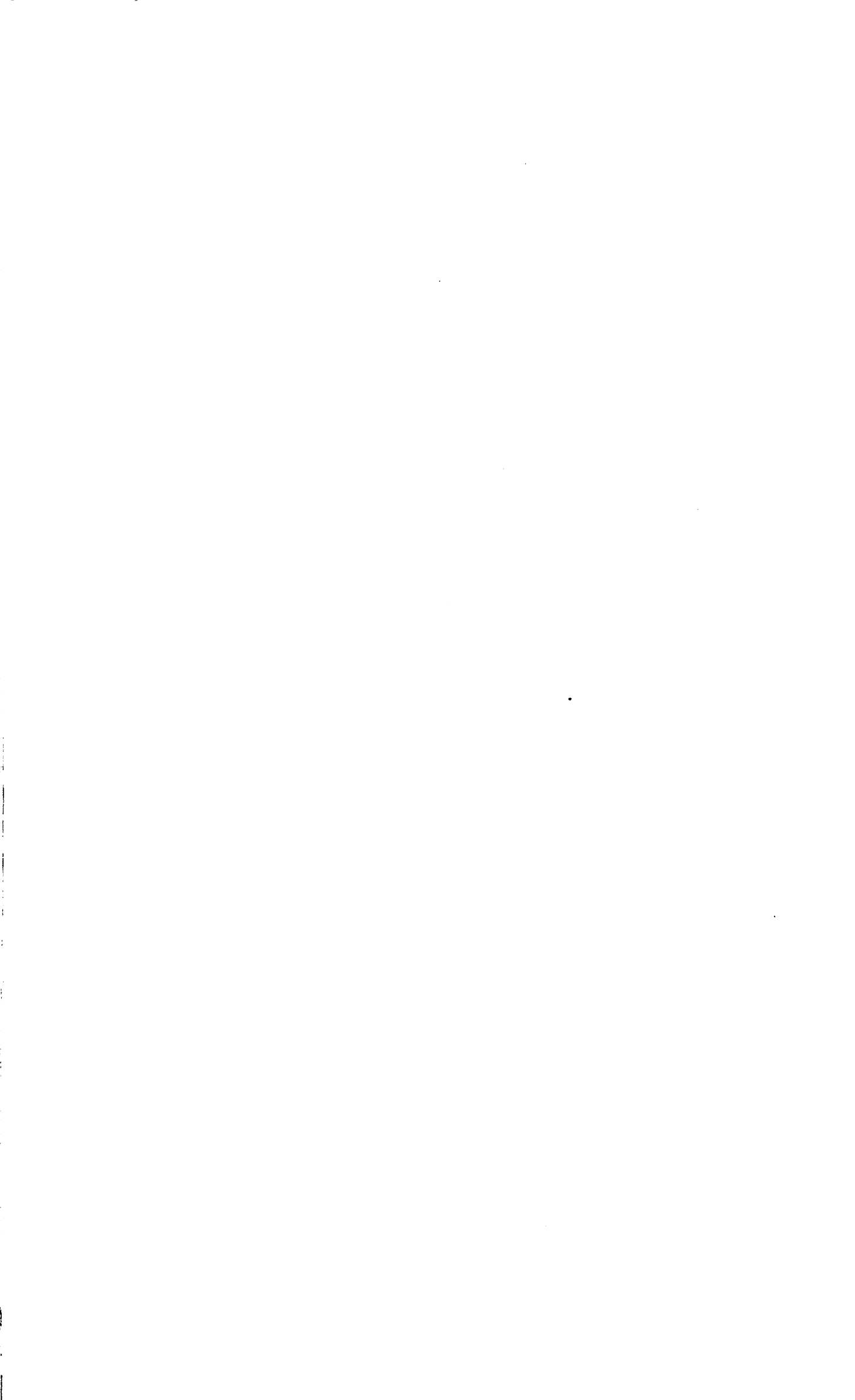
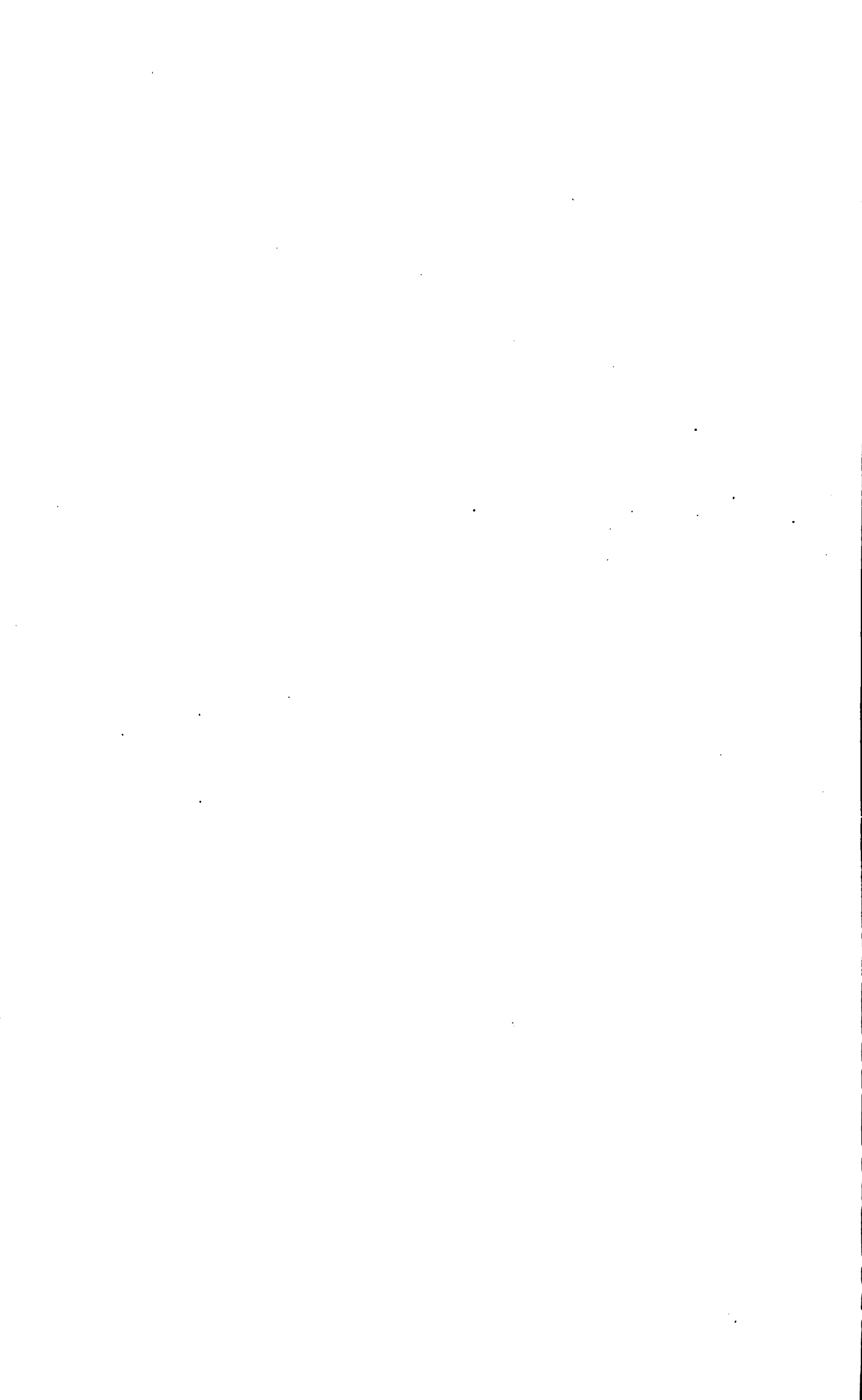


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New Zealand
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XWS





THE
STATUTES
OF THE
GENERAL ASSEMBLY OF NEW ZEALAND

PASSED DURING

THE FIRST AND SECOND PARLIAMENTS.

