen before the Supreme or any Circuit Court thereof.

Disposal of fines.

6. All fines imposed by this Law shall be paid to Her Majesty, her heirs and successors, and, unless remitted, shall be applied to the uses of the Government of this Colony.

Interpretation of the word "company."

7. The word "Company" shall mean and include any person or persons authorised under Law No. 11, 1863, to construct a line of electric telegraph.

Commencement

8. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Law No. 5, 1874.

"To enable the Colonial Government to acquire, work, and maintain the Line of Electric Telegraph between the City of Pietermaritzburg and the Town of Durban."

[12th January, 1874.]

WHEREAS, by an agreement made and entered into on the Twentieth day of August, One Thousand Eight Hundred and Seventy-three, as per Schedule hereunto annexed, the said Colonial Government have conditionally agreed to become the purchasers of a certain Line of Electric Telegraph between the City of Pietermaritzburg and the Town of Durban, with its appurtenances, at and for the price of Six Hundred and Fifty Pounds Sterling, upon and subject to the covenants, agreements, and stipulations therein contained, and subject to the sanction and approval of the Legislative Council of Natal; and whereas it is expedient to confirm the said Agreement and to empower the said Government to work the said Telegraph in connection with the Administration of the Post Office:

(A) Oct. 4, 1864.

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Law 5, 1874.

1. This Law may be cited as "The Telegraph Law, 1873."

Short title.

2. The said Agreement, bearing date the Twenty-ninth day of August, One Thousand Eight Hundred and Seventy-three, for the purchase and acquirement by the Colonial Government of Natal of the said Line of Electric Telegraph between the City of Pietermaritzburg and the Town of Durban, with its appurtenances, as per Schedule hereunto annexed, is hereby confirmed.

Agreement of 29th August, 1873, confirmed

3. From and after the completion of the said purchase, in terms of the said hereunto annexed Agreement, the said Line of Electric Telegraph and all the estate, right, title, and interest of the present owners therein, with all incidental rights, privileges, and easements, shall become and be vested in the Postmaster-General; and the same may be used, exercised, and enjoyed by the Postmaster-General, in the same manner and to the same extent as the same respectively are, or, if this Law had not been passed, might be held, used, and enjoyed by any Company.

On completion of purchase, line to vest in Postmaster-General

4. The Postmaster-General, with the consent of the Lieutenant Governor, may from time to time make regulations for determining the hours during which the offices appointed by him to be places for the receipt and despatch of messages shall be open for the transaction of telegraphic business, and for fixing the sums to be from time to time paid for the transmission of messages, and for services rendered in connection therewith, and for general conduct of telegraphic business: Provided always,

Postmaster-General, with Governor's consent, may make regulations.

- (1). That the charges for the transmission of messages by the said Line shall be at a rate not exceeding One Shilling and Sixpence for the first twenty words of each message or part of twenty words; and not exceeding Sixpence for every additional ten words or part of ten words.
- (2). That the names and addresses of the senders and receivers of messages shall not be counted as part of the words for which payment shall be required.
- (3). That the sums charged for the transmission of messages shall be held to cover the costs of delivery by special foot messenger, within the limit of one mile of the terminal telegraphic office.
- (4). That when the addressee does not reside within the above-described limits, and the sender desires to have his message delivered by special foot messenger, the charge to him for portage by such special messenger shall not exceed Sixpence per double mile, or any part thereof beyond such limits.
- (5). That when the addressee does not reside within the above-described limits, and the sender does not desire to incur the cost of special delivery, his message shall be transmitted to its destination by the ordinary post next following on the arrival of his message, free of postage or other extra charge.

5. Notwithstanding anything in this Law, it shall be lawful for the Postmaster-General, with the consent of the Lieutenant Governor from time to time to make contracts, agreements, and arrangements with the proprietor or publisher of any newspaper published in conformity with the provisions of Law No. 9, 1858, for the transmission and delivery of Telegraphic Press Messages at such rates as may be agreed upon.

Press messages.

Law 5, 1874.
Misconduct of officials.

Punishment.

Regulations.

In criminal prosecutions, the property of messages may be laid in Postmaster-General.

Nature of employment of accused need not be alleged.

Incorporation of Laws 11, 1863, and 6, 1864.

Interpretation.

Commencement

6. Any person having official duties connected with the Post Office or acting on behalf of the Postmaster-General, who shall, contrary to his duty, disclose or in any way make known or intercept the contents of any Telegraphic messages, or any message entrusted to the Postmaster-General for the purpose of transmission, or shall wrongfully delay the transmission or delivery of any such message, shall be guilty of a criminal offence; and shall, upon conviction before any Resident Magistrate's Court, be subject to imprisonment for a term not exceeding twelve calendar months: and the Postmaster-General shall make regulations to carry out the intention of this Section, and to prevent the improper use by any person in his employment, or acting on his behalf, of any knowledge he may acquire of the contents of any telegraphic message.

7. In every case where any offence shall be committed in respect of a telegraphic message sent by or entrusted to the Postmaster-General, it shall be lawful and sufficient in the indictment or plaint to be preferred against the offender to lay the property of such telegraphic message in the Postmaster-General; and in any indictment or plaint to be preferred against any person employed under the Post Office for any offence committed under this Law, it shall be lawful and sufficient to state and allege that such offender was employed under the Post Office at the time of the committing of such offence, without stating further the nature or particulars of his employment.

8. The Law No. 11, 1863, entitled "Law for the Construction and Regulation of Electric Telegraphs," and the Law No. 6, 1864, entitled "Law for securing precedence to Public Telegrams," shall be incorporated with this Law except so far as the same, or any part thereof, may be expressly varied, altered, or be inconsistent with this Law; and the terms "Electric Telegraph Company," or "person or persons authorised to construct an Electric Telegraph line" shall comprehend and include the Postmaster-General.

9. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

SCHEDULE.

Schedule.

AN AGREEMENT made this 29th day of August, 1873, between the Liquidators Ebbot Vale Estate, by Harry Carter, their Attorney and Agent in this Colony, of the one part, and David Erskine, commonly called the Honorable David Erskine, in his capacity as Colonial Secretary of Natal, and as such representing the Colonial Government of Natal, of the other part:

WHEREAS, under the provisions of Laws No. 11, 1863, and 6, 1864, and Regulations thereunder, bearing date 26th May, 1865, appended to Government Notice, No. 59, 1865, and under certain Articles of Agreement made, entered into, and concluded on the 30th day of March, 1863, between Charlton James Wollaston by Edward Lorenzo Chiappini of the one part, and the said Colonial Government of Natal of the other part, a certain line of Telegraph running from Durban to Pietermaritzburg, with its appurtenances, is now established in this Colony; and whereas the said Liquidators claim to be now possessed of and entitled thereto; and the said Liquidators by their said Attorney and Agent have offered to sell, and the said Colonial Government have consented conditionally to purchase the said line of Electric Telegraph, and the appurtenances, plant, furniture, property, and effects of the

said Telegraph at the price, and upon the terms, from the time and subject to the stipulations hereinafter mentioned and set forth: Law 5, 1874
Schedule.

Now these presents witness, and it is hereby agreed as follows:—

- (1). The said Harry Carter in his capacity as Attorney and Agent for the Liquidators Ebbot Vale Estate, shall sell, and the said Colonial Government shall purchase, at the price of Six Hundred and Fifty Pounds sterling, all the said Telegraph, appurtenances, plant, furniture, property, and effects, as the same are now held and occupied by the said Harry Carter, as Manager of the said line of Electric Telegraph, and with the rights and privileges thereto belonging.
- (2). The said sale and purchase shall be considered as made on, and shall take effect as from the First day of September proximo, conditionally, as hereinafter mentioned; and as from that day the said Government, the conditional purchasers, shall (subject as hereinafter mentioned) have possession of the said premises hereinafter agreed to be sold.
- (3). The said Government, the conditional purchasers, shall, on receiving title—and if and when the Legislative Council of Natal shall by Law have voted the amount of the purchase-price agreed on, and shall by resolution have sanctioned this purchase, but not otherwise sooner—pay the whole of the said purchase-price to the vendors, or to the person or persons legally entitled to receive the same, in one sum.
- (4). In the meantime, and until the title shall be properly granted and assured to the said Government, and until this agreement shall be ratified by the vendors and sanctioned by the Legislature, the Government shall hold the said Telegraph and appurtenances and premises (hereby to be sold conditionally) as tenants to the owners of the said line of Electric Telegraph, at and for the monthly rent of One Shilling Sterling, computed from the said First day of September proximo.
- (5). In the meantime, and until the completion of purchase, the said Government shall, in consideration of such monthly rent as aforesaid, have the use and control of the said premises; and shall and may work the said line at their own cost and for their own advantage.
- (6). From and after the date of this agreement, the subsidy heretofore payable by the said Government in respect of the said Line shall not be payable; but if the vendors shall resume possession, then the subsidy shall commence from date of resumption.
- (7). The said Government are not to be bound by any contracts, agreements, or obligations of the vendors or owners of the said line.
- (8). The Government do not take over or render themselves liable for the burden of any debts, obligations, or conditions entered into of or concerning the said Line.
- (9). Failing the completion of the said purchase within twelve months, the said Government shall at any time on demand hand over and deliver up the said premises in the same state and condition as the same now are.

Law 5, 1874.
Schedule.

(10). This agreement is conditional upon and subject to the sanction of the Legislative Council of Natal.

As witness the hands of the said parties hereto, the day and year first above written,

(Signed) HARRY CARTER,
D. ERSKINE,
Colonial Secretary.

Witnesses :

(Signed) G. LAMOND,
THEO. GEO. CROWLY.

I, Harry Carter, as Agent for Charlton James Wollaston appointed by Power of Attorney, dated at Capetown, the 21st day of October, 1867, do hereby consent to and approve of the within written agreement.

(Signed) HARRY CARTER.

Witnesses :

(Signed) G. LAMOND,
THEO. GEO. CROWLY.

Law No. 5, 1878.

“Law to promote Telegraphic Communication between Natal and England, and to authorise the Payment of a Subsidy therefor.”

[9th September, 1877.]

WHEREAS it is desirable that Telegraphic Communication should be established between this Colony and England :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

Short title.

1. This Law may be cited for all purposes as “The Natal Ocean Cable Law, 1878.”

Governor in Council empowered to enter into contract for establishment of telegraphic communication between Natal and England.
Proviso.

2. The Lieutenant Governor in Council shall be and he is hereby empowered to enter into a contract for the construction, maintenance, and working of such a Submarine Line of Telegraph as shall place Natal in Telegraphic communication with England. The Lieutenant Governor in Council is hereby empowered to provide in such contract for the fulfilment of such conditions, provisions, and stipulations as may to him seem most expedient: Provided, that no such contract shall be binding until it has been approved of by the Legislative Council.

Payment of annual subsidy to any contractor under sect. 1 authorised.

3. The Lieutenant Governor is hereby authorised and empowered to pay from and out of the public revenue of this Colony for a term not exceeding Twenty years, to any joint-stock company, co-partnership, or individual, who shall enter into a contract, under the first section of this Law, to construct, maintain, and work, and who shall construct, maintain, and work a line of Telegraph, or who shall secure for this Colony Telegraphic communication with England, an annual sum not exceeding Five Thousand Pounds Sterling.

Commencement

4. This Law shall commence and take effect from and after the date of the promulgation thereof in the “NATAL GOVERNMENT GAZETTE.”

Law No. 17, 1888.

"To extend the advantages of the Electric Telegraph."

[24th September, 1888.]

WHEREAS it is expedient to extend the advantages of the Electric Telegraph:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. 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 Law, is required or directed to be served upon 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.

Transmission by telegraph of summons or other communication.

2. A telegram from any judicial, or police officer, or the Sheriff or any Deputy Sheriff, stating that a warrant or writ, not being a writ of arrest under Civil process, 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 authorised to execute any such warrant or writ for the arrest and detention of such person in this Colony until a sufficient time, not exceeding ten days, has elapsed to allow of the transmission of the warrant or writ to the place where such person has been arrested or detained (A), 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 twenty days from the date of the arrest of such person.

Telegram from certain officers to be sufficient authority for arrest of person accused of crime.

3. The Judges of the Supreme Court, acting in pursuance of any Law 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 Law 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.

Rules in regard to service or execution of process by telegraph.

4. The notification of a candidate's acceptance of a duly signed requisition to become a candidate for any Electoral District in terms of the thirteenth section of the Royal Charter of Natal, bearing date 15th July, 1856, may be transmitted by telegraph to the Resident Magistrate of such Electoral District, and a telegraphic message from such duly requisitioned candidate, if received by such Resident Magistrate not less than fourteen days before the date appointed for the taking place of any such election, shall be deemed to be a notification of the said candidate's acceptance of such requisition for the purposes of the said thirteenth section of the Royal Charter of Natal.

Notification of acceptance of requisition by Parliamentary candidate may be transmitted by telegraph.

5. 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

Penalty for unlawfully signing another person's name to a message.

(A) Semble. This only applies to telegrams within the Colony (*In re Henry Riggart* 12 N.L.R. 247).

Law 17, 1888. conviction, be liable to be imprisoned with or without hard labour for any period not exceeding six months.

Penalty for wilful delivery of message to person other than addressee.

6. 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.

Short title.

7. This Law may be cited as "The Telegraphic Messages Law, 1888."

TIMBER.

[See "CROWN LANDS."]

TOLLS.

[See "DURBAN CORPORATION," &c.]

Law No. 14, 1889.

"To repeal Law 14, 1878, Law 18, 1882, and Law 30, 1888."

[23rd July, 1889.]

WHEREAS it is expedient to repeal Law 14, 1878, entitled "Tugela Bridge Toll Law"; Law 18, 1882, entitled "Bridges Tolls Law," and Law 30, 1888, entitled "To amend Law No. 14, of 1878, and Law No. 18, of 1882":

BE IT THEREFORE ENACTED by the Administrator of the Government of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Tugela Bridge Toll Law, 1878; the Bridges Toll Law, 1882; and the Law No. 30, 1888, entitled "Law to amend the Law 14, 1878, and the Law 18, 1882," shall be and the same are hereby repealed.

Repeal of Laws.

2. This Law shall commence and take effect on and after the 31st day of December, 1889.

Commencement

TOWNSHIPS.

[See "DEALERS (WHOLESALE & RETAIL)"; "INTOXICATING LIQUORS";
"MUNICIPAL CORPORATIONS"; "VAGRANTS," &c., &c.]

Law No. 3, 1870 (A).

"To provide for the Leasing or Exchanging the Lands Reserved by Government as sites for small Towns and Villages within the Colony of Natal."

[29th August, 1870.]

WHEREAS it is expedient to make provision for the leasing of portions of commonages of certain townships, reserved by the Colonial Government of Natal, not entitled to be constituted boroughs under the provisions of Law No. 21, 1862, entitled Law "Amending and consolidating the Laws in regard to Municipal Corporations," and for exchanging the whole or portions of such commonages for other contiguous lands, if it shall seem to be to the advantage of such townships to do so:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. It shall be lawful for the Lieutenant Governor, upon application being made to him, to let on lease by public competition any portion of the lands reserved by the Colonial Government for any township for any period not exceeding twenty-one years for land leased for building purposes, and ten years for land leased for other purposes, subject to the following provisions, viz.:—

- (a) Each lease, when applied for, shall be advertised in the "GOVERNMENT GAZETTE" in the same manner as sales of Crown lands, and at least once in every newspaper in the Colony, one month previous to the granting of such lease.
- (b) If objections to such lease shall be made by one-half of the holders of erven in the township, or their authorised agents, separately or conjointly, to the Lieutenant Governor in writing, within one month after the first advertisement of such application, such lease shall not be granted.
- (c) In no case shall the quantity of land so leased be more than fifty acres to any one person or company, excepting as otherwise herein provided by the 4th clause of this Law.
- (d) The total amount of land so leased in any township shall not exceed the proportion laid down in the following schedule:

In Townships in extent—

- 20,000 acres or more, 1-5th of the whole.
- Under 20,000 and not less than 8,000 acres, 1-10th of the whole.
- Under 8,000 and not less than 2,000 acres, 1-20th of the whole.

Governor may, upon application, lease portions of Government township reserves.

(A) See Law 11, 1881, s. 50, post.

Under 2,000 acres, to the amount of 100 acres, only as sites for mills and other buildings of public utility shall be leased, in extent not more than two acres each, with rights of watercourse: Provided always, that no lease granted under the provisions of this Law shall interfere with, or prejudice the flow or use of water which would have been available for the erven of the said township or could have been enjoyed by the holders of any such erven. Law 3, 1870.

2. The lessees of such lands shall not have power to impound any animal belonging to the renters or holders of erven in the township, trespassing upon any lands so leased, or to recover damage for trespass done by such animals upon any lands so leased. Restrictions on lessees.

3. No holder of a lease shall have the right to graze any animals on the commonage of such township, other than the portions so held by him on lease, unless he shall also be proprietor or renter of an erf, or portion of an erf, in the township. Grazing rights.

4. It shall be lawful for the Lieutenant Governor, subject to the provisions (a) and (b), in Clause No. 1, to exchange, on such terms as may be agreed on between the Lieutenant Governor and any person or persons desiring such exchange, either by exchange by way of lease, for a period of not more than twenty-one years, or by way of freehold, the whole or any portion of the commonage of any such township, whatever may be the extent of lands reserved by the Colonial Government for such township, for any other lands contiguous to, and abutting on, the lands of any such township, not less in extent and value than the lands so to be exchanged, whenever it shall appear to the Lieutenant Governor and Executive Council to be to the advantage of such township to make such exchange. Provision for exchange of lease of township reserves for leases of other contiguous lands.

5. When any lease granted under either of the foregoing clauses shall expire, the land so leased may be put up to competition, subject to the provisions (a) and (b) in clause No. 1, provided that the late lessee shall have power to remove any buildings or machinery he may have erected thereon, within one month of the date of the re-letting of the land, or within six months from the expiry of the lease, should the land not be re-let: Provided always, that whenever any township in which any leases have been granted under this Law, shall come under the provisions of the Municipal Law No. 21, 1862, or any other Municipal Law which may then be in force, all such leases shall "ipso facto" come under the provisions of any such law or laws. On expiry of lease, land may be put up to competition on certain terms.
Removal of buildings, machinery, &c.
Leases of township reserve to cease on the township becoming a borough.

6. Every applicant for any lease under the provisions of this Law shall, upon request made by the Surveyor-General, deposit with the Surveyor-General, a sufficient sum of money for all expenses necessary to be incurred in and about the granting of such lease, including expenses of survey, in any case where the Surveyor-General shall deem the same necessary. Applicants to deposit sum for expenses.

7. The rent of any land so leased hereunder shall be payable annually in advance to the Colonial Treasurer, and may be recovered under the provisions of Law No. 12, 1869, entitled Law "To facilitate the recovery of quit-rents and other land-rents and fines for non-occupation": Provided, however, that no lease which shall be made under the provisions of this Law shall be liable to be, or capable of being, surrendered to the Lieutenant Governor under the provisions of the ninth section of the said Law No. 12, 1869, unless the Lieutenant Governor shall in each case specially consent to any such surrender (A). Rent payable annually in advance and recoverable.
Leases not liable to be surrendered to Government thereunder.

(A) Law 12, 1869, is repealed and re-enacted by Law 33, 1887, tit. "QUIT RENTS."

Law 3, 1870.

Treasurer to keep a separate account for each town.

Moneys received to form township funds.

8. The Colonial Treasurer shall keep a separate account for each town or village of the proceeds of any leases of portions of the sites or commonages thereof made under the provisions of this Law.

9. All moneys received under this Law shall form funds for the respective towns or villages for which such moneys are received, to be called, in each case, the "Township Fund," which said fund shall be expended for the benefit of the town or village to which the same appertains, in such manner as the Lieutenant Governor may direct, and for no other purpose whatever.

Commencement

10. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Law No. 19, 1872 (B).

"To Repeal and Re-enact with amendments the Laws in regard to Municipal Corporations."

[20th December, 1872.]

Township having a population of one thousand souls may be constituted a borough.

Mode of incorporation.

3. Every township within the Colony, having a population of one thousand souls, may be constituted a borough, in manner hereinafter provided.

6. Whenever the population of any township shall amount to one thousand souls as aforesaid, the Lieutenant Governor may, by proclamation, declare the same to be a borough within the meaning of this Law, and define the boundaries thereof; and may, immediately after the first election of the Council of the said borough, by grant under his hand and the public seal, grant and convey to the body corporate thereof such lands situate within and near the town as to him may seem just and proper.

Law No. 11, 1881.

"To provide for the Establishment and Local Management of Townships."

[20th December, 1881.]

WHEREAS it is expedient to encourage the Establishment and Local Management of Townships:

BE IT THEREFORE ENACTED by the Administrator of the Government of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Towns or Villages may be proclaimed Townships under this Law.

1. Any town or village may, at the instance of a certain proportion of the proprietors and occupants of land therein, as hereinafter defined, be proclaimed a township within the meaning of this Law, in case the boundaries and sub-divisions of such town or village shall first have been laid down in a plan prepared by a Government Surveyor, and filed in the office of the Surveyor-General.

Magistrate to convene public meeting on requisition of ten householders.

2. In case any ten householders resident in any town or village proper to be proclaimed a Township under this Law shall request the Resident Magistrate of the County in which such town or village is situate to convene a public meeting of the proprietors and occupants

(A) Aug. 30, 1870. (B) See this Law in full, tit. "MUNICIPAL CORPORATIONS."

of land therein, to be held at a stated place within such town or village, and at a stated date and hour, such Resident Magistrate shall convene such meeting for the purpose of deciding whether or no the town or village shall be brought within the provisions of this Law. **Law 11, 1881.**

3. The notice convening such meeting shall be published for a period of at least 14 days in the "GOVERNMENT GAZETTE," in one local newspaper, and in some conspicuous place within the town or village. **Notice of meeting.**

4. No person shall be entitled to vote at such meeting unless he is upon the Electors' Roll for the County, framed under the Charter of Natal, nor unless he possesses in the town or village a qualification entitling him to be upon such Electors' Roll. **Qualification for vote at meeting.**

5. If at such meeting under a chairman elected by the meeting, there being no less than ten persons present and entitled to vote thereat, a majority of such persons shall sign a resolution in favour of the establishment of the town or village into a Township under this Law, the Governor of Natal may, in his discretion, with the advice of the Executive Council, proclaim the town or village a Township within the meaning of this Law. **Governor in Council may proclaim town or village a Township, if so resolved at meeting.**

6. In case a town or village shall be proclaimed a Township within the meaning of this Law, the proclamation shall set out the boundaries of the Township according to the plan filed in the Surveyor-General's office, and such boundaries may, by proclamation of the Governor, at the instance of the Local Board, be altered from time to time. **Boundaries of Township.**

7. Within ten days after the date when a Township shall have been proclaimed under this Law, the Magistrate, and in the first week of the month of May in each succeeding year the Local Board shall prepare a Town Roll, and shall enter therein the names of all male persons possessing within the Township a qualification entitling them to vote for a Member of the Legislative Council. **Magistrate to frame Town Roll of voters.**

8. The Town Roll shall be exhibited for seven days upon a Notice Board, which the Magistrate shall cause to be erected, and which the Local Board when appointed shall maintain. **Town Roll to be exhibited.**

9. Within a week after the expiry of the said term of seven days the Magistrate shall hear and determine all appeals in respect of wrong entries in, or omissions from, the Town Roll, and thereupon the Town Roll so settled shall be in force until the new Roll shall have been finally determined, and a certified copy of the Roll shall be lodged with the Chairman of the Local Board. **Magistrate to hear appeals in respect of Town Roll.**

10. The persons whose names appear on the Town Roll shall be voters within the meaning of this Law. **Persons on Town Roll to be voters.**

* 11. Within fourteen days from the date when the Town Roll shall have been finally determined, a meeting of the persons whose names are on the Town Roll shall be held for the purpose of electing a Local Board, and such meeting shall be convened, as regards the first meeting by the Magistrate, and as regards subsequent meetings by the Local Board, upon seven clear days' notice given in a local newspaper, and upon the Notice Board of the Township. **Meetings of voters for election of Local Board.**

† 12. At each meeting mentioned in the last preceding clause the voters who shall attend such meeting shall, under a chairman elected by themselves, elect a Local Board of five Members (A) for the twelve-months, commencing on the first day of July next, after the date of such meeting: Provided that the first Local Board in each case may hold office till the 30th day of June in the next ensuing year. **Voters to elect Local Board of five members.**

(A) Altered to seven by Law 39, 1884, s. 3, post. See also that Law as to nomination of candidate, &c.

Law 11, 1881.

Election to be by ballot.

Publication of names of persons elected.

Meetings of the Board.

In case member becomes disqualified, fresh election.

Governor may appoint members, if voters fail to elect.

Chairman of Board.

Officers.

Quorum.

Questions—how decided.

Minutes.

Unalienated Township lands to be vested in the Board in trust for the inhabitants.

13. Such election as is mentioned in the last preceding clause shall be by ballot from voters who shall be willing to act.

14. The names of the persons so elected shall be published by the Local Board in the "GOVERNMENT GAZETTE," and by a notice affixed to the Notice Board of the Township.

15. Every Local Board shall meet as soon as practicable after election, and shall continue to meet from time to time (not less often than once a month) at such time and place as they shall determine.

16. In case any Member of a Local Board shall, without consent of the Board, absent himself from attending at three consecutive meetings of the Board, or shall become insolvent, or assign his estate for the benefit of his creditors, or die or become incapacitated to act, or shall have any interest, direct or indirect, in any contract with the Board, except as shareholder in an incorporated or registered Company, or as an investor in the debentures of the Board, such Member's seat shall be "ipso facto" vacated, and it shall be the duty of the Board to forthwith call a meeting of the voters for the purpose of electing another Member, and the proceedings shall, "mutatis mutandis," be the same as hereinbefore provided, and the Member so elected shall continue in office until the next annual election.

17. If the voters of any Township shall at any time fail, neglect, or refuse to elect a Local Board, or to elect a sufficient number of Members to form such Board, or to fill up any vacancy occurring in such Board, it shall be lawful for the Governor, by proclamation, to appoint from among the voters willing to serve, other Members to constitute such Board, or such number of Members as shall, together with any Member or Members duly elected, 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 Member or Members had been duly elected by the voters of the Township.

18. At the first meeting of the Local Board, and at the first meeting of every new annual Board, the Members shall elect a chairman from among themselves, who shall preside at the meetings of the Board; and, in the absence of such chairman, the said Members shall elect a chairman for the occasion. The chairman shall be entitled to a vote and to a casting vote.

19. The Local Board shall appoint, during pleasure, such fit and proper officers as the Board shall consider necessary for carrying out the purposes of this Law, and shall pay to them such salaries and assign to them such duties as the Board may think fit.

20. Three Members (A) of the Local Board, with or without the chairman, shall form a quorum for the despatch of business.

21. The proceedings of the meetings of the Local Board shall be public, and all questions coming before the meeting shall be decided by a majority of votes of the Members present, which votes shall be given openly; provided that Committees of the whole Board may deliberate in private.

22. Minutes of the proceedings of every meeting of the Local 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 be signed by the person presiding thereat.

23. The Governor shall grant and convey to the Local Board and their successors in office, in trust for the inhabitants and owners of property in any Township, the whole of the unalienated lands destined

(A) Altered to four by Law 39, 1884, s. 4, post.

or reserved for the purposes of any such Township declared to be subject to this Law. Law 11, 1881.

24. The Local Board may acquire lands for the purposes of the Township by purchase or by gift, and in cases where lands are now held in trust for the benefit of any Township the trustees may transfer such trust lands to the Local Board, subject to the trusts, and upon conditions not at variance with the trusts. Board may acquire lands.

25. In cases where the legal title of erven situate within a Township shall vest in the Government of the Colony (such erven not being reserved for public purposes), then the legal title of such erven shall be transferred to the Local Board, any rules or regulations for the alienation of Crown Lands to the contrary notwithstanding. Legal title of erven to be transferred to Board.

26. Each Local Board is hereby authorised to exercise within its Township each and all of the following powers (A), viz. :— Powers of Local Board.

- (a) To cause all public streets, roads, and places, being in the lawful control of the Board, to be at all times kept in good and sufficient order and repair: Provided that main trunk roads, and bridges on main trunk roads, shall continue to be upheld by the Government, even though situate within the limits of Townships.
- (b) To make all necessary furrows and water-courses, and to construct works and take lawful measures for supplying water to the inhabitants.
- (c) To make drains, sewers, culverts, and bridges.
- (d) To regulate traffic, and to prevent obstructions in thoroughfares and public places.
- (e) To establish and regulate pounds.
- (f) To prevent disease and the spread of disease.
- (g) [Repealed by Law No. 17, 1893.]
- (h) To prevent burials in unauthorised places.
- (j) To provide for the safe storage of combustibles and explosives, and to prevent the dangerous use thereof.
- (k) [Repealed by Law No. 17, 1893.]
- (l) [Repealed by Law No. 17, 1893.]
- (m) [Repealed by Law No. 17, 1893.]
- (n) To maintain the purity of all public water supplies, and to provide for the distribution of public waters.
- (o) To prevent and extinguish fires.
- (p) To impose licenses upon persons making bricks or digging clay, or quarrying stone, or cutting wood, or removing soil on township lands, and to charge reasonable fees or dues therefor.
- (q) To manage and protect all common pasture lands, and to preserve vegetation, and to limit the use by individuals of township lands as commonage.
- (r) To protect all township properties and rights, and to recover compensation for damage done thereto.
- (s) [Repealed by Law No. 17, 1893.]
- (t) To maintain a police force (B), and to ensure the maintenance of peace and order (c).
- (u) To establish and regulate markets, and to levy reasonable market dues.

(A) Additional powers are given by Laws 39, 1884, 12 of 1887, 17 of 1893 and Act 20, 1894, post.

(B) See Act 1, 1894, s. 21, tit. "POLICE."

(c) A bye-law to prevent disturbances on private premises, held not to be *ultra vires* under this and sub-s. (s), now repealed (*Ladysmith Local Board v. Snyman*, 10 N.L.R. 60).

Law 11, 1881.

(v) [Repealed by Law No. 39, 1884.]

Board may pass by-laws.

27. [Repealed by Law No. 39, 1884.]

By-laws to be published before confirmation.

28. The Local Board may carry out any of the powers hereby conferred upon it by by-laws or regulations passed by the Board and confirmed by the Governor with the advice of the Executive Council.

Amendments in by-laws.

29. No by-laws or regulations shall be submitted for confirmation unless previously posted on the Notice Board for seven days, nor unless published once in a local newspaper and in the "GOVERNMENT GAZETTE."

30. In case the Governor shall require, and the Local Board shall consent to make, any amendment in any proposed by-law or regulation, such amendment may be made without other publication thereof, prior to confirmation, than a posting of the proposed amendment on the Notice Board for seven days.

By-laws to be published after confirmation.

31. No by-law or regulation shall have effect unless first posted for seven days upon the Notice Board after confirmation by the Governor.

Penalty for contravention of by-laws.

32. Any person contravening any by-law or regulation duly published under the last preceding section shall be liable to pay a fine not exceeding Five Pounds, or in default of payment to be imprisoned, with or without hard labour, for any period not exceeding one month.

Prosecutions—how instituted.

33. All prosecutions for any such contraventions may be instituted before the Magistrate having jurisdiction in the said Township.

Board may appoint prosecutor.

34. The Local Boards are hereby empowered to appoint from time to time any of their officers to prosecute, at his own instance and without obtaining permission from the Attorney-General, in the Magistrate's Court having jurisdiction, for all contraventions of any such regulations.

Board may make contracts, &c.

35. Every Local Board may enter into contracts and employ labour for the purpose of carrying out any work to be done, or for doing anything which such Board is by the provisions of this Law authorised to do.

Expenses incurred to be paid out of Board's funds.

36. All necessary costs, charges, and expenses incurred in the carrying out of this Law and the Regulations made thereunder may lawfully be paid out of the funds which shall come into the possession and the control of the Board.

How Board to sue and be sued.

37. In any action or suit, civil or criminal, which may be instituted by or against any Local Board, it shall be sufficient to describe such Board as "the Board" of the particular Township, without mentioning the names of any Members of the Board.

Estimate of ways and means to be framed annually.

38. The Local Board shall annually frame an estimate of ways and means, and publish the same for seven days in a local newspaper, and affix a copy thereof to the Notice Board, and shall bring the same before a meeting of the voters, together with the proposals of the Board with respect to the rate proposed to be levied for the ensuing rate year, and the rate for the year shall be finally determined by such meeting. The rate year shall be deemed to run from the 1st day of July to the 30th day of June: Provided that as regards the first rate of any Township the rate period may begin at an earlier date than the 1st day of July and may end on the 30th day of June in the next ensuing year; and the rate shall be payable within fourteen days of the date when the same shall be finally determined.

Valuation to be made.

39. For the purposes of such rate the Local Board shall from time to time cause a valuation to be made of all the immovable property in the Township, and the rate shall be levied upon the immovable property as so valued (A).

(A) No mention being made of the Crown in this Law, land belonging thereto is not rateable, the question of

occupation being immaterial (*Ladysmith Local Board v. Donaldson*, 11 N.L.R. 199).

40. [Repealed by Law No. 39, 1884.]
41. [Repealed by Law No. 39, 1884.]
42. [Repealed by Law No. 17, 1893.]
43. The rate shall be a charge upon the property the subject thereof, but shall be primarily payable by the person for the time being in occupation of the premises, or failing occupation, then by the proprietor: Provided that an occupant who may pay more than one-twelfth of the rate for a year for each month of his occupation may recover the excess payment from the landlord, whose rights against the prior occupant are hereby reserved to him. Law 11, 1881.
44. If the voters of a Township shall refuse or neglect to provide a rate sufficient for the purposes of the rate year, the Supreme Court may, at the instance of the Local Board or of any person interested, cause a rate to be fixed and got in and to be applied by the Local Board under the provisions of this Law. Liability for rates regulated.
45. The Local Board may, with the consent of the Governor, and after notice in the "GOVERNMENT GAZETTE," raise, by sale by public competition of any town lands within such Township, any sum of money which shall be necessary in order to carry on any public work, and may exchange any portion of the lands of such Township for other lands within such Township, for public purposes: Provided that, in applying for the consent of the Governor to such sale or exchange, the nature of the public work or other purposes for which any sums of money are intended to be raised shall be clearly specified. If sufficient rate not provided by voters, Supreme Court may levy rate.
46. The Local Board may, with the consent of the Governor, and after notice in the "GOVERNMENT GAZETTE," lease by public competition any portion of the town lands within such Township for building purposes for any period not exceeding fifty years, and for any other purposes for any period not exceeding twenty-one years: Provided that all building leases shall, at the option of the Board and without process of law, become void, unless the covenant to build, to be therein contained, shall be fulfilled within the period agreed to by the lease. Board may raise money by sale of town lands.
47. All moneys raised by any rate or assessment, or received under any sale, loan, or lease, and all penalties and fines payable under this Law, and all other Township revenue, shall form a fund to be called the Township Fund, which said Fund shall be expended in defraying the cost of all works, and all other expenses properly incurred under this Law. Object for which money is raised to be specified.
48. No land situated in any Township under this Law shall be transferred by the Registrar of Deeds until a certificate shall be produced, signed by the chairman of the Local Board, setting forth that all past due rates and rents have been paid and satisfied. Board may lease town lands.
49. As soon as any Township to which this Law has been made applicable shall be declared a Borough within the meaning of the Law relating to Municipal Corporations, then this Law and any regulations made in pursuance thereof shall continue to apply to such Township only until such Township shall have been proclaimed a Borough, and until Borough regulations shall have been duly enacted. Covenant to build.
50. Whenever the provisions of this Law shall be extended to any Township, the provisions of Law No. 3, 1870, entitled "Law to provide for the Leasing or Exchanging the Lands reserved by Government as sites for Small Towns and Villages within the Colony of Natal," shall thereupon cease to apply and shall not extend to any such Township; and the said recited Law No. 3, 1870, shall be deemed to be repealed in respect of such Township: Provided that all proceedings which may have been taken under the said recited Law in respect of the lands of such Township shall be valid as if the said Law remained in full Township fund.

Law 11, 1881. force and effect; and all proceedings which may have been commenced under the said recited Law before the operation hereof may be continued and completed under such Law; and provided that all the interest of the Government in leases issued under said Law No. 3 of 1870, inclusive of accrued rents, shall be transferred to the Local Board of the Township in which the lands thereby leased are situated.

and as to transfer of leases.

The word "Magistrate," how applicable.

51. Wherever in this Law the word "Magistrate" is used, it shall be construed as applicable to any Justice of the Peace who may be specially appointed by the Governor of the Colony, with the advice of the Executive Council, for the purposes of this Law, and of the particular Township in or near to which such Justice of the Peace may reside.

Board may acquire roads in Township.

52. In case a Local Board shall seek to acquire the legal title of any roads situate within a Township, it shall be competent for the Local Board so to do for the purposes of public roads. In case the person in whom such legal title shall vest shall be prejudicially affected by the acquisition by the Local Board of such legal title, the compensation to be paid to him if less than £100 shall be decided by the Resident Magistrate of the County in which the Township may be situated, otherwise by the Supreme Court.

Magistrate indemnified.

53. All expenses incurred by the Resident Magistrate under the provisions of this Law shall be borne by the Local Board when appointed.

Commencement

54. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

SCHEDULE (B).

Law No. 39, 1884.

"To amend the Law No. 11, 1881, and to confer increased powers on Town Boards established under that Law."

[8th November, 1884.]

WHEREAS it is expedient to confer upon the Local Boards established under Law No. 11 of 1881 extended powers, and for this purpose to amend certain sections of the said Law, and to incorporate herewith certain provisions of other Laws and Ordinances, which are not now applicable to Townships under the above recited Law:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Nomination for election as member of a Local Board.

1. No person shall be eligible for election as a member of any Board established or to be established hereafter under the provisions of Law No. 11 of 1881, unless such person has been previously nominated by at least two electors, and whose nomination shall not have been sent to the Town Board or the Resident Magistrate's Office, as the case may be, for three clear days before the holding of any meeting for the election of a member or members.

Nomination, how to be posted up.

2. On the receipt of such nomination by the Town Board or Resident Magistrate, the same shall be immediately posted up on the Town Notice Board, or outside the door of the Resident Magistrate's Office.

(A) Dec. 28, 1881.

(B) Repealed by Law 39, 1884, s. 7, post.

3. Section 12 of Law 11, 1881, is hereby amended by the altering of the number of members that shall constitute a Board from five to seven, and this addition shall take place at the next annual election after the passing of this Law. **Law 39, 1884.**
Number of members increased from five to seven.
4. Section 20 of Law 11, 1881, is hereby amended by the altering of the number of members who shall form a quorum from three to four. **Quorum.**
5. Sub-section (v) of Section 26 of Law 11, 1881, shall be and the same is hereby repealed. **Repeal.**
6. The Local Board shall have power to fix and issue the Licenses to the following trades and callings carried on within the Township, and to receive and pay into the Township Funds the sums accruing from such Licenses, viz.: Butchers, bakers, wholesale dealers, retail dealers, auctioneers, hawkers, boarding and eating-house keepers, and public billiard tables: Provided that no License shall exceed the amounts set forth in the Schedule (marked A) hereunto annexed, and provided further that no License shall be required to be taken out by persons hawking milk, fish, poultry, agricultural, farm or garden produce. **Board to fix and issue licenses to certain trades and callings.**
Proviso.
Exemptions.
7. The Section 27 of Law 11, 1881, shall be and is hereby repealed, together with the Schedule mentioned therein, and the following substituted therefor:—The Local Board shall have power and authority to fix and issue the Licenses required to be granted under Ordinances 9, 1847, and 3, 1853, and Law 23, 1863 (A), and those under this Law, for carrying on the trades or businesses in said Ordinances or Laws referred to, and the amounts received for all such Licenses issued under this Law shall be paid into the Township Funds: Provided that garrison canteens shall be, and they are hereby, exempted from license duty. And the Local Board may, from time to time, make regulations with respect to such Licenses, and defining the nature thereof, and fixing the hours of business thereunder; and altering or reducing the prices of such Licenses, anything contained in the said Ordinances or Laws, or any of them to the contrary notwithstanding: Provided the rates shall not exceed those mentioned in the Schedule annexed (marked B). **Section 27 of Law 11, 1881, repealed.**
Clause substituted.
Proviso.
Local Board may make regulation respecting Liquor Licenses.
Proviso.
8. No Licenses issued under this Law or under the Law 11, 1881, shall be taken to cover more than one house, firm, or person. And in all applications for Licenses the name in full of the person applying for such License, and the description and situation of the house to be licensed shall be fully set forth, and every person or firm obtaining a License to carry on any of the trades or callings (with the exception of hawkers) mentioned in this Law shall paint or affix, and shall keep painted or affixed, in legible characters, in the English language, on the outside of the house in which the business is carried on, the name, in full, of the person or firm; adding thereto the words necessary to express the purpose or trade or business for which such License has been granted. **Extent of license and particulars necessary in application.**
Name of license, &c., to be painted on outside of house of business.
9. The sections of the Vagrant Law, No. 15, 1869, applicable to Boroughs under the Municipal Corporations Law, No. 19, 1872, shall also be deemed to extend to Townships established under Law No. 11, 1881; and all fines, fees, and penalties for contraventions of the provisions of any of the Ordinances or Laws mentioned in the Schedule (marked C) annexed to this Law, or any Law or Laws passed hereafter amending the same, committed within the limits of Townships under Law No. 11 of 1881, shall be collected and applied to such **Vagrant Law extended to Townships.**
All fines for contraventions of Laws mentioned in Schedule C, to be paid to Township funds.

(A) Liquor Laws, which are all now repealed.

Law 39, 1884. Township Funds, anything to the contrary in these several Ordinances and Laws notwithstanding.

Local Board to collect Dog Tax Licenses within Township.

10. The Local Boards established under Law 11, 1881, are hereby empowered to collect and apply the tax charged and made payable under the Dog Tax Law, No. 27, 1875, within any Township in the same manner, "mutatis mutandis," as is provided in the said Law regarding Boroughs.

Board to assize weights and measures, and charge fee therefor.

11. The Local Board shall have the power to assize and mark weights and measures, to call upon all persons within the Township to produce the weights and measures in use by them in order that the same may be assized and marked; and to charge in respect of every weight or measure assized or marked as aforesaid a sum not exceeding sixpence for each weight or measure, together with the cost of repair thereof should such repair be needful; and also to frame by-laws and regulations for the inspection of any beam, scale, weight, steelyard, weighing machine, or other balance, and all weights and measures within the Township, and to seize and detain any such balance or weight or measure as aforesaid found to be deficient or unlawful or unjust, and to fix a penalty not exceeding Five Pounds for any contravention of such by-laws and regulations; the imperial weights, scales, and measures of Great Britain to be the standard weights, scales, and measures to be used in every Township.

Empowered to frame regulations for inspection, &c., of weights and measures; and penalty for contravention.

Repeal of Sec. 40, Law 11, 1881.

12. Section 40 of Law 11, 1881, is hereby repealed, and the following substituted therefor:—The Valuation Roll made by the Town Board shall be affixed to the Notice Board for one month, at the expiration of which period it shall come into, and have, full force and effect, subject to any amendment or alteration that may have been made therein by any competent Court. And a notice shall be inserted twice in the "GOVERNMENT GAZETTE," setting forth that the annual valuation has been made and published, and calling for any objections against same, to be sent in to the Town Board on or before a certain date to be fixed in said notice, which date shall not be fixed for less than twenty-one days from the first publication of the same.

Publication of Valuation Roll, and when to come into force.

Objection thereto.

Sec. 41 of Law 11, 1881, repealed.

13. Section 41 of Law 11, 1881, is hereby repealed, and the following substituted therefor:—At any time within thirty days after the first publication, as aforesaid, of the valuation of the immovable property within any Township, it shall be lawful for the owner or occupier of any property so valued, who shall consider himself aggrieved by any such assessment or valuation, to appeal against the same to the Resident Magistrate having jurisdiction, who is hereby authorised to hear and determine such appeal: Provided that three clear days' notice in writing of every such appeal shall be given by the appellant to the Local Board specifying the time of the hearing thereof.

Owner or occupier aggrieved by assessment of property may appeal.

Proviso.

Mode of proceeding for recovery of rates.

14. If after due notice being given for the payment of any rates due upon any immovable property, the person liable for the same shall refuse or neglect to pay the amount or amounts due, the Chairman of the Local Board shall address a requisition, containing the name or names of such defaulter or defaulters and the amounts due, to the Resident Magistrate having jurisdiction who is hereby authorised and empowered to issue writs of execution for the recovery of the sums due, together with all costs payable for such process: Provided that the Local Boards shall be responsible for all costs connected with the issuing and executing of the said writs should these be illegally or wrongfully applied for or put in force.

Proviso.

Board may raise loan for public works on security of its immovable estate, &c.

15. The Local Board may, with the consent of the Governor, raise by way of loan any sum or sums of money on the security of the immovable estate, rent, rates, and other income of the said Board, for the purpose of commencing, carrying on, and completing any Public

Work within such Township: Provided that the total annual charge for interest on any loan or loans alive at any one time shall not exceed one-fourth of the total yearly income of the said Local Board: And provided further that in applying for the consent of the Governor to such loan, the nature and probable cost of the Public Works, for which any such moneys are intended to be raised, shall be clearly specified. Law 39, 1884.

Proviso.

16. The Registrar of Deeds shall, on the First day of June, the First day of September, the First Day of December, and the First day of March, in every year, transmit to the Clerk to the Board of every Township or to any officer in that behalf appointed by the Board, a list in writing setting forth the name of every person making transfer, the name of the transferee, and the amount of the purchase price in respect of all land transferred during the quarter so expired, and situated and being within such Township: Provided always that for every such Transfer specified in such list the Board shall pay to the Registrar a fee of One Shilling. Registrar of Deeds to furnish Board quarterly with list of transfers of land in Township.

Fee.

17. The Chairman of the Board shall be a Justice of the Peace within the limits of the Township during the time he shall hold his office of Chairman of the Board. Chairman of Board to be J.P. during term of office.

18. The Local Boards are hereby authorised to appoint from time to time one of their officers to prosecute at his own instance, without obtaining permission from the Attorney-General, in the Court of the Resident Magistrate in the Township having jurisdiction over all contraventions of any of the Laws mentioned in Schedule C to this Law. Board may appoint one of its officers to prosecute in Court of Magistrate.

19. Each Local Board may carry out any of the powers hereby conferred by by-laws or regulations passed by the Board and confirmed by the Governor in Council in the same manner as is provided under Law 11, 1881, for the passing and confirmation of by-laws under that Law. By-laws and Regulations.

20. Nothing herein contained or in any regulations to be made hereunder, shall affect any act or thing lawfully done, or any right or privilege acquired, or any license granted under the said Law 11, 1881, before the coming into operation of this Law, and all offences committed, and all penalties incurred and proceedings commenced against or under the said Law, before the coming into operation of this Law, shall be prosecuted, enforced, and continued respectively as if this Law had not been passed. Nothing in this Law to affect prior proceedings, &c., under Law 11, 1881.

21. The Governor is hereby empowered to issue title deeds to the purchasers of any lands situated in the Township of Newcastle which have been sold by, or at the instance of, the Surveyor-General of the Colony since the 5th day of May, 1882, and which have not been included in the deed of grant of land by the Governor to the Local Board of such Township, and the title given under the deeds issued by the Governor, in virtue of this section, shall be deemed and taken to be as valid as if they had been issued by the Local Board of Newcastle, anything to the contrary in Law 11, 1881, notwithstanding. Governor empowered to issue title to certain lands in Newcastle, sold since 5th May, 1882.

22. For the purposes of this Law and of Law 11, 1881, the word "Township" shall be held to mean and include Town Lands and such other properties as are now, or hereafter may be, invested in and under the control of Local Boards. "Township," interpretation of.

23. This Law, and Law No. 11 of 1881, as amended hereby, shall be read and construed together as one Law. Joint construction.

24. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Commencement

Law 39, 1884.

SCHEDULE A.

Schedule A.

(Mentioned in Section 6 of this Law.)

Licenses.

	Per Annum.		
	£	s.	d.
Butchers	3	0	0
Bakers, including Confectioners	3	0	0
Wholesale Dealers	5	0	0
Retail Dealers	2	10	0
Wholesale and Retail combined	6	0	0
Auctioneers	5	0	0
Hawkers	1	10	0
Boarding and Eating-houses (without Wine or Spirit License)	3	0	0
Public Billiard Tables, each	7	10	0

SCHEDULE B.

Schedule B.

(Mentioned in Section 7 of this Law.)

Licenses.

	£	s.	d.	
Retail Wine and Spirit	20	0	0	for one year.
" "	12	0	0	for half a year.
" "	8	0	0	for one quarter of a year.
Wholesale only	20	0	0	for one year.
"	12	0	0	for half a year.
"	8	0	0	for one quarter of a year.
Wholesale and Retail as above combined	30	0	0	for one year.
Wholesale and Retail as above combined	18	0	0	for half a year.
Wholesale and Retail as above combined	13	10	0	for one quarter of a year.
Kafir Beer or "Utywala"	6	0	0	for one year.
" "	4	0	0	for half a year.
" "	2	10	0	for one quarter of a year.
Each transfer of License to another person	1	0	0	
Do. transfer place	1	0	0	

SCHEDULE C.

Schedule C.

(Mentioned in Section 9 of this Law.)

- Ordinance 2, 1855, "To prevent unlicensed Squatting by Natives."
 Law 21, 1865, "To prevent indiscriminate Burning of Grass."
 Law 15, 1869, "Vagrant Law."
 Law 31, 1874, "To prevent Cruelty to Animals."
 Law 38, 1874, "To prevent the spread of 'Xanthium Spinosum.'"
 Law 27, 1875, "Dog Tax."
 Law 24, 1878, "To provide for better observance of the Lord's Day."
 Law 25, 1878, "To discourage Gambling" (A).

(A) Statutes repealed since this Schedule was framed are here omitted.

Law No. 12, 1887.

“To give certain borrowing powers to Local Boards constituted under Law No. 11 of 1881.”

[1st February, 1887.]

WHEREAS it is expedient to give certain borrowing powers to Local Boards constituted under Law 11, of 1881 :

BE IT THEREFORE ENACTED by the Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows :—

1. For the temporary accommodation of Local Boards constituted under Law No. 11, of 1881, it shall and may be lawful for such Local Boards to obtain advances from any Bank or Banks, by overdraft of the current account upon the credit of the Township: Provided always, that no such overdraft shall at any time, or under any circumstances whatsoever, exceed the income of the preceding year, less any amount paid as interest upon Loan moneys.

Local Boards may obtain advances from Banks by overdraft.

2. This Law shall commence and take effect from and after the promulgation thereof in the “NATAL GOVERNMENT GAZETTE” (A).

Commencement

Law No. 17, 1893.

“To amend Laws Nos. 11 of 1881 and 39 of 1884, and to confer increased powers on Town Boards established thereunder.”

[8th July, 1893.]

WHEREAS it is expedient to confer upon the Local Boards established under Laws Nos. 11 of 1881 and 39 of 1884, extended powers, and for this purpose to amend certain sections of the said Laws, and to repeal and re-enact with Amendments other Sections thereof, and to make further provisions :

BE IT THEREFORE ENACTED by the Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows :—

1. Sub-sections (g), (k), (l), (m), and (s) of Law No. 11, 1881 (B) shall be, and the same are hereby repealed.

Repeals.

2. Town Boards established under the Laws Nos. 11 of 1881 and 39 of 1884, are hereby vested with the following powers in addition to those already possessed by them under the said Laws, that is to say :

Additional powers granted to Local Boards.

- (a) To define the width of all streets and thoroughfares, and to regulate from time to time the class and characters of future buildings, and the materials of which the same shall be constructed, and the distances or spaces between, or characters of walls and party-walls, and from time to time to make such regulations with respect to existing buildings as may be deemed necessary, and to prevent the unsafe or unhealthy crowding together of buildings, and to define and lay down the face-lines of streets, and to regulate from time to time the height of shafts and chimneys belonging to mills, manufactories, or other buildings within the township, and to compel the consumption of the smoke thereof.

Streets, thoroughfares, and buildings.

- (b) To regulate the time and places for slaughtering cattle, and the state and condition of the slaughtering houses.

Slaughter-houses.

(A) Feb. 8, 1887.

(B) These sub-secs. occur in sec. 26 of the Law.

Law 17, 1893.
Sanitation.

(c) To regulate and control all matters of sanitation within their respective townships, to cause the removal of night-soil from the premises of persons living within the township, and to require all householders from time to time to provide at their own expense such night-soil pails as shall or may be found necessary for the purpose of the said removal, and the Town Board shall be at liberty to interchange the pails of the householders, and shall also be allowed to supply at the expense of any householder in default, such pail or pails as said householder ought to have supplied (A); and the Town Board may prevent the use of any privy, closet, or cesspool intended to defeat or having the effect of defeating the removal of night-soil from the town; to cause the removal of all house refuse, and to require all householders to adopt at their own expense, such receptacles or pails as may be found necessary for the purposes of the said removal.

Cattle sheds.

(d) To prohibit the use of all buildings or kraals used or to be used for the accommodation of cattle, without the sanction of the Town Board first had and obtained.

Lighting of vehicles.

(e) To impose regulations for the lighting of all vehicles used in the streets and public thoroughfares after sunset.

Nuisances :
right of entry.

3. Whenever the Superintendent of Police, Inspector of Nuisances, or other officer of a Town Board shall have reason to suspect that any nuisance such as the last preceding clause is intended to prevent exists on any private property, in case such Superintendent, Inspector, or other officer shall be refused access to the supposed site of such nuisance, he shall be entitled to a warrant under the hand of the Resident Magistrate, empowering him to enter such private property, and to trace such nuisance with a view to abate the same, or to establish any contravention of any By-law passed pursuant to the last preceding clause.

Sale of food.

4. Town Boards may at all times within the limit of the townships, inspect or cause to be inspected and examined, any carcasses, meat, poultry, eggs, game, fish, fruit, vegetables, corn, bread, flour, rice, meal, sugar, coffee, ale, porter, milk, ginger-beer, cider, perry, wine, liqueur, brandy, gin, whisky, and rum exposed for sale, and in case any such article as aforesaid appears to be unfit for food or drink of man, the same may be seized and destroyed by an order to that effect under the hand of the Chairman or Acting Chairman.

Abatement of nuisances.

5. Town Boards are hereby authorised to prevent and abate all nuisances; and in particular the firing of grass on lands belonging to the township, the obstruction of any highway, the carrying on of trades, callings, or manufactures producing noisome or offensive smells or otherwise offensive, the mischievous use or the careless or dangerous warehousing or conveyance in the township or any part of the Town Lands of gunpowder, paraffin, or similar oil or other combustibles, the firing or discharging of guns or pistols, air-guns, or catapults, the keeping of disorderly houses of all descriptions (B), including common bawdy houses or gaming houses, the exposure or exhibition in public of any objects dangerous to health or personal safety, or subversive of decency, or subversive of public morals, the public use of language calculated to cause a breach of the peace, or the committing of assaults, or the public use of indecent words, gestures, or practices, the making of unseemly

(A) See sec. 62 of Law 19, 1872, and foot-note, tit. "MUNICIPAL CORPORATIONS."

(B) See note to sub-sec. (t) of sec. 26, Law 11, 1881, ante.

noises in the Township by day or night, the cracking of wagon whips, the keeping of ferocious or troublesome dogs or other animals, the carriage or exposure in the streets or highways of persons afflicted with contagious or infectious diseases, the allowing dead animals to remain unburied or insufficiently buried, or buried in a place not authorised for the purpose, the keeping or maintaining of cattle-kraals, swineyards, or poultry yards, the non-repair or dangerous condition of any building, bridge, parapet, or watercourse, the keeping in a foul or improper manner any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, yard, or pit, the depositing in any street or highway, or other unauthorised place any refuse or rubbish, or the depositing on any private premises any refuse or rubbish producing a noisome or offensive smell.

Law 17, 1893.

6. Town Boards shall be allowed to charge for the use of their fire engine on each occasion a sum of £5, to be recoverable from the occupier of every building on fire when the engine is used, and when it is proved that the engine was required and necessary, and failing payment by the occupier the proprietor of any such building shall be held to be liable to any such charge.

Charge for use of fire-engine.

7. Any unoccupied houses, lands, tenements, or hereditaments in respect of which any rate or part of any rate shall remain unpaid for five years after the same shall have become due and payable, and for satisfaction whereof no distress and sale can be made, shall thereupon become charged with such rates in arrear, together with interest at 10 per cent. per annum from the day when such rate became payable, which arrears and interest may be recoverable in the manner following, that is to say:—[Within two calendar months (A)] after the expiration of such five years the Town Clerk shall cause to be inserted in the "NATAL GOVERNMENT GAZETTE" and two newspapers circulating in the Township, particulars of every such unoccupied property, and of the arrears of rates payable, with interest in respect thereof, together with a notice requiring the owner or reputed owner by name (if known), or otherwise whom it may concern, and the mortgagee or mortgagees (if any) to make payment of such arrears within one year from the publication of such notice in the "NATAL GOVERNMENT GAZETTE," and notifying that in default thereof application at the expiration of such year will be made to the Supreme Court or Circuit Court to order such property to be sold by public auction (subject to such further notice, if any, as such Court may deem necessary) in satisfaction of all rates and interest which shall be due in respect of such property up to and at the time of such application, and of all rates that may accrue between the date of such application and such sale by public auction.

Recovery of arrear rates on unoccupied property.

8. If after the expiration of such notice, such arrears and interest with all expenses which may have been incurred shall still remain unpaid, the Supreme Court or Circuit Court, or any Judge of the Supreme Court may, on petition of the Town Board, and upon proof of such arrears and interest, and that the conditions herein prescribed have been fulfilled, summarily order any such houses, lands, tenements, hereditaments, or such part thereof as shall be sufficient to satisfy such arrears, interest and expenses, and rates subsequently accrued to be sold by Public Auction, and the proceeds to be paid into Court, and thereout direct payment to the Town Board of all rates in arrear, interest and charges, together with the costs of such petition, and all expenses of sale as a prior charge, and in preference to any mortgage,

Sale of property to satisfy rates.

(A) Words in brackets repealed by Act 31, 1896, post, which substitutes the words "at any time."

Law 17, 1893. security or claim whatsoever (if any) affecting the property so sold, excepting such as shall be in existence at the date of promulgation of this Law, and the said Court or any Judge thereof is hereby further authorised to direct a conveyance in such form as shall be approved by the Master, to be executed by him, or some other officer of the Court, to the purchaser of the said houses, lands, tenements, and hereditaments so sold, freed and discharged of any mortgage or encumbrance whatsoever, with the exception of existing mortgages as aforesaid, which conveyance shall vest in the said purchaser an indefeasible and legal estate in fee simple any outstanding legal estate or beneficial interest, or any law or practice notwithstanding, and the surplus (if any) of the proceeds of sale shall be deposited by the Master in the Colonial Treasury, subject to the rights of all parties interested.

Repeal of Sec. 42, Law 11, 1881,

9. Clause 42 of Law No. 11 of 1881, shall be and the same is, hereby repealed, and the following substituted in lieu thereof:—

Public lands and buildings used for church, school, or other public purposes shall not be liable to rates: Provided, that such exemptions shall not be deemed to extend to any public lands or buildings which shall be occupied by any person not being a public officer (A).

Conversion of leases into freehold.

10. Town Boards may at any time agree with any present or future lessee of any portion of the Town Lands of any Township constituted under Laws Nos. 11 of 1881, and 39 of 1884, for the transfer to such lessee of the freehold of the land leased to such lessee upon such terms as may be mutually agreed upon and approved by the Governor in Council: Provided that no such agreement shall be made without the consent of the mortgagee in cases where the interest of the lessee is subject to mortgage.

Construction of Laws.

11. This Law and Laws Nos. 11 of 1881, and 39 of 1884, as amended hereby shall be read and construed together as one Law.

Act No. 20, 1894.

“To confer certain Borrowing Powers upon Local Boards.”

[16th July, 1894.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Local Boards may borrow money on security of price of lands sold.

1. In case any Local Board, constituted under Law No. 11, 1881, shall seek to utilise for any purpose authorised by law the proceeds of land already or that may be hereafter sold, before the purchase price has yet been paid, such Board may with the consent of the Governor in Council, borrow money on the Security of the unpaid instalments of the purchase money of any lands so sold.

Such powers additional to those under former Laws.

2. The powers conveyed by this Act are additional to those given by Laws Nos. 11 of 1881, 39 of 1884, and 12 of 1887.

(A) Where buildings in a Township were occupied by members of the Natal Mounted Police, the fact of the rental being paid partly by Government, and partly by the members, held not to ex-

clude the buildings from the exemption contained in the repealed sec 42 of Law 11, 1881 (*Col. Govt. v. Ladysmith Local Board*, 10 N.L.R. 161).

Act No. 31, 1896.

“To amend the Town Boards Law, No. 17, 1893.”

[6th July, 1896.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The words “within two calendar months,” occurring before the words “after the expiration of such five years,” in Section 7 of Law No. 17, 1893, shall be and the same are hereby repealed, and the following words deemed to be inserted in lieu thereof, namely:—“at any time.” Sec. 7 amended.

TRADE MARKS.

[See "TRADE MARKS (COUNTERFEITING)."]

Law No. 4, 1885 (A).

"To establish a Register of Trade Marks in Natal."

[17th August, 1885].

WHEREAS it is expedient to establish in this Colony a Register of Trade Marks:

BE IT THEREFORE ENACTED by the Governor of the Colony of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

Register of trade marks established.

1. A Register of Trade Marks shall be established and kept by the Registrar of the Supreme Court, in the Office of the Registrar of the Supreme Court.

Comptroller of Trade Marks.

2. The Registrar of the Supreme Court is hereby appointed and nominated Comptroller of Trade Marks.

Application for registration.

3. (1) The Comptroller may, on application by or on behalf of any person claiming to be the proprietor of a trade mark, register the trade mark.

(2) The application must be made in the form set forth in the first Schedule to this Law, or in such other form as may be from time to time prescribed, and must be left at or sent by post to the Office of the Registrar of the Supreme Court, in the manner hereinafter prescribed.

(3) The application must be accompanied by the number hereinafter prescribed of the representations of the trade mark, and must state the particular goods or class of goods in connection with which the applicant desires the trade mark to be registered.

(4) The Comptroller may, if he think fit, refuse to register a trade mark, but any such refusal shall be subject to appeal to the Governor in Council, and the Governor in Council may, if he thinks fit, hear the applicant and the Comptroller, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

Limit of time for proceeding with application.

4. Where registration of a trade mark has not been or shall not be completed within twelve months from the date of the application, by reason of default on the part of the applicant, the application shall be deemed to be abandoned.

Conditions of registration of trade mark.

5. (1) For the purposes of this Law, a trade mark must consist of or contain at least one of the following essential particulars:—

- (a) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner.
- (b) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark.
- (c) A distinctive device, mark, brand, heading, label, ticket, or fancy word or words not in common use.

(2) There may be added to any one or more of these particulars any letters, words, or figures, or combination of letters, words, or figures, or any of them (A). Law 4, 1885.

6. A trade mark must be registered for particular goods or classes of goods. Connection of trade mark with goods.

7. When a person claiming to be the proprietor of several trade marks, which, while resembling each other in the material particulars thereof, yet differ in respect of (a) the statement of the goods for which they are respectively used, or proposed to be used, or (b) statements of numbers, or (c) statements of price, or (d) statements of quality, or (e) statements of names of places, seeks to register such trade marks, they may be registered as a series in one registration. A series of trade marks shall be assignable and transmissible only as a whole; but for all other purposes each of the trade marks composing a series shall be deemed and treated as registered separately. Registration of a series of marks.

8. A trade mark may be registered in any colour (B), and such registration shall (subject to the provisions of this Law), confer on the registered owner the exclusive right to use the same in that or any other colour. Registration of trade marks in colours.

9. Every application for registration of a trade mark under this Law, shall, as soon as may be after its receipt, be advertised in the "GOVERNMENT GAZETTE." Advertisement of application.

10. (1) Any person may, within two months of the first advertisement of the application, give notice in duplicate at the office of the Registrar of the Supreme Court, of opposition to registration of the trade mark, and the Comptroller shall send one copy of such notice to the applicant. Opposition to registration.

(2) Within two months after the receipt of such notice, or such further time as the Comptroller may allow, the applicant may send to the Comptroller a counter statement in duplicate of the grounds on which he relies for his application, and if he does not do so, shall be deemed to have abandoned his application.

(3) If the applicant sends such counter statement the Comptroller shall furnish a copy thereof to the person who gave notice of opposition, and shall require him to give security in such manner and to such amount as the Comptroller may require for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made, or such further time as the Comptroller may allow, the opposition shall be deemed to be withdrawn.

(4) If the person who gave notice of opposition duly gives such security as aforesaid, the Comptroller shall inform the applicant thereof in writing; and thereupon the case shall be deemed to stand for the determination of the Supreme Court of Natal.

11. A trade mark when registered, shall be assigned and transmitted only in connection with the goodwill of the business concerned in the particular goods, or classes of goods, for which it has been registered, and shall be determinable with that goodwill. Assignment and transmission of trade mark.

12. Where each of several persons claims to be registered as proprietor of the same trade mark, the Comptroller may refuse to register any of them until their rights have been determined according to law; and the Comptroller may himself submit, or require the claimants to submit, their rights to the Supreme Court. Conflicting claims to registration.

(A) The sec. corresponding to this in the Imperial Act has been replaced by sec. 10 of 51 & 52 Vic. c. 50.

(B) Sec. 11 of 51 & 52 Vic. c. 50 adds to the corresponding sec. of the Imperial Act the words "or colours."

Law 4, 1885.
Restrictions on
registration.

13. (1) Except where the Supreme Court has decided that two or more persons are entitled to be registered as proprietors of the same trade mark, the Comptroller shall not register in respect of the same goods, or description of goods, a trade mark identical with one already on the register with respect to such goods or description of goods.

(2) The Comptroller shall not register with respect to the same goods, or description of goods, a trade mark so nearly resembling a trade mark already on the register, with respect to such goods or description of goods, as to be calculated to deceive (A).

Further
restriction on
registration.

14. It shall not be lawful to register as part of or in combination with a trade mark any words the exclusive (B) use of which would, by reason of their being calculated to deceive or otherwise, be deemed disentitled to protection in the Supreme Court of Natal, or any scandalous design.

Effect of Registration.

Registration
equivalent to
public use.

15. Registration of a trade mark shall be deemed to be equivalent to public use of the trade mark (C).

Right of first
proprietor to
exclusive use of
trade mark.

16. The registration of a person as proprietor of a trade mark shall be prima facie evidence of his right to the exclusive use of the trade mark, and shall, after the expiration of five years from the date of the registration, be conclusive evidence of his right to the exclusive right (D) of the trade mark, subject to the provisions of this Law.

Restrictions on
actions for
infringement.

17. A person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of a trade mark, unless in the case of a trade mark capable of being registered under this Law, it has been registered under this Law.

Register of Trade Marks.

Register of
trade marks.

18. There shall be kept at the Office of the Registrar of the Supreme Court, a book called the Register of Trade Marks, wherein shall be entered the names and addresses of proprietors of registered trade marks, notifications of assignments and of transmissions of trade marks, and such other matters as may be from time to time prescribed.

Removal of
trade mark
after 14 years
unless fee paid.

19. (1) At a time not being less than two months nor more than three months before the expiration of fourteen years from the date of the registration of a trade mark, the Comptroller shall send notice to the registered proprietor that the trade mark will be removed from the register unless the proprietor pays to the Comptroller before the expiration of such fourteen years (naming the date at which the same will expire) the prescribed fee; and if such be not previously paid, he shall at the expiration of one month from the date of the giving of the first notice, send a second notice to the same effect.

(2) If such fee be not paid before the expiration of such fourteen years, the Comptroller may, after the end of three months from the expiration of such fourteen years, remove the mark from the register, and so from time to time at the expiration of every period of fourteen years.

(3) If before the expiration of the said three months, the registered proprietor pays the said fee, together with the additional prescribed fee, the Comptroller may, without removing such trade mark from the

(A) Cf. 51 & 52 Vic. c. 50, s. 14, and see *Loftus Trade Mark, In re*, [1894] 1 Ch. 193.

(B) The word "exclusive" is deleted from the Imperial Act by 51 & 52 Vic. c.

50, s. 15. See also *Eno v. Dunn*, 15 App. Cas. 252.

(C) Cf. 51 & 52 Vic. c. 50, s. 17.

(D) The word "right" reads "use" in the Imperial Act.

register, accept the said fee as if it had been paid before the expiration of the said fourteen years. Law 4, 1885.

(4) Where after the said three months a trade mark has been removed from the register for non-payment of the prescribed fee, the Comptroller may, if satisfied that it is just to do so, restore such trade mark to the register on payment of the prescribed additional fee.

(5) Where a trade mark has been removed from the register for non-payment of the fee or otherwise, such trade mark shall, nevertheless, for the purpose of any application for registration during the five years next after the date of such removal, be deemed to be a trade mark which is already registered (A).

20. There shall be paid, in respect of applications and registration and other matters under this Law, such fees as may be from time to time prescribed by the Governor in Council, and such fees shall be levied and paid to the account of the Colonial Revenue in such manner as the Governor in Council may from time to time direct. And the Governor, with the advice of his Executive Council, may from time to time make such Rules and Regulations, not inconsistent with the provisions hereof, as may appear to him to be necessary and expedient for carrying out the provisions of this Law, or for any purposes connected with this Law.

Fee for registration, &c.

Governor in Council may make rules.

21. Any person who describes a trade mark to any article sold by him as registered which is not so registered shall be liable for every offence to a fine not exceeding five pounds.

Penalty for describing non-registered trade mark as registered.

22. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B).

Commencement

SCHEDULE.

Form of Application for Registration of Trade Mark.

Schedule.

One trade mark to be fixed within this square of foolscap, and two others on sheets of the same size.

You are hereby requested to register the accompanying trade mark in the name of _____ who claims to be the proprietor thereof.

(Signature)

TO THE COMPTROLLER,
REGISTRAR'S OFFICE, SUPREME COURT.

(A) Cf. 51 & 52 Vic. c. 50, s. 19.

(B) Aug. 25, 1885.

TRADE MARKS (COUNTERFEITING).

Law No. 22, 1888 (A).

"To amend the Law relating to Fraudulent Marks on Merchandise."

[24th October, 1888.]

BE IT ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Short title.

Offences relating to trade marks and trade descriptions.

1. This Law may be cited as "The Merchandise Marks Law, 1888."

2. (1) Every person who—

- (a) Forges any trade mark; or
- (b) Falsely applies to goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive; or
- (c) Makes any die, block, machine, or other instrument for the purpose of forging, or of being used for forging, a trade mark; or
- (d) Applies any false trade description (B) to goods; or
- (e) Disposes of, or has in his possession, any die, block, machine, or other instrument for the purpose of forging a trade mark; or
- (f) Causes any of the things above in this section mentioned to be done;

shall, subject to the provisions of this Law, and unless he proves that he acted without intent to defraud, be guilty of an offence against this Law.

(2) Every person who sells, or exposes for, or has in his possession for sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied (c), or to which any trade mark, or mark so nearly resembling a trade mark as to be calculated to deceive, is falsely applied, as the case may be, shall, unless he proves—

- (a) That, having taken all reasonable precautions against committing an offence against this Law, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade mark, mark, or trade description; and
- (b) That on demand made by, or on behalf of, the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or
- (c) That otherwise he had acted innocently;

be guilty of an offence against this Law.

(A) This Law is a reflection of the Merchandise Marks Act, 1887, 50 & 51 Vic. c. 28.

(B) As to the application of this par., see *Budd v. Lucas*, [1891] 1 Q.B. 408; *Storey v. Chilworth Gunpowder Co.*, 24 Q.B.D. 90; 59 L.J., M.C. 13; 62 L.T. 73; 38 W.R. 204.

(c) It is no defence that there was no intent to defraud the purchaser, and that he was not in fact deceived (*Wood v. Burgess*, 24 Q.B.D. 162; 59 L.J., M.C. 11; 61 L.T. 593; 38 W.R. 331—C.A.)

(3) Every person guilty of an offence against this Law shall be liable— Law 22, 1888.

- i. On conviction on indictment in the Supreme Court, or any Circuit Court, to imprisonment, with or without hard labour, for any term not exceeding two years, or to a fine not exceeding Fifty Pounds sterling, or to both imprisonment and fine; and
- ii. On conviction in the Court of a Resident Magistrate, to imprisonment, with or without hard labour, for any term not exceeding three months, or to a fine not exceeding Ten Pounds; and in the case of a second or subsequent conviction to imprisonment, with or without hard labour, for any term not exceeding six months, or to a fine not exceeding Fifty Pounds; and
- iii. In any case to forfeit to Her Majesty every chattel, article, instrument, or thing by means of, or in relation to, which the offence has been committed.
- iv. The Court before whom any person is convicted under this section may order any forfeited articles to be destroyed, or otherwise disposed of, as the Court thinks fit.
- v. All contraventions of this Law which, in the opinion of the Attorney-General, are proper for trial in the Courts of the Resident Magistrates, may be prosecuted at the instance of the Clerk of the Peace, or of any officer specially deputed by the Attorney-General in that behalf, in the Court of the Resident Magistrate having jurisdiction in the County or Division in which the offence has been committed, or in which the person charged with contravention shall be found; and all contraventions proper for trial in the Supreme or Circuit Courts shall be prosecuted on indictment by the Attorney-General in the usual manner in the Supreme Court or any Circuit Court; and in the case of a prosecution in a Circuit Court it shall not be necessary for the prosecutor to show, nor shall it be material, whether the contravention charged was committed within the jurisdiction of such Circuit Court: Provided, however, that it appear that such contravention occurred in the Colony.
- vi. Any person charged with an offence against this Law before the Court of a Resident Magistrate shall, on appearing before the Court, and before the charge is gone into, be informed that he has a right to be tried on indictment, and, if he require it, shall be so tried accordingly.
- vii. Any person feeling aggrieved by any conviction made by a Court of a Resident Magistrate may appeal therefrom to the Supreme Court or a Circuit Court.

3. (1) For the purposes of this Law—

Definitions.

The expression "trade mark" means a trade mark registered in the register of trade marks kept under the "Trade Marks Law, 1885," (A) and includes any trade mark which, either with or without registration, is protected by Law in the United Kingdom, or any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs, and Trade Marks

(A) This is presumably a reference to Law No. 4 of 1885, although it is not apparently an authorised citation.

Law 22, 1888.
Definitions.

Act, 1883 (46 and 47 Vic., ch. 57), are, under Order in Council, for the time being applicable :

The expression "trade description" means any description, statement, or other indication, direct or indirect,

- (a) As to the number, quantity, measure, gauge, or weight of any goods ; or
- (b) As to the place or country in which any goods were made or produced ; or
- (c) As to the mode of manufacturing or producing, any goods ; or
- (d) As to the material of which any goods are composed ; or
- (e) As to any goods being the subject of an existing patent, privilege, or copyright ;

and the use of any figure, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters, shall be deemed to be a trade description within the meaning of this Law :

The expression "false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description false in a material respect, and the fact that a trade description is a trade mark, or part of a trade mark, shall not prevent such trade description being a false trade description within the meaning of this Law :

The expression "goods" means anything which is the subject of trade, manufacture, or merchandise :

The expressions "person," "manufacturer, dealer, or trader," and "proprietor," include any body of persons, corporate or unincorporate :

The expression "name" includes any abbreviation of a name.

(2) The provisions of this Law respecting the application of a false trade description to goods shall extend to the application to goods of any such figures, words, or marks, or arrangement, or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

(3) The provisions of this Law respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description ; and for the purposes of this enactment the expression false name or initials means, as applied to any goods, any name or initials of a person which—

- (a) Are not a trade mark, or part of a trade mark ; and
- (b) Are identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorised the use of such name or initials ; and
- (c) Are either those of a fictitious person, or of some person not "bona fide" carrying on business in connection with such goods.

TRADE MARKS (COUNTERFEITING).

4. A person shall be deemed to forge a trade mark who either—

Law 22, 1888.
Forging trade
mark.

- (a) Without the assent of the proprietor of the trade mark makes that trade mark, or a mark so nearly resembling that trade mark as to be calculated to deceive; or
- (b) Falsifies any genuine trade mark, whether by alteration, addition, effacement, or otherwise;

and any trade mark, or mark so made or falsified, is in this Law referred to as a forged trade mark: Provided that in any prosecution for forging a trade mark the burden of proving the assent of the proprietor shall lie on the defendant.

5. (1) A person shall be deemed to apply a trade mark, or mark or trade description, to goods who—

Applying marks
or descriptions.

- (a) Applies it to the goods themselves; or
- (b) Applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed, or had in possession for any purpose of sale, trade, or manufacture; or
- (c) Places, encloses, or annexes any goods which are sold or exposed, or had in possession for any purpose of sale, trade, or manufacture, in, with, or to any covering, label, reel, or other thing to which a trade mark or trade description has been applied; or
- (d) Uses a trade mark, or mark, or trade description, in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark, or mark, or trade description.

(2) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame, or wrapper; and the expression "label" includes any band or ticket. A trade mark, or mark, or trade description shall be deemed to be applied whether it is woven, impressed, or otherwise worked into, or annexed or affixed to the goods, or to any covering, label, reel, or other thing.

(3) A person shall be deemed to falsely apply to goods a trade mark, or mark, who, without the assent of the proprietor of a trade mark, applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive, but in any prosecution for falsely applying a trade mark, or mark, to goods, the burden of proving the assent of the proprietor shall lie on the defendant.