From ¹⁴16 VICTORIÆ to ²⁴18 VICTORIÆ inclusive,
1854 to 1860.



NEW ZEALAND:

BY AUTHORITY: GEORGE DIDSBURY, GOVERNMENT PRINTER, WELLINGTON.

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ALPHABETICAL INDEX

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FOR THE YEARS

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(1854—1860.)

No.	FIRST PARLIAMENT.	Page.	Amendments, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
Sessions I. and II., 1854.					
18 VICTORIA.					
1	For bringing into operation within the Colony certain Acts of the Imperial Parliament	1	See No. 8, 1867	...	31 July, 1855.
2	For the Naturalization of certain Persons in the Colony of New Zealand	2	Private ...	...	31 July, 1855.
3	To amend the Law relating to Dower ...	4	...	...	31 July, 1855.
4	To make further provision for the Administration of the Nelson Trust Funds	4	Local, amended, No. 5, 1856, No. 50, 1858, and No. 3, 1863	...	15 Sept., 1855.
5	For amending an Ordinance passed by the Governor and Legislative Council of New Zealand for regulating the Sale of Fermented and Spirituous Liquors	10	Private ...	...	15 Sept., 1855.
6	For regulating the Disposal of the Waste Lands of the Crown in New Zealand	10	...	Repealed, No. 75, 1858	15 Sept., 1855.
7	For regulating the Management of certain Lands reserved for Public Purposes in the several Provinces of New Zealand	12	Amended, No. 15, 1862. See Nos. 56 and 57, 1867	...	15 Sept., 1855.
8	To enable the Barristers and the Solicitors of the Supreme Court to act as general Law Practitioners	14	...	Repealed, No. 11, 1861	15 Sept., 1855.
9	To abolish the Punishment of Transportation, and to substitute Penal Servitude within the Colony in lieu thereof	15	Amended, No. 18, 1863	...	15 Sept., 1855.
10	To give greater effect to Powers of Attorney	18	...	...	15 Sept., 1855.
11	To provide for the Appropriation of the Public Revenue of New Zealand	19	Obsolete ...	...	15 Sept., 1855.
12	To regulate the Law of Marriage in the Colony of New Zealand	19	...	Part repealed, No. 29, 1858, No. 31, 1867, No. 22, 1868, No. 8, 1869	15 Sept., 1855.
13	To authorize the General Assembly to empower the Provincial Councils to enact Laws for regulating the Sale Letting Disposal and Occupation of the Waste Lands of the Crown	28	...	Repealed, No. 75, 1858	16 Oct., 1855.
Session III., 1855.					
19 VICTORIA.					
1	For the Naturalization of certain Persons in the Colony of New Zealand	30	Private ...	...	4 Mar., 1857.
2	To amend the New Zealand Company's Land Claimants Ordinance	31	...	Repealed, No. 20, 1866	4 Mar., 1857.
3	For bringing into operation within the Colony certain Acts of the Imperial Parliament	32	...	...	4 Mar., 1857.
4	To provide for the Appropriation of the Public Revenues of New Zealand	33	Obsolete ...	...	4 Mar., 1857.

No.		Page.	Amendment, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
SECOND PARLIAMENT.					
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19 & 20 VICTORIA.					
1	To provide for the retirement of certain Officers of the Executive Government	34	Private	5 Aug., 1857.
2	For the Naturalization of certain Persons in the Colony of New Zealand	35	Private ...	...	5 Aug., 1857.
3	For the amendment of the Law of Evidence, and of the Law of Debtor and Creditor	36	See No. 37, 1862, Nos. 1 and 18, 1866, No. 50, 1868	...	5 Aug., 1857.
4	To enable certain Banking Companies to issue Paper Money	39	...	...	23 Sept., 1858.
5	To alter and amend the "Nelson Trust Funds Act, 1854"	40	See No. 4, 1854, No. 50, 1858, and No. 3, 1863	...	5 Aug., 1857.
6	For bringing into operation within the Colony certain Acts of the Imperial Parliament	41	...	...	5 Aug., 1857.
7	To authorize the Sale of certain Land in the Town of Nelson and of Buildings thereon, appropriated as a Chapel and School House for the use of the Wesleyan Methodists; and to provide for the Investment of the Proceeds of Sale in the purchase of other Lands and the erection of Buildings, to be vested in Trustees and appropriated for the like purposes	42	Private ...	...	5 Aug., 1857.
8	For preventing Frauds upon Creditors by secret Bills of Sale of Personal Chattels	44	...	Repealed, No. 23, 1867	5 Aug., 1857.
9	To amend an Ordinance of the Legislative Council of New Zealand, Session XI., No. 11, intituled "An Ordinance for the Regulation of Building and Land Societies"	46	...	Repealed, No. 70, 1866	5 Aug., 1857.
10	For the management of Lands set apart for the benefit of the Aboriginal Inhabitants of New Zealand	47	Amended, No. 47, 1858, and No. 14, 1862	...	19 Mar., 1858.
11	To remove doubts respecting the Validity of the Appointment of certain Justices of the Peace	49	Obsolete ...	...	5 Aug., 1857.
12	To amend "The Marriage Act, 1854" ...	50	...	Repealed, No. 29, 1858	5 Aug., 1857.
13	For enabling the affairs of the Colonial Bank of Issue to be wound up	50	Obsolete ...	...	23 Sept., 1857.
14	To enable the Governor of New Zealand to raise a Loan not exceeding £100,000 by the Issue of Debentures	51	Obsolete ...	...	5 Feb., 1858.
15	For regulating the Procedure of the Supreme Court	53	...	Repealed, No. 17, 1860	5 Aug., 1857.
16	To make provision for the performance of the Duties of Superintendents during the temporary Absence of such Superintendents, and during Vacancies in the Office	54	...	Repealed, No. 64, 1866	5 Aug., 1857.
17	For raising a Loan of £500,000 for the Public Service of the Colony of New Zealand	55	See Imperial Act 20 & 21 Vict., cap. 51.	...	...
18	To authorize the Division of the Provinces of the Colony of New Zealand into Counties Hundreds and Parishes	56	...	Repealed, No. 37, 1858	5 Aug., 1857.
19	To amend "An Ordinance to provide for the Management of Savings' Banks"	57	...	Repealed, No. 52, 1858	5 Aug., 1857.
20	To amend "An Ordinance to provide for the establishment of Resident Magistrates' Courts, and to make special provision for the administration of Justice in certain cases," passed by the General Legislative Council of New Zealand, Session VII., No. 16	57	...	Repealed, No. 13, 1867	5 Aug., 1857.