6. Where a defendant is charged with making any die, block, machine, or other instrument for the purpose of forging, or being used for forging, a trade mark, or with falsely applying to goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section mentioned to be done, and proves—

Certain persons
privileged in
regard to
making die or
block, &c.

- (a) That in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines, or other instruments for making or being used in making, trade marks, or as the case may be, to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in the Colony of Natal, and was not interested in the goods by way of profit or commission dependent on the sale of such goods; and
- (b) That he took reasonable precautions against committing the offence charged; and

Law 22, 1888.

- (c) That he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark, or trade description; and
- (d) That he gave to the prosecutor all the information in his power with respect to the person on whose behalf the trade mark, mark, or description was applied,

he shall be discharged from the prosecution.

Application of Law to watches.

7. Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks shall "prima facie" be deemed to be a description of that country within the meaning of this Law, and the provisions of this Law with respect to goods to which a false trade description has been applied, and with respect to selling or exposing for or having in possession for sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly, and for the purposes of this section the expression "watch" means all that portion of a watch which is not the watch case. This section shall not apply to watches now in the possession of any dealer in Natal, nor to watches ordered to be manufactured by or for any dealer in Natal, if such order has been placed prior to the First day of August of this year (1888): Provided that a proper Return of such watches as may be in stock on the passing of this Law, or ordered as aforesaid, shall be made and sent in to the Resident Magistrate; such Return, in the case of watches in stock, to give a particular description of each watch, with the number on or in such watch, in such a manner as will identify such watch; such Return to be made and sent in to the proper officer within thirty days of the passing of this Law. In the case of watches on order before the First day of August, 1888, a Return, showing the identifying number of such watches, shall be sent in to the above-mentioned officer within fourteen days of the arrival and receipt of the articles named. Such Returns to be in form as Schedules A and B annexed, and to be sent in duplicate to the Resident Magistrate, or other officer, one copy of such Returns to be retained by the Resident Magistrate, or other officer, and the other copy to be signed by the Resident Magistrate, or other officer, and to be returned to the dealer, to be by him kept and held as a voucher or license in regard to the articles specified thereon.

Description of trade mark in pleading.

8. In any indictment, pleading, proceeding, or document, in which any trade mark or forged trade mark is intended to be mentioned, it shall be sufficient, without further description and without any copy or facsimile, to state that trade mark or forged trade mark to be a trade mark or forged trade mark.

Rules as to evidence.

9. In any prosecution for an offence against this Law—

(1) A defendant, and his wife or her husband, as the case may be, may, if the defendant thinks fit, be called as a witness, and, if called, shall be sworn and examined, and may be cross-examined and re-examined in like manner as any other witness.

(2) In the case of imported goods, evidence of the port of shipment shall be "prima facie" evidence of the place or country in which the goods were made or produced.

Accessories.

10. Any person who, being within the Colony of Natal, procures, counsels, aids, abets, or is accessory to the commission, without the Colony of Natal, of any act, which, if committed in the Colony of Natal, would under this Law be an offence against this Law, shall be guilty of that offence as a principal, and be liable to be indicted, proceeded

against, tried, and convicted, in any place in the Colony of Natal in which he may be, as if the offence had been there committed. Law 22, 1888.

11. (1) Where, upon information of an offence against this Law, a Resident Magistrate has issued either a summons requiring the defendant charged by such information to appear to answer to the same, or a warrant for the arrest of such defendant, and either the said Resident Magistrate, on or after issuing the summons or warrant, or any other Resident Magistrate, is satisfied by information on oath that there is reasonable cause to suspect that any goods or things, by means of or in relation to which such offence has been committed, are in any house or premises of the defendant, or otherwise in his possession or under his control in any place, such Resident Magistrate may issue a warrant under his hand, by virtue of which it shall be lawful for any constable named or referred to in the warrant to enter such house, premises, or place at any reasonable time by day, and to search there for and seize and take away those goods or things; and any goods or things seized under any such warrant shall be brought before the Court of the Resident Magistrate having jurisdiction for the purpose of its being determined whether the same are or are not liable to forfeiture under this Law.

Search
warrant.

(2) If the owner of any goods or things which, if the owner thereof had been convicted, would be liable to forfeiture under this Law, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and the Court of the Resident Magistrate having jurisdiction may cause notice to be advertised stating that, unless cause be shown to the contrary at the time and place named in the notice, such goods or things will be forfeited, and at such time and place the Court, unless the owner or any person on his behalf, or other person interested in the goods or things, shows cause to the contrary, may order such goods or things, or any of them, to be forfeited.

(3) Any goods or things forfeited under this section, or under any other provision of this Law, may be destroyed or otherwise disposed of, in such manner as the Court by which the same are forfeited may direct, and the Court may, out of any proceeds which may be realised by the disposition of such goods (all trade marks and trade descriptions being first obliterated), award to any innocent party any loss he may have innocently sustained in dealing with such goods.

12. No prosecution for an offence against this Law shall be commenced after the expiration of three years next after the commission of the offence, or one year next after the first discovery thereof by the prosecutor, whichever expiration first happens.

Limitation of
prosecution.

13. Whereas it is expedient to make provisions for prohibiting the importation of goods which, if sold, would be liable to forfeiture under this Law: Be it therefore enacted, as follows:—

Prohibition of
importation.

(1) All such goods, and also all goods of foreign manufacture bearing any name or trade mark being or purporting to be the name or trade mark of any manufacturer, dealer, or trader in the (A) Colony of Natal, unless such name or trade mark is accompanied by a definite indication of the country in which the goods were made or produced, are hereby prohibited to be imported into the Colony of Natal, and, subject to the provisions of this section, shall be included among goods prohibited to be imported as if they were specified in Schedule D of "The Customs Duties and Transit Dues Law, 1886. (B).

(A) Law 11, 1889, post, here inserts the words "United Kingdom or the."

(B) Repealed by Act 50, 1898, tit. "REVENUE."

Law 22, 1888.

(2) Before detaining any such goods, or taking any further proceedings with a view to the forfeiture thereof under the Law relating to the Customs, the Collector of Customs may require the regulations under this section, whether as to information, security, conditions, or other matters, to be complied with, and may satisfy himself, in accordance with those regulations that the goods are such as are prohibited by this section to be imported.

(3) The Collector of Customs may from time to time make, revoke, and vary regulations, either general or special, respecting the detention and forfeiture of goods the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may by such regulations determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the (A) Colony of Natal, that name, unless accompanied by the name of the country in which such place is situate, shall be treated for the purposes of this section as if it were the name of a place in the (B) Colony of Natal.

(5) Such regulations may apply to all goods the importation of which is prohibited by this section, or different regulations may be made respecting different classes of such goods, or of offences in relation to such goods.

(6) The Collector of Customs, in making and in administering the regulations, and generally in the administration of this section, whether in the exercise of any discretion or opinion, or otherwise, shall act under the control of the Governor.

(7) The regulations may provide for the informant re-imbursing the Collector of Customs all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(8) All regulations made under this section shall be published in the "NATAL GOVERNMENT GAZETTE."

Implied
warranty on
sale of marked
goods.

14. On the sale or in the contract for the sale of any goods to which a trade mark, or mark or trade description, has been applied, the vendor shall be deemed to warrant that the mark is a genuine trade mark, and not forged or falsely applied, or that the trade description is not a false trade description within the meaning of this Law, unless the contrary is expressed in some writing signed by or on behalf of the vendor, and delivered at the time of the sale or contract to and accepted by the vendee.

Provisions of
this Law as to
false descrip-
tions not to
apply in certain
cases.

15. Where, at the passing of this Law, a trade description is lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods, the provisions of this Law with respect to false trade descriptions shall not apply to such trade description when so applied: Provided that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, this section shall not apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner, with that name, the name of the place or country in which the goods were

(A) Law 11, 1899, post, here inserts
the words "United Kingdom or the."

(B) Words inserted as in last note.

actually made or produced, with a statement that they were made or produced there : Provided also, that in the case of English-made watches manufactured for, or to the order of, any dealer in Natal, which may bear the name of such dealer, with the town or place in which he carries on business, or the word " Natal," in addition to name or place, or both—as has been and is the usual custom of the trade—in such case the English Hall mark on a gold or silver watch case shall be taken to be, and shall be, a sufficient description of the country in which such watch was made. Law 22, 1888.

16. (1) This Law shall not exempt any person from any action, suit, or other proceeding which might, but for the provisions of this Law, be brought against him. Savings.

(2) Nothing in this Law shall entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence against this Law.

(3) Nothing in the Law shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in the Colony of Natal who " bona fide " acts in obedience to the instructions of such master, and on demand made by and on behalf of the prosecutor has given full information as to his master.

17. Any person who falsely represents that any goods are made by a person holding a Royal Warrant, or for the service of Her Majesty, or any of the Royal Family, or any Government Department, shall be liable, on conviction in the Court of the Resident Magistrate having jurisdiction, to a penalty not exceeding Twenty Pounds. False representation as to Royal Warrant, &c.

18. The Law No. 9, 1884, entitled " Law to declare the Law relating to the Fraudulent Marking of Merchandise," shall be, and the same is hereby repealed (A). Repeal of Law 9, 1884.

19. This Law shall commence and take effect from and after such date after promulgation in the " NATAL GOVERNMENT GAZETTE " as shall be fixed by proclamation by the Governor (B). Commencement.

SCHEDULE A.

RETURN of Watches in Stock by _____, of _____
 _____, on the _____ day of _____, Schedulcs.
 188 _____, under Section 7, Law _____.

No. of Watch.	Material of Case.	Description of Watch.

I (or we) hereby declare that the above watches are now in my (or our) possession.

Dated at _____, this _____ day of _____ 188 _____
 Signature of Resident Magistrate, or other Officer.

TRADE MARKS (COUNTERFEITING).

Law 22, 1888.

SCHEDULE B.

Schedules.

Particulars of Watches on Order prior to August 1st, 1888, but not yet received.

	Material of which Case is made.	Description of Watch.

I (or we) hereby declare that the above Watches were on Order for me (or us) prior to August 1st, 1888; and I (or we) hereby undertake to furnish to the identifying No. of each Watch as soon as the articles are received by me (or us).

Dated at, this day of 188
Signature of Resident Magistrate, or other Officer.

Law No. 11, 1889.

"To amend Law No. 22, 1888, entitled Law 'To amend the Law relating to Fraudulent Marks on Merchandise.'"

[26th June, 1889.]

BE IT ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Sub-sec. (1) of Sec. 13, Law 22, 1888, amended.

1. Sub-section (1) of Section 13 of Law No. 22, 1888, shall be and the same is hereby amended by the insertion therein, after the words "any manufacturer, dealer, or trader in the" occurring in the third line thereof, of the words "United Kingdom or the".

Sub-sec. (4) of Sec. 13, Law 22, 1888, amended.

2. Sub-section (4) of Section 13 of Law No. 22, 1888, shall be and the same is hereby amended by the insertion therein, after the words "the name of a place in the" occurring in the second and the fifth lines thereof, of the words "United Kingdom or the."

Sec. 18, Law 22, 1888, amended.

3. Section 18 of the said Law No. 22, 1888, shall be amended so as to include a reference to the Law No. 9, 1864, in place of Law No. 9, 1884, as is therein recited.

TRANSFER (LAND).

[SEE "REGISTRATION (DEEDS)."]

TREASON.

[SEE "CRIMINAL LAW II."]

TREBELLIAN PORTION.

[SEE "WILLS".]

TRESPASS (A).

Law No. 13, 1874.

"With Regard to Trespass on Private Lands."

[15th January, 1874.]

WHEREAS it is expedient to make provision against trespass on private lands:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. If any person shall wilfully trespass on any farm, estate, land, garden, yard, or premises belonging to another person, or to any Corporation or Company, public or private, and on which, or near to which, there shall be stuck up on one or more conspicuous place or places a notice in large legible letters, forbidding in general terms all persons to trespass, and warning them against the consequences of so doing, or, if in the absence of such notice, any person shall wilfully trespass as aforesaid, and shall refuse to quit upon request made to him by the owner, tenant, or occupier of any such farm, estate, land, garden, yard, or premises, or by the agent or servant of any such owner, tenant, or occupier, or if, in the absence of such notice as aforesaid, any person who has received due special notice, written or verbal, forbidding him to trespass, shall wilfully trespass as aforesaid; every such person so wilfully trespassing, and all others aiding or assisting therein, shall be deemed to be wilful trespassers, and every such trespasser shall, and may be, seized and detained by any such owner, tenant, or occupier, agent or servant, or by any person or persons whom he may call to his assistance, until such trespasser can be conveniently taken before the Resident Magistrate; and, when any such trespasser shall be convicted before a Resident Magistrate, he shall forfeit any sum not exceeding five pounds, and, in default of payment, shall be imprisoned, with or without hard labour, for any period not exceeding three months: Provided, always, that every labourer or other person having or occupying any house or cottage, kraal, or hut, or any room, or part in or of any house or cottage, kraal, or hut on any farm or estate having an open path or road, authorised by the owner or other lawful authority, leading from the public road to such house or cottage, kraal, or hut, and his relations, family and visitors shall not be considered a trespasser or trespassers by passing along or upon such authorised path or road.

2. If any trespasser aforesaid at the time of his trespassing shall have or be in possession of any wood, timber, fruit, or vegetable, or animal product, similar in kind to any growing or being in or upon any such farm, estate, land, or garden it shall be lawful for the owner, tenant, occupier, agent, or servant as aforesaid to seize and detain all or any such produce as aforesaid, until such trespasser shall prove to the satisfaction of the Resident Magistrate that the same has not been

Wilful trespassers.

May be seized and detained;

Brought before a Magistrate.

Who shall not be deemed wilful trespassers.

Produce found on a trespasser may be also seized and detained.

Onus probandi, as to ownership of same, to rest on trespasser;

(A) As to trespass by cattle, poultry, &c., see "POUNDS"; as to liability for damage caused by trespass of lung-sick cattle, see Act 30, 1897, s. 11, tit. "ANIMALS (DISEASES)"; as to trespassing on Military Work, see Law 6, 1890.

s. 4, tit. "CRIMINAL LAW," p. 30; as to trespassing in pursuit of game, see tit. "GAME." As to when entry on land is not an act of trespass by virtue of "The Natal Mines Act," see Act 43, 1899, s. 50, tit. "MINES AND COLLIERIES."

Law 13, 1874. taken or obtained out of or from such farm, estate, land, or garden; and in the event of any such trespasser not proving to the satisfaction of such Resident Magistrate that all such produce as aforesaid is his property, the same shall be delivered to such owner, tenant, or occupier as aforesaid, to be by him disposed of as he may think fit: Provided always, that nothing in this section contained shall prevent the conviction of every such trespasser under the preceding section of this Law.

Conviction under Sec. 1 not barred;

And trespasser shall be deemed guilty of theft.

Trespassing dogs uncontrolled and without collars may be destroyed.

Penalty for injuring notice board.

Arrest of trespassers.

Summary hearing.

Saving of right of action for damages.

Commencement

3. If such trespasser shall not within some reasonable time to be assigned by such Resident Magistrate make it appear to the satisfaction of such Resident Magistrate by what lawful means he came to be in possession of such property, he shall be deemed to have stolen the same, and may be tried and punished accordingly.

4. (A) If any dog shall be found trespassing on any farm, estate, land, garden, yard, or premises belonging to any person, corporation, or company, as aforesaid, and at large, without being under the immediate custody, protection, or control of some competent person, or unless such dog shall have a collar round its neck, with the name of its owner (B) thereon, any such dog, whilst so found trespassing and at large, contrary to the provisions of this Law, may be immediately killed or destroyed by the owner, tenant, or occupier of such farm, estate, land, garden, yard, or premises, or by the agent or servant of such owner, tenant, or occupier.

5. If any person shall pull down, destroy, or injure any board or notice put up or affixed as required by this Law, for the purpose of forbidding and warning trespassers, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not less than One Pound; and may be condemned to pay the expenses of restoration of such board or notice.

6. Every member of the Police Force, and every constable shall assist in the arrest and apprehension of any trespasser, whenever called upon by the owner, tenant, or occupier of any farm, estate, land, garden, yard, or premises on which such trespass shall take place.

7. All complaints under this Law shall be heard and determined in a summary manner.

8. [Repealed by Act No. 49, 1898.]

9. Nothing herein contained shall prevent any person from proceeding by way of civil action to recover damages in respect of any trespass on his land or property.

10. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (c).

Act No. 6, 1897.

"To amend the Law with regard to Trespass."

[22nd May, 1897.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

A fence deemed to be notice against trespass.

1. A fence shall be deemed to be constructive notice against trespass for the purpose of the first section of Law No. 13, 1874, and to be sufficient warning to trespassers.

(A) This sec. with notes of decisions thereunder appears under tit. "Dogs."

(B) See Act 25, 1899, post.
(C) Jan. 20. 1874.

TRESPASS.

3

Act No. 25, 1899.

“To amend the Law of Trespass.”

[28th August, 1899.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Colony of Natal, as follows:—

1. Section 4 of Law No. 13, 1874, shall be amended by the insertion therein, after the words “with the name of its owner,” of the words “legibly engraved or painted in English letters,” and by adding thereto the following proviso:

Provided that such collar shall not protect a dog from liability to be destroyed if found worrying sheep or other animals, or pursuing game, or if trespassing upon a farm, and not being then in the immediate custody, protection, or control of some competent person.

TUTORS.

[SEE “INTESTATE ESTATES”; “MINORS”; “PROBATE, &C.”]

UNCLAIMED MONEYS.

[SEE “COURTS (SUPREME).”]

USURY.

[SEE “INTEREST.”]

VACCINATION.

Law No. 3, 1882.

"To make provision for, and render compulsory, the practice of Vaccination within the Colony of Natal."

[23rd August, 1882.]

WHEREAS is it expedient, with a view to the public health and safety, to provide means for and render compulsory the practice of Vaccination within the Colony of Natal:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Short title and commencement.

1. This Law may be cited for all purposes as the "Vaccination Law, 1882;" and this Law shall commence and take effect from such date as the Governor shall, by Proclamation in the "NATAL GOVERNMENT GAZETTE," fix and determine for such commencement (A).

Interpretation.

2. In this Law, the term "parent" shall include the father and mother of an illegitimate child, or any person having the custody of a child; "medical practitioner" shall mean any physician or surgeon duly licensed to practise by the Government of this Colony, and medical officers of Her Majesty's land and sea Forces practising in this Colony; "child" shall mean any person under the age of sixteen years, who shall be under the custody of a parent; the term "unvaccinated" shall be applicable to any person who shall have undergone the operation of Vaccination, but upon whom such operation shall have been unsuccessfully performed; "native" shall mean any person of or belonging to the Native tribes of this Colony or of adjacent territories.

Penalty for wilfully producing small-pox.

3. Any person who, after the commencement of this Law, shall produce or attempt to produce in any person, by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article, or thing impregnated with variolous matter, or wilfully by any other means whatsoever, produce the disease of small-pox in any person, shall be liable to be proceeded against summarily, and, upon conviction, to be imprisoned for any term not exceeding three months.

Prosecution of offences.

4. All prosecutions under this Law shall take place in the Court of any Resident Magistrate having jurisdiction, at the instance of the Clerk of the Peace of the County or his duly appointed deputy.

Appropriation of penalties.

5. All penalties incurred under this Law shall be paid to Her Majesty the Queen, her heirs and successors, and, unless remitted shall be applied to the uses of the Government of this Colony.

Unvaccinated persons and children to be vaccinated.

6. Every unvaccinated person living in this Colony at the date of the commencement of this Law, and every child born after such date, shall within three months after such date or birth, as the case may be, be vaccinated. Such vaccination shall be performed in the manner set forth hereunder.

Appointment of Central Vaccine Board.

7. There shall be a central Vaccine Board at Pietermaritzburg, consisting of not less than five persons, three of whom shall form a quorum. The members of the Board shall be nominated and removable at pleasure by the Governor. All District Vaccinators hereinafter mentioned shall be subject to the orders and conform to the instructions

(A) Proclaimed in G.G. dated Sept. 5, 1885, post, and is to be construed as one 1882. This Law is repealed so far as varied, altered, or amended by Law 10, with that Law.

of the said Board in all matters relating to their Office, in accordance with the provisions of this Law. Law 3, 1882.

8. The said Board shall, from time to time and at all times, procure and preserve a due and sufficient supply of vaccine lymph, and shall furnish the same, without charge, to the District Vaccinators. Board to procure and supply lymph.

9. The District Surgeon of each County or Division of the Colony shall be "ex officio" the District Vaccinator for such respective County or Division: Provided that the Governor may from time to time by Proclamation subdivide any County or Division into two or more Vaccination Districts, which Districts shall be distinguished by a progressive number, the District within which the District Surgeon shall be District Vaccinator being distinguished as District No. 1. District Vaccinators.

10. The Governor may by Proclamation define the respective limits of such Districts, thereafter alter or abolish the same, and appoint one or more additional District Vaccinators within every such District, and remove the same at any time at pleasure. Additional District Vaccinators.

11. No person shall be appointed a District Vaccinator who shall not be a duly qualified medical practitioner under the Laws of this Colony: Provided always that the Resident Magistrate of each County or Division shall be authorised to recommend to the consideration of the Central Vaccine Department such person or persons resident in his County or Division as he may consider competent to execute the duties of District Vaccinator within such County or Division, and that upon such recommendation the Central Vaccine Board may appoint any, or all of such persons so recommended to be and to be considered District Vaccinators under this Law, and all such appointments shall be notified for public information in the "GOVERNMENT GAZETTE." Qualification of District Vaccinator.

12. The Field-Cornet in every Ward, or other such officer as the Governor may from time to time appoint, shall assist the District Vaccinators in carrying out the provisions of this Law, and shall from time to time furnish such officers with lists of the inhabitants of any such Ward, and shall notify to such inhabitants the provisions of this Law, and the manner in which the same are to be carried out. Duties of Field-Cornet under this Law.

13. The Governor may appoint one or more fit and proper persons to be Registrars of Vaccination in each district in which there may be a District Vaccinator, and may from time to time make and revise rules for the guidance of such Registrars of Vaccination. Registrars of Vaccination.

14. The Central Board may provide in districts where the population is scanty or scattered, or where some peculiar circumstances may render it expedient for them to do so, for the attendance of the District Vaccinator at certain appointed places, at such intervals as they may deem expedient; and if by reason of such intervals the vaccination of any person cannot be performed within the respective periods herein prescribed, no person who would otherwise be liable shall be liable to any penalty in respect of a neglect to undergo or procure the Vaccination during any such period; but every such person shall be bound to undergo or procure such Vaccination at the time and place so appointed before the commencement of the next interval, unless it be otherwise performed by a medical practitioner as hereinafter provided, or unless the subject for Vaccination shall be certified to be in an unfit state for or unsusceptible of Vaccination. Attendance of District Vaccinator.

15. As soon as may be after the commencement of this Law, notice shall be given by the Vaccination Registrar, according to the form in Schedule A, to every unvaccinated person, or if a child to the parent of such unvaccinated person, requiring such person or child to be Vaccinated according to the provisions of this Law. In the case of a child born after the commencement of this Law, such notice shall be Vaccination Registrar to give notice requiring persons to be vaccinated.

Law 3, 1882.

Procedure in case of child born after commencement of Law.

transmitted by the Registrar of Births and Deaths, within seven days after the registration of the birth of the child, to the parent or person reporting the birth of such child, if known to the Registrar, according to the form in Schedule B. Every such notice shall have attached to it copies of forms according to those in the Schedule hereto marked C, D, and E, and also the address of the Vaccination Registrar or Registrar of Births, as the case may be, giving such notice.

Persons referred to in notice to attend before District Vaccinator, or be otherwise vaccinated.

16. Every person referred to in such notice aforesaid shall attend before the District Vaccinator of the Vaccination District in which he shall reside, or, if a child, he shall be taken by his parent to such District Vaccinator, to be vaccinated, or shall within such period as aforesaid be vaccinated by some qualified medical practitioner; and the District Vaccinator to whom such person shall come or such child shall be brought is hereby required with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such person or child.

Inspection of vaccinated person.

17. Upon the same day in the following week, as near as may be, every such person shall again attend before the District Vaccinator, or, if a child, shall be brought to the District Vaccinator by his parent, in order that the District Vaccinator may ascertain the result of the operation, and if he see fit, take from such person or child lymph for the performance of other vaccinations; and, in the event of such vaccination being unsuccessful, such person or child shall, if the Vaccinator so direct, be again forthwith vaccinated, and thereafter inspected as on the previous occasion.

District Vaccinator may take lymph.

18. If any District Vaccinator or medical practitioner shall be of opinion that any person or child attending before him, or brought to him for the purpose of vaccination, is not in a fit and proper state to be successfully vaccinated, he shall forthwith deliver to such person (or if a child, to the parent) a certificate under his hand, according to the form in the Schedule hereto annexed marked C., or to the like effect, that such person or child is then in a state unfit for successful vaccination, which certificate shall remain in force for two months, and shall be renewable for successive periods of two months until a District Vaccinator or medical practitioner shall deem the person or child to be in a fit state for successful examination, and then the person or child shall with all reasonable despatch be vaccinated, and the certificate of successful vaccination, as set forth in Schedule E, duly given, if warranted by the result.

Procedure in case of persons unsuccessfully vaccinated.

Further proceedings.

19. At or before the end of each successive period, every such person shall again attend before the District Vaccinator (or, if a child, shall be taken by his parent to the District Vaccinator) or shall attend before or be taken to, as the case may be, some medical practitioner, who shall then examine the person or child, and give the certificate necessary according to the said form C., so long as he deems requisite under the circumstances of the case.

Procedure in case of person insusceptible of successful vaccination.

20. If any District Vaccinator or medical practitioner shall find that any person or child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that any person or child has already had the small-pox, he shall deliver to such person, or to the parent of such child, as the case may be, a certificate under his hand according to the form in the schedule hereunto annexed marked D, or to the like effect, and no such person or child shall thenceforth require to be vaccinated.

Certificate of successful vaccination, how to be transmitted.

21. Every District Vaccinator who shall have performed the operation of vaccination upon any person or child, and shall have ascertained that the same has been successful, shall, within twenty-one

days from the performance of the operation, transmit, by post or otherwise, a certificate according to the Form E in the schedule, or to the like effect, certifying that the said person or child has been successfully vaccinated. Such certificate shall, in the case of a person or child born prior to the commencement of this Law, be forwarded to the Vaccination Registrar appointed for the vaccination district in which such vaccination shall have taken place. In the case of a child born after the commencement of this Law, the certificate shall be transmitted to the Registrar of Births and Deaths in the district within which the birth was registered; but if such district be not known to him, or if the birth of the child shall not have been registered, then such certificate shall be sent to the Registrar of Births and Deaths within whose district the operation shall have been performed.

22. Every person, or the parent of any child, successfully vaccinated, shall be entitled to receive from the District Vaccinator performing the operation, upon request, a duplicate of any certificate granted in terms of the preceding section.

Person, or parent of child, successfully vaccinated entitled to duplicate certificate.
Procedure in case of successful vaccination performed by a vaccinator other than a District Vaccinator.

23. When the operation of vaccination shall be successfully performed by a medical practitioner, not being a District Vaccinator, the person vaccinated (or, if a child, the parent of such child) shall obtain a certificate according to the form marked E, from such medical practitioner to be filled up and signed by him; and such person or parent of a child shall, within twenty-one days after the performance of the operation, transmit the certificate so signed, by post or otherwise, to the Registrar of Vaccinations within the district wherein such operation was performed. But if the subject of the certificate be a child born after the commencement of this Law, then every such certificate shall be transmitted by the parent of such child, in manner aforesaid, to the Registrar of Births of the District where the birth of such child was registered; and if the birth of such child shall not have been registered, or if the district of registration be not known to the parent of such child, then such certificate shall be transferred to the Registrar of Births of the District in which the operation shall have been performed.

24. Every District Vaccinator, parent, or person, as the case shall require, who shall neglect to transmit any certificate required to be transmitted by him under the provisions hereinbefore contained, completely filled up and legibly written, to the proper officer within the time herein specified, and every District Vaccinator who shall refuse to deliver the duplicate to any such person, on request, and every medical practitioner who shall refuse to fill up and sign the certificate of successful vaccination when requested from him as hereinbefore provided, shall be liable to pay, on summary conviction, a penalty not exceeding Five Pounds sterling; and every person who shall wilfully sign a false certificate shall be guilty of the crime of falsity and shall be punishable accordingly.

Penalty for default in transmitting certificate and for signing false certificate, &c.

25. It shall be lawful for the Colonial Treasurer, from time to time, to pay any District Vaccinator a fee of two shillings and sixpence for every successful case of vaccination reported to the Registrar or other officer as hereinafter provided, on the certificate of the said Registrar or other officer. When ordered by the Central Vaccine Board to attend at any station for the purposes of vaccination, any District Vaccinator will be entitled to and receive the ordinary travelling expenses payable to District Surgeons.

Fees payable to District Vaccinator.

Travelling expenses.

26. No fee or remuneration shall be charged by the District Vaccinator to any person for any certificate given under this Law, nor for any vaccination done thereunder; nor shall he be entitled to pay-

Cases in which no fee shall be charged.

Law 3, 1882.

Districts within which fees payable.

Evidence in case of prosecution.

Persons liable to be dealt with as unvaccinated unless proof be adduced to the contrary.

Book to be kept by Registrar of Vaccinations and Registrar of Births.

Fees payable to Registrar of Births.

Fees payable to Registrar of Vaccinations.

Registrar-General of Marriages, Births, and Deaths to provide forms, &c.

ment under this Law for any vaccination in respect of which he shall have been paid by the person for whom or on whom it was performed; and if he shall have received payment under this Law he shall not be entitled to receive payment from any other person.

27. When a District shall have been assigned to a Vaccinator, he shall not be entitled to be paid a fee in respect of any person residing out of his district, except in the case of a vacancy in the Office of District Vaccinator in any adjoining District, or the default of the Vaccinator therein, of which default notice shall have been given to him in writing by the Central Board.

28. In any prosecution for neglecting to undergo vaccination or to procure the vaccination of any child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the Law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the register of vaccination kept by the Registrar, Registrar-General or other officer as the case may be, as hereinbefore provided, in which the certificate of successful vaccination of such person or child shall be duly entered, the same shall be a sufficient defence for him, except in regard to the [certificate marked B (A)] in the schedule hereto, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

29. Every person (not being a child born after the commencement of this Law) shall be liable to be dealt with as an unvaccinated person, unless satisfactory proof be adduced to the District Vaccinator or other officer that such person has been already successfully vaccinated.

30. Every Registrar of Vaccinations and Registrar of Births shall keep a book, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the certificates transmitted to him as herein provided, and shall, at all reasonable times, allow searches to be made therein, and upon demand give a copy under his hand, or under that of his deputy, and of any entry in the same, on payment of a fee of sixpence for each search, and three pence for each copy; and every such Registrar of Births shall receive a fee of one penny in respect of every child whose birth he shall have registered, and in respect of which he shall have given notice as aforesaid, and another fee of three pence in respect of every child whose certificate he shall have registered as herein provided; and every such Registrar of Births shall receive a fee of one penny in respect of every child whose certificate he shall have registered without having registered his birth. Every Registrar of Vaccinations may, in the case of any notice given by him as herein provided, or any certificate duly registered, charge a fee of one shilling for every such notice given or certificate registered by him.

31. The Registrar-General of Marriages, Births, and Deaths for this Colony shall, when he shall deem it necessary from time to time as occasion may require, frame and provide appropriate books, forms, and regulations for the use and guidance of the Registrars in the exercise of the duties herein prescribed, as regards the vaccination of children born after the commencement of this Law, and also such forms as shall be required for the use of the District Vaccinators and the signature of the medical practitioners under the provisions of this Law, and also such forms as shall be required for use by the Registrars of Vaccination (in the case of persons born prior to the commencement of

(A) "Certificate marked C" substituted for the words in brackets by Law 10, 1885, s. 9, post.

this Law), and all other forms necessary for carrying out the provisions of this Law. The officers receiving these forms shall retain such as relate to themselves, and shall distribute among the District Vaccinators or other officers within their respective Districts such as relate to them, without fee or reward.

Law 3, 1882.

32. Any person requiring to be vaccinated under this Law, or the parent of any child requiring to be vaccinated under this Law, who shall neglect to undergo or procure such vaccination, or after vaccination to be inspected according to the provisions of this Law, or shall fail to produce satisfactory proof to the District Vaccinator of the result of such vaccination and shall not render a reasonable excuse for his neglect, shall be guilty of an offence, and upon conviction shall be liable to any penalty not exceeding Five Pounds sterling for every such offence.

Penalty for neglect to undergo vaccination or to prove result of vaccination.

33. The Keeper or Superintendent of any Gaol, Lunatic Asylum, Hospital, or other similar public institution, shall, with the assistance of the District Vaccinator of the district in which such institution is situated, take such steps as are necessary for the carrying out of the provisions of this Law in regard to the inmates of such institution.

Duties of Keeper of Gaol, Lunatic Asylum, or Hospital.

34. Every Registrar of Births and Deaths shall, once in every three months transmit to the Registrar-General of Marriages, Births, and Deaths, a copy of the register of every child born after the commencement of this Law and duly vaccinated in terms thereof.

Return to be sent to Registrar-General by Registrar of Births and Deaths.

35. Every District Vaccinator shall once every month transmit to the Registrar of Vaccination or other officer appointed by the Governor, a list of all children and other persons, not included in the foregoing section, who shall have been duly vaccinated in terms of this Law.

Return to be sent to Registrar of Vaccination by District Vaccinator.

36. The Registrar-General of Marriages, Births and Deaths, or the Registrar of Vaccinations, as the case may be, shall, from the copies of registers transmitted to him in terms of the two preceding sections, make out and keep an alphabetical register of all cases of successful vaccination; and shall, at all reasonable times, allow searches to be made therein, and upon demand give a copy under his hand, or under that of his deputy, of any entry in the same, on payment of a fee of sixpence for each search and threepence for each copy: Provided that no fees shall be charged for any search made by a District Vaccinator or any person appointed by the Governor, or by the Central Board, to make such search.

Register to be kept by Registrar-General.

37. On the expiration of the period of three months from the commencement of this Law, the Registrars of Vaccination in each District shall make out a list of all cases (other than those of children born after the commencement of this Law) in which certificates of vaccination have not been duly received by them, and shall submit the same to the Central Board, and if the said Board, after such enquiries as they may deem necessary, shall be of opinion that the provisions of this Law have been neglected, they shall forthwith instruct the Clerk of the Peace or any other person they may have appointed in that behalf to institute proceedings against the persons in default.

Registrar of Vaccinations to submit to Central Board list of persons in default in respect of certificates of vaccination.

38. In like manner, the Registrar of Births of each District shall, in the case of children born after the commencement of this Law, within one week after the first day of January and the first day of July in each year, make out a list of all cases in which the necessary certificates shall not have been duly received, and shall transmit the same to the Central Board; and the subsequent proceedings, in the event of the parents of such children being in default, shall be the same as are provided in the preceding section hereof.

Registrar of Births to submit list of persons in default of certificates in case of children born after commencement of Law.

39. The following provisions shall be observed in respect of Indian Immigrants vaccinated under this Law :—

Provisions in respect of Indian Immigrants.

Law 3, 1882.

- (a) All proceedings required by this Law to be taken by the Registrar of Births and Deaths, may, in the case of Indian Immigrants, be taken by the Protector of Immigrants.
- (b) Any notice required by this Law to be given in writing, may, in the case of Indian Immigrants, be given verbally.
- (c) The Protector of Immigrants shall be charged with the due carrying out of this Law as regards Indian Immigrants, and shall take all necessary steps for making the Indian population acquainted with the provisions of this Law.
- (d) Every employer of Indentured Indian Immigrants is hereby required to facilitate in every way the carrying out the provisions of this Law in regard to the Indians in his service.
- (e) Every Coolie Medical Officer appointed under the provisions of Law 12, 1872, and Law 14, 1875, shall "ex officio" be the District Vaccinator of Indians living within the medical circle for which he shall be appointed (A).

Natives.

40. The foregoing provisions of this Law shall not apply to any Native in this Colony.

Governor may enforce vaccination of Natives.

41. The Governor in Council may whenever it shall appear to him desirable enforce the system of compulsory vaccination among the Natives in this Colony.

Governor may make rules for vaccination of Natives, and may impose penalties.

42. The Governor may from time to time, with the advice of the Executive Council, frame and issue by Proclamation in the "GOVERNMENT GAZETTE" all Rules and Regulations applicable to the vaccination of Natives, and declaring the manner in which the same shall be carried out, and the forms and returns to be used in connection therewith, and may, in such Rules and Regulations, impose any penalty, not exceeding Five Pounds, for any contravention thereof, or of the provisions of that portion of this Law relating to Natives.

Governor may appoint special officers for vaccination of Natives.

43. The Governor may appoint special medical officers, and other officers not being medical practitioners, to assist in carrying out the vaccination of Natives.

Limit of fee in respect of Natives.

44. No Public Vaccinator shall receive from any Native, for or in respect of any operation of vaccination performed under this Law, a larger fee than 6d. for every such operation.

SCHEDULES.

A.

Schedules.

I, the undersigned, hereby give you notice that

must be vaccinated within _____ from the date hereof, pursuant to the provisions of the Vaccination Law, and that in default of your doing so you will be liable to the penalties thereby imposed for neglect of those provisions.

If you intend to apply to the District Vaccinator of your district, I have to inform you that he will attend at _____ on _____ at the hour of _____

You are required to produce to the District Vaccinator, or medical practitioner or other authorised person who may be applied to, the forms herewith supplied for him to fill up and sign; and if the operation be performed by a medical practitioner who is not the District Vaccinator, you must transmit to me by post, or otherwise, the certi-

(A) Both Laws are repealed by Law 25, 1891.

ificate signed by him within twenty-one days after the performance of the operation, or you will be liable to a penalty not exceeding Five Pounds, to be recovered on a summary conviction. Law 3, 1882.
Schedules.

Dated this day of 18

(Signed) A.B.,

Registrar of Vaccination for the District of
in the County or Division of

B.

I, the undersigned, hereby give you notice to have the child (insert the name if any), whose birth is now registered, vaccinated within three months from the date of its birth, pursuant to the provisions of the Vaccination Law, and that in default of your doing so you will be liable to the penalties thereby imposed for neglect of those provisions.

If you intend to apply to the District Vaccinator of your district, I have to inform you that he will attend at on
at the hour of

You are required to produce to the District Vaccinator, or medical practitioner or other authorised person who may be applied to, the forms herewith supplied, for him to fill up and sign; and if the operation be performed by a medical practitioner who is not the District Vaccinator, you must transmit to me by post, or otherwise, the certificate signed by him, within twenty-one days after the performance of the operation, or you will be liable to a penalty not exceeding Five Pounds, to be recovered on a summary conviction.

Dated this day of 18

(Signed) A.B.,

Registrar of Births and Deaths for the District of
in the County or Division of

C.

I, the undersigned, hereby certify that I am of opinion that
** [the child of], in the
(County, or Division, or Township, or Borough, as the case may be)
[aged], is not now in a fit and proper state to be successfully
vaccinated. I do hereby postpone the vaccination until the
day of 18 *.

(Signed) A.B.

District Vaccinator of the
District of (County or Division).

Or,

A.B.,

Medical Practitioner (i.e. M.D., L.A.C., or F.R.C.S.,
as the case may be) or other authorised person.

MEM.—This is to be kept by the person to whom it is given.

** These spaces may be left blank when the person to whom the certificate refers is an adult.

* This must not exceed two calendar months from the day of the certificate.

VACCINATION.

Law 3, 1882.

D.

Schedules.

I, the undersigned, hereby certify that I have _____ times
unsuccessfully vaccinated
[*the child of _____], in the (County or Division, or
Township, or Borough, as the case may be).

Dated this _____ day of _____ 18

(Signed) A.B.,
District Vaccinator of the
District (County or Division) of
Or

A.B.,
Medical Practitioner (i.e., M.D., L.A.C., or F.R.C.S.,
as the case may be) or other authorised person.

MEM.—This is to be kept by the [*parent or other] person to whom
it is given.

* These spaces may be left blank when the person to whom the certificate
refers is an adult.

E.

I, the undersigned, hereby certify that
[the child of _____] aged _____
of _____ in the (County, or Division, or
Township, or Borough, as the case may be) of _____ has
been successfully vaccinated by me.

Dated this _____ day of _____ 18

(Signed) A.B.,
District Vaccinator of the
District (County or Division) of
Or

A.B.,
Medical Practitioner (M.D., L.A.C., or F.R.C.S., or
otherwise, as the case may be) or other authorised
person.

NOTICE.—This certificate is to be transmitted as follows:—

- (a) In the case of any person born before the _____ day of
1882, within twenty-one days from the
performance of the operation, by the District Vaccinator,
to the Vaccination Registrar of the District or Ward in
which the Vaccination took place.
- (b) In the case of a child born after that date, within twenty-one
days from the performance of the operation, by the
District Vaccinator, to the Registrar of Births of the
District in which the birth was registered [or if that be not
known to him to the Registrar of the District in which
the operation was performed].

*A Duplicate is to be given to the parent procuring the Vaccination,
if requested.

The transmission may be by post or otherwise.

In each case the Vaccination Law of 1882 imposes a penalty not
exceeding Five Pounds for default.

* When the Vaccination is performed by a medical practitioner, not the District
Vaccinator of the district, he is to fill up and sign this certificate, and the person
vaccinated, or, if a child, the parent or such other person, is within the same time
to transmit it as before stated.

Law No. 10, 1885.

“To Amend the Vaccination Law, 1882.”

[23rd September, 1885.]

WHEREAS it is necessary to amend in certain particulars the provisions of the Law No. 3 of 1882, entitled “Law to make provision for, and render compulsory the practice of Vaccination within the Colony of Natal,” and to make further provisions in reference to Vaccination :

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. This Law may be cited as the “Vaccination Law, 1885,” and shall be construed as one with the “Vaccination Law, 1882,” in this Law referred to as the principal Law, and these Laws may be cited together as the “Vaccination Laws, 1882 and 1885.”

Short title.

2. Every parent of a child who shall neglect to take such child, or to cause it to be taken, to be vaccinated, or after vaccination to be inspected according to the provisions of the principal Law, and shall not render a reasonable excuse for his neglect, shall be guilty of an offence and be liable to be proceeded against summarily, and, upon conviction, to pay a penalty not exceeding Five Pounds Sterling.

Penalty on parent neglecting to take child to be vaccinated or inspected.

3. If any Registrar or any officer appointed to enforce or carry out the provisions of the principal Law, shall give information in writing to any Resident Magistrate that he has reason to believe that any child under the age of fourteen years, being within the jurisdiction of such Resident Magistrate, has not been successfully vaccinated, such Resident Magistrate may summon the parent of such child to appear with the child before him at a certain time and place, and upon the appearance, 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 such child to be vaccinated within a certain time; and if at the expiration of such time the child shall not have been so 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 be proceeded against summarily, and unless he can show some reasonable ground for his omission to carry the order into effect shall be liable to a penalty not exceeding Twenty Shillings. Where any parent of a child fails to produce such child when required so to do by any summons as aforesaid, such parent shall be liable, on conviction, to a penalty not exceeding Twenty Shillings.

Magistrate may order child to be vaccinated, and impose penalty on parent neglecting to comply with order.

4. Every certificate of a child being unfit for or insusceptible of successful vaccination, if given by a District Vaccinator, shall, instead of being delivered by him to the parent, be transmitted by such District Vaccinator, and if given by any other medical practitioner, shall be transmitted by the parent of such child to the Registrar of Births, in like manner as if it was a certificate of successful vaccination, and within seven days after the examination of the child upon which such certificate is founded; and the District Vaccinator shall upon request, and without fee or charge, deliver to the parent a duplicate of any such certificate transmitted by him. Every certificate of successful vaccination shall be transmitted within seven days after it is ascertained that the operation has been successfully performed; and where a medical practitioner who is not a District Vaccinator inspects a child to ascertain the result of the operation of vaccination, such medical practitioner, as soon as he has ascertained that the operation has been successfully performed, shall deliver to the parent causing the child to be vaccinated

Certificate of child being unfit for or insusceptible of vaccination, how to be transmitted to Registrar of Births.

Certificate of successful vaccination.

Law 10, 1885. a certificate of successful vaccination in the proper form, and duly filled up and signed by him. Every person who acts in contravention of or fails to comply with any provision of this section shall be liable, on summary conviction, to a penalty not exceeding Five Pounds Sterling; and every person who wilfully signs a false certificate or duplicate under this section shall be guilty of the crime of falsity. No fee shall be payable for the registration of any certificate of vaccination under the principal law or this law.

Penalty for contravening this section.

False certificate.

No fee payable for registration of certificate.

Penalty for not transmitting certificate.

5. Where a person is charged with the offence of neglecting to take or cause to be taken any child to be vaccinated, and on the defence made by such person it appears to the Resident Magistrate having cognizance of the case that such person is not guilty of such offence, but has been guilty of the offence of not transmitting any certificate required by the principal Law or this Law, with respect to the vaccination of such child, the Resident Magistrate may convict such person of the last mentioned offence in like manner as if he had been charged therewith.

District Vaccinator may grant certificate of successful vaccination, though child not vaccinated by him.

6. Where it appears to the District Vaccinator, upon personal examination of any child resident in his district who has not been successfully vaccinated by him, that such child has been successfully vaccinated, the District Vaccinator may, on the request of the parent of such child, grant a certificate to that effect, and such certificate shall be transmitted and have the same effect as if it were a certificate of successful vaccination by the District Vaccinator who gave the certificate.

Definition of "parent."

7. The term "parent," as used in the principal Law and this Law shall include the father and mother of a legitimate child, the mother of an illegitimate child, and any person having the custody of a child.

Limitation of prosecution.

8. Any complaint may be made, and any information laid for an offence under the "Vaccination Laws, 1882 and 1885," at any time not exceeding twelve months from the time when the matter of such complaint or information arose, and not subsequently.

Amendment of sec. 28 of Law 3, 1882.

9. Section 28 of the Vaccination Law, 1882, shall read as if the words "Certificate marked C" were substituted for the words "Certificate marked B" therein occurring.

Repeal.

10. The provisions of the "Vaccination Law, 1882," in so far as the same are varied, altered, or amended by the provisions of this Law, shall be and the same are hereby repealed; and the said "Vaccination Law, 1882," and this Law shall be read and construed together as one Law.

Commencement

11. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

VAGRANTS.

[See Law No. 15 of 1869, tit. "CRIMINAL LAW," p. 51.]

VEHICLES.

[See "ROADS."]

(A) Sept. 29, 1885.

VERULAM LOCAL BOARD.

Act No. 20, 1895.

“To declare certain lands vested in the Local Board of Verulam free from certain trusts affecting the same.”

[8th August, 1895.]

WHEREAS, by Deed of Transfer duly passed before the Registrar of Deeds of this Colony, dated the Eleventh day of July, 1879, Edward Parke Lamport, in his capacity as the Attorney and Agent of the Assignees of the Bankrupt Estate of Joseph Charles Byrne, ceded and transferred through his Attorney and Agent in full and free property to and on behalf of John T. Polkinghorne, Thomas Groom, John H. Harvey, S. Hill, C. Shaw, W. E. Robarts, J. Foss, Thomas Elwin, T. J. Garland, Josiah Harvey, and John McLaurin, all of Verulam, in the County of Victoria, Colony of Natal, their successors, and assigns, upon the terms and subject to the several trusts mentioned and contained in a certain Deed subscribed by them, dated the first day of January, 1879, of which a copy is annexed to the said Deed of Transfer :

First.—The Market Square, Champion Crescent, and the several streets in the village of Verulam, in the County of Victoria, in the Colony of Natal, containing in the aggregate sixty-six acres two roods and twenty-four perches of land ; and

Second.—The Town Lands of the village of Verulam aforesaid, in extent four hundred and eighty-four acres and nine perches :

AND WHEREAS, by Deed of Transfer duly passed before the said Registrar of Deeds, dated the Twenty-first day of September, 1883, the said John T. Polkinghorne, Thomas Groom, John H. Harvey, S. Hill, C. Shaw, W. E. Robarts, J. Foss, Thomas Elwin, T. J. Garland, and Josiah Harvey, being the surviving trustees of the Verulam Town Lands, did, through their Attorney and Agent, transfer the said Market Square, Champion Crescent, and the several streets above referred to, and the remainder, in extent four hundred and eighty acres one rood and seventeen perches of the said Town Lands to the Verulam Local Board, established under the Law No. 11 of 1881, but subject to all and singular the trusts and conditions of the said Trust Deed of the First day of January, 1879, in so far as the same were not repugnant to or inconsistent with the said Law No. 11 of 1881, but subject to an indemnity which has been duly given :

AND WHEREAS the terms and conditions of the said Deed of Trust, dated the First day of January, 1879, have been found to be inconvenient and are now no longer applicable to the requirements and circumstances of the Township of Verulam :

AND WHEREAS it is desirable to cancel and make void the said Trust :

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The said Deed of Trust, dated the First day of January, 1879, is hereby cancelled and made void, without prejudice, however, to any act or thing done, commenced or suffered thereunder, or to any by-laws, rules, or regulations affecting the subjects hereinafter referred to.

Cancellation of
Deed of Trust
of 1st January,
1879.

VERULAM LOCAL BOARD.

Act 20, 1895.
What lands are
discharged from
the Trust.

2. The said pieces of land which are hereby vested in the said Local Board free and discharged from the trusts and conditions of the said Deed of Trust of the First day of January, 1879, are as follows :—

First.—The Market Square, Champion Crescent, and the several streets in the village of Verulam, in the County of Victoria, in the Colony of Natal, containing in the aggregate sixty-six acres two roods and twenty-four perches.

Second.—The remainder of the Town Lands of the village of Verulam, in the County of Victoria aforesaid, in extent four hundred and eighty acres one rood and seventeen perches, bounded north by the village of Verulam, south-east by Lot 43, south-west by the farm Reit Riviere, and north-west by Lots 41 and 42.

Said lands to be
deemed part of
Township and
vested in Local
Board.

3. The said Market Square, Champion Crescent, and streets, and the said remainder of the Town Lands of the village of Verulam, shall be deemed to be included within the boundaries of the Township of Verulam, and to be vested in the said Local Board of the Township of Verulam, subject to the terms of Law No. 11 of 1881, and other Laws amending the same.

Provisions
regarding the
remainder of
Town Lands.

4. The said remainder of the said Town Lands shall be deemed to be unalienated Town Lands within the meaning of the said Law and other Laws as aforesaid: Provided that the provisions of Clause 45 of Law No. 11, 1881, shall not apply to these lands; and further provided that not more than 120 acres shall be under lease at any one time.

Short title.

5. This Act may be cited for all purposes as the "Verulam Lands Act, 1895."

VESSELS.

[See "SHIPPING."]

VETERINARY SURGEONS.

[See "MEDICAL PRACTITIONERS."]

VICE-ADMIRALTY COURTS.

[See "THE BERMONDSEY," N.L.R., May 4th, 1864.]

VILLAGES (WATER SUPPLY).

Act No. 19, 1897.

“To provide for the Supply of Water to Villages.”

[29th May, 1897.]

WHEREAS it is expedient to confer certain powers upon the Governor for supplying Water to Villages:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be cited as the “Village Water Supply Act, 1897.” Short title.
2. The Lands Clauses Consolidation Law, 1872, is incorporated with this Act. Incorporation of Law 16, 1872.
3. This Act shall not apply to any Borough or to any Township within the meaning of Law No. 11, 1881. Application of Act.
4. The Governor may, by notice in the “NATAL GOVERNMENT GAZETTE,” define for the purposes of this Act the boundaries of any village whereof the plan shall have been filed in the office of the Surveyor-General. Governor may define boundaries of villages.
5. If at any time a memorial shall be presented to the Governor, signed by not less than three-fourths of the resident householders of a village so defined as aforesaid, praying that this Act may be extended thereto, the Governor shall cause notice to be given of such application in four issues of the “NATAL GOVERNMENT GAZETTE” and of a Colonial newspaper, requiring all persons having objections to lodge the same with the Surveyor-General, in writing, before the named date, not being less than two months after the first publication of the notice. Application for extension of Act to a village, how made.
6. After the expiry of the period named in the notice, the Surveyor-General shall report to the Governor upon the application, and upon the objections lodged, if any, and thereafter the Governor in Council may, if he think fit, declare, by Proclamation, such village to be within the operation of this Act. Surveyor-General to report to Governor, who may proclaim village to be within operation of Act.
7. The following sections of this Act shall apply to any village so proclaimed, and to any lands affected by the works authorised. Application of following sections.
8. For the purpose of supplying water to a village the Governor may enter upon any lands, and may divert and impound the water from any streams, and alter the course of any streams, and take such water as may be found in, under, or on any land. Governor may enter lands and divert water, &c.
9. The Governor shall be empowered to construct works for the supply of water to a village, and for such purpose to excavate, construct, and lay watercourses, water pipes, sluices, dams, reservoirs, drains, or other waterworks of every description on any lands, and to enter from time to time on any lands, and to take materials from any parts of the said lands for the construction or repair of any of the said works. Construction of works.
10. If the taking, impounding, diversion, appropriation, or conveyance of water under the authority of this Act shall deprive any person of any water or right of water which he may at the time of such taking, impounding, diversion, appropriation, or conveyance of water possess, or be entitled to possess, and shall thereby cause damage to such person or to his property, such person shall be entitled to recompense or compensation, to be settled in case of difference as if the claim constituted damage to land within the meaning of the 65th Section of the Lands Clauses Consolidation Law. Compensation for damage.

Act 19, 1897.

Delegation of powers conferred on Governor

Regulation of water supply.

Governor may make Bye-laws fixing rates, &c.

Rates to be a first charge on the lands on which imposed.

If village becomes a Township or Borough cost of works, &c., to be a debt to Government.

Bye-laws and penalties for breach thereof.

Damage to works, &c., to be an offence.

Penalty.

Prosecutions.

11. The powers conferred by this Act upon the Governor may be exercised by any person appointed by the Governor for that purpose.

12. The Governor shall have power to regulate the supply of water to all persons occupying or owning land in the village for domestic or industrial purposes, and for the purposes of irrigation.

13. The Governor may by bye-laws published from time to time make such charges for the use and supply of water, the construction and repair of all waterworks, and generally levy over the lands and immovable property of the village, and get in all such rates as the Governor may require for the purposes of carrying out the provisions of this Act, and upon such basis of valuation as the Governor may from time to time determine.

14. The rates imposed under this Act shall be a charge upon the lands in respect of which they are imposed, and shall rank before and preferent to all charges created subsequently to the village being brought within the operation of this Act.

15. If a village shall at any time become a Township or Borough within the meaning of Law No. 11, 1881, or Law No. 19, 1872, or any like Act, the cost of the works, and of compensation paid by the Government, shall become a debt due by such Local Board or Town Council to the Government, and shall bear interest at the rate of 4 per cent. per annum.

16. The Governor in Council may from time to time make bye-laws for carrying out the provisions of this Act, and impose penalties not exceeding Five Pounds Sterling for each breach of such bye-laws, and in default of payment, imprisonment with or without hard labour for any period not exceeding one month.

17. Whosoever shall unlawfully or maliciously defile, cut through, break down, or otherwise injure or destroy any dam, sluice, pipe, or waterwork, or the banks of any watercourse constructed under this Act, shall be guilty of an offence, and, being convicted thereof, shall be liable to a penalty not exceeding Ten Pounds Sterling, or to imprisonment with or without hard labour for a period not exceeding three months.

18. All prosecutions under this Act, or under any bye-laws thereunder, may be instituted before the Magistrate of the Division in which the village may be situated.

VOLUNTEERS.

VOLUNTEERS.

Law No. 19, 1865.

“To amend Law No. 26, 1863, entitled ‘Law to promote the establishment of a Volunteer Mounted Burgher Force for the defence of the Colony.’”

[24th August, 1865.]

WHEREAS it is expedient to alter and amend the Law No. 26, 1863 :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows :

1. Law No. 26, 1863, entitled “Law to promote the establishment of a Volunteer Mounted Burgher Force for the defence of the Colony,” shall be, and the same is, hereby repealed.

Repeal.

2. It shall be lawful for any number of persons, residing in any part of the Colony, with the sanction of the Lieutenant Governor, to form themselves into Mounted Burgher Forces, in the manner and for the purposes hereinafter described: Provided, that it shall always be lawful for the Lieutenant Governor, or any Resident Magistrate acting on his behalf, to dispense with, or, if necessary, to prohibit the assembling of any such force, or to suspend the operation of this Law in such locality and for such time as may be found expedient.

Mounted Burgher Forces may be formed, but Governor may prohibit their assembly.

3. The Lieutenant Governor for the time being shall be the Commander-in-Chief of the whole Burgher Force of the Colony.

Governor Commander-in-Chief.

4. The Burgher Force of each county or division shall consist of volunteers between the ages of eighteen and fifty, and shall be officered by the Field Commandant of the county or division as commanding officer, and by the Field Cornets as ward or troop officers, who shall take rank as such according to their seniority as Field Cornets. Provided always, that if in any county or division there shall be no Field Commandant, or on occasion of the absence of the Field Commandant, the Resident Magistrate or the senior Field Cornet shall take command, and, for all the purposes of this Law, shall be deemed the commanding officer of the whole Burgher Force of the county or division.

Men and officers of Burgher Forces.

Resident Magistrate Commandant of his division.

5. Every white male inhabitant who shall desire to enlist as a member of the Burgher Force shall apply for admission to the Field Cornet of his Ward, and, if approved of by that officer, shall be forthwith enrolled by him, and thereafter furnished with a certificate of enrolment according to a form to be supplied by the Resident Magistrate of the county or division. Provided, that any applicant who shall be rejected by the Field Cornet may appeal to the commission constituted under section 15 of this Law against such rejection.

How men enrolled.

May appeal, if rejected.

6. The Burgher Force of each Field Cornetcy shall assemble under the command of the Field Cornet, at such places and at such times as the Field Commandant shall appoint, to be instructed in such evolutions as to him shall appear requisite: Provided that such evolutions shall be in conformity to those practised by the Volunteer Burgher Forces throughout the Colony as may have been approved of and sanctioned by the Lieutenant Governor: And the whole Burgher Force of each county or division shall in like manner assemble at least once in each year for inspection, at a place and on a date to be appointed by the Field Commandant.

Musters and drill.

Force of county to assemble once a year.

Law 19, 1865

Penalty for
absence.

7. Any member absenting himself from any ordinary ward muster without leave from the Field Cornet, or from any general muster without leave from the Field Commandant, excepting in case of sickness to be certified by a member, shall be fined in a sum not exceeding ten shillings, at the discretion of the officer in command.

Penalty if arms,
&c., unservice-
able.

8. Any member who shall appear in the field when called out for actual service, or at any ordinary or general muster with his arms and accoutrements in an unserviceable or slovenly state, or whose horse shall not be found good and serviceable and trained to stand fire, shall be fined in a sum not exceeding twenty shillings, at the discretion of the officer in command.

Penalty for
insubordination

9. Any member guilty of insubordination, of disobedience of orders, or disorderly conduct when on duty shall, for the first offence, be fined in a sum not exceeding three pounds, and for every subsequent offence in a sum not exceeding five pounds, and may be expelled the force.

Members of
Burgher Force
must perform
duty within,
and 20 miles
beyond bound-
ary of their
county.

10. Every member of the Burgher Force shall be bound at all times when called out by the Field Commandant or Field Cornet for burgher duty in any part of the county in which such member may reside, or in any part of the Colony not being more than twenty miles beyond the boundary of such county, to proceed to the appointed place of meeting without delay, and shall, for neglect of duty or disobedience of orders on any such occasion, or desertion, be punished by fine not exceeding ten pounds, or imprisonment, if the fine be not forthwith paid, for a period not exceeding three months.

Penalty.

Pay to be
issued.

11. It shall be lawful for the Lieutenant Governor to cause pay to be issued to every member of the Burgher Force enrolled under this Law at a rate not exceeding six shillings a day for every day on which he shall be called out and shall attend muster, and not exceeding eight shillings per day, to include food for horse and man, when called out for actual service: Provided, that no such pay shall be issued to any member for more than ten days in each year, unless he shall be called out for actual service; and unless the efficiency of every Burgher Force, any member of which shall claim pay, shall be certified annually by the Inspector of Volunteers, after inspection, at a general muster of such Burgher Force.

Certificate of
efficiency
requisite.

Roll of members
to be trans-
mitted to
Resident
Magistrate
yearly.

12. The Field Cornet shall, in the first week in the month of January in each year, transmit through the Field Commandant, to the Resident Magistrate a copy of the muster roll of all members of the Burgher Force then resident in his Ward, and the Resident Magistrate shall cause such muster rolls to be filed in his office.

Members re-
moving to other
wards.

13. When any member shall remove from one Field Cornetcy or county into another, he shall, on production of the certificate of his membership to the Field Cornet of the Ward he may remove to, be entitled to be enrolled in the book of such Field Cornet.

Members may
withdraw on
giving three
months' notice.

14. Any person may withdraw from the corps of which he is a member on giving three months' notice in writing to the Field Cornet, provided that all fines due by such person shall have been paid previous to giving such notice.

Offences, how
tried.

15. The Field Commandant, together with the Field Cornets, or any two of them, shall form a Board to regulate all matters concerning the arms and equipments of the corps of which they are members; the Field Commandant shall preside as chairman of the Board, and in his absence one of the Field Cornets shall be elected to preside as chairman; and such Board shall be a commission to try and, by a majority of votes, adjudge all offences committed under sections 9 and 10 of this Law, and such other offences against good order and discipline as may not otherwise have been provided for in this Law, subject, however, to appeal to the Court of the Resident Magistrate, whose decision shall

Appeal to
Magistrate.

be final: Provided that in the event of an equality of votes at any sitting of said board or commission the said Field Commandant or chairman shall have a double or casting vote: And every judgment of the said commission shall be enforced by the Resident Magistrate in like manner as are judgments pronounced by him.

16. The records of all adjudications by the commission, as in the preceding section mentioned, shall be forwarded within eight days from the date of such adjudication to the Resident Magistrate, duly attested by the signatures of the said commission, to be filed by him in his office.

17. All penalties imposed under any or all of the provisions of this Law may be sued for and recovered, in name of any Field Commandant or Field Cornet, in the Court of the Resident Magistrate having jurisdiction, and shall be applied for the benefit of the corps in such manner as shall be directed by the aforesaid commission.

18. No person shall be allowed to compete for any prize given to or by the corps of which he is a member, unless he shall have been enrolled six months previously.

19. This Law shall take effect from and after the date of the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Law 19, 1865.

Casting vote.
Magistrate to enforce judgment.

Records of adjudications to be transmitted to Magistrate.

Penalties sued for in name of Field Commandant or Cornet.

Who may compete for prizes.

Commencement

Law No. 25, 1875.

"To amend the 'Volunteer Law, 1872 and 1873.'"

[17th December, 1875.]

WHEREAS, it is expedient to amend the "Volunteer Law, 1872 and 1873," (B) by increasing the maximum strength of the Volunteer Force in the Colony, by adding thereto a force of Indian Immigrant Volunteer Infantry:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The 1st Section of the "Volunteer Law, 1873," shall be and the same is hereby amended in this respect, that the number of which the Volunteer Force may consist shall be increased to two thousand seven hundred men, of which the proportion of Indian Immigrant Volunteer Infantry shall be one thousand three hundred (c).

Volunteer Force may consist of 2,700 men.

2. The Lieutenant-Governor is hereby authorised to accept with the consent of the employer, the services of any Indian Immigrants who may be willing to be formed into a Volunteer Corps, and upon such acceptance the proposed Corps shall be deemed to be lawfully formed under the provisions of this Law and the "Volunteer Law, 1872 and 1873."

Formation of Indian Immigrant Volunteer Corps.

3. The Indian Immigrant Volunteer Force of the Colony may consist of, but shall not exceed, one thousand three hundred men, of which number three hundred shall consist of Corps formed from Indian Immigrants employed in the Civil Engineer's Department.

Limit as to numbers.

4. The Indian Immigrant Volunteer Force shall be divided into Corps, which shall not consist of less than fifty or more than one hundred Immigrants; and provided that the Indian Immigrants employed in the Civil Engineer's Department shall be divided into so

Constitution of Corps.

(A) Aug. 29, 1865.

(B) Repealed by Law 27, 1885.

(C) The "VOLUNTEER LAW, 1873,"

being now repealed, the provisions of this Law referring to it would appear to be effete.

Law 25, 1875. many separate Corps, and consist of such number of Volunteers as the Civil Engineer may from time to time appoint.

Officers. 5. Any planter who can raise such a corps of Indian Immigrants as aforesaid shall be, on the approval of the Lieutenant-Governor, appointed Captain of the same, and shall appoint his subaltern officers, subject to the approval of the Lieutenant-Governor.

Capitation Grant. 6. A capitation grant of twenty shillings per man per annum shall be made for every efficient Volunteer.

Qualification for Government allowance. 7. No Volunteer shall count as efficient who shall not attend a minimum of twelve days' drill of four hours' drill per diem, or twenty-four days' drill of two hours per diem, or forty-eight days' drill of one hour per diem in each year; and no drill shall count which is not of an hour's duration.

Arms and equipment. 8. Arms, accoutrements, and other necessary articles of equipment shall be supplied to the Indian Immigrant Volunteer Corps by the Government, and when not in actual use shall be retained in safe keeping by persons to be appointed by the Lieutenant-Governor to take charge of the same.

Uniform. 9. The uniform of the men of the Indian Immigrant Volunteer Force shall be subject to the approval of the Commandant and Inspector of Volunteers.

Expenditure of Capitation Grant. 10. The capitation grant shall be paid to the Captains of Corps who shall expend a proportion of the sum so paid in providing uniforms for their Corps; and a proportion not less than one shilling for every four hours' drill shall be expended in payment of the Volunteers during the periods of their drill. Provided, however, that the proposed arrangement for expenditure and distribution shall be submitted yearly to the Commandant and Inspector of Volunteers for his approval.

Bye-laws. 11. The Officers of any Indian Immigrant Volunteers may from time to time, subject to the approval of the Lieutenant-Governor, make bye-laws and rules for the management of the finances and civil affairs of the Corps. Provided that all such bye-laws and rules shall be published in the "NATAL GOVERNMENT GAZETTE."

Compensation for injury. 12. If any member of the Indian Immigrant Volunteer Force raised under the provisions of this Law shall, while engaged in actual military service, be wounded or otherwise seriously injured, he shall be entitled to compensation for such wound or injury according to the scale of compensation for the time being in force in the Regular Army of Great Britain.

Pensions and gratuities to widows and children. 13. The claims of the widow and children left in Natal of any Indian Immigrant Volunteer who shall be killed whilst engaged in actual military service, or who shall die of wounds received whilst so engaged, shall be examined into by the Executive Council, who shall award such a rate of pension or such a gratuity as the circumstances of each particular case shall require.

Officers' pay. 14. When the Indian Immigrant Volunteers are called out for actual service, the pay of the officers shall be the same as provided by the "Volunteer Law, 1872 and 1873," and the pay of the non-commissioned officers and men shall be as follows:—

Sergeants	...	...	...	3s. per diem.
Corporals	...	...	...	2s. per diem.
Privates	...	...	...	1s. 6d. per diem

Rations. And further, whilst on actual service, rations shall, in addition to such pay, be allowed to the Indian Immigrant Volunteers.

Volunteer Law 1872 and 1873 to apply. 15. When not otherwise ordered, the Indian Immigrant Volunteer Force shall be governed by the provisions of the "Volunteer Law, 1872 and 1873."

16. So much of the Volunteer Law of 1872 as is referred to in the Schedule of this Law shall not apply or be extended to the Indian Immigrant Volunteer Force formed or raised under the provisions of this Law. Law 25, 1875.
Exceptions.

17. The Lieutenant-Governor shall be and is hereby authorised to pay out of the General Revenue of the Colony such sums of money as may be necessary for carrying out the provisions of this Law. Expenditure
charged on
revenue.

18. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" after the passing thereof, and shall be construed together with the "Volunteer Law, 1872 and 1873," as one Law, and this Law and the "Volunteer Law, 1872 and 1873," may be cited together as "Volunteer Law, 1872, 1873, and 1875" (A). Commencement.
Construction.
Short title.

SCHEDULE (B).

Law No. 47, 1887 (c).

"To amend and consolidate the Law of Insolvency."

[21st November, 1887.]

109. The arms and accoutrements of every member of the Volunteer Force, who has been adjudged insolvent, and the horse used in the ranks by any such member, shall be exempt from the sale of the movable property of the insolvent. Arms, horse,
and accoutre-
ments of
Volunteer
exempt from
sale in insolv-
ency.

Act No. 23, 1895.

"To repeal Laws Nos. 19, 1888, and 19, 1889, and to provide for the Better Organisation, Regulation, and Discipline of the Volunteer Force of the Colony."

[8th August, 1895.]

WHEREAS it is expedient to repeal Laws Nos. 19, 1888, and 19, 1889, and to provide for the Better Organization, Regulation, and Discipline of the Volunteer Force of the Colony:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Natal, as follows:—

Short Title.

1. This Act may be cited as the "Volunteer Act, 1895."

Short title.

Repeal and Savings.

2. Law No. 19, 1888, and Law No. 19, 1889, shall be, and the same are hereby repealed, save only and except so far as regards all proceedings taken or commenced before this Act shall come into operation under or in execution of the said Laws, all which proceedings shall be as valid to all intents and purposes as if this Act had not been passed; and save also and except so far as regards all appointments, enrolments, rules,

Repeal of laws.

(A) April 11, 1876.

(c) See this Law in full, ante, tit.

(B) The Schedule sets out certain secs. of the repealed Law, and is obsolete.

"INSOLVENCY," and see Note (a) p. 39.

Act 23, 1895. regulations, and orders made under the said Laws, which, until revoked, altered, or amended, and save so far as they are not in conflict with any of the provisions of this Act shall continue in force and be deemed to be appointments, enrolments, rules, regulations, and orders under this Act; and save only and except so far as regards any right acquired, or thing done, or any liability accruing before the passing of this Act.

Definitions and Provisions as to Application of Act.

Interpretation.

3. In the interpretation of this Act, if not inconsistent with the context or subject matter, the following expressions shall bear the meanings respectively assigned to them:—

“Camp followers” means sutlers, servants, and all others who accompany the Force, or any portion of the Force, when in Camp or on military service.

“Commanding Officer of a Corps” means the senior officer in command of any Regiment, Battery, Battalion, Half-Battalion, Contingent or Corps, or in his absence, the officer next in seniority present.

“Contingent” means two or more Troops or Companies combined together for administrative purposes.

“Corps” means a Naval Corps, a troop of Mounted Rifles, Battery of Artillery, a Company of Infantry, Medical Staff, or Ambulance Volunteers; also any Corps, Troops, Companies, when formed into Contingents, Regiments, or Battalions.

“Efficient.” A Volunteer who has completed the requirements for efficiency, as defined in the Regulations made under this Act.

“Equipment” signifies the Arms, Accoutrements, and all articles, except clothing, worn or carried by a Volunteer or his horse; and includes all Ordnance, Machine Guns, Harness, Stores, Tents, and Ammunition issued to Volunteers individually or collectively.

“Military Service.” Volunteers shall be considered to be on Military Service when called out by the Governor under Section 19 of this Act, or when assembled in, or during the time of any Camp of training or instruction, or when going to, and returning from, any such Camp, or while engaged in any Military exercise or drill, or when called out for any escort duty or guard of honour, or while in uniform on duty at any time or place.

“Non-commissioned Officer” includes an acting non-commissioned Officer.

“Officer.” Any person holding a Commission, or whose appointment as an Officer has been notified in the “NATAL GOVERNMENT GAZETTE.”

“Permanent Staff.” All Officers, Warrant Officers, Non-commissioned Officers, Drill Instructors, Armourers, and Storekeepers, or any other persons appointed under Section 15 of this Act, who shall while holding their appointments be deemed to be always on Military service.

“Regiment or Battalion.” A combination of Troops, Companies, Corps, or Contingents, formed into a body, not exceeding the establishment fixed by the Regulations made under this Act for a Regiment or Battalion.

“Regulations” means Regulations made under the provisions of this Act.

“Reserve Force, Reserve Volunteers, or Reserve List” comprises all Volunteers serving under the provisions of Section 10 of this Act.

“Volunteer” means all officers, non-commissioned officers, and men belonging to a Volunteer Corps or on the Reserve List, and enrolled under this Act.

“ Volunteer Force or Members of the Volunteer Force ” comprehends the Commandant, Permanent Staff, and all officers, petty officers, non-commissioned officers, and men, including those on the Reserve List. Act 23 1895.

Formation and Disbandment of Corps.

4. The Governor may from time to time :— Formation and disbandment of corps.
- (a) Accept the services offered through the Commandant of any persons desiring to be formed under this Act into a Volunteer Corps, on such terms as he may deem fit. And upon such acceptance the proposed Corps shall be deemed lawfully formed under this Act as a Volunteer Corps.
 - (b) Unite two or more Corps or Contingents into Regiments or Battalions, and appoint Field Officers and revoke such an appointment; and may fix the headquarters and title of such Regiment or Battalion.
 - (c) Disband or discontinue the services of any Corps, or any part of it, or dispense with the services of any Volunteer, or cancel the union of separate Corps into Regiments or Battalions.

Provided that no new Corps may be formed in a district in which in the opinion of the Commandant it is undesirable or unnecessary that a new Corps should be formed.

5. Volunteer Corps in existence at the date of the promulgation of this Act shall be deemed to be Corps formed hereunder. Existing corps.

Enrolment and Discharge.

6. Every Volunteer shall be enrolled for a minimum period of three years, and every such Volunteer may at any time obtain his discharge by complying with the following conditions :— Enrolment, Discharge.

- (a) If he shall have served for a period of three years from the date of his enrolment under the Volunteer Law for the time being in force, and shall have given one month's notice, in writing, to his Commanding Officer.
- (b) If, before he has served for such period, by proving to the satisfaction of his Commanding Officer that he is about to remove from the district, or that he is prevented by ill health from continuing to serve.
- (c) By paying to the Corps Fund such sum of money as may be fixed by the Regulations under this Act.
- (d) And in addition by delivering up in good order, fair wear and tear only excepted, all arms, clothing, and equipment issued to him, being Government or Corps property; and by paying all money payable by him under the Regulations.

7. Every member of the Volunteer Force on his enrolment shall take the following oath of allegiance before any Justice of the Peace, or a Commissioned Officer of the Corps:—“ I, A.B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her Heirs and Successors, and that I will faithfully serve in the Volunteer Force until I shall lawfully cease to be a member thereof ”: Provided any person objecting from conscientious scruples to take an oath, may make a solemn affirmation to the same effect as the oath. Volunteer's oath.

8. A Volunteer enrolled before the date when this Act shall come into effect may retire from the force upon giving, within one month from the commencement of this Act, one month's written notice to the Retirement of Volunteers heretofore enrolled.

Act 23, 1895. officer commanding his corps and by complying with Sub-Section (d) of Section No. 6 of this Act.

Discharge not claimable when on service.

9. No Volunteer can claim his discharge when his Corps or any portion of the Volunteer Force is called out for military service.

Reserve Force.

Reserve force.

10. A Reserve Force may be constituted by regulations under this Act, members of which Reserve Force shall be entitled to such pay as may be fixed by regulations; and members of the said Reserve Force may be called out for military service in aid of the civil power or to repel invasion, or against an enemy, and when so called out shall be deemed to be members of the Volunteer Force for all the purposes of this Act.

Military service.

Pay and Allowances.

Pay and allowances.

11. The pay and allowances to Volunteers, and the conditions thereof, shall be in accordance with Votes of Parliament and in terms of Regulations made under this Act. In case of any reduction in the pay and allowances during the period of any Volunteer's service, such reduction shall entitle the Volunteer to his discharge, subject to one month's notice by him, and also subject to the conditions set out in Sub-Section (d) of Section 6 of this Act.

Commander-in-Chief.

Governor to be Commander-in-Chief.

12. The Governor shall be the Commander-in-Chief of the Volunteer Force, and shall have all the powers, and may exercise all the duties and obligations pertaining to the office of Commander-in-Chief respecting the Volunteer Force, or any part thereof, and shall issue all orders respecting the said Force through the Commandant.

Commandant and Staff.

Governor to appoint Commandant.

13. The Governor shall appoint in the name and on behalf of Her Majesty, by commission under the Public Seal of the Colony, an officer with the rank of Colonel, who shall be styled Commandant, to command the Volunteer Force, and who shall hold office during pleasure, who shall have an office in Pietermaritzburg, which shall be a distinct department, of which the Commandant shall be the head.

Commandant the medium of official communication.

14. All orders, notifications, and the like, issued by the Governor to the several Corps, shall be issued through the Commandant, and all notifications and other communications from the several Corps to the Governor shall be made through the Commandant.

Permanent staff.

15. The Governor shall, from time to time, appoint, in the name and on behalf of Her Majesty, by commission under the Public Seal of the Colony, or by warrant or in writing, or otherwise as the case may require, Officers, members of a Medical Staff, Warrant Officers, and Non-commissioned Officers to be a Permanent Staff for the instruction, care, inspection, and equipment of the Volunteer Force. Nominations for the appointment of Staff and Field Officers may be made by the Commandant.

Appointments and Promotions.

First commissions.

16. An appointment to a first commission may be made at the instance of an Officer Commanding a Corps, in pursuance of a vote by at least one-half of the members of the Corps.

Promotions.

Promotions will be made on the advice of the Commandant, at the instance of the Officer Commanding the Corps.