No.		Page.	Amendments, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
19 & 20 VICTORIA—continued.					
21	To render more simple and effectual the Titles by which Property is held for Religious Charitable or Educational Purposes in New Zealand	59	Extended, No. 15, 1863, and No. 24, 1865	...	5 Aug., 1857.
22	To empower the Superintendents and Provincial Councils to enact Laws for regulating the Sale Letting Disposal and Occupation of the Waste Lands of the Crown	62	...	...	Disallowed, 19 Mar. and 14 June, 1858.
23	To enable the Governor to Sell certain Allotments of Land in the City of Auckland, and apply the proceeds towards erecting Public Offices	63	Local, obsolete	...	5 Aug., 1857.
24	To declare certain Privileges of Legislative Bodies and Officers of the Government of the Colony and Provinces of New Zealand, to confer certain Powers on the said Legislative Bodies, and to give Protection to Persons employed in the Publication of Papers under the authority of the same	64	...	Repealed, No. 13, 1865, except as to Superintendents and Provincial Councils. See No. 73, 1866	5 Aug., 1857.
25	To alter the Duties of Customs ...	67	...	Repealed, No. 72, 1858	13 Oct., 1857.
26	To alter the Civil List granted to Her Majesty by the Constitution Act, so far as relates to the Salary of the Governor	69	...	Repealed, No. 71, 1858	5 Aug., 1857.
27	To vest in the Superintendent of the Province of Auckland certain Lands heretofore granted to Trustees as Endowments for a Hospital and for Grammar Schools	70	Local, private	...	5 Aug., 1857.
28	For the Regulation and Management of Friendly Societies in New Zealand	73	...	Repealed, No. 27, 1867	5 Aug., 1857.
29	To extend the Jurisdiction of Resident Magistrates' Courts in Civil Cases	86	...	Repealed, No. 30, 1858. See No. 36, 1862	5 Aug., 1857.
30	To enable Local Posts to be established within the several Provinces of New Zealand	88	...	Repealed, No. 15, 1858	5 Aug., 1857.
31	To define and settle the Rights of Holders of Land Orders and Scrip	89	...	Repealed, No. 77, 1858	30 June, 1858.
32	To provide for the final Settlement of Claims arising out of dealings with the Aborigines of New Zealand	91	Amended, No. 76, 1858	...	13 Oct., 1857.
33	To enable persons qualified to Practice in the Sheriff Courts of Scotland to be admitted to Practice in the Supreme Court	100	...	Repealed, No. 11, 1861	5 Aug., 1857.
34	To extend the Powers in certain cases of Superintendents and Provincial Councils	101	...	...	5 Aug., 1857.
35	To give the validity of Acts of the General Assembly to certain Laws made by the Superintendents and Provincial Councils of the several Provinces of New Zealand	102	...	...	5 Aug., 1857.
36	To provide for the Appropriation of the Public Revenue of New Zealand	103	Obsolete ...	...	5 Aug., 1857.
Session II., 1858.					
21 & 22 VICTORIA.					
1	For the Interpretation of Acts of the General Assembly of New Zealand	104	...	Repealed, No. 81, 1868	5 Dec., 1859.
2	To declare the Laws of England, so far as applicable to the circumstances of the Colony, to have been in force therein on and after the 14th day of January, 1840	106	See No. 16, 1867, and No. 5, 1868	...	19 Mar., 1859.
3	To provide for the Payment of Costs in Proceedings instituted on behalf of the Crown	106	...	...	19 Mar., 1859.

No.		Page.	Amendments, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
21 & 22 VICTORIA—continued.					
4	To provide for the Service of the Process of the Supreme Court of New Zealand upon Defendants absent from the Colony	107	...	Repealed, No. 3, 1860.	
5	To render the Property in New Zealand of Debtors absent from the Colony available for the payment of their debts	109	...	Repealed, No. 2, 1860.	
6	To declare Unstamped Instruments executed out of but affecting Real Estate within this Colony, admissible in evidence	114	See sec. 32, No. 42, 1866	...	19 Mar., 1859.
7	To regulate the Appointment and Duties of Coroners in the Colony of New Zealand	115	...	Repealed, No. 16, 1867	19 Mar., 1859.
8	For raising a Militia within the Colony ...	116	...	Repealed, No. 87, 1870	19 Mar., 1859.
9	To enable the Governor to Sell certain Reserves in the Pensioner Villages in the Province of Auckland, and to pay over the proceeds to Her Majesty's Imperial Treasury	120	Obsolete ...	...	19 Mar., 1859.
10	To regulate the Execution of Criminals ...	122	See secs. 2 and 3, No. 19, 1863	...	19 Mar., 1859.
11	To provide for the Issue of Writs for supplying Vacancies in the House of Representatives during the Recess.	123	...	Repealed, No. 18, 1870	19 Mar., 1859.
12	To enable the Proprietors of Sheep and Whaling Stations to give valid Security on future produce of Wool Oil and Bone	124	...	...	19 Mar., 1859.
13	To authorize the Formation of Special Partnerships	127	See No. 2, 1866, and No. 13, 1860	...	19 Mar., 1859.
14	For preventing Desertion and other Misconduct of Seamen belonging to Foreign Ships	130	...	Repealed, No. 4, 1860.	
15	To regulate the Postal Service of the Colony of New Zealand	133	Amended, Nos. 53 and 54, 1866, and No. 44, 1870	...	15 Apr., 1859.
16	To extend the Time within which the Governor is required to signify his Pleasure on Bills Passed by Provincial Councils and reserved by Superintendents	143	See No. 11, 1870	...	19 Mar., 1859.
17	To authorize the Bishop of New Zealand to Convey certain Hereditaments and Premises to Trustees to be appointed in that behalf by the General Synod of the Church of England in New Zealand	144	Private. Extended, No. 7, 1868	...	19 Mar., 1859.
18	To authorize the Sale of certain Lands at Takapuna, in the North Suburbs of Auckland, appropriated for the Maintenance and Education of Children of both Races, and of Children of other Poor Persons, being Inhabitants of the Islands in the Pacific Ocean; and likewise to authorize the Sale of Land situated in Nelson Street, City of Auckland, and set apart as a site for the erection of a Church for the Roman Catholic Natives	146	Private ...	...	19 Mar., 1859.
19	To provide for ascertaining and defining the Boundaries of the several Provinces of New Zealand	149	See Nos. 2 and 15, 1861	...	19 Mar., 1859.
20	For taking an account of the Population of New Zealand, and for collecting Statistical Information relating thereto	150	Amended, No. 30, 1860, No. 78, 1867, and No. 47, 1870.	...	19 Mar., 1859.
21	To give further Remedies to Creditors against Debtors removing from any other of the Australasian Colonies to the Colony of New Zealand	154	...	...	19 Mar., 1859.

TITLES OF ACTS.