Commanding Officer to be a J.P., *ex officio*.

17. An Officer in command of a Corps shall be "ex officio" a Justice of the Peace for the Colony, whilst holding such command.

Rank.

Act 23, 1895.

18. [Repealed by Act No. 25, 1896.]

Military Service.

19. The Governor may order out the Volunteer Force or any part thereof, for military service, in aid of the civil power, or against an enemy, or to repel invasion.

Force may be ordered out on service.

20. Volunteers shall be led by their own Commandant, and by Officers under his command, provided that the whole Force may be placed by the Governor under the command of the Officer in command of Her Majesty's Forces in Natal, not being under the rank of Colonel.

Command when on service.

21. The Officer in charge of a Corps may, if authorised by the Commandant, call out his Corps or any part thereof, for any service to which the Corps is liable.

Commanding Officer may call out corps.

The Commandant may call on any Officer Commanding a Corps to assemble his Corps to form a camp, or for other purposes, or to furnish a guard of honour, or escort, or for other duty in garrison, or camp, or on the march.

Orders.

22. All orders given by the Commandant, or by any Officer, shall be valid and effectual if verbally given on parade, or issued in any other manner customary in Her Majesty's Military Service.

Mode of issuing orders.

Discipline.

23. If any member of the Volunteer Force when on military service, or when called out for military service, shall be guilty of disobedience of orders, or of any act or neglect to the prejudice of good order or military discipline, he may be tried and punished as hereinafter provided:—

Punishment of disobedience of orders, &c.

- (a) By the Senior Officer in command at any Station or Encampment, or by the Commanding Officer of the offender's Regiment, Battalion, or Contingent;
- (b) By an ordinary Court-martial;
- (c) By a special Court-martial;

Courts.

Provided that a commissioned officer shall only be tried by a Court-martial.

Any member of the Volunteer Force who shall be brought to trial for any offence may be kept in custody until the case is heard and determined.

Accused may be kept in custody till trial.

Punishments.

24. The Tribunals in the 23rd Section mentioned shall have power to sentence and award punishment within the following limits:—

Jurisdiction of Courts as to punishment.

1. A Senior or Commanding Officer may:—
Sentence the offender to pay a fine not exceeding £10.
2. An ordinary Court-martial may:—
Sentence the offender to pay a fine not exceeding £15, or to imprisonment for any period not exceeding six months, or to both such fine and imprisonment: or in case of a non-commissioned officer to be dismissed the Force, or reduced to any lower grade, or to the ranks, in addition to or instead of the above punishment.
3. A special Court-martial may:—
Sentence an offender to pay a fine not exceeding £50, or to imprisonment, for any period not exceeding twelve months, or to both such fine and imprisonment: or in

Act 23, 1895.

the case of a non-commissioned officer to be dismissed from the Force, or reduced to any lower grade, or to the ranks in addition to or instead of the above punishment; or in the case of an Officer, in addition to or instead of any sentence of fine or imprisonment, as above stated, the Court may sentence the Officer to be dismissed the Force, or to loss of seniority, or to be reprimanded.

4. A Court-martial may in addition to, or in lieu of, any other punishment, cashier a commissioned Officer and dismiss from the Force any member of the Volunteer Force. The sentence of a Court-martial shall not be carried into effect until confirmed by the Governor.

Appeals.

Appeals to Commandant.

25. Any Volunteer who may conceive himself aggrieved may appeal to the Commandant in respect of any matter not dealt with by a Court-martial.

Recovery of Fines.

Recovery of fines.

26. A fine inflicted by a Commanding Officer or by a Court-martial may be levied, together with the costs, by a warrant signed by the Officer Commanding or President of a Court-martial, and directing sale of the goods of the person liable to pay the fine.

Imprisonment.

Place of imprisonment.

27. Any member of the Volunteer Force placed under arrest for any offence under this Act, or who may be sentenced to imprisonment by a Court-martial, may be imprisoned in any gaol, or in any building set apart as a guard-room, or in any guard tent, and every Superintendent or keeper of a gaol is to give effect to any warrant purporting to be signed by the President of a Court-martial, and directing the imprisonment of the person named therein.

Place of imprisonment to be deemed a public prison.

28. So long as any person shall be imprisoned in any guard-room or prison in terms of this Act, the same shall, so far as he is concerned, be deemed to be a public prison, and such man shall be deemed to be a prisoner confined therein within the meaning of any Act regulating the management and condition of prisons and prisoners.

Prosecutions otherwise than under provisions of this Act.

29. Nothing in this Act contained shall prevent any member of the Volunteer Force 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.

Application of secs. 24 to 30.

30. The provisions of Sections 24 to 30, inclusive, of this Act shall take effect and be in force while Volunteers are on military service, and shall at all times apply to the Permanent Staff and to all camp followers.

Privileges.

Exemptions from juries;

31. Every Officer of Volunteers and every Non-commissioned Officer after five years' service as such shall be exempt from serving on juries.

and from other military service.

32. No member of the Volunteer Force shall be liable to be enrolled in any other military body or burgher force in the Colony.

Arms, &c., exempt from seizure.

33. The arms, accoutrements, clothing, and all Government and Corps property issued to a member of the Volunteer Force, the horse used in the ranks by any such member, and the person of every member whilst he shall be on duty, shall at all times be exempt from arrest, attachment, or seizure in execution (A).

(A) See also Law 47, 1887, s. 109, ante.

34. Every member of the Volunteer 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 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.

Act 23, 1895.
Exemption from tolls.

35. If any person duly authorised to collect tolls in respect of any ferry shall wilfully subject any such member of the Volunteer 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 Sterling.

Delay by toll-keepers.

Compensation in Case of Death or Injury.

36. In case a member of the Volunteer Force shall be killed when on Military Service, provision shall be made for his family as follows:—

Compensation to family in case of death.

For a Widow, during the widowhood, not less than Fifty-two Pounds per annum

For each child, in age less than Sixteen years, Twelve Pounds per annum.

If the member of the Volunteer Force shall be unmarried with female relatives dependent on him, the sum payable to a Widow may be paid to such relatives.

A member of the Volunteer Force injured when on military service may receive such compensation as the Government may determine as fair and reasonable.

Compensation for injury.

Miscellaneous.

37. If any Volunteer shall neglect or refuse, when thereto required, to give up to such person as his Commanding Officer shall appoint to receive them, all or any articles of Government or Corps property, issued to him as a member of the Volunteer Force, it shall be lawful for the Commanding Officer to issue a warrant to any person to be named therein to seize such articles wherever found, and for that purpose to enter upon and search the dwelling of such member, or any premises in which there is reasonable ground for suspecting the articles may be found.

Seizure of articles of Government or corps property.

38. It shall be lawful for the Commanding Officer of any Corps to take possession of, or cause to be taken possession of, any rifle or other Government or Corps property that he may find or ascertain is in the possession of any person or persons other than the Volunteer to whom it was issued.

Property in wrongful possession may be seized.

And if any person not serving in the Volunteer Force wears without permission the uniform of any Corps, or any dress having the appearance or bearing any of the regimental or other distinctive marks of any such uniform, he shall be liable on summary conviction before a Magistrate having jurisdiction to a fine not exceeding £5.

Penalty for persons not Volunteers wearing uniform.

39. Any member of the Volunteer Force who shall injure, lose, or make away with, or, contrary to orders, retain any Government property in use by any Corps, or the property of any Corps, shall be liable to pay a sum of money equal to double the cost price of such property, which may be recoverable from him with costs, in the same manner as penalties imposed under this Act and the Regulations thereof are recoverable: Provided that should any damage to or loss of such property be caused by him without any carelessness or fault on his part, the proof whereof shall be imposed upon him, the Commandant of Volunteers may, upon being satisfied thereof, exempt him

Liability of Volunteer for loss, &c., of Government or corps property.

Act 23, 1895. from such payment, or impose the payment of the cost price only of such property.

Offences with respect to butts and targets.

40. If any person wilfully commits any damage to any butt or target belonging to or lawfully used by any Volunteer Corps, searches for bullets in or otherwise disturbs the soil forming such butt or target, he shall for every such offence be liable, on the prosecution of the Commanding Officer, to a penalty not exceeding Five Pounds.

Wrongful possession of arms, &c., belonging to Government or corps.

41. If any person shall in consequence of the sale, pledge, loan, or other disposition made by any member of the Volunteer Force, of any arms, ammunition, equipment or clothing, being Government or Corps property, knowingly receive or have in his possession any such article, such person shall incur and be liable to a fine not exceeding £20, and in default of payment thereof, shall be liable to be imprisoned and kept at hard labour for a period not exceeding three months unless such fine be sooner paid.

Recovery of surcharge from capitation grant.

42. Any surcharge against the Commanding Officer as representing the Corps, for Government property lost, injured, or destroyed may be recovered by the Commandant of Volunteers by deduction from the capitation grant due to the Corps.

Corps fund.

43. All money subscribed by, or for the use of the Corps, all arms, stores, ammunition, musical instruments, and other property, articles, and things whatsoever, belonging to or used by any such Corps, not being the property of any member thereof, shall be vested in the Commanding Officer of such Corps in trust for the Corps.

Evidence before Court-martial.

44. Every person who may be required to give or produce evidence in any case pending before a Court-martial shall be summoned in writing by any officer of the Volunteer Force, and all witnesses so duly summoned who shall not attend, or any attending who 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 Court-martial may legally demand of them, shall be liable to be dealt with by such Court-martial 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.

Obstructing corps on duty.

45. Any person who shall wilfully obstruct or impede any Corps or Detachment of Volunteers while on the march or upon parade, shall, upon conviction before a Magistrate, be liable to a penalty not exceeding Five Pounds, or in default to imprisonment for any period not exceeding one month, with or without hard labour.

Limitation of suits and prosecutions.

46. No action or prosecution against a member of the Volunteer Force for anything done, or purported to have been done, in pursuance of this Act, shall be commenced after the end of two months from the doing of such act.

Regulations.

Regulations.

47. The Governor may, from time to time, make, alter, amend, or revise regulations for the Volunteer Force and the Reserve Force, or any portion, or member thereof, respecting:—

- (a) Enrolment, establishment, promotion, and disbandment.
- (b) Discipline, training, and efficiency.
- (c) Definition of offences, arrest, and trial of offenders, dismissal of Officers, Non-commissioned Officers, and Privates, and reduction of Non-commissioned Officers.
- (d) The holding of Courts-martial.
- (e) Pay, capitation grant, and allowances.
- (f) Horse allowance, and the conditions on which it is to be paid.

- (g) Management of Insurance, Remount and Corps Funds. Act 23, 1895.
 (h) Payment and recovery of subscriptions, fines, and penalties.
 (j) Relative ranks of Volunteer Officers.
 (k) The chevrons or badges to be worn for marking efficiency and length of service.
 (l) Discipline to be observed by camp followers, and the manner in which such discipline may be enforced.
 (m) Ambulance and Hospital duties.
 (n) Anything deemed necessary for the better government of the Force.

All such regulations shall be published in the "NATAL GOVERNMENT GAZETTE," and shall have the same effect as if embodied herein. Publication of regulations.

48 All regulations made under the foregoing section shall be laid before both Houses of Parliament as soon as may be after they are made. Regulations to be laid before Parliament.

Act No. 25, 1896.

"To amend the Volunteer Act, 1895."

[6th July, 1896.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 18 of the "Volunteer Act, 1895," is hereby repealed, and the following is substituted therefor, that is to say:—

Precedence of officers of Permanent Staff of Volunteers, and of Reserve.

18. The Officers of the Permanent Staff shall rank according to the rank and dates of their respective commissions, and Officers of Volunteers shall, when serving with Officers of the Permanent Staff, rank as juniors of their respective ranks, but Officers of Reserve Volunteers shall in all cases rank with Volunteer Officers as juniors of their respective ranks.

WEENEN COMMONAGE.

WAR DEPARTMENT.

[See "DURBAN CORPORATION"; "ORDNANCE."]

WARLIKE STORES.

[See "EXPORTATION (PROHIBITED)."]

WASTE LANDS.

[See "LANDS IMPROVEMENT, &c."]

WATERCOURSES.

[See "LANDS IMPROVEMENT, &c."]

WAY (RIGHT OF).

[See "ROADS"; "ROAD BOARDS."]

WEENEN COMMONAGE.

Act No. 12, 1900.

"To provide for the appropriation of certain of the lands forming portion of the Commonage of Weenen, and for their irrigation and sale in small allotments."

[29th June, 1900.]

WHEREAS certain lands forming portion of the Commonage of Weenen are suitable, if irrigated, for being divided into small allotments and sold for agricultural purposes :

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The Governor in Council is hereby empowered to resume possession of a portion of the lands reserved as a Commonage for the Village of Weenen, not exceeding three thousand acres in extent.

2. The Government shall suitably irrigate the lands so resumed by the construction of a water furrow or furrows leading from the Bushman's River, and by the construction, laying and erecting of the necessary water courses, water pipes, sluices, dams, reservoirs, and drains required to distribute the water over the lands.

3. For the purpose of constructing the furrow or furrows the Government may enter upon and use the lands of any private owner.

4. The site of the intake of the water furrow or furrows shall be at a point upon the Bushman's River to be selected by the Government, and any private owner whose lands are traversed by the furrow or

Governor empowered to resume possession of certain lands.

Government to irrigate the lands.

Entry on private lands.

Site of intake. Compensation to private owner.

furrows shall be entitled to compensation for any injury or damage caused to his lands by the construction of the furrows, as though the same were an "undertaking" within the meaning of the Lands Clauses Consolidation Law, No. 16 of 1872. Act 12, 1900.

5. So soon as provision has been made for irrigating the lands resumed, they shall be put up to public auction in separate blocks of suitable extent, and shall be sold subject to such conditions as the Government shall think fit to impose, either with regard to alienation, the amount of the upset price, or the terms of payment of purchase price, or the up-keep of the irrigation works, or the mode of occupation of the land, or otherwise, and generally for ensuring the use and occupation of the land in accordance with the intent and purpose of this Act; and such conditions shall be published in the "NATAL GOVERNMENT GAZETTE." Lands to be sold at public auction.

6. The main water furrows and all other works connected with the irrigation scheme shall be maintained in proper repair by the Government, which shall have the sole control and management and regulation of the works, and of the distribution of the water, but so that each block holder shall be required to keep in repair the pipes or works or watercourse, not being a main water furrow, situated upon his block. Irrigation works to be kept in repair by Government.

7. The Governor in Council shall from time to time make, repeal, and alter By-laws regulating the supply of water to each block holder, and such By-laws may provide for:— By-laws.

- (a) Limiting the number of blocks that may be owned by any one person.
- (b) The times when water shall be available for any or all of the blocks.
- (c) The quantity of water to be allowed to each block holder.
- (d) The use of the water by other than block holders.
- (e) The upkeep by each block holder of the pipes and water-courses, and other works not being the main furrow upon his land.
- (f) The right of the Government to enter by its officers upon any block for purposes connected with the maintenance and upkeep of the irrigation works.
- (g) The imposition of penalties for unlawfully damaging the irrigation works, or any portion thereof, or for unlawfully diverting or interfering with the supply of water to any block holder.
- (h) The levying a tax upon block holders to provide funds for the maintenance, renewal, and upkeep of the works.
- (i) Generally carrying into better effect the purposes of this Act.

8. Any person contravening any By-law framed under this Act shall be liable to a penalty not exceeding Twenty Pounds Sterling, and in default of payment may be imprisoned, with or without hard labour, for any period not exceeding three months. Penalty for contravention.

9. No person shall be entitled to any compensation whatsoever in consequence of the Government resuming possession and disposing of the lands mentioned in the first section of this Act. No compensation under sec. 1.

10. If the conveyance of water under the authority of this Act shall deprive any person of any water or right of water which he may, at the time of such conveyance of water, possess or be entitled to possess, and shall thereby cause damage to such person or to his property, such person shall be entitled to recompense or compensation to be settled in case of difference, as if the diversion of water constituted a damage to the land within the meaning of the 65th Section of the Lands Clauses Consolidation Law, No. 16 of 1872. Compensation to persons deprived of water and suffering damage.

WEENEN COUNTY.

WEENEN COUNTY.

Law No. 2. 1873.

"To make special temporary provision in regard to the County of Weenen."

[26th December, 1873.]

WHEREAS, it is expedient temporarily to make special provision for the management of the County of Weenen :

BE IT THEREFORE ENACTED, by the Lieutenant-Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows: —

Appointment of Superintendent

1. It shall be lawful for the Lieutenant-Governor to appoint an officer to be called the Superintendent of the County of Weenen.

His position and duties.

2. The said Superintendent shall be subject to, and shall obey all lawful orders of, the Lieutenant-Governor or the Resident Magistrate of Weenen.

Jurisdiction and authority to be conferred by Proclamation.

3. The said Superintendent shall exercise such judicial authority, and possess such jurisdiction, as shall from time to time be vested in him by Proclamation, to be issued under the hand of the Lieutenant-Governor and Public Seal of the Colony.

Proviso, limiting his jurisdiction.

4. Provided, that the said Lieutenant-Governor shall not grant to such Superintendent any greater or other power or jurisdiction than that by Law now possessed by any Resident Magistrate in this Colony.

His proceedings in civil or criminal matters regulated.

5. In all cases in which the Superintendent shall, under such Proclamation as aforesaid, have the power and jurisdiction to deal with any matter or thing, Civil or Criminal, and which, but for such Proclamation, would be cognizable by any Resident Magistrate, or before the Court of any Resident Magistrate, such power and jurisdiction shall be exercised subject to and under the Laws and the Rules of Court applicable to any Resident Magistrate, or to any Resident Magistrate's Court.

When he may sit in Combined Court.

6. The said Superintendent may, in the absence of the Resident Magistrate of Weenen, sit in his place and stead with the Judicial Assessor in any Combined Court to be held for the County of Weenen.

Extent of judicial powers.

7. The judicial powers of the said Superintendent may be limited to matters of a criminal nature only, or to matters of a civil nature only, or in whole or in part to both.

Determination of office.

8. The Lieutenant-Governor may, for any cause to him appearing sufficient, remove or dispense with the office or services of such Superintendent.

Commencement

9. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," after the passing thereof (A).

(A) Dec. 30, 1873.

WEIGHTS AND MEASURES.

[See Law No. 19, 1872, ss. 66-70, tit. "MUNICIPAL CORPORATIONS."]

Ordinance No. 11, 1852.

"Ordinance for establishing Imperial Weights and Measures."

[28th October, 1852.]

WHEREAS, it is necessary to make legal provision for establishing certain standard weights and measures for use in this District; and whereas it is expedient to introduce the standard weights and measures in use in Great Britain:—

BE IT THEREFORE ENACTED, by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. From and after the first day of May next the imperial weights, scales, and measures of Great Britain shall be the standard weights, scales, and measures of this District.

Imperial weights, &c., to be standard.

2. It shall be lawful for the Commissioners of any Municipality at any time and from time to time, by public notice, to call upon all persons within such Municipality to produce the weights and measures in use by them in order that the same may be assized and marked.

Assizing, &c., of weights.

3. It shall be lawful for the Clerk of the Peace, in any town in which no Municipality has been established, or for any Justice of the Peace, residing in any town where no Municipality or Clerk of the Peace exist, at any time and from time to time, by public notice, to call upon all persons residing within the jurisdiction of such Clerk of the Peace or Justice of the Peace, to produce the weights and measures in use by them, in order that the same may be assized and marked.

Clerk of the Peace or a Justice of the Peace to act in certain towns.

4. The owners of all weights and measures shall pay, in respect of every weight or measure assized and marked as aforesaid, the sum of threepence sterling, together with the cost of repair thereof, should the same be necessary.

Fee for assizing weights.

5. It shall be lawful for any two Commissioners of any Municipality, or for any Clerk of the Peace or Justice of the Peace as aforesaid, at any time or times, most convenient, to inspect every beam, scale, weight, steelyard, measure, and every sort or kind of weight and measure used or being in the public markets, or in any warehouse, store, shop, shed, or stall, and every one of them which shall be found to be deficient or unlawful or unjust to seize and destroy.

Weights and measures may be inspected.

6. Every person using or causing to be used any weight or measure which has not been assized as aforesaid, or having in possession any deficient, unlawful, or unjust beam, scale, weight, steelyard, or measure, shall forfeit any sum not exceeding five pounds nor less than one pound.

Penalty for false weights.

7. All offences against this Ordinance shall be prosecuted before the Court of the Resident Magistrate of the division within which the offence has been committed.

Offences where cognizable.

8. This Ordinance shall commence and take effect from and after the date of the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Commencement

(A) Confirmed by Procl. July 14, 1853.

WILD BIRDS PROTECTION.

Act No. 33, 1896.

"For the Protection of certain Insectivorous and other Wild Birds,"
[9th July, 1896.]

WHEREAS it is desirable, in the interests of Agriculture, to protect certain insectivorous and other wild birds:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Prohibition of killing and taking of birds specified in Schedule, or their eggs.

Permits.

Governor in Council may add to the list of birds.

Punishment.

Prosecutions.

Application of fines.

Arrest for contravention.

1. No person shall kill, catch, shoot at, or attempt to kill, catch, or aid in killing, catching, or shooting at any of the birds specified in the Schedule to this Act, and no person shall at any time take, injure, or destroy the eggs of any of the said birds, except by express permission of the Governor for the purposes of scientific research. Every permission so granted shall specify the particular birds or eggs thereof to which the same shall apply, the time for which it shall endure, and in what division or divisions it shall have effect. A return of such permits shall be laid before the Legislative Council and Legislative Assembly at the next ensuing Session.

2. It shall and may be lawful for the Governor in Council to add to the list of birds specified in the Schedule to this Act the names of any others which it may be deemed desirable to protect, and upon promulgation to that effect in the "NATAL GOVERNMENT GAZETTE," the provisions of this Act shall be taken to apply to such additional birds in the same way as if they were enumerated in the Schedule hereto: Provided always, that a list of any such additions shall be laid before the Legislative Council and Legislative Assembly during the next ensuing Session.

3. Any person contravening any of the provisions of this Act shall, upon conviction, forfeit a sum not less than Half-a-Crown, and not exceeding One Pound Sterling, and in default of payment thereof, shall be imprisoned with or without hard labour for a period not exceeding one month: Provided always, that it shall and may be lawful for any Resident Magistrate, before whom any case is brought, to discharge any juvenile offenders or those offending for the first time with a reprimand.

4. All contraventions of this Act may be prosecuted by any person before the Court of the Magistrate of the Division in which the contravention of the Act took place, or in any Branch Court in such Division.

5. All fines and penalties levied under the provisions of this Act shall belong to Her Majesty, Her Heirs and Successors, and shall be applied to the uses of the Government of this Colony.

6. Any person contravening any of the provisions of this Act may be detained by any constable, or the owner or occupier of land upon which trespass is being made, unless he shall, when thereto required, give his full name and address. Any person giving a false name and address shall be liable to a penalty of Two Pounds Sterling.

SCHEDULE.

English Name.	Kafir Name.
Locust-bird (large)	Uwamba
Locust-bird (small)	Ijiyankomo alias Iholamvula
Tick-bird (red-beak)	Ihalanyati
Swallows (all varieties)	Inkonjane
Wagtail	Umvemve
White Stork	Igolantete

WILLS (A).

[See "COMMUNITY OF GOODS;" "PROBATE, ADMINISTRATION, &C.;"
"WILLS (NATIVES)."]

Ordinance No. 1, 1856 (B).

"Ordinance to grant to certain natural born subjects of Great Britain and Ireland, resident in this District, the right to dispose, by last Will and Testament, of their real and personal property, according to the law of England."

[15th January, 1856.]

WHEREAS it is expedient to exempt persons settled in this District, being natural born subjects of the United Kingdom of Great Britain and Ireland, from the operation of the laws in force in this District (c), relating to testamentary dispositions of property, both real and personal, and also to make provision for exempting such natural born subjects of the United Kingdom of Great Britain and Ireland, from the said law, in cases of marriage contracted within this District:

BE IT THEREFORE ENACTED, by the Acting Lieutenant Governor of the District of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. Any natural born subject of Great Britain and Ireland (d), resident within this District, may exercise all and singular the rights which such natural born subject could or might exercise according to the laws and customs of England, in regard to the disposal, by last will or testament, of property, both real and personal, situated in this District, to all intents and purposes as if such natural born subject resided in England (e).

Natural born subjects of United Kingdom may dispose of property by will as if they resided in England.

2. Any such natural born subject as aforesaid, who has contracted marriage prior to the passing of this Ordinance, either in this District, or in the Colony of the Cape of Good Hope, and resident in this District, may reserve to himself the rights extended to natural born subjects of the United Kingdom of Great Britain and Ireland, by this Ordinance; provided that the parties to such marriage shall duly and jointly execute, before a notary public in this District, a deed, testifying their consent to such natural born subject exercising all and singular the rights possessed by such natural born subject, as to the disposal, according to the laws and customs of England, by last will and testament, of property, both real and personal, situated in this District.

Position of natural born subjects married at Cape of Good Hope or in Natal prior to date of this Ordinance.

3. Any natural born subject as aforesaid, who shall, after the passing of this Ordinance, enter into marriage within this District, shall not be entitled to exercise the rights aforesaid, or any of them, unless, previous to the solemnization of such marriage, the parties thereto shall, by contract in writing jointly executed (f), agree to reserve to such natural born subject, notwithstanding the solemnization of such marriage, the exercise of the rights contained in the first section.

Ante-nuptial contract necessary to those who marry after date of this Ordinance.

(A) See Jarman on Wills; Theobald's Treatise on Wills.

(B) See this Ord. also, with footnotes, under tit. "COMMUNITY OF GOODS."

(C) See tit. "ROMAN-DUTCH LAW."

(D) See definition of this term in sec. 8, post.

(E) As to the defects in this Law, see judgments in *Estate of London*, 3 N.L.R. (July), 3; and *Salmon v. Duncombe*, 5 N.L.R., 103; 7 N.L.R., 182. Cf. also *In re Holman* 5 N.L.R., 235.

(F) See definition in s. 8, post.

Ord. 1, 1856.

Effect of omission to execute ante-nuptial contract.

Subjects married in United Kingdom may dispose of property as if resident in England

Laws repealed.

Law of community of goods.

Definition of terms.

Registration.

Commencement

4. In every case in which any natural born subject of Great Britain and Ireland shall contract marriage in this District without having duly executed the ante-nuptial contract mentioned in the last preceding section of this Ordinance, his property, both real and personal in this District, shall be administered and divided according to the law in force within this District (A).

5. Any such natural born subject, having lawfully contracted marriage in the United Kingdom of Great Britain and Ireland, may, if resident in this District, by will or testament dispose of or devise property within this District, both real and personal, in the same way as under the laws and customs of England they could or might do if resident in England.

6. Any law now in force contrary to the provisions of this Ordinance shall be and the same is hereby repealed.

7. Provided, that nothing in this Ordinance contained shall be construed as in anywise affecting or altering the law in force in this District in respect to the community of goods between spouses married in community of goods, or in respect of the rights, privileges, and powers of such spouses respectively so named in community of goods, or as to the joint estate of such spouses during their life.

8. The words, "contract in writing jointly executed," shall mean and be taken to mean any contract duly signed and executed before any notary public, or in the presence of two witnesses, by the spouses or the intended spouses, duly assisted if need be by their curators or guardians; and the words, "natural born subjects of Great Britain and Ireland," shall mean and be taken to mean all subjects of Her Majesty the Queen wheresoever born.

9. Every such contract may be registered by the Registrar of Deeds.

10. This Ordinance shall commence and take effect from the date of the publication thereof in the "GOVERNMENT GAZETTE" (B).

Law No. 22, 1863 (c).

"Law to prevent Community of Goods attaching to certain Marriages, and to enable the Spouses of such Marriages to Devise their Properties."

[3rd August, 1863.]

WHEREAS it is expedient to exempt certain spouses from the laws in force in Natal relating to community of goods, and relating to testamentary disposition of property, and to make provision for wives in cases of death, and intestacy of the husbands, and to enable persons married in South Africa to avail themselves of the provisions thereof:

BE IT ENACTED, by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. Nothing in this Law contained, save where otherwise expressly provided, shall operate in contravention of any provision of any instrument, in writing, wherever executed, so far as the same would, if this Law had not been passed, have been effectual to regulate or control the ownership of, or right to, or interest in, any property.

This Law not to affect instrument regulating ownership of property, save where otherwise provided.

(A) That is to say, Roman-Dutch Law. But see amending Laws infra; see also Act 38, 1899, s. 58, tit. "INTESTATE ESTATES."

(B) Jan. 22, 1856.

(C) See this Law also, with further footnotes, under tit. "COMMUNITY OF GOODS."

2. Community of goods, or any of the liabilities or privileges resulting therefrom, shall not attach to, or exist between, or be deemed to have attached to, or existed between, any spouses who have been or shall be married elsewhere than in South Africa, unless such spouses shall, by an instrument in writing, signed by each of them in the presence of two persons, who shall subscribe thereto as witnesses, express their wish to be exempt from the provisions of this Law, and such instrument shall be registered with the Registrar of Deeds within six months after execution thereof, the person requiring such registry, paying therefor and thereupon the fee of one pound sterling.

Law 22, 1863.

Community of goods not to exist between persons married out of South Africa. But spouses may exempt themselves.

3. (A) None of the restrictions upon or against devising property hereinafter specified, shall affect any person's power of disposing, by will or codicil, of his or her property, whether such person has been or shall be married out of South Africa, or shall not have been married: That is to say, the law of legitimate portion, including therein the Trebellian or Falcidian portion, the law in respect of second and other subsequent marriages known as the "lex hac edictali," or any other law of similar nature, or any omission to name an heir: Provided always, that the foregoing provisions of this section shall only apply to the wills or codicils of persons who shall be alive when this Law shall come into operation (B).

Certain restrictions on powers of disposing by will removed.

4. Every married person domiciled in the Colony of Natal, and whose marriage has been celebrated in some place not in South Africa, may devise, bequeath, or dispose of, by his or her will or codicil, all property, movable or immovable, situate or being in the Colony of Natal, which he or she shall, or may be, entitled to at the time of his or her death; and which, if not devised, would have devolved on his or her heirs, or would be administered as his or her estate.

Every person married out of South Africa and domiciled in Natal may dispose of all property by will.

5. When the husband of any such marriage, from which community of goods is excluded by the provisions of this Law, shall die intestate, and leave his wife him surviving, then, in any such case, the wife so surviving her husband shall be entitled to receive and have one-half of the property, movable and immovable, belonging to her deceased husband; but in case there shall be lawful issue of her husband, him surviving, then, in any such case, the wife so surviving shall be entitled to receive and have one-third of the property, movable and immovable, belonging to her deceased husband.

Rights of wife on death of husband intestate where community of goods excluded.

6. Property heretofore or hereafter acquired by the labour, care, skill, or diligence, and ordinarily known as earnings of the spouses, or either of them, during the continuance of the marriage, shall, if such spouses come under the provisions of this Law, be deemed to be the property of the husband, subject to any liability in respect of debts which would have existed if this Law had not been passed: Provided always, that this section shall not apply to any such earnings as shall be acquired during the continuance of a "separatio bonorum," or of any malicious desertion of the wife by the husband, but any such earnings acquired as aforesaid by the wife shall belong to, and be the property of, the wife, unaffected by any rights of the husband or his creditors: Provided also, that nothing herein contained shall affect the liability of the husband to maintain his wife: Provided also, that any such spouses may at any time, by an instrument in writing, signed by each such spouse in the presence of two persons, who shall subscribe thereto as witnesses, make any other arrangement than that by this

Earnings of the spouses, to whom they belong.

(A) See this sec. interpreted in *Laugh-ton's Estate, In re*, 5 N.L.R. 129. See also *Holman, In re*, 5 N.L.R. 235, and Law 7, 1885, post.

(B) Add "or who shall be born after the commencement of this Law." See Law 17, 1871, post.

Law 22, 1863. section provided, in respect of such earnings, or any part thereof; and so, from time to time, may, in like manner, vary any such arrangements, not however being enabled by any such arrangements to exempt from liability to debts any property which otherwise would have been liable thereto.

How spouses married in South Africa may bring their marriage within provisions of this Law.

7. This Law shall extend to any marriage already had, or to be had, before or after the passing of this Law in Natal, or elsewhere in South Africa, if the spouses of such marriage shall, by an instrument in writing (A), signed by each of them in the presence of two persons, who shall subscribe their names as witnesses thereto, express and signify their wish, desire, or intention, to be brought within the provisions of this Law; and such instrument in writing shall be capable of being registered by the Registrar of Deeds, and upon every such registration there shall be paid by the person requiring the same to be registered, a fee of one pound sterling, and no more; and such instrument shall not be binding if not registered in the Registrar of Deeds' office within six months after execution: Provided always, that the previous execution of any deed, or other instrument, under the Law No. 1, 1856, shall not affect the power hereby expressed to be given (B).

Definition of words "South Africa."

8. The words "South Africa" shall be taken to mean and include any place or territory in South Africa, being to the southward of the twenty-fifth degree of south latitude.

Law not to apply to certain marriages.

9. This Law shall not apply to any marriage which shall have been dissolved by death or otherwise, before the Law shall be in operation.

Commencement

10. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (C).

Law No. 2, 1868.

"Law to regulate the Execution of Wills and Codicils."

[16th September, 1868.]

WHEREAS, doubts have arisen as to the formalities requisite to be observed in the execution of Wills and Codicils in this Colony, and it is expedient to remove such doubts, and to declare the law in this respect:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Requisites of execution of wills or codicils.

1. (D) For any will or codicil to be in respect of formalities duly executed, it shall be requisite and sufficient that it be in writing and executed in manner hereinafter mentioned, that is to say:—It shall be signed by the testator, or by some person in his presence and by

(A) See Law 14, 1882, post.

(B) See notes to this sec., tit. "COMMUNITY OF GOODS," p. 4.

(C) Aug. 11, 1863.

(D) Compare with this, section 9 of the Wills Act (1 Vic. c. 26), which reads as follows: "No will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned; (that is to say), it shall be signed at the foot or

end thereof by the testator, or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary."

his direction (A); and such signature shall be made, assented to, or acknowledged (B) by the testator in the presence of two witnesses (C) present at the same time (D); and such witnesses shall, in the presence of the testator (E), affix their signatures (F) as nearly as conveniently

Law 2, 1868.

(A) Under sec. 9 of 1 Vic. c. 26, where a testator being too ill to sign his will, requested the drawer to sign it for him, which he did in his own name, and not in that of the testator, it was held that the signing was sufficient (*In re James Clark*, 2 Curt. 329). Also, where a testator had his usual signature engraved on a stamp, and he made two codicils to his will, each of which was marked with this stamp by another person in his presence and by his direction, it was held that the codicils were duly signed (*Jenkins v. Gaisford*, 3 Sw. and Tr. 93; 32 L.J. Pr. 122). See also, *In the Goods of Marshall*, 13 L.T. 643. An attesting witness may sign for testator by his direction (*Smith v. Harris*, 1 Rob. 262; *In re Bayley*, 1 Curt. 914).

(B) *Decisions upon acknowledgment and attestation, under Wills Act*.—If the testator sign in the presence of attesting witnesses, who see him in the act of signing, he need not acknowledge, nor need they see, the signature itself (*Smith v. Smith*, L.R. 1 P. & M. 143); nor need they know that the document is a Will (Ib.); but if they do not see or might have seen him signing, he must let them know that the document is a Will, and his signature must be affixed before theirs (*Blake v. Blake* 7 P.D. 102, C.A.; *Hott v. Genge*, 4 Moo. P.C. 265; *Pearson v. Pearson*, L.R. 2 P. & M. 451; *Morritt v. Douglas*, L.R. 3 P. & M. 1; *Inglesant v. Inglesant*, L.R. 3 P. & M. 172). See the cases reviewed in *Daintree v. Fasulo*, 13 P.D. 102—C.A. in which the witnesses did not know that the document was a Will, or see the signature, but could have seen it, and this was held to be a valid acknowledgment.

(C) The Court will not recognise a Will signed by one witness only (*Estate of Petch*, 14 N.L.R. 36). Under the Wills Act it has been held that the witnesses should see and be conscious of the act done, and be able to prove it by their own evidence; if the witnesses were not mentally as well as bodily present it would not be sufficient (*Hudson v. Parker*, 1 Rob. 14). Where a testator, intending to execute a codicil, signed the same while lying in bed, there being present in the room two witnesses, who attested the codicil; and the curtains at the foot of the bed being drawn at the time, one of the witnesses could not actually see the testator sign his name, nor could the testator see that witness subscribe the codicil as attesting it; it was held that the testator and witness complied with the requirements

of sec. 9 of the Wills Act (*Newton v. Clarke*, 2 Curt. 320). But a signing by witnesses in the same room where testator lay in bed with the curtains closed, unable to draw them aside, was held not to be a signing in his presence (*Tribe v. Tribe*, 1 Rob. 775).

If the attestation be in another room (*In re Ellis*, 2 Curt. 395), or in a carriage, the witnesses being at a distance (*Casson v. Dade*, 1 Bro. C.C. 98), the position of the parties must be such as to render them visible to each other (*In re Colman*, 3 Curt. 118).

It will be noted that the Wills Act requires the witnesses to attest and subscribe, but the Natal Law requires them to affix their signatures, and the distinction should be considered with reference to the foregoing cases.

(D) See *Landers v. Landers*, 15 N.L.R. 300, and *Wyatt v. Berry*, [1893] 1 R. P.D.A. 462, following *Hindmarsh v. Charlton*, 8 H.L. Ca. 160.

(E) As to what is in the presence of the testator, see cases cited in foregoing notes. It would seem that it is not necessary that they should subscribe in each other's presence (*In the goods of Webb*, 1 Deane, Ecc. C. 1; *Faulds v. Jackson*, 6 N. Cas., Sup. 1).

(F) *Decisions on subscription by witness under Wills Act*.—The subscription in order to be valid must be a subscription either of the name of the witness, or of some mark intended to represent it (*Hindmarsh v. Charlton*, 8 H.L. Ca. 160). Both a mark (*In re Athmore*, 3 Curt. 756) and initials (*In re Christian*) are sufficient.

Subscription by description as "servant to Mr. T" (*In re Sperling*, 3 Sw. and Tr. 272), or by a wrong name (*In re Oliver*, 2 Spinks, 57) is sufficient, but subscription in the name of another, without intention of affixing the witness's own signature *Pryor v. Pryor*, 29 L.J., Pr. 114) is not; nor is tracing over a former signature with a dry pen (*In re Trevanion*, 2 Rob. 311). Both witnesses must subscribe (*In re Cope*, 2 Rob. 335). And where one witness wrote the name of both, it was held to be insufficient (*In re Mead*, 1 No. Cas. 456; *In re White*, 2 Ib. 461). But where the hand of one subscribing witness, who could not write, was guided by the other, and the name of the first thus written, it was held a sufficient subscription (*In the goods of Frith*, 1 Sw. & Tr. 8; 27 L.J., Pr. 6; *Harrison v. Elvin*, 3 Q.B. 117). So also where the attesting witnesses, not being able to write, held the top of the pen while the writer of the will subscribed

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may be, under, opposite to, or in line with the signature of or on behalf of the testator affixed to such will or codicil; but no form of attestation by such witnesses shall be requisite (A): Provided always, that nothing herein contained shall be deemed to prevent a mark being a signing for the purposes hereof (B): Provided also, that no writing in any will or codicil, or on the paper, or the like of the same respectively, shall be deemed signed within the meaning hereof, unless and so far as appearing on such paper or the like to precede in order of sequence of place or paper the signature (C).