XV

No.		Page.	Amendments, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
21 & 22 VICTORIA—continued.					
22	To regulate the Appointment and Tenure of Office of the Judges of the Supreme Court	155	Sec. 4 repealed, No. 12, 1862. See No. 4, 1866	...	19 Mar., 1859.
23	To enable Barristers and Solicitors of the Supreme Court to Act as General Law Practitioners	157	...	Repealed, No. 11, 1861	19 Mar., 1859.
24	To regulate the Appointment and Duties of Sheriffs	157	Amended, No. 19, 1863, No. 16, 1864	...	19 Mar., 1859.
25	To amend the Law relating to the Appointment of Gaolers and the Custody of Imprisoned Debtors and Criminals	159	See No. 19, 1863, No. 30, 1865, No. 54, 1869	...	19 Mar., 1859.
26	To provide for the Holding of Petty Sessions of the Peace in the Colony of New Zealand	160	...	Repealed, No. 46, 1866	19 Mar., 1859.
27	To bring into Operation within the Colony certain Acts of the Imperial Parliament relating to Justices of the Peace	161	...	Repealed, Nos. 46 and 48, 1866, and No. 55, 1869	29 June, 1859.
28	For the Registration of Births Deaths and Marriages in New Zealand	162	Sec. 29 repealed, No. 8, 1867	...	29 June, 1859. 29 June, 1859.
29	To repeal certain Sections of "The Marriage Act, 1854," and to Repeal "The Marriage Act Amendment Act, 1856," and to make other provisions in lieu thereof	168	Sec. 29 repealed, No. 8, 1867. See sec. 19, No. 30, 1867, and No. 61, 1869	...	29 June, 1859.
30	To establish District Courts in the Colony of New Zealand	172	See Nos. 36, 1862, and 5, 1866. Sec. 160 repealed, No. 84, 1867. See No. 12, 1870	...	29 June, 1859.
31	To provide for the Audit of the Public Accounts of the Colony of New Zealand	195	...	...	29 June, 1859.
32	To Disqualify Persons holding certain Offices from being Members of the House of Representatives, Superintendents of Provinces, or Members of Provincial Councils	198	...	Repealed, No. 17, 1870	29 June, 1859.
33	To declare what shall be deemed the Ordinary Revenue of the Colony, and to Provide for the Regulation by the General Assembly of the Costs of Collecting the same	199	...	Repealed, No. 84, 1867	5 Dec., 1859.
34	To provide for the Periodical Publication of the Liabilities and Assets of Banks in New Zealand	200	Amended, No. 10, 1860.	...	29 June, 1859.
35	To make further provision for the Administration of Justice in Resident Magistrates' Courts in the Colony of New Zealand	202	...	Repealed, No. 13, 1867	29 June, 1859.
36	To give validity to Crown Grants made in fulfilment of certain Land Orders issued by the Canterbury Association	204	Local ...	...	29 June, 1859.
37	To enable the Governor to define and designate Counties and certain other places in the Colony of New Zealand	205	...	...	29 June, 1859.
38	To Incorporate the Governors of Nelson College	205	Local ...	...	29 June, 1859.
39	To bring into operation within the Colony of New Zealand certain provisions of "The Merchant Shipping Act, 1854"	212	...	Repealed, No. 5, 1869	25 July, 1859.
40	To regulate the Collection and Management of the Revenue of Customs	213	Amended, No. 34, 1868. See No. 39, 1870	...	5 Dec., 1859.
41	To regulate the Local Affairs of Native Districts	268	Amended, No. 39, 1862	...	27 July, 1859.

No.		Page.	Amendments, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
<i>21 & 22 VICTORIA—continued.</i>					
42	To make better provision for the Administration of Justice in Native Districts	271	Amended, No. 40, 1862. Sec. 31 repealed, No. 13, 1867	...	27 July, 1859.
43	To provide for the retirement of Officers of the Civil Service of the General Government of New Zealand	277	...	Repealed, No. 59, 1866	29 June, 1859.
44	To grant a Retiring Allowance to William Martin, Esquire, late Chief Justice of New Zealand	279	Private ...	...	29 June, 1859.
45	To alter the name of the Province of New Plymouth	280	Local ...	...	29 June, 1859.
46	To enable the Governor to cause certain Errors in Crown Grants to be amended	280	...	Repealed, No. 20, 1866	29 June, 1859.
47	To enable Commissioners of Native Reserves to Sue and be Sued	281	See. No. 14, 1862	...	29 June, 1859.
48	For the Naturalization of certain Persons in the Colony of New Zealand	282	Private ...	...	29 June, 1859.
49	To enable the Governor to Sell and Exchange certain Allotments of Land in and near the City of Auckland, and apply the Proceeds of such Sales in Public Improvements	284	Amended, No. 22, 1860, and No. 7, 1864	...	29 June, 1859.
50	To further amend "The Nelson Trust Funds Act, 1854"	287	Local. See No. 14, 1863	...	29 June, 1859.
51	To vest certain Trust Property within the Province of Nelson in the Governors of Nelson College	288	Private. Amended, No. 14, 1863	...	29 June, 1859.
52	To provide for the Management of Savings Banks	290	Amended, No. 21, 1860	...	29 June, 1859.
53	To amend the Law relating to the Qualification of Electors and Members of the House of Representatives	301	Expired. See No. 39, 1869	...	29 June, 1859.
54	To amend the Law relating to the Registration of Persons qualified to vote at Elections of Members of the House of Representatives	302	...	Repealed, No. 80, 1866	29 June, 1859.
55	To constitute Electoral Districts for the Election of Members of the House of Representatives	313	...	Repealed, No. 12, 1860	29 June, 1859.
56	To make provision for the Regulation and Conduct of Elections of Members of the House of Representatives	316	...	Repealed, No. 18, 1870	29 June, 1859.
57	To make provision for the Prevention of Corrupt Practices at Elections	323	See No. 10, 1862. Sec. 9 repealed, No. 18, 1870	...	29 June, 1859.
58	To make provision for the Trial of Petitions against the Election or Return of Members of the House of Representatives	327	Amended, No. 4, 1862. See No. 10, 1862	...	29 June, 1859.
59	To amend the Law relating to the Election of Superintendents of Provinces and Members of Provincial Councils	334	Amended, No. 16, 1869. Secs. 5 to 8 repealed, No. 18, 1870	...	29 June, 1859.
60	To enable Superintendents of Provinces to Sue and be Sued	336	See No. 6, 1863, No. 63, 1865, and No. 22, 1867	...	29 June, 1859.
61	To amend an Ordinance to make provision for the Safe Custody of and Prevention of Offences by Persons Dangerously Insane, and for the Care and Maintenance of Persons of Unsound Mind	337	...	Repealed, No. 16, 1868	29 June, 1859.
62	To amend the Law relating to Drafts on Bankers	338	...	...	29 June, 1859.
63	To appropriate the Ordinary Revenue of New Zealand for the Year ended the 30th June, 1858	339	Obsolete ...	...	29 June, 1859.