Requisites of execution of will depending upon some other instrument.

2. No will or codicil shall, so far as any devise or legacy in it depends for its efficacy upon any other instrument in writing, be a valid will or codicil, unless it shall be executed as provided in the first section of this Law (D): and such form of execution shall, so far as respects execution and attestation, be sufficient, notwithstanding that such other instrument may have directed any additional or other form or solemnity in either such behalf.

Wills of soldiers, sailors, and others.

3. Any person being in actual military service (E), or being in Africa but not in this Colony, on a journey, or a trading, exploring, or hunting expedition or the like, or any marine or seaman (F) being at sea (G), may dispose of his property in a testamentary way, or may execute an effectual will or codicil in the same manner as he might have done if this Law had not been passed: Provided always, that the section four of this Law shall apply to any such will, codicil, or testamentary act.

Naming an heir or presence of notary not requisite.

4. The naming a general or any heir, or there being a publication, or any act or presence of a notary, shall not be requisite to the validity of any will or codicil.

Incompetency of witnesses not to affect validity.

5. No will or codicil executed according to the provisions of this Law shall be invalidated by reason of any witness thereto being at any time incompetent to be admitted as a witness in respect of the execution thereof (H).

Testator must have attained twenty-one or obtained privileges of majority.

6. No will or codicil shall be valid unless the testator shall at time of execution or re-execution thereof, have attained the age of Twenty-one years, or have otherwise become entitled to the privileges

their names, the Court held that as the witnesses took some share in the act of writing, it could not determine on the more or less, and that the attestation and subscription were good (*Lewis v. Lewis*, 2 Sw. & Tr. 153; 31 L.J., Pr. 153).

A subscription as executor does not invalidate an attestation (*Griffiths v. Griffiths*, L.R., 2 P. & M. 300).

See last par. of note (c) p. 5, ante.

(A) See *Estate of Edmonds*, 12 N.L.R. 200. See Law 13, 1869, post, as to advantage of attestation clause for purpose of Probate.

(B) Under 1 Vic. c. 26, where A.B. put his mark to a testamentary paper in which he was throughout described as C.B., there being no doubt of the testator's identity and *animus testandi*, the signature was held sufficient (*In the Goods of Douce*, 2 Sw. & Tr. 593). In the case of an illiterate testator signing by a mark, proof should be afforded that the testator was acquainted with the contents of the will (*Estate of Martin Hopkins*, 12 N.L.R. 371.) See also *Estate of Little*, 10 N.L.R. 108.

(C) See *In re Winter*, 15 N.L.R. 287.

(D) See *Estate of Edmonds*, ubi supra.

(E) As to what is considered "in actual military service," see *In re Phipps*, 2 Curt. 368; *Drummond v. Parish*, 3 Curt. 522; *White v. Repton*, 3 Curt. 818; and *Herbert v. Herbert*, 1 Deane, Ecc. Ca. 10; *Parkinson's Estate*, 16 N.L.R. 248.

See Merchant Shipping Act, 1894, s. 177.

(F) A navy surgeon (*In the Goods of Saunders*, L.R., 1 P. & M. 16) and a purser of a man-of-war come within this description (*In re Haynes*, 2 Curt. 338).

(G) Although he die ashore (*In re Lay*, 3 Curt. 375), or be serving on board a man-of-war permanently stationed in Portsmouth harbour (*In the Goods of McMurdo*, L.R., 1 P. & M. 540), or a merchantman in Margate Roads (*In re Milligan*, 2 Rob. 108), or Port Adelaide (*In the Goods of Parker*, 28 L.J., Pr. 91).

(H) As to who is competent to witness a will, see dictum of Turnbull, J., *In re Winter*, 15 N.L.R. 291.

of majority by emancipation from paternal power by "venia ætatis" Law 2, 1868. (A) or otherwise.

7. If in any will or codicil there shall be given or directed any benefit to either or both of the witnesses thereto, or their spouses, such benefit shall be utterly null and void; and such witness shall not be thereby rendered incompetent to give evidence in respect of such will or codicil (B): Provided always, that the being appointed trustee, executor, guardian, curator, or the like, or the receipt of the usual remuneration as such, or the payment of a legal debt or demand, shall not be deemed a benefit within the meaning of this section.

Any benefit to a witness to be void.

What are not to be deemed benefits.

8. Every will or codicil shall be tacitly revoked by the subsequent marriage of the testator, unless such will or codicil shall expressly refer to such then future marriage, in manner showing an intention that such will or codicil shall not be thereby revoked; and save in so far as such will or codicil shall dispose of property which would not if such testator should die intestate, go to the wife or husband or issue of such marriage: Provided, no joint will shall be revoked by the marriage of the surviving spouse (c).

Will is revoked by marriage.

Exceptions.

9. No will or codicil shall be revoked in any part thereof (save as herein specially provided), except by a subsequent will or codicil validly executed and intended so to revoke, or by any writing which if it purported to be a will or codicil would be validly executed under this Law as a will or codicil, and which shall declare an intention to revoke; or by the burning, tearing, or otherwise destroying (d) the will

How wills may be revoked.

(A) See Story's Conf. of Laws, (7th ed. 63).

(B) Under 1 Vic. c. 26, s. 15, the following points have been decided: Where a legatee, under a will, attested a codicil by which he received no benefit, his legacy was held not to be revoked (*Gurney v. Gurney*, 24 L.J. Ch. 656; 3 Drew 268); and where one of several residuary legatees under a will attested a codicil, which revoked a legacy and thereby increased the residuary shares, it was held that his title to a share in the residue was not affected (Ib.). Where a beneficiary under the will attested as a third witness, the attestation invalidated the bequest (*Cozens v. Crout*, 42 L.J., Ch. 840), and see *Randfield v. Randfield*, 32 L.J. Ch. 668; 8 H.L. 225; but distinguish *In the Goods of Murphy*, 8 Ir. R., Eq. 300. Note also different wording of Natal Law.

A trustee for a church, with absolute discretion, does not lose a legacy for the church by attestation (*Creswell v. Creswell*, L.R. 6 Eq. 69).

(c) In connection with revocation of will by marriage see *Mette v. Mette*, 1 Sw. and Tr. 416 (the marriage being void), and *In the Goods of Fenwick*, L.R., 1 P. & M. 319; *Hawksley v. Barrow*, L.R., 1 P. & M. 147 (second marriage of woman).

(d) The same words "or by the burning, tearing, or otherwise destroying," occur in sec. 20 of the Wills Act, and upon them the following decisions have been recorded:—

The will must be actually injured itself; no cancellation of its words either with or without a memorandum, "This

is revoked" is enough (*Cheese v. Lovejoy*, 2 P.D. 251); see also *In the Goods of Brewster*, 29 L.J., Pr. 69. But there may be a symbolical destruction of a part for the whole, as by tearing off a seal (*Price v. Price*, 27 L.J., Ex. 409), or by cutting out of the signature, either of the testator (*Hobbs v. Knight*, 1 Curt. 768; *Bell v. Fothergill*, L.R., 2 P. & M. 148), or of the witnesses (*Evans v. Dallow*, 31 L.J. Pr. 128), or scratching out, though the paper be not pierced (*Morton, In re*, 12 P.D. 141), and gumming an excised signature into its place again has been held not to revive (*Bell v. Fothergill*, supra), although such a refastening has in other cases been held effective (see *In the Goods of De Bode*, 5 No. Ca. 189).

But there may be a partial revocation by destruction of part, and it is a question of intention whether the testator meant to revoke wholly or in part; see *Clarke v. Scripps*, 2 Rob. 563; *Christmas v. Whingates*, 3 Sw. & Tr. 81.

As to tearing by lunatic, see *Harris v. Berral*, 1 Sw. & Tr. 153.

Where a will was destroyed by the testator on the supposition that he had substituted another for it, but which was not duly executed, probate of a copy of the first will was granted (*Scott v. Scott*, 1 Sw. & Tr. 258; and see *Giles v. Warren*, L.R., 2 P. & M. 401).

As to "dependent relative revocation," see *Dancer v. Crabb*, L.R., 3 P. & M. 98; *Powell v. Powell*, L.R., 1 P. & M. 209.

Whether a codicil is revoked or not depends on the question whether the codicil is independent of the will (*In the Goods of Elice*, 33 L.J., Pr. 27).

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or codicil by the testator, or by some person in his presence (A) and by his direction, with the intention of revocation (B).

Effect of obliterations, alterations, &c.

10. No obliteration, interlineation, or other alteration made in any will or codicil after the execution thereof shall be valid unless such will or codicil be thereafter re-executed, or unless the obliteration, interlineation, or other alteration be expressly referred to in a memorandum on or annexed to such will or codicil, and such memorandum be duly executed as a will or codicil: Provided always, that if the part of the will or codicil obliterated shall not, in whole or in part, be legible, then so much thereof as shall not be legible shall be deemed not to have been at any time in the will or codicil (C).

Illegible parts deemed never to have been in will.

How revoked wills may be revived.

11. Any will or codicil which has been revoked in whole or in part shall not, as to the revoked portion, be revived otherwise than by subsequent due execution of such will or codicil, or by a will, codicil, or any writing duly executed under this Law, showing an intention so to revive; and when any will or codicil, having been partially revoked, shall be subsequently in other part or wholly revoked, and then shall be revived, such revival shall extend to do away with only the then last preceding revocation, unless and so far as a different intention shall be by such revival shown (D).

Effect of revival.

Wills not affected by this Law.

12. Nothing in this Law contained shall in anywise affect the validity of any will or codicil executed prior to the date of this Law coming into operation, or executed before a notary public.

Commencement

13. This Law shall commence and take effect from and after the first day of January, 1869.

Law No. 5, 1868.

"Law to provide for the Registration and Probate of Wills in the Colony of Natal (E)."

[16th September, 1868.]

Proof of execution of will by witnesses;

3. Such proof of execution shall be by the witnesses to such will, or either of them: Provided always, that if such witnesses shall appear to be dead or of unsound mind, or absent from the Colony (F), or otherwise incapacitated, their evidence may be dispensed with: And, provided further, that in the case of any will or codicil purporting to

(A) A testator cannot authorise a will to be destroyed after his death (*Stockwell v. Ritherdon*, 1 Rob. 661).

(B) See *Harris v. Berral*, supra, and *Brunt v. Brunt*, 3 L.R., P. 37.

(C) The provisions of the Wills Act on the matter of alterations, &c., differ materially from those of the Natal Law, but the following cases may be referred to by way of analogy, if not directly in point:—

Re Ibbetson, 2 Curt. 337, and *Re Horsford*, 3 L.R., P. 211 (as to the aid of magnifying glasses to distinguish obliterated parts); *Ffinch v. Coombe* [1894] 6 R., P.D. & A. 545, where the authorities are collected.

A line drawn through with a pencil is not an obliteration, but is merely regarded as something deliberative (*Fran-*

cis v. Grover, 5 Hare, 39; see further, *In the Goods of Hall*, L.R., 2 P. & M. 256).

In the absence of all direct evidence as to alterations and erasures, the presumption of law is that they were made after the execution of the will (*Cooper v. Bockett*, 4 Moo. P.C. 449; *Doe d. Shalcross v. Palmer*, 16 Q.B. 747; 20 L.J., Q.B., 367; *In the Goods of White*, 30 L.J., Pr. 55; but see per Wood V.C., in *Williams v. Ashton*, 1 Johns & H. 115). See also *In re Parker*, 2 N.L.R. 114.

As to admissibility of evidence of declarations of deceased, see *Staines v. Stewart*, 2 Sw. & Tr. 320.

(D) Cf. sec. 22 of the Wills Act, and see notes thereon in Chitty's Statutes.

(E) See this Law in full, ante, tit. "PROBATE."

(F) See *Estate of Wools*, 14 N.L.R. 111.

have been duly executed before, and attested by, any notary public, the signature and seal of such notary public shall, unless proof to the contrary be adduced, be deemed sufficient proof of the due execution of such will or codicil: Provided also, that any testator having, together with his witnesses, executed and attested his will in the presence of a Resident Magistrate or Justice of the Peace, may require such Resident Magistrate or Justice of the Peace to inscribe a certificate on said will, that the said will was duly executed in his presence, and such certificate shall be deemed sufficient proof of the due execution of said will, for the purpose of registration under this Law. [Proviso (A).]

Law 5, 1868.

by signature
and seal of
notary;by certificate of
Justice of the
Peace or Resi-
dent Magistrate

6. If any witness to any will shall, when called upon for proof of execution as aforesaid, not remember, or shall doubt or deny the due execution, or if any difficulty or question should arise or any objection be raised by or on behalf of any person interested as to the due execution or validity of any will submitted to the Registrar of Deeds or any Magistrate for proof, such proof for registry shall be given before the Supreme Court of the Colony by any person or persons who can depose thereto, the evidence given by such first-mentioned witness, or such witness himself, being produced before the Supreme Court, or the absence thereof respectively explained (B), and the Supreme Court shall thereupon decide upon such question or objection, and as to the sufficiency of such proof for registry, or shall make an order declaring the will proved, and stating if and as appearing from the evidence the time and place of the death of the testator; or shall make such other order as to the admission of such will to registry as to such Court shall seem fit (C).

In cases of diffi-
culty, proof of
execution to be
given before
Supreme Court.Court may
make an order
declaring the
will proved, &c.

Law No. 13, 1869.

"Law to amend and explain the provisions of Law No. 5, 1868, entitled, 'Law to provide for the Registration and Probate of Wills in the Colony of Natal (n).'"

[22nd September, 1869.]

3. Instead of the last proviso in section 3 of the said Law No. 5, 1868, the following shall hereafter be substituted, that is to say:—

Substitution
for last proviso
in sec. 3, Law 5,
1868.

"Provided also, that if there be to any will or codicil an attestation clause substantially in the form in Schedule D hereto, and there be nothing on the face of the will or codicil appearing in conflict with the contents of such clause, then the due execution of such will or codicil for the purposes of the said Law No. 5, 1868, may be proved by the person or persons proceeding therefor deposing that he or they believe, from not having any knowledge, information, or suspicion to the contrary, that the said will or codicil was executed and attested in manner in the attestation clause thereto stated."

7. In the construction of the said Law No. 5, 1868, the term "Will" shall be deemed to include a codicil when the latter is not expressed; and in section 15 of the said Law "Resident Magistrates" shall, so far

Interpretation.

(A) Repealed by Law 13, 1869, sec. 3, post.

(B) See *Estate of Combrink*, 14 N.L.R. 199.

(C) For an instance of an application under this sec. see *Estate of Nipper*, 14 N.L.R. 149.

(D) See this Law in full, ante, tit. "PROBATE."

Law 13, 1869. as referred to in Schedule C hereto, be deemed within the directions in the said section to be the Registrar of Deeds.

Commencement 9. This Law shall be in operation from the promulgation thereof in the "GOVERNMENT GAZETTE," and shall be construed together with the said Law No. 5, 1868, and said Law and this Law may together be cited for all purposes as the "Probate of Wills Law, 1868 and 1869."

SCHEDULE D.

Schedule.

Attestation Clause.

Signed (or acknowledged to be signed) by A.B. the testator of this will (or signed with the name of A.B., the testator of this will, in his presence, and by his direction, by C.D.) (A), in the presence of us, then present both together, and affixing our signatures hereto as witnesses to the said will, in the presence of the said testator.

E. F.

G. H.

Law No. 17, 1871.

"Law to amend the 3rd Section of Law No. 22, 1863, entitled, 'A Law to prevent Community of Goods attaching to certain Marriages, and to enable the Spouses of such Marriages to devise their Properties.'"

[29th November, 1871.]

WHEREAS in the proviso to the third section of Law No. 22, 1863, it is enacted that certain provisions of said section from which it was intended to exclude the wills or codicils of persons deceased before the coming into operation of the said Law, "shall only apply to the wills or codicils of persons who shall be alive," when said Law came into operation: AND WHEREAS the words of said proviso do not correctly express such intention and it is expedient to amend the said section accordingly and to declare the true intent and meaning thereof as aforesaid:

BE IT ENACTED, by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Addition to sec.
3, Law 22, 1863.

1. The following words shall be added, and shall be deemed to have been included at the date of its enactment, to the third section of Law No. 22, 1863, that is to say:—

"or who shall be born after the commencement of this Law"; and the said recited section of the said Law No. 22, 1863, is hereby amended accordingly.

Commencement

2. This Law shall take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (B).

Law No. 14, 1882.

"To amend the Law No. 22 of 1863, entitled, 'Law to prevent Community of Goods attaching to certain Marriages, and to enable the Spouses of such Marriages to devise their Properties.'"

[4th September, 1882.]

WHEREAS it is expedient to extend the provisions of the Law No. 22 of 1863, and to solve certain doubts in reference thereto:

(A) See note (A) on page 5, ante.

(B) May 13, 1872.

BE IT THEREFORE ENACTED by the Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:— Law 14, 1882.

1. The Law No. 22 of 1863, entitled, "Law to prevent Community of Goods attaching to certain Marriages, and to enable the Spouses of certain Marriages to Devise their Properties," shall extend to any marriage already had or to be had in Natal, or elsewhere in South Africa, if the intended spouses, duly assisted if need be by their curators or guardians, by an instrument in writing or ante-nuptial contract signed by each of them, in the presence of two persons, who shall subscribe their names as witnesses thereto, shall have already expressed and signified, or shall hereafter express and signify, their wish, desire, or intention that the marriage about to be solemnised between them shall be brought within the provisions of the said Law. Law 22, 1863, may be extended to any marriage solemnized in South Africa.

2. The instrument in writing mentioned in Section 7 of the said Law No. 22 of 1863 shall include and mean any such instrument in writing as shall already have been, or may hereafter be, executed by the spouses of the marriages therein mentioned at any time during the existence of any such marriage. Definition of term "instrument in writing."

3. This Law shall be read and construed together with the Laws No. 22 of 1863 and No. 17 of 1871 as one Law, and shall commence and take effect from and after the date of the publication thereof in the "GOVERNMENT GAZETTE" (A). Construction and commencement.

Law No. 7, 1885.

"To amend the Law as to Legitimate and other legal Portions."

[23rd September, 1885.]

WHEREAS by the Laws or customs of this Colony, claims may be made by children or other relations so as to interfere with free disposal of property:

AND WHEREAS it is expedient that the inconvenience arising from such interference should be put an end to:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. No legitimate portion shall be claimable of right by anyone out of the estate of any person who shall die after the taking effect of this Law. No legitimate portion claimable of right.

2. In no case shall any heir of anyone dying after the taking effect of this Law be entitled to deduct out of the estate of the person so dying any portion under or by virtue of the Laws known respectively as the Falcidian and Trebellianic Laws, which, but for such Laws respectively, such heir would not be entitled to claim or deduct. Heir not entitled to deduct portion under Falcidian and Trebellianic Laws.

3. From and after the taking effect of this Law the Sixth Law of the Ninth Title of the Fifth Book of the Code of Justinian, commencing with the words "Hac Edictali," and commonly called or known as the Law or "Lex Hac Edictali," shall be and the same is hereby repealed, as regards the estate of any person dying after the taking effect of this Law. Lex Hac Edictali repealed.

4. Every person competent to make a Will shall have full power by any will executed after the taking effect of this Law to disinherit or omit to mention any child, parent, relative or descendant, without assigning any reason for such disinheritance or omission, any law, usage, Person competent to make will may disinherit child, &c., without assigning reason.

(A) Sept. 5, 1882.

Law 7, 1885. or custom, now or heretofore in force in this Colony notwithstanding; and no such will as aforesaid shall be liable to be set aside as invalid, either wholly or in part, by reason of such disinheritance or omission as aforesaid (A).

Law of inheritance *ab intestato* not affected.

Commencement

5. Nothing in this Law contained shall affect or alter the Laws of Inheritance "ab intestato" at present in force in this Colony.

6. This Law shall be in operation on and after the day next after that of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE (B).

(A) See *Richards v. Moore*, 15 N.L.K. 20. It does not appear that the powers hereby conferred affect the principle of law that a presumption of "unsoundness of mind" arises from the fact of

repulsion being exhibited by a parent towards his child, amounting to delusion as to character. (See *Boughton v. Knight*, 3 L.R., P. 64.)

(B) Sept. 29, 1885.

WILLS (NATIVES).

Act No. 7, 1895.

“To repeal and to re-enact, with certain amendments, the Law No. 12, 1864, entitled Law ‘To enable certain Natives to dispose of Immovable Property, and to regulate the Devolution of Immovable Property in cases of Intestacy.’”

[17th July, 1895.]

WHEREAS it is expedient to amend the provisions of Law No. 12, 1864, entitled Law “To enable certain Natives to dispose of Immovable Property, and to regulate the Devolution of Immovable Property in cases of Intestacy”:

AND WHEREAS this can be more conveniently done by repealing the said Law, and enacting another in lieu thereof:

BE IT THEREFORE ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Law No. 12, 1864, entitled Law “To enable certain Natives to dispose of Immovable Property, and to regulate the Devolution of Immovable Property in cases of Intestacy,” and so much of any other Law or Ordinance as may be repugnant to or inconsistent with any of the provisions of this Act, are hereby repealed.

Repeals.

2. Wherever in Law No. 19, 1891, or any other Law, reference is made to the Law No. 12, 1864, aforesaid, this Act shall be deemed to be referred to; and this Act shall apply to the administration as regards immovable property of the estate of any Native who shall have died but whose estate shall not have been wound up before the commencement of this Act.

Reference to Law 12, 1864, to be deemed a reference to this Act.

3. Any Native subject to the operation of Native Law may by will or codicil, in writing, made in this Colony, devise, bequeath, or dispose of any immovable property which he shall be the owner of, or possess or be entitled to, as he shall think fit, subject to the provisions of this Act.

Native subject to Native Law may make will.

4. Such will or codicil shall be read over and explained to the testator by an Administrator of Native Law, in the presence of two witnesses; and such will or codicil shall be signed by the testator or by someone in his presence, and by his direction, and such signature shall be made and assented to or acknowledged in presence of two competent witnesses, present at the same time; and such witnesses shall in the presence of the testator affix their signatures as near as they conveniently can to the signature of or on behalf of the testator, but no form of attestation shall be requisite.

Formalities to be observed.

5. The Administrator of Native Law attesting any will or codicil under this Act shall record in writing upon some part of the paper upon which the will or codicil is written, a certificate as near as may be in the schedule to this Act annexed.

Certificate of Administrator.

6. Sections 3, 4, and 5 of this Act shall apply to Native women: Provided that in executing a will a Native woman shall be assisted by her guardian, or if he shall without sufficient cause refuse, or shall be prevented from assisting her, then by such person as shall be appointed for that purpose by the Administrator of Native Law.

Wills of Native women.

7. No letters of administration from the Registrar of Deeds shall be necessary in regard to the administration of any such immovable property; but if any controversies or questions should arise between

Controversies regarding immovable property, how determined.

Act 7, 1895. the relatives of a deceased Native, who was not exempt from Native Law, regarding the distribution of the immovable property left by him at his death, such controversies or questions shall be determined under the provisions of Law No. 19, 1891, Schedule, Part I, Chapter IX., by the Administrator of Native Law, of the district in which the immovable property is situated.

Immovable property of deceased Native—how transferred. 8. Immovable property belonging to any deceased Native who shall have been at the time of his decease subject to Native Law, may be transferred to any other person or persons, subject to any special conditions in the deed of grant or deed of transfer, before the Registrar of Deeds, by the Executor Testamentary, or the Executor Dative, upon production of the will, or, in case of intestacy, upon production of a certificate approving of the transfer, signed by the Administrator of Native Law of the District in which the immovable property is situated.

Bequest of immovable property by will made under this Law to Native woman. 9. Whenever by a will or codicil made under this law any immovable property shall be bequeathed to a Native woman who is subject to Native Law, such bequest shall be deemed to be made to the person who for the time being is her guardian, to be held in trust for such woman during her life; and, after her death, such immovable property shall devolve upon the heir of the house to which she belonged at the time of her death, unless otherwise directed by the will or codicil by which the property was bequeathed to her.

Sale of property. Provided always that if at any time during such woman's lifetime it shall be deemed desirable, in her interests, to dispose of such immovable property, the guardian may, with the written approval of the Administrator of Native Law, sell or otherwise alienate such immovable property.

Disability to make will by reason of personal incapacity. Provided also, that in case the immovable property shall have been bequeathed to more than one person, the same shall be sold by public auction or at a valuation to be approved by the Administrator of Native Law, and the proceeds shall be distributed amongst the heirs under the will in the shares and in manner as may therein be directed.

10. Any Native subject to the operation of Native Law labouring under the same personal incapacity which, if any inhabitant of Natal, not being a Native, laboured under, would render void or illegal a will executed by such inhabitant, shall have no power or capacity to make a will under this Act, and any will disposing of any immovable property executed by any Native subject to the operation of Native Law and labouring under such personal incapacity as aforesaid, shall be void and of no effect.

Mortgages and hypothecations. 11. All immovable property belonging to any Native subject to Native Law, or which he shall at the time of his death be possessed of or entitled to, shall be subject to all special mortgages and hypothecations which may have been legally affixed to or be binding on such property for the payment of any sum of money or other interest so secured by such mortgage, and such claim shall be preferent in the same manner as may be the case in all other mortgages or hypothecations under the Laws in force in this Colony.

What does not amount to revocation. 12. Any will or codicil made under this Act shall not be revoked by reason of the testator having become exempted by process of any Law from the operation of Native Law, or by any marriage entered into during the subsistence of a prior marriage, and such will shall be subject to the operation of the general laws of the Colony with regard to registration and probate.

Probate. 13. If a Native not exempted from Native Law shall die intestate, his estate shall be dealt with and administered under the provisions of Law No. 19, 1891, even although the heirs or any of them hold letters
Intestate estate of unexempted Native.

of exemption under Law No. 28, 1865; and the Supreme Chief may from time to time define the customs and usages to be observed in the administration of any such estate, and may by proclamation lay down rules and regulations as to the course of procedure to be observed, and the appointment of Executors Dative for the Estate of any deceased Native who had not been exempted from Native Law. Act 7, 1895.

14. If a Native holding a letter of exemption from Native Law, under Law No. 28, 1865, shall die intestate, his estate shall be dealt with and distributed under the ordinary law of the Colony, even although the heirs or any of them be natives not exempted from Native Law. Intestate Estate of exempted Native.

15. On failure of heirs, the immovable property of a deceased Native shall revert to the Supreme Chief, and shall be dealt with as may be by him directed. When immovable property reverts to Supreme Chief.

SCHEDULE.

I certify that I have, on this _____ day of _____ 189____, caused to be explained in my presence and in the presence of _____ and of _____ two persons of full age, this will [or codicil] to the said testator _____ and that he, the said _____ appeared to be fully capable of understanding, and to understand and to intend the provisions of the said will [or codicil]. Schedule.

WITNESSES.

[See "EVIDENCE AND WITNESSES"; "CRIMINAL LAW"; "WILLS," &C.]

WORKMEN'S COMPENSATION.

[See "EMPLOYERS' LIABILITY."]

XANTHIUM SPINOSUM.

[See "LANDS IMPROVEMENT."]

ZULULAND.

[See "ARMS, AMMUNITION, &C."; "COURTS (NATIVE)"; "MINES AND COLLIERIES"; "RAILWAYS," &C., &C.]

Act No. 37, 1897.

"To provide for the Annexation to the Colony of Natal of the Territory of Zululand."

[29th December, 1897.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

- Short title. 1. This Act may be known as "The Zululand Annexation Act, 1897."
- Commencement 2. This Act shall not take effect unless and until the Governor shall notify by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other Proclamation (A).
- Annexation of Zululand. 3. From and after the taking effect of this Act, the Territory of Zululand shall become annexed to and shall thenceforth be a portion of the Colony of Natal, and shall be known as the Province of Zululand.
- Laws, how to be made. 4. Laws for the peace, order, and good government of the Province of Zululand may be made by Her Majesty with the advice and consent of the Parliament of Natal as provided in the Constitution Act of 1893 of the Colony of Natal: Provided that save so far as is otherwise provided by this Act, and until other and further provision shall have been made by Parliament, the laws in force in the Territory of Zululand immediately before the taking effect of this Act shall apply to and be in force in the Province of Zululand (B).
- Franchise. 5. All persons living in Zululand who, if in the Colony of Natal, would enjoy franchise rights, are hereby declared to be entitled thereto, but the exercise of such rights shall be postponed until the necessary provision shall have been made in that behalf by Parliament: Provided that a Bill for such purpose shall be submitted by the Governor to Parliament at its next ordinary Session.
- Application of certain Natal laws to Zululand by Proclamation. 6. The Governor in Council shall have full power and authority by Proclamation to apply to the Province of Zululand any of the laws of Natal relative to:—
- Police,
 - Gaols,
 - Customs and Excise,
 - Audit,
 - The Post and Telegraph Service,
 - The Registry of Deeds,
- and to repeal any existing law of Zululand relative thereto.
- Temporary provision for alteration of laws. 7. The Governor in Council may from time to time, until the 30th June, 1898, by Proclamation, make any alteration in or addition to the Laws of Zululand, not being inconsistent with the tenor of this Act.

(A) Took effect Dec. 30th, 1897. See (B) See Act 17, 1898, post.
Pn. in G.G. Dec. 29th, 1897.

8. The Governor in Council shall have full power and authority to reconstitute the departments of the public service of Zululand, and to incorporate them so far and in such manner as may be desirable with the departments of the public service of Natal, but saving all existing rights and privileges; and so that in the case of any officer of the public service of Zululand whose services shall be retained after the annexation, service in Zululand shall for purposes of pension be deemed to have been service in Natal. No officer appointed to the public service of Zululand before the taking effect of this Act, whose office would if in Natal be an office in the permanent Civil Service, shall be required to contribute towards superannuation, in terms of Section 31 of the Civil Service Act, 1894, in order to be entitled to pension.
9. Whenever in any Proclamation or other document any public officer of Zululand is mentioned, such reference may be deemed to be a reference to the officer who may hereafter be appointed to discharge the duties formerly devolving upon the officer so mentioned.
10. The powers and authority of the Crown Prosecutor of Zululand shall be exercised subject to the authority of the Attorney-General of Natal.
11. The Supreme Court of Natal shall not exercise jurisdiction within the Province of Zululand, or over the Courts thereof, otherwise than in accordance with any Act or Acts that may hereafter be passed (A).
12. It shall be lawful for the Governor to pay out of the Consolidated Revenue Fund to all persons holding offices of profit under Her Majesty in Zululand at the taking effect of this Act, whose offices shall be abolished, or whose services the Governor may not require to retain, such compensation for loss of office as shall in each case be awarded by the Governor, in conformity with the provisions of Law No. 3, 1872, as amended by Law No. 11, 1887 (B).
13. All obligations, undertakings and liabilities of the Government of Zululand subsisting at the date when this Act shall come into force shall thenceforth be transferred to, become binding upon, and be discharged by, the Government of Natal.
14. The existing engagements entered into by Her Majesty with Native Chiefs in Zululand shall, from and after the annexation thereof, be undertaken and observed by the Governor of the Colony of Natal, who shall, in discharge thereof, pay yearly such sums of money as shall be required for the purpose of satisfying such engagements: Provided always, that a full and particular account, showing the manner in which the sums drawn out for the Native Chiefs aforesaid have been expended, shall, from time to time, be laid before Parliament.
15. No alteration in the existing law of Zululand relating to the sale or supply of intoxicating liquor to Natives, or to any other classes of the population who are placed under restrictions in regard to the sale or supply of liquor, shall be deemed to be effected by the passing of this Act.
16. From and after the coming into force of this Act, and until further provision shall have been made by Parliament during its next ordinary Session, the Governor of the Colony of Natal shall pay out of the Consolidated Revenue Fund to the persons holding office in the Province of Zululand all such salaries, and shall also pay all such other moneys, as may be necessary for carrying on the government of the said Province.
17. All quit-rents, taxes, dues, revenue, and other moneys of every kind belonging or payable to the Government of Zululand shall belong

Act 37, 1897.
Reconstruction of public departments.

Pensions and rights of officers of Zululand Government.

Construction of references to public officers.

Crown Prosecutor.

Supreme Court of Natal.

Compensation for loss of office.

Obligations of Zululand Govt. transferred to Natal Govt.

Engagements with Native Chiefs to be observed.

Restrictions on sale of intoxicating liquors.

Payment of salaries and expenses of Government.

Income and Revenue payable to Natal Government.

(A) See Act 46, 1898, post, for extending the jurisdiction to Zululand.

(B) See tit. "PENSIONS."

Act 37, 1897. and be paid to and shall continue to be payable to the Government of Natal.

Restrictions on alienation of Crown Lands.

18. Until other provisions shall have been made in that behalf, with the approval of Her Majesty, no grants or alienation of Crown Lands within the Province of Zululand shall be made, nor till then shall the Natives be disturbed in the use and occupation of any lands occupied or used by them at the time of the taking effect of this Act: Provided that this Section shall not apply to township lands or to lands reserved or which may hereafter be reserved for mining purposes, in terms of Proclamation No. VII. of Zululand, dated 16th April, 1894, or to any rights to or interest in land already acquired from the Government of Zululand.

Rights of certain persons practising in Zululand and Natal.

19. Every person duly admitted, enrolled, or registered in Zululand at the taking effect of this Act as an Advocate, Attorney, Notary, Surveyor, Conveyancer, Medical Practitioner, Chemist and Druggist, Apothecary, or Dentist, shall be deemed to have been duly admitted, enrolled, or registered in the like capacity in the Colony of Natal, and every person entitled to practise in any such capacity in Natal shall be entitled to practise in Zululand.

Native passes.

20. After the coming into force of this Act no charge shall be made for passes authorising Natives to enter the Colony of Natal from Zululand and "vice versa," and all laws and regulations to the contrary hitherto existing are hereby to that extent repealed.

Lands set apart for missionary, religious, or educational purposes.

21. All grants and reservations heretofore made, and all rights heretofore acquired for the use and occupation of lands and buildings for missionary, religious, or educational purposes, which shall have been recognised by the Government of Zululand, shall continue to have force and effect so long as such lands and buildings are applied to the uses for which they were granted.

Salary of Governor.

22. In addition to the salary of £4,000 Sterling, payable to the Governor of Natal under Schedule A of the Constitution Act, 1893, there shall be paid to the Governor of Natal a further sum of £1,000 Sterling per annum.

Pension to Sir Marshall Clarke

23. There shall be paid by the Government of Natal to His Honour Sir Marshall Clarke, K.C.M.G., upon his retirement from the service of the Crown, the Sum of One Hundred and Fifty Pounds Sterling annually, by way of pension in respect of his services in Zululand; but such payment shall be suspended during such time as he may after such retirement be employed by Her Majesty at a salary of not less than his present emoluments.

Act No. 17, 1898.

"To apply certain of the laws of the Colony of Natal to the Province of Zululand, and to amend and declare the construction of the laws heretofore in force in the said Province."

[18th July, 1898.]

WHEREAS by Proclamation No. II. of Zululand, bearing date the twenty-first day of June, 1887, it was enacted that the laws then in force in the Colony of Natal should, so far as applicable, be the laws of the Territory of Zululand, save as was otherwise specially provided:

AND WHEREAS by the said Proclamation and by other subsequent Proclamations, certain other laws of Natal have been applied either wholly or in part or with alterations to the Territory (now the Province) of Zululand:

AND WHEREAS by the Zululand Annexation Act, 1897, it is enacted that save so far as is otherwise provided by the said Act, and until other and further provisions shall have been made by Parliament, the laws in force in the Territory of Zululand shall apply to and be in force in the Province of Zululand: Act 17, 1898.

AND WHEREAS it is desirable to declare the construction of those laws of the Colony of Natal which have been applied to the Territory of Zululand before its annexation to Natal, and also to extend certain other laws of Natal to the Province of Zululand:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be known as "The Consolidation of Laws (Zululand) Act, 1898." Short title.

2. This Act shall not come into operation unless and until the Governor shall by Proclamation in the "NATAL GOVERNMENT GAZETTE" notify that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other Proclamation (A). Commencement

3. (a) All the laws of Natal which were applied to Zululand by the Zululand Proclamation II. of 21st June, 1887, and all the subsequent Proclamations declaring the Law of Zululand which were made before the annexation of Zululand to Natal shall, in so far as the provisions thereof are substantially identical with those of the laws now in force in Natal, be deemed to be amalgamated with such laws of Natal, and shall be read and construed jointly therewith, and not as separate laws. Joint construction of Laws of Zululand and Natal;

(b) In any case where a part only of the law of Natal has been heretofore extended to Zululand, or where a law of Natal has been applied to Zululand with alterations and additions, the law of Zululand shall nevertheless still be regarded as one with the law of Natal, except to the extent of such alterations or additions. and of Natal laws partly extended to Zululand.

4. From and after the taking effect of this Act the Laws and Acts of the Colony of Natal which have been passed since the twenty-first day of June, 1887, and which are now in force, shall extend to and be of force within the Province of Zululand, but with the following limitations and exceptions, that is to say:— Extension to Zululand of Natal Laws, &c., passed since June 21, 1887.

(a) The Laws and Acts enumerated in the first schedule of this Act shall, in their application to the Province of Zululand, be subject to the reservations, limitations, and alterations shown in the second column of the said schedule; Exceptions.

(b) The Laws and Acts enumerated in the second schedule shall not apply to the Province of Zululand unless and until express provision in that behalf be made by Act of Parliament.

5. Law No. 48, 1884, entitled "Law to provide for the better regulation of the passing and re-passing of Natives between Natal and the neighbouring States and Territories," as amended by Law No. 52, 1887, entitled "Law to impose certain fees on passes issued under the Law No. 48, 1884," shall extend to and be of force in the Province of Zululand, subject always to the provisions of Section 20 of the Zululand Annexation Act, 1897. Extension to Zululand of the Pass Laws.

6. All Acts of the Colony of Natal passed during the present session of Parliament, and all Acts which may be passed hereafter, shall extend to and be of force in the Province of Zululand, except in so far as it may be otherwise expressly provided. Future Acts to apply to Zululand.

(A) Took effect July 20th, 1898. See Pn. in G.G., July 19, 1898.

Act 17, 1898.

Supreme Court jurisdiction not extended to Zululand.

7. Nothing contained in any of the Laws or Acts which are by this Act extended to the Province of Zululand shall be deemed to have the effect of extending the jurisdiction of the Supreme Court of the Colony of Natal to the Province of Zululand unless and until a special Act for that purpose shall have been passed, and shall have come into operation; and until then all cases brought by any of the Laws mentioned in the second Schedule of this Act within the jurisdiction of the Supreme Court shall be cognisable by the Courts of Magistrates within the Province of Zululand, and all offences thereunder may be punished according to the ordinary jurisdiction of Magistrates' Courts.

Franchise Law, No. 2, 1883, applied to Zululand.

8. Law No. 2, 1883, shall apply to the Province of Zululand with the following amendment: The following proviso shall be added to Section 4, that is to say: Provided that applications to be lodged by persons residing within the Province of Zululand and claiming the franchise under this law, may, in the year 1898, be delivered at any time during the months of June, July, and August.

Application of rules and regulations to Zululand.

9. Rules and regulations made under any Ordinance, Law, or Act which is in force in the Province of Zululand, shall extend to the said Province unless the contrary be provided by any rule or regulation which may be made in the manner prescribed by such Ordinance, Law, or Act.

Exemptions from Native Law to extend to entire Colony.

10. All letters of exemption which have been granted, or which may hereafter be granted, to Natives under the provisions of Law No. 28, 1865, shall have force and validity in the whole Colony, inclusive of the Province of Zululand.

Repeal of Zululand Proclamations.

11. Sections 47, 48, and 49 of the Zululand Proclamation No. II. of 1887, and the Zululand Proclamation No. VII. of 1888 and No. IX. of 1897, shall be repealed, without prejudice to any thing done or any right acquired or liability incurred thereunder.

FIRST SCHEDULE.

Schedules.	No. and Title of Law or Act.	Reservation, Limitation, or Alteration.
	44, 1887, "To amend the Native Administration Law, 1875."	Sections 6 and 7 only are extended to the Province of Zululand.
	47, 1887, The Insolvency Law, 1887.	This Law and any Laws amending it shall not apply to Natives within the Province of Zululand.
	5, 1890, To amend in certain respects Law No. 5, 1860, and the Law No. 19, 1893.	The year 1890 named in Section 2 shall, so far as relates to the Provinces of Zululand, be altered to 1898.
	16, 1890, The Leprosy Law, 1890.	With effect from such date as shall be appointed by the Governor in Council by Proclamation in the "NATAL GOVERNMENT GAZETTE."
		There shall be added to Sub-section (f) of Section 2 the following words; or any lands leased or occupied under the Zululand Mining Law.
	15, 1894, To amend the Leprosy Law, 1890.	To take effect at the same time as Law No. 16, 1890.

- 21, 1894, The Civil Service Act, 1894. (1) For the purposes of Sections 18 and 31, the Act shall, within the Province of Zululand, be deemed to have commenced on the date of the coming into operation of this Act. (2) Nothing under Act No. 21, 1894, shall lessen or affect the rights and privileges reserved by the Zululand Annexation Act, 1897, to any officer holding office in the Public Service of the Province of Zululand at the date of the taking effect of this Act. (3) Any officer of the Public Service in the Province of Zululand who, prior to the passing of the Zululand Annexation Act, 1897, had been an officer of the Public Service of Natal, and had left the same in order to enter the Public Service of the Territory of Zululand, shall, for purposes of pension, be entitled to reckon his service as if it had been continuous service in Natal: Provided that it clearly appear that not more than one month had elapsed between his leaving the Public Service of Natal and his entering the Public Service of Zululand. (4) The following words shall, within the Province of Zululand, be deemed to be included in the Schedule:—
Conservators of Forests.
- 24, 1895, To amend the Leprosy Law, 1890. To take effect at the same time as Law No. 16, 1890.

SECOND SCHEDULE.

No. of Law or Act.	Title.
46, 1887	To regulate the Marriage of Natives by Christian Rites.
50, 1887	To impose certain duties on Occupied Dwellings.
51, 1887	To amend the License and Stamp Law, 1885.
1, 1888	To amend Law No. 50, 1887, entitled "Law to impose certain duties on Occupied Dwellings."
13, 1888	To regulate the allowances to be paid to Witnesses in Criminal Cases.
25, 1888	To amend Law No. 27, 1887, entitled Law "To regulate and define the punishment for the crimes of Rape and Assault with intent to commit Rape, and of Indecent Assault."
33, 1888	To repeal, as regards certain fees, the "License and Stamp Law, 1885," and the Law No. 20, 1885, entitled Law "To amend the License and Stamp Law, 1885."
34, 1888	The Natal Mines Law, 1888.
39, 1888	To remedy defects in Surveys.
17, 1889	To amend Law No. 27, 1887.
13, 1890	To amend the Fifth Section of Law No. 44, 1887, entitled "Law to amend the Native Administration Law, 1875."

- Act 17, 1898. Schedules.
- 16, 1891 To make provision for the better preservation of Game in the Colony of Natal.
- 19, 1891 To legalise the Code of Native Law laid before the Legislative Council according to the provisions of Law No. 44, 1887.
- 25, 1891 The Indian Immigration Law, 1891.
- 4, 1894 The Immigration Act of 1894.
- 13, 1894 To amend the Code of Native Law, and to repeal Law No. 21, 1878.
- 24, 1894 To amend the Game Law, 1891.
- 36, 1894 To extend the powers of the Indian Immigration Trust Board.
- 37, 1894 To amend the Indian Immigration Trust Board Law, 1874.
- 12, 1895 To amend the Law No. 27 of 1887.
- 13, 1895 To abolish the Native High Court and the Court established by Law No. 10, 1876, and to transfer the jurisdiction thereof.
- 17, 1895 To amend the Indian Immigration Law, 1891.
- 18, 1895 To amend the License and Stamp Law, 1885.
- 25, 1895 To regulate the use of Mission Reserves.
- 31, 1895 For the Better Regulation of Grass Burning.
- 34, 1895 To amend the Indian Immigration Trust Board Law, 1874.
- 5, 1896 To amend Laws No. 16, 1867, and 46, 1887.
- 7, 1896 To validate certain Indian Marriages.
- 11, 1896 To provide for the Trial of Faction Fighting amongst Natives.
- 21, 1896 To amend Law No. 10, 1876.
- 23, 1896 To amend the Law relating to Stock Thefts.
- 24, 1896 To amend Section 5 of Law No. 10, 1876.
- 30, 1896 To bring Dentists within the provisions of the Medical and Pharmacy Law No. 37, 1884.
- 35, 1896 To amend the Laws relating to Medical Practitioners and Apothecaries.
- 37, 1896 For the Better Management of Native Locations.
- 38, 1896 To amend and consolidate the Laws regulating the Sale of intoxicating Liquors.
- 40, 1896 To amend the Code of Native Law.
- 8, 1897 To repeal and re-enact with amendments Sub-section (b) of Section 254 of the Code of Native Law, and Section 16 of the Native Code Amendment Act, 1896.
- 9, 1897 To amend Act No. 11, 1896, entitled Act "To provide for the Trial of Faction Fighting amongst Natives."
- 14, 1897 To amend the Indian Immigration Amendment Act, 1895.
- 15, 1897 For removing a certain restriction upon Marriage within the Colony of Natal.
- 18, 1897 To amend the Law relating to Licenses to Wholesale and Retail Dealers.
- 28, 1897 To protect uncovenanted Indians from arrest in mistake for absconding indentured Indian servants.

Act No. 46, 1898.

“To extend the Jurisdiction of the Supreme Court to the Province of Zululand.”

[3rd September, 1898.]

WHEREAS by “The Zululand Annexation Act, 1897,” it is enacted that the Supreme Court of Natal shall not exercise jurisdiction within the Province of Zululand or over the Courts thereof, otherwise than in accordance with any Act or Acts that may thereafter be passed :

AND WHEREAS by an Act passed in the present session of Parliament, known as “The Courts Act, 1898,” provision is made for the trial of certain Native cases and for the hearing of appeals in such cases in the Province of Zululand :

AND WHEREAS it is expedient to provide for the exercise of the jurisdiction of the Supreme Court in the said Province of Zululand in manner hereinafter provided :

BE IT THEREFORE ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be known as “The Supreme Court (Zululand) Act, 1898,” and shall come into operation upon such day after the passing thereof, as shall be fixed by the Governor in Council by Proclamation in the “NATAL GOVERNMENT GAZETTE,” not being earlier than the date appointed for the taking effect in the Province of Zululand of an Act passed in the present session of Parliament known as “The Courts Act, 1898” (A).

Short title and Commencement

2. From and after the commencement of this Act, the Act No. 39, 1896, “The Supreme Court Act, 1896,” shall extend to and be of force within the Province of Zululand, and the Supreme Court of the Colony of Natal shall exercise jurisdiction in the Province of Zululand according to the provisions of the said “Supreme Court Act, 1896,” as amended by “The Courts Act, 1898.”

Extension to Zululand of Act 39, 1896, as amended by Courts Act, 1898.

3. Until other provision shall have been made under the 11th Section of “The Supreme Court Act, 1896,” the Province of Zululand shall be a Circuit District of the Colony of Natal, and Circuit Courts shall be held therein not less than twice in each year.

Circuits in Zululand.

4. From and after the taking effect of this Act, the Laws of Natal relating to the constitution and formation of juries and to trials by jury shall be in force in the Province of Zululand.

Extension of Jury Laws to Zululand.

5. As soon as may be after the taking effect of this Act, steps shall be taken in the manner provided by Sections 6, 7, 8, and 9 of Law No. 10, 1871, but without regard to the dates therein mentioned, for the formation of jury lists for the Province of Zululand. Such jury lists shall be brought into use on such date as may be fixed by the Governor in Council, and shall continue to be used until their place is taken by the jury lists which shall be brought into use on the First day of October, 1899.

First jury lists for Zululand.

6. All proceedings, civil or criminal, save such as are otherwise specially provided for by “The Courts Act, 1898,” which shall have been commenced in the Province of Zululand, may be continued, prosecuted, and concluded as if this Act had not been passed.

Continuation of proceedings already commenced.

7. Special rules of the Supreme Court may where necessary be made for the Province of Zululand, and such rules may provide for the performance by some other person in the said Province of any of the duties of Master or any other officer of the Court, and may contain

Special rules of Court for Zululand.

(A) This Act has not yet come into operation.

Act 46, 1898. such other provision as the circumstances of the said Province seem to require for the more effectual exercise therein of the jurisdiction and functions of the Supreme Court.

Joint construction.

8. This Act and the Supreme Court Act, 1896, shall be read and construed together as one Act.

Act No. 6, 1899.

“To assimilate the Law of the Province of Zululand relating to Firearms and Gunpowder with that of other parts of Natal.”

[1st July, 1899.]

[See this Act in full tit. “ARMS, AMMUNITION, &c.”]

Act No. 42, 1899.

“To make provision for the ratification upon certain conditions of a contract for the construction, equipment, maintenance, and working of a Railway between the River Tugela and the Hlabisa Coal Fields in the Province of Zululand.”

[11th September, 1899.]

WHEREAS by a Memorandum bearing date the Eleventh day of August, 1894, certain general conditions and stipulations were set forth, upon which the Government of the then Territory of Zululand was prepared to grant to James Liege Hulett, David Brown, and Arthur Titren Reynolds, called the Concessionaires, concessionary rights to construct, equip, maintain, and work a line of railway from certain coal fields in the neighbourhood of St. Lucia Bay, in the Hlabisa District of the said Territory of Zululand, to the Tugela River :

AND WHEREAS the terms of said Memorandum were accepted by James Liege Hulett on behalf of himself and the other Concessionaires on the Twenty-first day of August, 1894 :

AND WHEREAS the interest of the Concessionaires in and to the concessionary rights above referred to were on the Fourth day of July, 1895, ceded to Frederic Spence Tatham as Trustee for a Company to be known as the St. Lucia Coal and Railway Company, Limited, and were thereafter, to wit, on the Fourth day of August, 1897, acquired by the said James Liege Hulett from the said Company, and were thereafter, to wit, on the Twenty-ninth day of December, 1897, ceded by the said James Liege Hulett to Albert Saxe Liege Hulett, George Herbert Hulett, William Arthur Hulett, James Inigo Balcomb Hulett, Horace Benjamin Hulett, and Edward Wenham Flashman Hulett, and were on the said Twenty-ninth day of December, 1897, with the consent of the Governor of Zululand, ceded by the said Albert Saxe Liege Hulett, George Herbert Hulett, William Arthur Hulett, James Inigo Balcomb Hulett, Horace Benjamin Hulett, and Edward Wenham Flashman Hulett to Alfred Lister, and were thereafter, to wit, on the Tenth day of June, 1899, ceded by the said Alfred Lister to Thomas Reynolds, of the City of London, England, Civil Engineer :

AND WHEREAS in the year 1897, a draft contract was prepared for giving effect to the conditions and stipulations contained in the said Memorandum of the Eleventh day of August, 1894, with certain modifications :

AND WHEREAS in the year 1897, application having been made to the Governor of the then Territory of Zululand for an alteration of the terms of the said Memorandum of Eleventh August, 1894, in regard to the purchase of the railway by the Government, the Governor of the said Territory, in view of the approaching annexation thereof to the Colony of Natal, required that an agreement should first be arrived at with the Government of the Colony of Natal as to the terms upon which the said Government might purchase the railway at an earlier date than the ten years appointed by the said Memorandum, and thereafter the terms to which the Government were prepared to agree were embodied in a Memorandum bearing date the Third day of May, 1897, which was communicated to the Concessionaires with notice that the conditions contained in the Memorandum were not to be regarded as in anyway binding until the final agreement had been executed: Act 42, 1899.

AND WHEREAS the Territory of Zululand has since been annexed to and now forms a Province of the Colony of Natal:

AND WHEREAS by the Zululand Annexation Act, 1897, it is provided that all obligations of the Government of the Territory of Zululand shall be transferred to the Government of Natal:

AND WHEREAS the Government of Natal on the Twenty-second day of July, 1898, notified to Alfred Lister, to whom the concessionary rights had been ceded as aforesaid, that the Government were prepared to recommend for the approval of Parliament an agreement in terms of the draft contract hereinbefore referred to, subject to the conditions contained in the Memorandum of Third May, 1897, and to certain other modifications of the terms contained in the said draft contract; which said offer was accepted on the Twelfth day of December, 1898:

AND WHEREAS a contract hereinafter more fully referred to, has been provisionally entered into with the said Thomas Reynolds for the construction by him of the said railway and for the working thereof, in which said contract are incorporated with certain modifications, the terms of the aforesaid Memorandum of Eleventh August, 1894, and of the said Memorandum of Third May, 1897, the said contract being expressed to be subject to ratification by an Act of Parliament:

AND WHEREAS an Act is accordingly required to ratify the said contract, subject to certain conditions, and to authorise the construction and working of the said railway:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The provisional contract entered into between the Minister of Lands and Works, as representing the Colonial Government of Natal, of the one part, and Thomas Reynolds, of the City of London, Civil Engineer, of the other part, providing for the construction, maintenance, and working of the line of railway hereinafter referred to, and copy of which is annexed hereto in the Schedule, is hereby confirmed, subject to the acceptance of the provisions of this Act by the said Thomas Reynolds.

Continuation of provisional contract between Colonial Govt. and Thomas Reynolds.

2. The ratification by this Act of the said contract shall only have effect if the Constructor, within three months from the promulgation of the Act, lodges with the Agent-General of Natal security, either in money or securities, approved by the Agent-General, to the extent of £20,000, that he will proceed with the survey and the construction of the line in terms of the contract, and in case of failure in this respect on the part of the Constructor, the money or security so lodged shall be forfeited by the Constructor to the Natal Government.

Ratification of contract to be conditional on security being lodged.

Act 42, 1899.

Construction
authorised.

3. The said Thomas Reynolds shall be empowered to construct the line of railway in manner and subject to the provisions of the contract and of this Act.

Authority conferred on
Governor, &c.,
for giving effect
to contract.

4. All the necessary powers and authority are hereby conferred upon the Governor in Council, and the Governor, and the Minister for giving full and complete effect to all the terms, undertakings, obligations, and conditions of the contract as set forth in the Schedule to this Act, and all rights, powers, and authority given in the contract to the Constructor shall continue and shall determine as respectively provided in the said contract, and shall pass to and become vested in the Government at the times and for the causes respectively declared in the contract.

Lands required
for railway to
be placed at
disposal of
Constructor.

5. The Governor may place at the disposal of the Constructor all lands required for the purposes of the railway, subject to the payment by the Constructor of any compensation payable in terms of the contract, but the title to the lands shall not thereby be transferred to the Constructor, but shall remain in the Crown, and the lands shall, at the expiration of the contract, revert absolutely, as to use and otherwise, to the Crown.

Materials, &c.,
to be imported
duty free.

6. All materials, plant, engines, rolling stock, and other things imported into the Colony from time to time by the Constructor for the construction, maintenance, and equipment of the railway shall, subject to a certificate from the Government Engineer, be free of import duty.

Exemption
from rates and
taxes.

7. The Railway and Electric Telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes, now or hereafter to be made or imposed.

Railway to be
worked under
N.G.R. Laws.

8. When and so soon as the railway or any part thereof shall be worked by the Natal Government Railways, the same shall be within the laws in force for the time being for the management and working of the Natal Government Railways.

Option of purchase.

9. The Government shall not, without the prior consent of Parliament, give the notice to the Constructor contemplated by the contract that it claims its right of option of purchasing the railway.

Type of rail.

10. Notwithstanding anything to the contrary contained in Clause 30 of the contract, the Minister may agree with the Constructor for laying the railway with such type of rail as the circumstances may appear to the Minister to require.

Branch lines
and running
powers.

11. Nothing herein contained shall prevent the Natal Government from constructing lines of railway branching from the railway the subject of this Act, or from acquiring running powers over the last-named railway for the purposes of the aforesaid branch railways upon such terms as regards such running powers as may be agreed upon between the Government and the Constructor, or, failing agreement, as may be fixed by arbitration.

Short title.

12. This Act may be cited as the "Zululand Railway Act, 1899."

SCHEDULE.

Contract.

Schedule.

THIS CONTRACT, made at Pietermaritzburg, Natal, the Tenth day of June, 1899, between ALBERT HENRY HIME, C.M.G., Lieutenant-Colonel, late Royal Engineers, in his capacity as Minister of Lands and Works, and as such representing the Colonial Government of Natal (and hereinafter called "The Minister"), of the one part and THOMAS REYNOLDS, of Edgemoor, Frimley, Farnborough, in the County of Hampshire, in England (hereinafter called "The Constructor") of the other part,—

WITNESSETH :—

That in consideration of the stipulations and obligations hereinafter contained, the said Government doth hereby grant unto the Constructor the right to construct one line of railway between the points hereinafter mentioned as the points of commencement and determination thereof, subject to the covenants, conditions, agreements, and provisions hereinafter contained.

And this Contract further witnesseth that for the consideration aforesaid the Constructor doth hereby for himself, his successors, and permitted assigns, covenant and agree with the said Government, and the said Minister doth hereby covenant and agree with the Constructor, his successors and permitted assigns, as follows, that is to say :—

1. In this contract the following expressions or terms shall have the following meanings respectively :—

- (a) "Zululand" means the Province of Zululand.
- (b) "The Railway" means the railway hereinafter described and to be constructed under this contract, together with all buildings, works, and conveniences to be made in connection therewith.
- (c) "The North Coast Railway" means the railway constructed between Verulam and the Tugela River, in extension of the Natal Government Railway from Durban to Verulam.
- (d) "The Government Engineer" means (1) so far as regards matters and works in the United Kingdom, the Engineer for the time being appointed by the Governor to act in the United Kingdom for the purposes of this contract; and (2) so far as regards matters and works in Zululand, the Engineer-in-Chief of the Natal Government Railways.
- (e) "The Administration" means the Railway administration of the Government of Natal.
- (f) "Month" means calendar month.

2. This Contract shall not take effect unless and until it shall have been confirmed by an Act of Parliament to be passed during the present session of the Parliament, and any reference to the date of this Contract shall be deemed to be a reference to the date of the publication of the Act in the "NATAL GOVERNMENT GAZETTE."

3. Subject to the provisions of this contract the Constructor may and shall with due diligence and expedition construct to the satisfaction of the Government, and make ready and fit and equipped for being opened for the public carriage of passengers, animals, and goods throughout within the time hereinafter prescribed.

- (a) A railway, commencing at the south side of the Tugela River by a junction with the North Coast Railway, there and thence proceeding along such route as shall be approved by the Government, and terminating at a point to be approved by the Government on or near to the coal bearing land known as the Hlabisa Coal Fields in the Province of Zululand.
- (b) All such necessary sidings, passing places, stations, offices, engine houses, goods and cattle depots, turn tables, water supplies, signals, signal cabins, telegraphs and other works as in the opinion of the Government shall be necessary for the due and efficient maintenance and working of the Railway.
- (c) All such necessary under and over bridges and level crossings, accommodation roads, approaches, cattle creeps, water courses, drains, culverts, and other works as may, in the

Act 42, 1899.
Schedule.

Act 42, 1899.
Schedule.

opinion of the Government Engineer, be necessary for the accommodation or protection of the lands intersected by the Railway.

4. A certificate signed by the Minister shall be conclusive evidence of any order, requirement, determination or appointment of the Government, mentioned in such certificate.

5. All notices to be given to the Constructor for the purposes of this contract shall be in writing under the hand of the Minister or of the Government Engineer, and shall either be delivered to or left for the Constructor with such person and at such convenient place as the Constructor shall from time to time appoint in Natal and London respectively (which appointment the Constructor hereby undertakes to make), or failing such appointment at the address as set forth in the caption of this Contract, or at his principal or last known place of business in Natal, and every such notice shall be deemed to have been given at the time when it shall have been so delivered or left.

6. The Government Engineer may from time to time delegate to assistants to be named by him such of the powers, rights, authorities and discretions vested in him by this Contract, as he may think fit, and the Constructor shall recognise such assistants on written notice of their appointment and of the powers, rights, authorities and discretions respectively delegated to them, as lawfully exercising for the purposes of this Contract the powers and authorities so delegated.

7. Every certificate in writing of the Government Engineer, given under his hand, shall be binding on the Government and the Constructor in respect of all matters hereby in effect referred to the decision of such Engineer.

8. The Constructor shall, at his own expense, immediately after the ratification of this Contract proceed with the preliminary survey of a line of railway between the points indicated in Clause 3 (a) hereof, and shall carry it out and complete it with the utmost reasonable despatch, so that the plan, longitudinal section, and cross sections of the ground where it is located on steep side-long ground, may be delivered to the Government Engineer within nine months from the date of this Contract.

9. The plan of this preliminary survey shall be drawn to a scale of 400 feet to the inch, and shall show the information which it is customary to show in connection with such plans on the Natal Government Railways, such as all topographical features of the country through which the line is to be located, such as rivers, streams, prominent hills, forests, swamps, together with the radius of curves, mileage, changes of gradient, 1,000 feet pegs, the 100 feet width of land, extra land required for various purposes, proposed sites for stations, suitable watering stations, roads, tracks, and level crossings, and all other information which may be necessary to convey a general conception of the location of the railway which it is proposed to build.

10. The longitudinal section shall be drawn to a horizontal scale of 400 feet to the inch and a vertical scale of 30 or 40 feet to the inch, and shall show the gradients, natural surface of ground, chainage, mileage, maximum depth of cuttings and height of banks, with all the other usual and necessary information which it is customary to show on such sections on the Natal Government Railways. Below it shall be indicated the curves and tangents of the centre line. The surface indications of the nature of the ground to be expected in the cuttings shall be described upon it.

11. Whenever the lateral slope of the ground exceeds 5 degrees to the horizontal the angle of the natural surface of ground shall be

shown above the longitudinal section by a cross section. The points of intersection of tangents of the survey shall be conspicuously marked upon the ground by pegs, cairns of stones, heaps of sods, or other means which shall secure the location of the line until it is finally pegged out. Act 42, 1899.
Schedule.

12. The limiting gradient shall be 1 in 50, and the least radius of curvature 500ft., unless the character of the country to be traversed shall reasonably demand the adoption of steeper grades and sharper curves with the authority of the Government Engineer.

13. All facilities shall be afforded the Government Engineer during the progress of this survey to examine and approve of the location as it proceeds, and the Constructor shall run any trial lines and make surveys of all deviations which the Government Engineer may consider to be necessary to satisfy himself that the most suitable location has been secured.

14. The Constructor shall also make all borings or trial holes which may be required of him to ascertain the nature of the foundations at sites of bridges, and shall execute such surveys as may be required to ascertain the drainage area of streams and rivers over which bridges and culverts will be built.

15. Clause 35 of this Contract shall equally apply to the granting of extension of time for this preliminary survey as to the construction of the railway.

16. Copies of the plans and sections shall be made and deposited with the Government Engineer as and when they are completed and approved.

17. As soon as the whole of the preliminary survey has been approved by the Government Engineer, and copies of the plans and sections of it have been deposited with him, the Constructor shall at his own expense be at liberty to proceed with the final pegging out of the line and the preparation of the working plans and sections, but it shall be competent to the Government Engineer at his discretion to authorise the final pegging out of the line in sections when the preliminary survey is so far advanced as to secure the location against any necessity for revision.

18. The working plan shall be drawn to a scale of 200ft. to the inch, and the longitudinal section to the same horizontal scale, with a vertical scale of 20ft. to the inch. Cross sections, when the side slope of the ground requires them, shall be drawn to a vertical and horizontal scale of 20 feet to the inch.

19. The working plan shall show the lengths and angles of intersection of all tangents, the radius, beginning and end of curves, 1,000-foot pegs, mileage, crossings of rivers, streams, roads and tracks, changes of gradient, widths of lands required, and surveys of such contiguous topographical features as are necessary to explain and identify the location of the railway.

20. The working section shall show the natural surface of ground, all gradients, heights of banks and cuttings, and chainage at every 100ft., mileage, rivers, and streams with the size of openings to span them, bench marks, portions which are on tangent or curve, proposed sites for stations and stopping places, and all other information which it is customary to show on such sections on the Natal Government Railways.

21. Tracings of the working plans and sections shall be deposited with the Government Engineer as soon as they are completed, and his approval of same shall be notified to the Constructor within one month from date of deposit, subject to the Constructor making such alterations and deviations as the Government Engineer may call for or approve,

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Schedule.

plans and sections of which shall also be immediately made and deposited by the Constructor.

22. Detailed sections of the crossings of larger streams and rivers, drawn to a scale of 8ft., 10ft., or 20ft. to the inch, as may be necessary to show all particulars of the nature and size of river bed and character of foundations as indicated by probings or trial pits, shall be provided by the Constructor. Upon these sections the general design and character of the proposed bridges shall be shown and submitted for the approval of the Government Engineer as regards width of waterway, depth of foundations, and the general features.

23. The Constructor shall, within six months of the date of ratification of this agreement, and at his own expense, prepare, and submit to the Government Engineer for approval plans, sections, type drawings, specifications and full particulars of the works of art, materials, and appliances such as turn-tables, water columns and tanks, which he proposes to provide for the construction of the railway. These type drawings, designs, and specifications shall be in accordance with the designs and specifications now in use upon the Natal Government Railways for works and materials of a similar character. Particulars of all such designs and specifications shall be supplied to the Constructor by the Government Engineer within thirty days after the date of this agreement, it being understood and agreed by both parties that the type and character, both as to materials and designs, of the works of art and appliances to be provided for this railway shall be as nearly as possible similar to those already in use on the North Coast Railway: Provided that it shall be competent to the Constructor to submit for the approval of the Government Engineer any other design and specification for such works that he may consider to be better and more suitable than the types or designs in use upon the North Coast Railway, but the adoption of such alternative types, designs, or specifications is to rest entirely with the Government Engineer. It is to be regarded as an essential condition of this agreement that all designs and specifications which may be necessary shall, as far as may be, be defined and agreed upon before any construction be commenced. In the case of special structures for which no suitable design or type can be provided by the Government Engineer and which it may be necessary to procure from beyond the Colony, the drawings and specifications shall be submitted for the approval of the Government Engineer in London.

24. The working plans of bridges and buildings and the plans of station yards shall be submitted to the Government Engineer in ample time to secure his approval of them before the construction of them is commenced. The approval of the Government Engineer of any bridge drawings shall not relieve the Constructor of his responsibility for the adequacy of the waterways provided, nor of the sufficiency of the designs in all respects during the period of construction and maintenance.

25. Upon the deposit with and approval by the Government Engineer of the plans of the preliminary survey, a formal authority to enter upon the lands shown thereon shall be issued to the Constructor, and he shall thereafter during continuance of this contract be entitled to use and occupy for the purposes of the railway such lands as are herein specified, but subject to the following conditions:—

- (a) The lands to be so occupied shall not exceed 100ft. throughout the whole course of the railway except where, in the opinion of the Government Engineer, a greater width, or isolated portions of land, may be necessary for the purposes of the construction of the railway and works, and for stations, quarters, sidings, quarries, ballast pits, borrow pits, sand, and water supplies.

- (b) As far as possible the land so required shall be shown upon the plans of the preliminary survey, but at any time during the construction the Government shall, upon the application of the Constructor, authorise the entry upon and occupation of such additional lands as may be required for the purposes of the construction of the railway. Act 42, 1899.
Schedule.
- (c) The Constructor shall pay to all owners, tenants, or occupiers of any kraals or lands, and to all other persons who shall in the opinion of the Government Engineer have incurred or sustained any direct loss or damage by reason of the construction of the railway, such sums of money as the Minister may determine to be payable to them as and by way of fair compensation for such loss or damage. All questions arising under or in connection with this section shall be referred to and finally settled by the Government Engineer, and his decision shall be final and binding on all parties.
- (d) The said right of user and occupation shall on the expiration or sooner determination by any means of this contract absolutely cease and determine, and the lands so occupied shall thereupon become and be vested absolutely in the Government.

26. The whole of the cost of surveying, staking, and laying out the railway and the lands to be occupied as aforesaid, and the costs of the construction and equipment of the railway, except as to engines and rolling stock required for working the same, and of the maintenance of each section of the railway for a period of six months after the opening thereof for traffic, and of all labour and materials for the same, shall be borne and paid by the Constructor.

27. The whole of the railway (other than and except the land occupied for the purposes thereof) shall be the absolute property of the Constructor subject as to the accommodation works to the right of user and enjoyment thereof by the persons for whose benefit the same shall be constructed, and subject also to the rights hereby given to the Government in respect of the same.

28. The Constructor shall, before commencing the construction of the railway, lodge with the Agent-General of Natal in London, or as he shall direct, security, either in money or in other securities approved by the Agent-General, to the extent of Twenty Thousand Pounds Sterling.

29. The condition of such security is that if the Constructor shall promptly commence and with due and reasonable speed prosecute the construction of the railway, and shall complete the railway within the time hereinafter prescribed, or within any further time which the Government Engineer may allow for the completion thereof, and shall in all respects faithfully perform and observe all the conditions and covenants to be by him performed and observed, the security so deposited as aforesaid, or so much thereof as shall then be in the hands of the Agent-General, shall be returned to the Constructor when the whole of the railway is completed and taken over by the Administration: otherwise it shall be forfeited and paid to the general revenue of the Colony: Provided that when and so soon as the Government Engineer shall certify that the bridge over the River Tugela or any other portion of the railway has been constructed and completed in accordance with this contract, a part of the said security, proportioned to the ratio (as estimated by the Government Engineer) of the cost of the bridge or other portion of the railway to the whole cost of the railway shall be returned to the Constructor.

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Schedule.

30. The Constructor will lay out and construct the railway with a single line upon the same gauge as that of the Natal Government Railways. It shall be laid with rails weighing not less than 45lbs. to the yard, and the whole of the permanent way shall be of the same pattern, dimensions, and character as are now in use upon those portions of the North Coast Railway upon which that weight of rail is laid. The bridges shall be designed and built to carry the 20-ton trucks and 45-ton engines now in use upon the Natal Government Railways, and all such permanent way, bridges, and appliances generally, shall be subject in all respects to the approval of the Government Engineer.

31. The whole of the railway shall be completed and equipped in all respects in accordance with this contract before the expiration of four years from the date of this contract.

32. The Government Engineer or his deputy may at all reasonable times during the survey and construction of the railway enter upon and examine the railway and all materials and works pertaining thereto, and the Government Engineer in London or his deputy shall exercise all powers of inspection of materials and appliances which he may deem necessary either in England or elsewhere, and the Constructor, his Agents and Officers, shall afford to the Government Engineer such information as may be within their knowledge and power in all matters inquired into by them, and shall submit to them all plans, specifications, drawings, and documents relating to the materials, construction, repairs or state of repairs of the railway or any portion thereof.

33. The Constructor shall, when required to do so by the Government Engineer, remove from the work any superintendent, workman, or other person employed on the railway, who shall refuse or neglect to obey the instructions of the Government Engineer or his deputy in anything relating to the work, or who shall perform his work in any manner contrary to the specifications or directions of the Government Engineer, or who shall be deemed by him incompetent. The Constructor shall also, on the demand of the Engineer, discharge from the work any drunken, disorderly, or impracticable person whose presence shall be detrimental to the work, and shall not again employ him on the work without the consent of the Government Engineer.

34. No inspection under this contract, nor anything in this contract contained or done or ordered or omitted to be done, or ordered under or by virtue of the provisions of this contract, shall relieve or be construed to relieve the Constructor of or from any liability or responsibility resting on him by law, either towards the Government or towards any person.

35. The Government Engineer may from time to time (if in his discretion he thinks fit so to do) on the request in writing of the Constructor extend the time for the construction of any of the works mentioned in Clause 3 hereof for such period as the Government Engineer may allow.

36. The Constructor shall within six months after notice in that behalf from the Government Engineer, at his own costs and charges, erect fences on such parts of the railway and in such manner as the Government Engineer shall require, and the Constructor shall thereafter at his own expense maintain such fences in good state.

37. The Government may at any time cause lines of telegraph or telephone to be constructed along the railway for the use of the Government, and may for that purpose attach any wires to the posts erected by the Constructor.

38. The Government shall grant to the Constructor and to the principal officers acting under him free passes over the lines of the Natal

Government Railways when travelling upon the business of the Constructor during the construction of the railway. Act 42, 1899.
Schedule,

39. All plant and materials "bona fide" required for the purposes of this contract and sent over the Natal Government Railways in connection therewith will be carried at the construction rate of one penny per mile per ton of 2,000lbs.

40. The construction of the railway shall be carried out to the satisfaction of the Government Engineer, and before being taken over by the Administration to be opened for traffic, as hereinafter provided, shall be certified by him as having been completed to his satisfaction: Provided that the Engineer may temporarily certify any portion of the railway as being fit for traffic, to the intent that such portion may be used for traffic in anticipation of the completion of such portion.

41. When the railway or any portion thereof shall be completed and certified as ready for traffic, the Administration will take over and work the railway or such portion thereof as if the same formed part of the Natal Government Railway system: Provided that the Administration shall not be required to take over and work any portion which may be less than about twenty miles in length: Provided also that the taking over the railway or any portion thereof shall not affect the obligation of the Constructor to maintain the same as provided by Clause 46.

42. The ordinary rates and fares to be charged upon goods, passengers, animals, articles, and things upon the railway, that is to say, from any station to any other station on the railway, and to any station on the Natal Government Railways and "vice versa," shall be in accordance with the tariff of the Natal Government Railways for the time being, and shall be proportionate according to mileage to the corresponding rates in force for the time being upon the Durban-Verulam section of the Natal Government Railways: Provided, however, that no alteration shall be made in the rates at present in force unless the Constructor shall be first heard with reference thereto.

43. The Administration shall render half-yearly returns terminating on the 30th June and 31st December of each year, and setting forth the revenue derived from the railway, which shall be ascertained and determined as follows:—

- (a) The receipts derived from all traffic which both arises and terminates upon the railway shall be credited to and reckoned as the revenue of the railway.
- (b) The receipts derived from through traffic passing from the railway to the Natal Government Railways, or vice versa, shall be apportioned rateably according to the mileage over which such traffic shall pass on the railway and the Natal Government Railways. Such apportionment shall be according to the rates in force upon the Durban-Verulam section of the Natal Government Railways. The agent or officer appointed by the Constructor for the purpose shall be at liberty to examine all books and documents necessary for the verification of the accounts.

44. The expense of management, working, and maintenance of the railway, including terminal charges, shall be determined by assuming the same in each year to be equal to 54 per cent. of the gross revenue derived from the said railway as in the preceding clause, and the balance of revenue, after deduction of the said amount of 54 per cent., shall be held to be the net earnings of the railway, and shall be paid to the Constructor yearly within two months after the completion of the yearly period set forth in the preceding clause.

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Schedule.

45. The Constructor shall for a period of six months after the opening of the railway and the several sections thereof, or any part thereof respectively, maintain and keep the same in good and proper repair, and shall make good any and all defects, deficiencies, and damage which may become apparent or may occur during that period, and the maintenance shall not be assumed by the Administration until they have been made good to the satisfaction of the Government Engineer.

46. The Government shall have the right at any time within twelve months after the date of this contract to give notice to the Constructor that it claims the option of purchasing the railway at any time after the date of the notice, and before the expiration of the period of twenty-five years from the date when the whole of the railway shall have been open for public use. When such notice shall have been given as aforesaid, the Government may, upon giving to the Constructor twelve months' previous notice in writing, expiring at any time before the expiration of twenty-five years from the date when the whole of the railway shall have been opened for public use, of their intention in that behalf, purchase the railway and all the works, telegraphs, telephones plant, machinery, chattels, and things of every description for the time being belonging or appertaining to the railway or used in connection therewith (all which are hereinafter included in the expression, "the Railway"); and on the expiration of twelve months from the date of such notice the railway shall become the absolute property of the Government as the owners thereof by purchase at such a price as hereinafter provided, free of all incumbrances; and the Government shall thereupon be entitled to, and shall take possession thereof.

47. The price to be paid under this clause for the railway (hereinafter called "the purchase price of the railway") shall be such a sum as would represent the actual cost of the construction only of the railway and the works pertaining thereto, including the cost of surveys, inspection of materials, engineering supervision and management, by the Constructor, office expenses and rents both in England and in the Colony, compensation to occupiers of lands, maintenance of sections for six months, contracts for supply and delivery of materials, and for the execution of all works in the Colony, day labour, carriage of materials, legal expenses during construction, and all incidental expenditure which the Government Engineer shall certify as being fairly and justly chargeable to the construction of the railway, together with interest at the rate of three per cent. per annum up to the date of the completion of the railway upon the monthly expenditure during the construction of the railway, or of any portion thereof not taken over for working; such monthly expenditure to be calculated according to the monthly average of each of the periods of six months referred to in Clause 49 of this contract, but exclusive of the cost of any financial arrangements which the Constructor may have to make in providing the funds necessary for the carrying out of the undertaking, except such sum by way of discount, at a rate not exceeding five per cent., as shall be shown to have been actually and properly paid by the Constructor in raising the money required for, and certified by the Government Engineer as chargeable to, the construction of the railway, also bank commission and exchange between London and the Colony or any place from which he may obtain his materials. The first cost of all plant and tools, furniture, &c., which the Constructor may provide, shall be charged against the cost of construction, and the proceeds of sales of the value of any such materials or things, surplus material, or plant retained by the Constructor at the completion of the railway shall be credited to it, but this shall not apply to the tools, plant, &c., of sub-contractors.