No.		Page.	Amendments, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
<i>21 & 22 VICTORIA—continued.</i>					
64	To apply a Sum out of the Ordinary Revenue to the Service of the Year ending the thirtieth day of June, One thousand eight hundred and fifty-nine, and to appropriate a Sum to be raised by "The New Zealand Loan Act, 1856"	339	Obsolete ...	...	29 June, 1859.
65	To grant the Annual Sum of Seven Thousand Pounds for a term of Seven Years from the 30th June, 1858, in aid of Schools for the Education of the Aboriginal Native Race	340	...	Repealed, No. 41, 1867	29 June, 1859.
66	To provide for the Distribution of the Surplus Ordinary Revenue amongst the several Provinces of New Zealand	342	Repealed, except secs. 5 and 7, No. 84, 1867. See also No. 87, 1867	...	5 Dec., 1859.
67	To appropriate the Revenue arising from the Disposal of the Waste Lands of the Crown in New Zealand	343	Amended, No. 29, 1862; see also No. 28, 1862. Sec. 7 repealed, No. 84, 1867	...	29 June, 1859.
68	To apportion amongst the Provinces of the Northern Island the Sum of £180,000 to be raised for the extinguishment of Native Title; and to make the Provincial Revenues of the several Provinces chargeable, in exoneration of the Revenue of the Colony, with specific portions of the Public Debt	345	Amended, No. 25, 1861	...	29 June, 1859.
69	To enable the Superintendent of the Province of Auckland to Purchase certain Lands in the Electoral District of the City of Auckland for the purpose of improving the said City, and for that purpose to Borrow Money upon the Security of certain Lands in the said City.	348	Local ...	...	29 June, 1859.
70	To provide for the Establishment of new Provinces in New Zealand	350	Amended, No. 24, 1860, and No. 26, 1861. See <i>N.Z. Gazette</i> , No. 38, 1862, and No. 34, 1865	...	18 July, 1859.
71	To alter the Sums granted to Her Majesty by the Constitution Act for Civil and Judicial Services	354	See No. 26, 1862	...	25 July, 1859.
72	To alter the Duties of Customs	355	See No. 43, 1866	...	18 July, 1859.
73	For granting a Duty upon Gold	356	...	Repealed, No. 20, 1870	25 July, 1859.
74	To make provision for the Management of Gold Fields in the Colony of New Zealand	357	...	Repealed, No. 21, 1862	25 July, 1859.
75	To regulate the Disposal and Administration of the Waste Lands of the Crown in New Zealand	365	Sec. 10 repealed, No. 24, 1861	...	15 Feb., 1860.
76	To make further provision for the Settlement of Land Claims	369	See No. 32, 1856	...	31 May, 1859.
77	To amend the Law defining and settling the Rights of Holders of Land Orders and Land Scrip	372	See No. 26, 1866	...	25 July, 1859.
78	To enable Provincial Councils to pass Laws for Diverting Public Roads and Water-courses, and for Disposing of the Land over which the same passed	375	...	...	25 July, 1859.
79	To enable the Governor to establish a Settlement for Colonization in the Bay of Islands	375	...	Repealed, No. 63, 1870	25 Aug., 1859.
80	To enable the Native Tribes of New Zealand to have their Territorial Rights ascertained, and to authorize the Issue in certain cases of Crown Grants to Natives	377	...	...	Disallowed, 27 July, 1859.

No.		Page.	Amendments, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
Session III., 1860.					
24 VICTORIA.					
1	To enable the Committees of both Houses of the General Assembly to administer Oaths to Witnesses in certain cases	381	...	...	6 Aug., 1861.
2	To render the Property in New Zealand of Debtors absent from the Colony available for the Payment of their Debts	381	...	...	6 Aug., 1861.
3	To provide for the Service of the Process of the Supreme Court of New Zealand, upon Defendants absent from the Colony	387	...	...	6 Aug., 1861.
4	For preventing Desertion and other Misconduct of Seamen belonging to Foreign Ships	389	...	...	4 July, 1861.
5	To make better provision for the Punishment of Frauds committed by Trustees, Bankers, and other Persons intrusted with Property	392	See No. 7, 1862	...	6 Aug., 1861.
6	To amend the Law concerning the Remission of Penalties	394	...	Repealed, No. 8, 1867	6 Aug., 1861.
7	To improve the Administration of the Law so far as respects Summary Proceedings before Justices of the Peace	394	...	Repealed, No. 12, 1867	6 Aug., 1861.
8	To amend the Laws affecting Trade and Commerce	397	...	...	6 Aug., 1861.
9	To protect the Property of Married Women	400	Extended, No. 7, 1870	...	6 Aug., 1861.
10	To amend "The Bankers' Returns Act, 1858"	401	Amended, secs. 1 and 2, No. 34, 1858	...	6 Aug., 1861.
11	To amend an "Act to make Provision for the Management of Gold Fields in the Colony of New Zealand"	402	...	Repealed, No. 21, 1862	6 Aug., 1861.
12	To make further provision for the Representation of the People of New Zealand in the General Assembly	404	Amended, Nos. 11, 1862, and 70, 1865	...	6 Aug., 1861.
13	For the Incorporation and Regulation of Joint Stock Companies and other Associations	410	Amended, No. 2, 1862, No. 27, 1868, and No. 38, 1869	...	6 Aug., 1861.
14	To regulate Grants of Patents for Inventions	441	...	Repealed, No. 89, 1870	6 Aug., 1861.
15	To enable the Registrar of the Supreme Court to manage the Real Estate of Deceased Persons	446	...	Repealed, No. 56, 1865	6 Aug., 1861.
16	To amend the Conveyancing Ordinance, No. 10 of Session II., of the Legislative Council of New Zealand	448	Secs. 11 and 12 repealed, No. 20, 1866; sec. 9 repealed, No. 30, 1870	...	6 Aug., 1861.
17	To consolidate and amend the Law relating to the Supreme Court of New Zealand	450	See Nos. 12 and 24, 1862, No. 56, 1865, Nos. 18 and 79, 1866, No. 14, 1870	...	6 Aug., 1861.
18	To continue until the end of the next Session of the General Assembly certain provisions for the Admission of Barristers and Solicitors of the Supreme Court	453	...	Repealed, No. 11, 1861	6 Aug., 1861.
19	For bringing into operation within the Colony certain Acts of the Imperial Parliament	454	See Nos. 8 and 16, 1867	...	6 Aug., 1861.
20	To facilitate the Admission in Evidence of certain Official and other Documents	455	...	...	6 Aug., 1861.
21	To amend "The Savings Banks Act, 1858"	457	See No. 39, 1869	...	6 Aug., 1861.
22	To confirm certain Crown Grants of Allotments sold under "The Pensioner Villages Sale of Reserves Act, 1858," and "The Auckland Reserves Act, 1858"	458	Local, obsolete	...	6 Aug., 1861.