48. The Constructor shall deposit with the Government Engineer copies of all contracts entered into by him in relation to the construction of the railway, and the Government Engineer may request the Constructor to give any explanation which he may require in regard to such contracts, and, if such contracts contain provisions which, in the opinion of the Government Engineer, involve expenditure which should not form part of the cost of the railway in accordance with this contract, he may object to such expenditure being included as part of the purchase price. The same shall apply to any extra works which may be performed under any such contracts. The contracts shall be accompanied by copies of the general conditions, specifications, particulars of quantities, weights, and rates upon which they are based.

49. As evidence of the actual cost of the railway, the Constructor shall, on the expiration of every six months, produce to the Government Engineer or to any Auditor or Auditors appointed by the Government for the purpose, all vouchers for payments made under such contracts, supported by details of the measurements or other particulars upon which they are made, vouchers for all incidental expenditure, and a statement of all expenditure incurred within each period of six months. He shall afford to the Government Engineer or the Auditors access to all books and documents, and shall give them all necessary information to enable them to certify to Government the total amount expended upon the railway and works from time to time. The Government Engineer or the Auditors shall retain the copies of all contracts. "ad interim" statements of expenditure, and other documents which they shall consider necessary as a record of the cost of the railway, and they shall adopt such means as they may deem necessary to verify, and record their acceptance of, the vouchers submitted as evidence of expenditure, but the vouchers themselves and all account books shall remain in the custody of the Constructor until the purchase price of the railway shall have been finally determined and agreed upon on the completion of the undertaking, or until the termination of this contract, when, if Government so desires, they shall be surrendered by the Constructor to Government. The Constructor shall faithfully render to Government all information, and afford all the assistance in his power to facilitate the determination, from time to time, of the cost of the railway, and a final agreement as to the purchase price of the undertaking.

50. If the purchase of the railway shall be completed before the expiration of one year after the opening for public traffic of the whole of the railway throughout, a bonus at the rate of 10 per cent. upon the purchase price shall be paid to the Constructor.

51. If the purchase shall be completed after the expiration of such one year a bonus at such a rate shall be paid to the Constructor as shall be less than 10 per cent. by 1 per cent. for each complete year which shall have elapsed since the opening for public traffic of the whole of the railway throughout and the completion of the purchase, so that in the event of ten years having so elapsed no bonus shall be payable.

52. The purchase price of the railway shall, on the Government taking possession thereof, be paid by it to the Constructor in Natal or, at the option of the Government, in London: Provided that it shall be lawful for, but not obligatory upon, the Government to retain and satisfy out of such price the amount of all wages for which the Constructor may then be liable.

53. If the Government shall give notice as aforesaid, claiming option of purchase, then from the date when the railway shall have been opened for public traffic throughout up to the date on which the purchase of the railway by the Government shall be completed, the

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Schedule.

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Schedule.

Government shall pay to the Constructor for each of the railway financial years a subsidy of such a sum, if any, as with the net revenue of the railway in respect of such year or part of a year shall be equal to 3 per cent. for the same year or part of a year on the amount certified as the price in the event of purchase, provided that the amount upon which this subsidy shall be payable shall not include any bonus hereinbefore provided.

54. Subject to the provisions of this contract, the Administration shall within thirty days after the end of every financial year in respect of which anything shall be payable by way of subsidy under this contract, certify the amount of such subsidy, and the same shall within the next following thirty days be paid to the Constructor on demand, at the office of the Agent-General of Natal in London.

55. If the Constructor, from any cause whatever, fail to construct, complete, and equip except as to engines and rolling stock, the railway in accordance, in all respects, with this contract, and within the time thereby prescribed, or if, in the opinion of the Minister, the Constructor shall fail to proceed with due despatch in the construction of the railway having regard to the time within which the same is to be completed, or in any other respect fail in the due performance or observance of this contract, then and in every or any such case, if the Government Engineer certifies that it is in his judgment proper for the Government so to do, the Government may take possession of the railway undertaking, and of all plant, materials and appliances provided for the same, and may employ such persons or corporations as the Government may think fit, either by contract or otherwise, as the Government Engineer certifies to be proper, to proceed with and complete the railway on behalf of and at the expense and risk in all things of the Constructor, and in other respects to fulfil the obligations of the Constructor under this contract, and may use for such purposes the plant, materials, and appliances so taken possession of without being liable for any loss or damage thereto; or the Governor in Council at his option may in any such case as aforesaid by notice in writing to the Constructor rescind this contract without prejudice to any remedy then accrued to the Government hereunder, and thereupon all powers and authorities hereby given to the Constructor shall absolutely cease and determine, and the Government may (if in its discretion it thinks fit so to do) by giving notice in writing to the Constructor or at any time within three months after such rescission, become the owner by purchase of so much of the railway undertaking as shall then have been constructed, subject only to the payment of the purchase price of the railway undertaking, which shall be ascertained as nearly as the circumstances will permit in the manner hereinbefore provided in the event of the railway undertaking being purchased by the Government under the power in that behalf contained in Clause 46 of this contract, but without the payment of any such bonus as is provided for in the 50th and 51st Clauses.

56. Subject to the provisions hereinbefore contained this contract shall continue for the term of 50 years from the date hereof, and on the expiration of such term the Government shall become the owners by purchase of the railway undertaking, and shall pay therefor to the Constructor the purchase price of the railway undertaking which would be payable therefor in the event of the same being purchased by the Government under the provision in that behalf contained in Clause 46 hereof, but without the payment of any such bonus as is provided.

57. If the Government shall under any of the provisions of this contract become the owners by purchase of the railway undertaking before the expiration of the said term of 50 years, then at all such times during the then residue of the same term as the railway shall be worked

by the Government or any persons or body claiming under the Government the rates for the time being charged for the carriage of coals from the Hlabisa Coal Fields over the railway or any part thereof shall not be higher than such rates as could have been charged for such carriage if this contract had not been determined.

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Schedule.

58. The Constructor shall not assign, lease, or otherwise dispose of the benefit of this contract or the railway or any part thereof without the previous consent in writing of the Governor, and such consent may, in the case of an assignee, lessee, or other person or corporation not approved by the Governor, be refused without his being bound to give any reason for such refusal; and the Government shall have the same rights and remedies against any person or corporation claiming under any such assignment, lease, or other disposition made with such consent as aforesaid, and such person or corporation shall have the same rights and remedies against the Government as would have been the case if such person or corporation had been a party hereto instead of the Constructor.

59. Nothing contained in this contract shall exempt the railway or the Constructor from the provisions of any general Law or Act now in force or hereafter to be passed relating to railways.

60. No member or officer of the Government shall be in anywise bound personally for the acts and obligations of the Government under this contract, or answerable for any default or omission in the observance, performance, or fulfilment of the acts, matters, or things which are hereby made obligatory on the Government.

61. Except in so far as is by this contract otherwise expressly provided, nothing herein contained shall in any manner affect the rights of Her Majesty or any person or corporation.

62. In case and so often as any dispute, difference, or question shall arise between the said parties hereto, or any person, or corporation claiming through or under them respectively, or between any of such persons, or corporations, or between the Government Engineer and the Company concerning or relating to the railway or any part thereof respectively, or the construction, meaning, or effect of this contract or clause or thing herein contained, or the rights or liabilities of any party hereto, or of any such person or corporation as aforesaid under this contract, then (except in any case and as to any matter for which other provision is hereinbefore made) the subject of every such dispute, difference, or question shall in every case on the demand in writing of either party be referred to the arbitration and award of an umpire, if the parties can agree to an umpire, and in case they cannot so agree, then if three arbitrators, one to be appointed by each party to the reference, and the third by the two arbitrators so appointed. The decision of such umpire or arbitrators, or of any two of such arbitrators as the case may be, shall be final and without appeal and binding upon all parties. If either party to any such dispute, difference, or question make default in appointing an arbitrator within 14 days after the other party has given him or them notice to appoint the same, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be final and binding on all parties, and all the provisions herein contained with reference to the proceedings of two arbitrators and an umpire shall "mutatis mutandis" be applicable to such sole arbitrator.

63. The arbitrators and umpire shall have full power to make, if they or he think fit, several awards instead of one award, and every such award though not on the whole matter, shall be final so far as it extends, and as if the matter awarded on were the whole matter referred.

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Schedule.

64. The arbitrators and umpire shall have full power to proceed, in the absence of both or either of the parties, after giving to both parties such notice as the arbitrators or umpire may think sufficient of their or his intention to proceed.

65. The arbitrators and umpire shall have full power to inspect the books, documents, and accounts of both parties, and examine on oath or statutory declaration in lieu of oath the officers, agents, servants, and witnesses of the parties respectively.

66. The costs of the reference and the awards shall be in the discretion of the arbitrators and umpire, and such costs may be awarded as between solicitor and client.

In witness whereof the parties have hereunto set their hands the day and year first above written, and in the presence of the subscribed witnesses.

(Signed) A. H. HIME.

As witnesses to the signature
of the Minister of Lands
and Works

(Signed) E. M. GREENE.

(„) J. W. F. BIRD.

As witnesses to the
signature of

per pro THOMAS REYNOLDS.

(Sgd.) EDMUND D. REYNOLDS.

(Signed) E. M. GREENE.

(„) J. W. F. BIRD.

APPENDIX

Containing those Acts, passed in the Session of 1900, which refer to titles that fall (with one exception) within Vol. I., and were not promulgated in time for inclusion in the Volume.

Other Acts of the Session appear under their proper titles in Vol. II., e.g. Act 2 of 1900, under tit. "RAILWAYS."

CENSUS.

Act No. 8, 1900.

“To make further provision for taking a Census of the Colony.”

[29th June, 1900.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Governor may at any time by Proclamation order a census to be taken of the population of the Colony, and the provisions of Law No. 34, 1880, entitled “Law to provide for taking a Census of the Population of the Colony of Natal,” shall “mutatis mutandis” apply to any census so ordered (A).

Governor may order Census by Proclamation.

2. Any census so ordered may, in addition to providing for a census of the population, also direct a census to be taken of the lands, live stock, and produce of the Colony, or of any one or more of such particulars.

Census of lands, live stock, &c.

3. The Governor may by the aforesaid Proclamation, or by any rule or order made in reference thereto, issue instructions regarding the particulars required and the mode in which the census of the Native population of the Colony shall be taken.

Governor may issue instructions as to census of native population.

(A) See this Law under tit. “CENSUS” in Vol. I.

COURTS (MAGISTRATES').

COURTS (MAGISTRATES').

Act No. 3, 1900.

"To amend the 'Magistrates' Courts Act, 1896.'"

[23rd June, 1900.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The words

"Prosecutions for crimes and offences may be instituted and conducted by the Clerk of the Peace, or any other prosecutor duly authorised,"

occurring in Section 31 of the "Magistrates' Courts Act, 1896," (A) shall be expunged, and in lieu thereof the following words shall be substituted:—

"Prosecutions for crimes and offences may be instituted and conducted by the Clerk of the Peace, or any other prosecutor duly authorised, and may be instituted by a Clerk of the Peace or duly authorised prosecutor and conducted by any other Clerk of the Peace or duly authorised prosecutor, and proceedings commenced by a Clerk of the Peace may be continued by any other duly authorised person."

(A) See this Act under tit. "COURTS (MAGISTRATES')" in Vol. I.

COURTS (SPECIAL).

COURTS (SPECIAL).

Act No. 14, 1900.

“To make provision for the better and more speedy trial of persons accused of treason, and for the appointment of acting Judges of the Supreme Court.”

[29th June, 1900.]

WHEREAS it is expedient to make provision for the better and more speedy trial of persons accused of treason, and for the appointment of Acting Judges of the Supreme Court :

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. In this Act, unless the context otherwise requires, the following expressions shall bear or include the meanings assigned to them by this Section, namely:—

“Appeal” shall include review.

“Judgment” shall mean order, sentence, or decree.

“Jurisdiction” shall include every power and authority capable of being exercised by the tribunal or person said to have jurisdiction.

“Native High Court” shall mean the Native High Court as defined by Act No. 49, 1898.

“President” shall mean the President of the Special Court appointed in terms of Section 4 of this Act.

“Registrar” shall include any Deputy or Assistant Registrar.

“Sheriff” shall include any Deputy or Assistant Sheriff.

“Special Commissioner” or “Commissioner” shall mean any one of the Commissioners appointed by the Governor in terms of Section 2 of this Act.

“Supreme Court” shall mean the Supreme Court of the Colony of Natal.

“Treason” shall include:—

(a) “Crimen perduellionis.”

(b) “Crimen laesae majestatis.”

(c) Offences under Law 3 of 1868.

(d) Sedition.

(e) Every attempt to commit, and every solicitation to commit, and every kind of criminal participation in, treason.

But treason shall not under this Act include faction fighting by natives as defined by Act No. 11, 1896, or Riot or Public Violence committed by Natives when charged as such.

“Zululand High Court” shall include both the High Court of Zululand and the Court of the Chief Magistrate of Zululand.

2. The Governor shall appoint three persons to be Special Commissioners who shall constitute the Special Court, and each Commissioner shall be a person either qualified to be appointed a Judge of the Supreme Court, or a Judge of one of the Superior Courts of any of Her Majesty's Colonies. One at least of such Commissioners shall be a Judge of the Supreme Court.

Interpretation.

Constitution of Special Court.

- Act 14, 1900.
Tenure of office.
President.
3. The Special Commissioners shall hold office during good behaviour, or until the Special Court is dissolved in terms of this Act.
4. The Governor shall appoint one of the Special Commissioners to be President of the Court.
- Salaries of Commissioners.
5. The Special Commissioners shall be paid out of the Consolidated Revenue Fund of the Colony from the dates of their appointment, the following salaries, namely, the President at the rate of One Thousand Five Hundred Pounds per annum, and the other two Commissioners each at the rate of One Thousand Pounds per annum.
- Commissioner not to come within sec. 31 Act 39, 1896.
6. Section 31 of the Supreme Court Act No. 39 of 1896 shall not apply to any Judge of the Supreme Court who may be a Special Commissioner.
- Dual salary not to be drawn by Judge.
7. A Judge of the Supreme Court who is a Special Commissioner under this Act may also perform his duties as such Judge, but he shall not be entitled to draw any Judge's salary so long as he is a Commissioner.
- Vacancy amongst Commissioners, how filled.
8. Any vacancy, whether temporary or permanent, amongst the Commissioners, and, whether due to death, resignation, incapacity, or absence from the Colony, shall be filled up as soon as may be by the Governor in terms of this Act, according to the nature of the vacancy, and the person appointed to such vacancy shall thereupon become, for the term of his appointment, a Commissioner under this Act.
- Court of Record.
9. The Special Court shall consist of the three Commissioners, and shall be a Court of Record.
- Jurisdiction of Court.
10. All cases of treason, whether committed before or after the coming into force of this Act, shall be tried by the Special Court without a Jury, and all the jurisdiction of the Supreme Court, the Native High Court, and the Zululand High Court with reference to persons accused of treason, their examination, prosecution, trial, and punishment, and to any other matter connected with cases of treason, shall be vested in, transferred to, and exercised by the Special Court, subject to the following provisions:—
- (a) The Attorney-General may remit any case of treason for trial by a Magistrate without a Jury in the same way as if treason were not excepted from the Magistrate's jurisdiction under Act No. 22, 1896.
- (b) Any case of treason pending in a competent Court when this Act comes into force shall be concluded in the same manner as if this Act had not been passed, but any such Court may, before plea, direct the case to be removed to, and tried by the Special Court.
- Appeal from Magistrate.
11. All proceedings and judgments in Magistrates' Courts in cases of treason shall be subject to appeal to the Special Court.
- Law governing the Court.
12. The Court shall adjudicate upon and determine all matters within its jurisdiction in accordance with the law administered by the Supreme Court, save so far as expressly varied by this Act.
- No appeal.
13. The judgments of the Special Court shall not be subject to appeal to any other Court within the Colony.
- Special Court to have exclusive jurisdiction.
14. Neither the Supreme Court nor any other Court or tribunal within this Colony shall, until the dissolution of the Special Court, have or exercise jurisdiction in any matter within the jurisdiction of the Special Court: Provided that this Section shall not prejudice the trial by Magistrates of cases duly remitted to them under Section 10 of this Act.
- Construction of former laws, proclamations, &c.
15. Save so far as may be inconsistent with the provisions of this Act, a reference in any proclamation, ordinance, law, or act, to the Supreme Court, Native High Court, or Zululand High Court, shall be

deemed to be a reference to the Special Court in respect of all matters within the jurisdiction of the Special Court. Act 14, 1900.

16. Upon the dissolution of the Special Court, the jurisdiction of the Supreme Court, Native High Court, Zululand High Court, or any other tribunal which by this Act had been vested in or transferred to the Special Court, shall revive. When jurisdiction of other Courts shall revive.

17. In all proceedings or cases before the Special Court, other than matters within the jurisdiction of a Special Commissioner in Chambers, the three Commissioners shall sit, and in the event of any difference of opinion amongst them, the decision of a majority shall be deemed and taken to be the decision of the Court. Decision of Court to be that of the majority.

18. Any Commissioner shall be entitled to exercise in Chambers the jurisdiction of the Special Court in all matters relating to treason, except trials, appeals, the making of rules or regulations, and excepting also all such matters as may by rule be reserved for the decision of the full Court, but the judgment of any Commissioner in Chambers shall be subject to appeal to the full Court. Jurisdiction of Commissioner in Chambers.

19. Subject to the provisions of this Act, and to any Rules of Court, the pleadings and proceedings in the Special Court shall be carried on, and the judgments thereof pronounced and executed, and witnesses summoned and remunerated, in the same manner as in the Supreme Court. Procedure.

20. Accused persons may be represented by such Counsel as can appear in the Supreme Court. Right of Counsel.

21. Notwithstanding the provisions of Ordinance No. 18, 1845, no prisoner or accused person shall be entitled to be liberated before the dissolution of the Special Court merely by reason of his not having been brought to trial as therein provided, but the Court may require all keepers of gaols in this Colony to make returns to it of all persons accused of treason or committed to trial for treason, and may, upon application, or "ex proprio motu," liberate any such person either with or without bail: Provided however that no such liberation shall be any bar to the person so liberated being brought to trial in any competent Court for the offence of which he was accused or for any other offence. Right to detain or liberate persons accused of treason or committed for trial.

22. Upon an indictment for treason an accused person may be found guilty of either the "crimen perduellionis" or the "crimen laesae majestatis," or of an offence under Law No. 3, 1868, and punished accordingly: Provided that it shall be necessary to a conviction for the "crimen perduellionis" that the facts alleged in the indictment shall disclose such crime, and that this Section shall not prevent a simple judgment of guilty being pronounced upon an indictment for treason. Crimes included in indictment for treason.

23. Where a person is accused of treason and other crimes or offences are alleged to have been committed by him at the same time and place, and being connected with, or forming part of the treason so charged, then such person may either alternatively, or in addition to the charge of treason, be indicted in the same indictment for such crimes and offences, and the Special Court shall have jurisdiction in respect of all crimes or offences included in such indictment in the same way as if they were treason. Person may be indicted for other offences connected with the treason.

24. Prosecutions for treason shall, in the Special Court, be in the name of Her Majesty the Queen (A), upon the indictment of and by the Attorney-General, and in the Magistrates' Courts in the name of Her Majesty the Queen upon the indictment or summons of and by the Forms of prosecution.

(A) After the accession of Edward VII., exception was taken to the indictment because it was not in the name of Her Majesty the Queen, but was overruled (*Re v. De Jager*, 22 N.L.R. 65).

Act 14, 1900. Clerk of the Peace of the appropriate Magisterial Division: Provided always that the Attorney-General shall have the same power to depute any other person to appear and act for him in the Special Court and to appear and act for the Clerk of the Peace in the Magistrate's Court as he now has.

Sheriff and Registrar.

25. The Governor shall from time to time appoint such fit and proper persons as he may think fit to be Sheriff and Registrar of the Special Court, and to fill such other offices in connection with the Court as he may deem necessary.

Powers and duties of Sheriff.

26. The Sheriff of the Special Court shall have, with respect to the Court and matters within its jurisdiction, the same relative powers, duties, responsibilities and position as the Sheriff of the Supreme Court.

Special Court may make rules.

27. Subject to the provisions of this Act, the Special Court may, in its discretion, from time to time, make rules, orders, and regulations touching any of the following matters, and may repeal and vary the same, namely:—

- (a) The carrying into effect fully and completely the provisions of this Act.
- (b) The time and place of holding sessions of the Court.
- (c) The forms of pleadings, indictments, summonses, and of all other documents or processes, and the practice and procedure in trials and all other matters within the jurisdiction of the Court.
- (d) The form, use, and custody of the Seal of the Court, if any.
- (e) The manner of recording or noting evidence and the proceedings of the Court.
- (f) The duties and proceedings of the Sheriff, Registrar, and other officers of the Court.
- (g) The fees and charges to be lawfully demanded by and to be payable to the Sheriff, Registrar, or other officers of the Court, and the Advocates, Attorneys or Solicitors practising therein.
- (h) The taking and granting of bail.
- (i) All such other matters as may be necessary or advisable for the proper conduct of the business of the Court.

Governor may appoint Acting Judges of Supreme Court.

28. (1) It shall be lawful for the Governor upon the request of the Chief Justice, from time to time, to appoint as an Acting Judge of the Supreme Court any person qualified to be a Judge thereof under the Supreme Court Act, 1896, and such acting Judge shall, whilst so acting, possess and exercise all the jurisdiction of a Judge of the Supreme Court, and shall hold office and receive salary in like manner as if he had been appointed to act as a Judge under Section 32 of the Supreme Court Act.

Limited to two.

(2) Not more than two such Acting Judges may be appointed to hold office at the same time.

Appointment, to state term.

(3) The appointment of every such Acting Judge shall state the term or period for which he is to hold office, and such term shall not be for a less period than one month.

Acting Judge may be a Commissioner.

(4) Such Acting Judge may also be a Commissioner under this Act, but he shall not whilst a Commissioner draw any salary as an Acting Judge.

Appointment to be notified.

(5) Every appointment of an Acting Judge of the Supreme Court shall be notified forthwith in the "NATAL GOVERNMENT GAZETTE," and the notice shall state the term or period for which the appointment shall be made.

- (6) The Supreme Court shall from time to time determine the "rota" of Judges to sit from time to time in the Supreme or Circuit Courts, but so that not more than three Judges shall sit in the Supreme Court at any one time. Act 14, 1900.
Rota of Judges.
- (7) Notwithstanding anything contained in this Section, the power of appointing Acting Judges thereunder, and the office of any Acting Judge so appointed shall cease and determine upon the dissolution of the Special Court: Provided, however, that any such Acting Judge shall be entitled to complete the hearing and determination of any matter upon which he has entered. Office of Acting
Judges to deter-
mine on dissolu-
tion of Special
Court.

29. The Commissioners shall take the oath of allegiance, and of office, and the judicial oath, before the Governor. Oaths to be
taken.

30. This Act shall come into force upon such date as the Governor shall notify by proclamation in the "NATAL GOVERNMENT GAZETTE" (A). Commencement

31. The Special Court shall be dissolved, and the Special Commissioners thereupon cease to hold office, upon such date as the Governor shall notify by proclamation in the "NATAL GOVERNMENT GAZETTE"; but such dissolution or proclamation shall not affect the validity or effect of any act or judgment of the Special Court or the Special Commissioners made prior to such date, and any matters pending at such date in the Special Court shall be transferred to and determined by the Court or tribunal which would have jurisdiction if this Act had not been passed. Court to be
dissolved on
proclamation.

32. The Governor may at any time, appoint three Special Commissioners to form a Second Special Court, similar in all respects to the Special Court herein provided for, and thereupon all and each of the provisions herein contained shall apply in like manner "mutatis mutandis," to such Second Special Court. Second Special
Court.

(A) Came into force 1st Aug., 1901. See Pn. in G.G., dated 31st July, 1901.

DURBAN CORPORATION.

DURBAN CORPORATION.

Act No. 11, 1900.

“To authorise and empower the Colonial Government of Natal and the Town Council of the Borough of Durban to contract for the erection of a Sea Pier.”

[29th June, 1900.]

WHEREAS Robert Dixon Sykes, of Durban, in the Colony of Natal, being desirous, either by himself or by a Company to be promoted by him, of constructing a Promenade or Sea-pier, starting from a point opposite to, or near the spot, where the extension of West Street in the Borough of Durban opens on to the shore of the Indian Ocean at the spot commonly known as the “Back Beach,” within the said Borough, and extending across the Admiralty Reserve into the Indian Ocean, has approached the Colonial Government of Natal, and the Town Council of the Borough of Durban, with a view of obtaining permission to erect such Sea-pier, and to use such Pier as a Public Promenade Pier or Pleasure Resort, and to erect and carry on on such Pier, shops, stalls, refreshment bars, tea-rooms, bathing stages and the like :

AND WHEREAS the said Borough of Durban is, at the present time, without any Promenade Pier or Pleasure Resort of the kind above specified, and the erection and opening and carrying on of such a Pier as aforesaid will afford recreation to a large number of the inhabitants of Durban and others, and will add to the attractions of the said Borough as a watering place :

AND WHEREAS it is necessary that the said Government and Town Council, before contracting with the said Robert Dixon Sykes, or any Company as aforesaid, should be properly authorised to so contract :

AND WHEREAS it is desirable that such power to contract should be conferred upon the said Government and Town Council :

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Colony of Natal, as follows:—

Colonial Govt.
and Town
Council author-
ised to contract
for granting
right to erect
Pier.

1. The Colonial Government and the Town Council of the Borough of Durban are hereby authorised to contract with Robert Dixon Sykes, or any Joint Stock Company as aforesaid (which may be promoted by the said Robert Dixon Sykes for the erection and working of the said pier), for granting to the said Robert Dixon Sykes, or such Company as aforesaid, the right, whether upon lease or grant, of erecting a Sea-pier from a point opposite to, or near the spot, where the extension of West Street opens on to the shore of the Indian Ocean (commonly known as the Back Beach), within the Borough of Durban, and extending across the Admiralty Reserve into the Indian Ocean, with the right to use such Pier as a Public Promenade Pier or Pleasure Resort, and to erect and carry on on such Pier, shops, stalls, refreshment bars, tea-rooms, bathing stages and the like, with further power to insert in any such contract, lease or grant, conditions as may be mutually agreed upon with reference to the right of the said Town Council or Colonial Government, or both, to acquire either before, or at the expiration of such contract, lease, or grant, the said Pier, with all its appurtenances, and also conditions with reference to the security, if any, to be given by the said Robert Dixon Sykes, or any such Company as aforesaid, for the completion of the said Pier, and with reference to the approaches to

the said Pier and to the Beach, and retaining walls in connection therewith, and as to provision against sand drift, access for the public along the Beach under the Pier, and with reference to the forfeiture of the rights of the said Robert Dixon Sykes, or any Company as aforesaid, in case of his or their failure to observe the conditions of any such agreement as aforesaid, and generally such conditions as may be agreed upon with reference to the erection, working, and control of the said Pier, and further, such conditions as may be agreed upon with reference to the times and manner in which said Pier shall be conducted and used, and the prices of admission thereto, and as to the use and occupation, and terms of hiring of any such shops, stalls, refreshment bars, tea-rooms, bathing stages, and the like: Provided always, that in no case shall the period of the lease or grant extend for a greater period of time than fifty (50) years from the date of completion of the said Pier.

2. In the event of any contract being entered into between the said Colonial Government and the Town Council of the Borough of Durban of the one part, and the said Robert Dixon Sykes, or any Company as aforesaid, of the other part, relative to the erection and working of the said Pier, then the said Robert Dixon Sykes, or any Company as aforesaid (subject to the approval of the Colonial Government and the Town Council of the Borough of Durban), may from time to time frame tariffs of charges to be paid by persons visiting, using, or frequenting the said Pier, and he, or the said Company, as the case may be, shall have power to collect and enforce any such tariff of charges when so approved.

Power to frame tariff of charges and collect tolls.

3. The said Robert Dixon Sykes, or any such Company as aforesaid (subject to the sanction of the Governor in Council and the approval of the Town Council of the Borough of Durban as aforesaid), shall have power to frame and promulgate Bye-laws providing for the better protection, control and management of the said Pier and use thereof, by persons visiting or using the same, and making provisions for penalties to be exacted for any infringement of such Bye-laws; any such penalties may be sued for and recovered in any competent Magistrate's Court at the instance of the said Robert Dixon Sykes or any company as aforesaid.

Power to frame By-laws and enforce same.

4. The said Robert Dixon Sykes, or any company as aforesaid, shall have power and authority (subject only to the consent of the Governor in Council and the Town Council of the Borough of Durban) to sell, dispose of, or sublet the rights of erecting and working any such Pier as aforesaid, but the purchaser from the said Robert Dixon Sykes shall not be entitled to sell, dispose of, or sublet such rights.

Power to sub-let rights of erecting and working.

5. For all purposes of rating, licensing under the Liquor and Trade Licensing Laws in force in the Borough of Durban, Police, Sanitary, Building and other Municipal Bye-laws, the said Pier and appurtenances shall be deemed to be within the boundaries of such Borough and subject thereto: Provided, however, that in assessing the rates to be paid upon the Pier, the Borough Valuers shall have regard only to the actual value of the materials of the Pier and the labour of constructing the Pier, with a due allowance for depreciation from time to time.

Pier deemed to be within Borough for certain purposes.

Assessment of rates.

6. The Town Council of the Borough of Durban shall have the right, free of any charge, to place and maintain two pipes along the Pier, not exceeding twelve inches in diameter each, for the purpose of obtaining a supply of sea water for the public baths in the town and other purposes.

Right of Council to obtain sea water.

7. Nothing in this Act or in any contract made thereunder shall be deemed to affect or take away the rights of Her Majesty or of the

Reservation of rights in the Admiralty Reserve.

Act 11, 1900. Colonial Government of Natal in relation to the sea-shore and the strip of land known as the Admiralty Reserve, or to take away the private or public rights in the fore-shore: Provided that so far as any buildings, erections, enclosures, or other works, contemplated by this Act, in so far as they shall have been erected in accordance with a contract entered into by the Colonial Government under the authority of this Act, and in so far as they do not interfere with the reasonable use of the said sea-shore or fore-shore, or Admiralty Reserve, for purposes of free passage from one place to another with or without vehicles or animals, or with the enjoyment of the rights of the Crown and of the public and owners of adjoining properties to the use of the shore or reserve on both sides of such works, such buildings, erections, enclosures, or other works, shall not be deemed to infringe or injuriously affect any such rights of the Crown or of the public or others as aforesaid: but provided also that in the event of any such buildings, erections, enclosures, or other works being removed, destroyed, or injured by the orders of Her Majesty's Imperial or Colonial Governments for any purpose of public defence, or for other public purposes, no payment or compensation shall be due or claimable in respect of any such removal, destruction, or injury.

No compensation for damage done to buildings in course of public defence.

Rights of R. D. Sykes, or of Company formed by him, to fail if agreement not made and fulfilled within limited time.

8. Should the said Robert Dixon Sykes, or any Joint Stock Company as aforesaid, fail, within the period of one year from the taking effect of this Act, to conclude an agreement with the said Colonial Government and the Town Council of the Borough of Durban, or, having concluded such agreement as is contemplated by this Act, shall fail within the time limited by such agreement to construct such Sea Pier as is by this Act contemplated, then, and in any such case, all rights (if any) of the said Robert Dixon Sykes, or of any Joint Stock Company as aforesaid, acquired under this Act shall "ipso facto" cease and determine, and this Act shall, anything herein contained to the contrary notwithstanding, be deemed to be and shall be an authority to the said Colonial Government and the Town Council of the Borough of Durban to contract for the erection of such Sea Pier with any other person or with any other joint stock company in the same manner, and as if such other person or joint stock company had been actually named herein.

Short title.

9. This Act may be known as the "Durban Pier Act of 1900."

INDEMNITY LAWS.

Act No. 15, 1900.

“To indemnify the Governor of the Colony, and the Officer Commanding Her Majesty's Forces in Natal, and all persons acting under their authority and in good faith in regard to acts during the existence of Martial Law.”

[30th June, 1900.]

WHEREAS a state of war has recently existed, and is still existing, between Her Majesty's Government and the Government of the South African Republic, and between Her Majesty's Government and the Government of the Orange Free State :

AND WHEREAS, by reason of the existence of such state of war, it became necessary for the preservation of good order and for the protection of Her Majesty's subjects in this Colony for His Excellency the Governor, on the 15th day of October, 1899, to proclaim and make known that the Magisterial Divisions of Newcastle, Dundee, Umsinga, Klip River, and Upper Tugela, in this Colony, should be placed under Martial Law :

AND WHEREAS on the 23rd day of October, 1899, it became further necessary for His Excellency to proclaim and make known that the whole of this Colony, including the Province of Zululand, should be placed under Martial Law :

AND WHEREAS military operations have been necessarily carried on in this Colony during the existence of such state of war as aforesaid, and for the proper carrying out of such operations and for the maintenance of good order and government, His Excellency the Governor and the Officer for the time being commanding Her Majesty's Forces in this Colony, and the Military, Volunteer, and Civil authorities of this Colony, may be responsible in person or purse for acts done by them in good faith in pursuance of such objects as aforesaid :

AND WHEREAS it is expedient that all persons whosoever, who in good faith have acted whether before, after, or during the existence of such Martial Law, for the suppression of hostilities and the maintenance of good order and government, should be indemnified and kept harmless :

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. All actions, indictments, and legal proceedings, civil, criminal, or mixed, against His Excellency the Honourable Sir Walter Francis Hely-Hutchinson, G.C.M.G., Governor of Natal, or the Officer for the time being commanding Her Majesty's Forces in Natal, or against any such authorities or officers, Civil, Military, or Volunteer, or other persons acting as aforesaid, for or by reason of any matter or thing commanded, ordered, directed, or done for the suppression of hostilities or the maintenance of good order and government, or for the public safety, whether done before, during, or after the existence of Martial Law, but in furtherance of the objects for which it became necessary to proclaim Martial Law, shall be discharged and become and be made void ; and every person by whom such act, matter, or thing shall have been advised, commanded, ordered, directed, or done for the purposes aforesaid, whether before, during, or after the existence of such Martial

General indemnity in respect of acts done under Martial law.

Act 15, 1900. Law, shall be freed, acquitted, discharged, released and indemnified against all and every person and persons whomsoever in respect thereof.

Indemnity in respect of acts done in suppression of hostilities, &c.

2. All officers and other persons who have acted under the authority of His Excellency the Honourable Sir Walter Francis Hely-Hutchinson, G.C.M.G., as Governor of this Colony or as Supreme Chief of the Native population, or any officer acting under him, or under the authority of the General Officer Commanding Her Majesty's Forces in Natal, or who have acted "bona fide" for the purposes and during the time aforesaid, are hereby indemnified in respect of all acts, matters, and things done in the suppression of hostilities and the maintenance of good order and government and the public safety; and such acts so done are hereby made and declared to be lawful and are confirmed.

Certain sentences confirmed and approved.

3. All sentences passed by any Court Martial or by any Court or person exercising judicial functions under the authority of the General Officer Commanding Her Majesty's Forces in Natal, or of any officer of Her Majesty's Forces purporting to exercise authority in that behalf, since the date of the aforesaid Proclamation of 15th October, 1899, which sentences have been passed upon persons not ordinarily subject to Military Law in respect of acts, crimes, or offences committed during the existence of Martial Law as aforesaid, are hereby confirmed and approved, and in so far as the same shall not have been already carried into effect, shall be deemed to be sentences passed by duly and legally constituted Courts of this Colony, and shall be and remain in force and shall be carried out in the same manner as the sentences of the Courts of Law of this Colony.

Governor may, at any time, declare any act to have been done for purposes aforesaid.

4. His Excellency the Governor at any time, in order to prevent or remove any doubt which might exist or may arise whether any act alleged to have been done under the authority of the Governor or of the Supreme Chief, or under the authority of the General Officer Commanding Her Majesty's Forces in Natal, or to have been done "bona fide" for any of the purposes aforesaid, was so done, may by a certificate in writing under his hand declare such acts to have been done, either under such authority or "bona fide" for the purposes aforesaid: and any such certificate under the hand of the Governor for the time being, shall in all cases be conclusive evidence that such acts were so done respectively.

Order made by Governor for suspending operation of Act confirmed.

5. Any order heretofore made by His Excellency the Governor, or under his authority, since the date of the before-recited Proclamation of 23rd October, 1899, for suspending the operation of any Act of Parliament, or of any part thereof, is hereby confirmed, and shall be of legal force until the same shall be revoked by order of His Excellency the Governor.

Indemnity for payments made from Consol. Rev. Fund.

6. His Excellency the Governor and the Colonial Treasurer of Natal and all other persons concerned shall be indemnified and kept harmless in respect of any payments which have been made by the Colonial Treasurer from the Consolidated Revenue Fund for meeting expenses occasioned by the state of war heretofore subsisting, but which have not been authorised by an Act of Supply.

LOANS.

Act No. 4, 1900.

“ For empowering the Governor to raise a Loan for certain Public Works.”

[23rd June, 1900.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Governor may borrow the sum of One Million Pounds (£1,000,000) Sterling, in accordance with the provisions of the General Loan Law, 1882.

Loan of
£1,000,000
authorised.

2. The money so raised shall be applied to the payment in whole or in part of such sums as may be required for any

Application of
moneys.

Railways, and their equipment;

Harbour Works;

Telegraphs; or other public works of a permanent character,

which by any Act of Supply or other Act may be authorised to be paid from loan funds.

3. The interest upon the principal moneys borrowed under this Act shall be payable at the office of the Agent-General in London, or at such other place as may be agreed.

Payment of
interest.

4. Wherever in the General Loan Law of 1882 the “ Crown Agents for the Colonies ” are referred to, such reference shall for the purpose of this Act be deemed to be a reference to the Agent-General for the Colony of Natal.

“Crown Agents
for the
Colonies.”

5. The Governor in Council may borrow from time to time in anticipation of the raising of any portion of the loan authorised by this Act any sum or sums not exceeding at any one time in the whole the sum of Five Hundred Thousand Pounds (£500,000) Sterling, in such manner as may be most convenient for the public service, and shall repay the moneys so borrowed out of the principal moneys to be raised under the provisions of this Act.

Borrowing
powers in anti-
cipatation of
raising of loan.

The raising of any moneys under this Section, or any part thereof, shall not “ pro tanto ” exhaust the borrowing powers conferred by this Act.

The interest upon any sum borrowed under this Section shall be and is hereby charged upon and made payable out of the general revenue of Natal, and shall in no case form a charge against the loan authorised by this Act.

Payment of
interest.

6. This Act may be known as “ The Public Works Loan Act of 1900.”

Short title.

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