No.		Page.	Amendments, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
24 VICTORIA—continued.					
23	To extend the Franchise to Holders of Miners' Rights in proclaimed Gold Fields	460	...	Repealed, No. 10, 1862	6 Aug., 1861.
24	To explain Section XVI. of "The New Provinces Act, 1858"	460	...	...	6 Aug., 1861.
25	To apportion the Public Debt of the former Province of Nelson between the Provinces of Nelson and Marlborough	461	...	...	6 Aug., 1861.
26	To Provide Compensation in Land for certain Persons named in "The Compensation in Land Act, 1858," of the Provincial Council of Nelson, on account of Damages arising from Breach of Contract by the New Zealand Company	463	...	...	4 July, 1861.
27	To simplify the Law relating to the Transfer of Landed Property in New Zealand	465	Amended, No. 34, 1861.	Repealed, No. 51, 1870	
28	To amend the Law relating to the Registration of Deeds in the Colony of New Zealand	479	...	Repealed, No. 51, 1868	6 Aug., 1861.
29	To Indemnify the Officers of Her Majesty's Forces for all acts done by them under a certain Proclamation of Martial Law.	482	...	...	6 Aug., 1861.
30	To amend certain Provisions of "The Census Act, 1858"	482	Amended, No. 78, 1867	...	6 Aug., 1861.
31	For the Naturalization of certain Persons in the Colony of New Zealand	484	...	...	6 Aug., 1861.
32	To provide for the Management of the Public Domains	486	Sec No. 23, 1862, No. 17, 1865, and No 67, 1868	...	6 Aug., 1861.
33	To Legitimize in certain cases the Issue of Mixed Blood born before Marriage of Parents of the European and Maori Race respectively subsequently Married	489	...	...	6 Aug., 1861.
34	To amend "The Militia Act, 1858"	489	See secs. 3 and 46, No. 52, 1865	...	7 Sept., 1861.
35	To confirm certain Applications made by Naval and Military Settlers for Free Grants of Land, and to enlarge the time for making such applications	492	See No. 37, 1860, and No. 6 and No. 19, 1861	...	4 July, 1861.
36	For the Relief of Settlers and others who have sustained Injuries in the Taranaki War	493	...	...	4 July, 1861.
37	To enable the Superintendents of Wellington, Hawke's Bay, and Taranaki to make certain additions to the Land Regulations of those Provinces	495	Sec No. 35, 1860	...	6 Aug., 1861.
38	To regulate the Importation Sale and other Disposition of Arms Gunpowder and Warlike Stores	495	See No. 17, 1861, and No. 57, 1869	...	7 Sept., 1861.
39	To confirm the Expenditure of the Sum of £108,533 14s. 2½d., part of the Sum of £120,000, raised under "The New Zealand Loan Act, 1856"	504	Obsolete ...	...	6 Aug., 1861.
40	To enable the Governor of New Zealand to raise a Loan not exceeding £37,789 15s. 5d. by Debentures.	506	Obsolete ...	...	6 Aug., 1861.
41	For raising a Loan of £150,000 for the Public Service of the Colony of New Zealand	507	...	...	6 Aug., 1861.
42	To apply a Sum out of the Ordinary Revenue to the Service of the Year ending the Thirtieth day of June, One thousand eight hundred and sixty-one, and to appropriate Sums to be raised by "The Debentures Act, 1860," and "The New Zealand Loan Act, 1856"	509	Obsolete ...	...	6 Aug., 1861.
43	To establish a Council to assist in the Administration of Native Affairs	509	...	...	Disallowed.

No.		Page.	Amendments, &c.	Repealed, &c.	Gazette of Confirmation by Her Majesty.
<i>24 VICTORIA—continued.</i>					
1	To enable the Superintendent of the Province of Canterbury to construct a Railway between the Towns of Lyttelton and Christchurch in the said Province	515	Private ...	...	6 Aug., 1861.
2	To enable the Governor to grant a Patent to Arthur Guyon Purchas and James Ninnis for an Invention for the Preparation of various Fibres	517	Private ...	...	6 Aug., 1861.
3	To authorize the Sale or Exchange of certain Lands held in Trust for Religious Purposes, vested in the Roman Catholic Bishop, situate in the City of Nelson, and to provide for the vesting of the proceeds in Trustees upon similar Trusts	523	Private ...	...	6 Aug., 1861.
4	To authorize the Sale of certain Land and Buildings thereon in the City of Nelson, held in Trust for the use of the Schoolmaster for the time being attached to the School belonging to the people called Wesleyan Methodists, and to provide for the Investment of the Proceeds of such Sale in the Purchase of other Lands and the Erection of a Minister's Dwelling-house and School-house thereon	524	Private ...	...	6 Aug., 1861.
5	To enable the Governor to grant a Patent to William Acland Douglas Anderson, for an Invention for Improvements in the manufacture of Pipes	526	Private ...	...	6 Aug., 1861.
6	To make provision for enabling certain Persons to make and maintain Waterworks for the supply of the City and Neighbourhood of Auckland with Water	530	Private ...	...	6 Aug., 1861.
7	To enable the Superintendent of the Province of Auckland to raise Money by way of Debentures on security of the Harbour Endowments of the City and Port of Auckland	537	Private, Amended No. 1, 1863	...	6 Aug., 1861.

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23. Marriages may be solemnized at the office of Registrar. 24. Fee in such case to Registrar. 25. After marriage no proof of consent &c. necessary. 26. Officiating Ministers may inquire particulars to be registered. 27. Marriages to be celebrated by Ministers. 28. Penalty. 29. Minister to forward copies of marriage registers to Registrar-General quarterly. 30. Marriages unduly solemnized with the knowledge of both persons to be void. 31. On marriage of minors without consent, offending party to forfeit property acquired by such marriage. 32. All settlements &c. on any such marriage void. 33. Proceedings to be taken within one year after such marriage. 34. If marriage be under any false notice or certificate, like forfeiture. 35. Making false affirmation or declaration a misdemeanour. 36. The making of a false representation a misdemeanour. 37. Any person solemnizing matrimony falsely pretending to be an Officiating Minister a felony. 38. Solemnizing matrimony otherwise than according to this Act a misdemeanour. 39. Registrar acting illegally in certain cases to be guilty of felony. 40. Persons solemnizing marriage of minors without consent liable to a penalty. 41. Prosecutions under this Act to be commenced within three years after offence. 42. Officiating Ministers who. 43. Ecclesiastical authorities to send in names of ministers and certify suspension or deprivation of any ministers. 44. List of ministers to be sent in in the month of December. 45. Registrar-General to file certificates, enter names of Officiating Ministers in books, and publish lists. 46. Marriages heretofore celebrated valid. 47. Act not to extend to marriages of Natives. 48. Fees how to be accounted for. 49. Interpretation. 50. Short Title.	28
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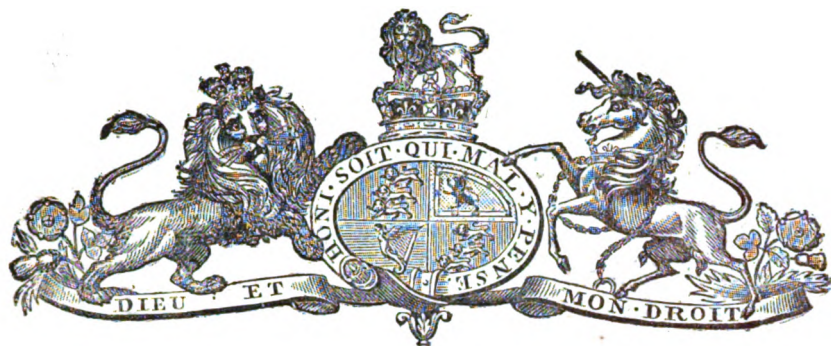
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New Zealand.



ANNO DECIMO OCTAVO

VICTORIÆ REGINÆ.

SESSION I. No. I.

AN ACT for bringing into operation within the Colony certain Acts of the Imperial Parliament. ENGLISH ACTS.

[14th September, 1854.]

WHEREAS certain Acts of the Imperial Parliament, specified in the Schedule hereunto annexed, have been passed for the amendment of the law, and it is expedient that the same be adopted and brought into operation within this Colony: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. The several Acts of the Imperial Parliament specified in the Schedule hereunto annexed shall be taken to extend to this Colony, and shall be applied therein in the administration of justice in like manner as Acts of Parliament passed before the establishment of the Colony are applied. Certain Acts adopted.

2. This Act shall come into operation on the thirty-first day of December, in the year one thousand eight hundred and fifty-four. Commencement of Act.

3. This Act shall be termed and may be cited and referred to as Short Title.
“*The English Acts Act, 1854.*”

SCHEDULE.

Statute 7 and 8 Victoria, c. 24—“An Act for abolishing the Offences of Forestalling, Regrating, and Engrossing, and for repealing certain Statutes passed in restraint of trade.”

Statute 7 and 8 Victoria, c. 62—“An Act to amend the Law as to Burning Farm Buildings.”

Statute 8 and 9 Victoria, c. 113—“An Act to facilitate the admission in Evidence of certain Official and other Documents.”

Statute 9 and 10 Victoria, c. 25—“An Act for preventing Malicious Injuries to Persons and Property by Fire or by Explosive or Destructive Substances.”

Naturalization.

- Statute 9 and 10 Victoria, c. 62—"An Act to abolish Deodands."
 Statute 9 and 10 Victoria, c. 93—"An Act for compensating the Families of Persons Killed by Accidents."
 Statute 10 and 11 Victoria, c. 66—"An Act for extending the provisions of the Law respecting Threatening Letters and Accusing Parties with a view to extort money."
 Statute 11 and 12 Victoria, c. 46—"An Act for the removal of Defects in the Administration of Criminal Justice."
 Statute 11 and 12 Victoria, c. 87—"An Act to extend the provisions of an Act passed in the first year of his late Majesty King William the Fourth, intituled 'An Act for consolidating and amending the Laws for facilitating the Payment of Debts out of Real Estate.'"
 Statute 13 and 14 Victoria, c. 60—"An Act to consolidate and amend the Laws relating to the Conveyance and Transfer of Real and Personal Property vested in Mortgagees and Trustees."
 Statute 14 and 15 Victoria, c. 19—"An Act for the better Prevention of Offences."
 Statute 14 and 15 Victoria, c. 25—"An Act to improve the Law of Landlord and Tenant in relation to Emblements, to Growing Crops, seized in execution, and to Agricultural Tenants' Fixtures."
 Statute 14 and 15 Victoria, c. 99—"An Act to amend the Law of Evidence."
 Statute 14 and 15 Victoria, c. 100—"An Act for further improving the Administration of Criminal Justice."
 Statute 14 and 15 Victoria, c. 24—"An Act for the amendment of an Act passed in the first year of Her Majesty Queen Victoria, intituled 'An Act for the amendment of the Laws with respect to Wills.'"
 Statute 15 and 16 Victoria, c. 55—"An Act to extend the provisions of 'The Trustee Act, 1850.'"
 Statute 16 and 17 Victoria, c. 83—"An Act to amend an Act of the fourteenth and fifteenth Victoria, chapter ninety-nine."

No. II.

NATURALIZATION.

AN ACT for the Naturalization of certain Persons in the Colony of New Zealand. [14th September, 1854.]

Preamble reciting
No. 4, Session XII.

WHEREAS by an Ordinance enacted by the Governor-in-Chief of New Zealand, with the advice and consent of the Legislative Council thereof, (Session XII., No. 4,) intituled "*An Ordinance for the Naturalization of certain Persons in the Islands of New Zealand,*" it was among other things enacted that all and singular the persons who should be declared to come within the operation of the said Ordinance by any Proclamation to be issued by the Governor-in-Chief should be deemed and taken, until the next Session of the General Legislature within the Islands of New Zealand, to be natural born subjects of Her Majesty: And whereas the persons particularly described in the Schedule marked A hereunto annexed have from time to time been so declared to come within the operation of the said recited Ordinance, and it is expedient that there should be removed from them within the Colony of New Zealand the disabilities to which aliens are by law subjected:

BE IT ENACTED by the General Assembly of New Zealand as follows:—

1. All and singular the persons who are particularly described in the Schedule marked A to this Act annexed shall, to all intents and purposes whatever within the Colony of New Zealand, be deemed and taken to be and to have been, from the date set opposite their names respectively, natural born subjects of Her Majesty as if they had been respectively born within the realm of England.

Persons named in
Schedule A to be
naturalized.

And also persons
named in Schedule B.

2. And whereas the persons particularly described in the Schedule marked B to this Act annexed have settled in this Colony, and it is expedient

Naturalization.

expedient that there should also be removed from them (within this Colony) the disabilities to which aliens are by law subject: Be it therefore enacted that all and singular the persons particularly described in the Schedule marked B hereunto annexed shall, to all intents and purposes whatever within the Colony of New Zealand, be deemed and taken to be and to have been, from the dates set opposite to their names respectively, natural born subjects of Her Majesty as if they had been respectively born within the realm of England.

3. And whereas there are certain other persons resident in New Zealand whom it may be expedient to relieve from the disabilities to which aliens are by law subject, but whose names and description have not been accurately ascertained: Be it further enacted that all and singular the persons who shall be declared to come within the operation of this Act by any Proclamation to be issued in that behalf by His Excellency the Governor, shall be deemed and taken, until the next Session of the General Assembly, to be natural born subjects of Her Majesty, within the Islands of New Zealand, as fully to all intents and purposes as if their names had respectively been inserted in the Schedule hereunto annexed: Provided always that every such Proclamation shall contain the description occupation or calling of the person or persons therein named, and of his or their residence at the date of such Proclamation.

Persons may be naturalized by Proclamation.

4. This Act shall be entitled and may be cited as "*The Naturalization Act, 1854.*"

Short Title.

SCHEDULES.

SCHEDULE A.

Date of Proclamation.	Name.	Date from which Naturalization is to take effect.	Residence.
January 8, 1853	Gustav Von Gartner	January 1, 1852	Canterbury.
January 8, 1853	Charles Hopkinson	November 30, 1852	Otago.]
June 6, 1853	Adolph Frederick Henrice	January 20, 1853	
July 15, 1853	William Stewart	November 2, 1848	Wellington.
July 15, 1853	Wilhelm Seivers	June 22, 1853	Wellington.
December 13, 1853	Charles De Witte	October 17, 1853	Auckland.
August 31, 1853	Joseph Anton Enderes	August 3, 1853	
December 27, 1853	Frederick Hanneken	January 1, 1845	Auckland.
December 27, 1853	Frederick William Alexander Miller	January 1, 1848	Auckland.
January 27, 1854	Nicholas Carey	November 9, 1853	Wellington.
January 19, 1854	William Blaschke	December 22, 1853	New Plymouth.
February 10, 1854	John George Gimbel	January 1, 1842	Auckland.
April 22, 1854	Eugene Edward Cadler	April 21, 1842	Auckland.
April 22, 1854	William Krantel	December 1, 1853	Auckland.
April 22, 1854	Henry Shaper	December 1, 1853	Auckland.
May 19, 1854	Carl Frank Fischer	April 27, 1854	Auckland.
August 1, 1853	{ Oskar Beyer	July 4, 1853	
	{ Johann Heinrich Christopher Baucke	July 21, 1853	
November 5, 1853	John Sauerbier	January 1, 1849	Auckland.

SCHEDULE B.

Names.	Date from which Naturalization is to take effect.	Residence.
Charles Ernest Von Alzdorf	January 1, 1841	Wellington.
Charles Brown	December 17, 1847	Wellington.
Francis Joseph Pagon	December 17, 1847	Wellington.
William Lewis Throop	May 20, 1854	Auckland.
Peter Beck	May 22, 1854	Auckland.
Amedee Jerome Gilbert	July 22, 1854	
Prudence Florentine Fischer	May 19, 1854	Auckland.
Salvatore Comino	September 2, 1848	Wellington.
Moritz Hahn	August 1, 1854	Auckland.

Dower.

No. III.

DOWER.

AN ACT to amend the Law relating to Dower.

[14th September, 1854.]

Preamble.

WHEREAS the rights of women, married before the second day of January, one thousand eight hundred and thirty-four, to dower out of the lands and tenements of which their husbands may at any time have been seized during their coverture occasions considerable expense inconvenience and delay in the alienation of real estate:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand:—

Act 3 & 4 Wm. IV.,
c. 105, to extend to
dower of women
married before 2nd
January, 1834.

1. That the provisions of a certain Act made and passed in the third and fourth years of the reign of His late Majesty King William the Fourth, intituled "*An Act for the amendment of the Law relating to Dower,*" shall extend to the dower of any widows who shall have married previously to the second day of January, one thousand eight hundred and thirty-four.

Short Title.

2. This Act shall be termed "*The Dower Act, 1854,*" and may be cited and referred to by that title.

No. IV.

NELSON TRUST FUNDS.

AN ACT to make further provision for the Administration of the Nelson Trust Funds.

[14th September, 1854.]

Preamble.

WHEREAS the New Zealand Company did from time to time issue certain published terms for the disposal of land within the Settlement of Nelson, by which it was among other things provided that the land of the said settlement should be sold for certain prices, and that the fund to be derived from such sale shall be appropriated in certain proportions to the purposes of emigration and the supply of labour, of founding and maintaining the settlement of religious and educational uses, and steam navigation, and of other public objects: And whereas many persons purchased lands under the said terms in the said settlement, and funds have accumulated from the moneys invested in such purchases which have not as yet been applied to the purposes aforesaid: And whereas the New Zealand Company, by its agents and officers, superintended and managed the said funds until the fourth day of July, in the year one thousand eight hundred and fifty: And whereas the lands of the said Company in New Zealand reverted to the Crown, under the provisions contained in an Act of Parliament made and passed in the tenth and eleventh years of the reign of Her present Majesty, upon the condition amongst others, as expressed in the said Act, of satisfying any liabilities to which the said Company might then be liable under their existing engagements with reference to the Settlement of Nelson: And whereas, previous to the said fourth day of July, one thousand eight hundred and fifty, a certain sum of twenty-five thousand pounds had been invested in the names of Henry Aglionby Aglionby, Alexander Currie,

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Currie, James Robert Gowan, George Lyall, and Jeremiah Pilcher, in the Three Per Cent. Consolidated Bank Annuities, in trust for the said Company, in order to satisfy the amount applicable by the said Company under the said terms to the purposes in question, but the total amount so applicable has not yet been ascertained: And whereas, by an Act of Parliament made and passed in the fourteenth and fifteenth years of the reign of Her present Majesty, intituled "*An Act to regulate the affairs of certain Settlements established by the New Zealand Company in New Zealand,*" after reciting amongst other things the facts hereinbefore recited, and reciting that it was expedient that provision should be made to enable Her Majesty to ascertain the amount of the sum so applicable as aforesaid, and to entrust the administration of the fund when so ascertained to the certain persons who had been nominated for that purpose by or on the behalf of the said Company and the said purchasers of land at Nelson, it was thereby enacted that it should be lawful for the said Commissioners of Her Majesty's Treasury and they were thereby directed to ascertain the sum (if any) which remained due and applicable by the said New Zealand Company, and which the said Company were bound to apply to the purposes therein mentioned, on the fourth day of July, one thousand eight hundred and fifty, aforesaid, and that the sum of twenty-five thousand pounds, with the interest which should have accrued on the same, should be vested in the Commissioners of the Treasury as a fund for the public purposes of the Settlement of Nelson, and that the said Henry Aglionby Aglionby, Alexander Currie, James Robert Gowan, George Lyall, and Jeremiah Pilcher, should transfer the said sum and interest into the names of the Commissioners of the Treasury, or such person or persons as the said Commissioners should nominate for that purpose, and that the same should be disposed of by the said Commissioners in the manner thereafter provided, and that if the amount which might be found by the Commissioners of the Treasury to be due and applicable to the purposes aforesaid should exceed the said sum of twenty-five thousand pounds, the surplus necessary to complete such amount should remain a liability attaching to Her Majesty with reference to the said Settlement of Nelson: And it was further enacted that a Board of seven Trustees should be and the same was thereby appointed for the administration of the said fund, including such surplus (if any) as aforesaid, three of whom shall form at any time a quorum for the dispatch of business, and that it should be lawful for the Commissioners of the Treasury in such manner as they should appoint to pay over or cause to be paid over the said sum of twenty-five thousand pounds, with such interest as aforesaid or so much thereof as might be found due and applicable as aforesaid, to the said Trustees, and that when such sum or sums should have been paid over as aforesaid, all further liability of Her Majesty or of the New Zealand Company in respect of such fund and of the amount applicable as aforesaid by the Company should cease: And it was further enacted that the said Trustees should have power to dispose of the said fund, for the benefit of the said Settlement of Nelson, to the purposes of emigration and the supply of labour, of religious and educational uses, of steam navigation, and of the construction and maintenance of public works, in such proportions as to each of the said purposes as to them should seem expedient: And it was further enacted that the first meeting of the said Trustees should be fixed at a time and place to be appointed by Proclamation by the Governor of New Zealand, or by the Lieutenant-Governor of the Province in which Nelson should be situate, being authorized thereto by the Governor, and that such Trustees might from time to time pass resolutions for appointing a time and place for holding

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ing further meetings for the dispatch of business, for making rules and regulations for the conduct of such business, and for other necessary purposes, towards enabling them to dispose of and distribute the said fund according to the purposes of the Act now in recital: Provided always that the Legislature of New Zealand should have power to alter such regulations by laws to be made from time to time: And it was further enacted that David Monro, Samuel Stephens, William Oldfield Cautley, Francis Dillon Bell, Francis Jollie, Alfred Fell, and John Waring Saxton, should be and the same were thereby appointed the first Trustees for the administration of the said fund, and that they should remain in office, subject to the provisions thereafter contained as to the filling up of vacancies, until the first day of January, one thousand eight hundred and fifty-five: And it was further enacted that it should be lawful for the Legislature of New Zealand, by laws to be made from time to time, to provide for the filling up of vacancies which might have occurred by the death or resignation of either of the Trustees named in the said Act by election to be made by the owners or owners and occupiers of land in the said Settlement of Nelson, with such qualification or restriction as might in such laws be specified, and to provide in like manner for the annual election of two or more auditors to audit the accounts of the said Trustees, and for the due publication from time to time of such accounts, and for the discharge of the Trustees from any personal liability in respect of the said funds, and in case the said fund should not have been wholly disposed of before the first day of January, one thousand eight hundred and fifty-five, to provide in like manner for the election of seven new Trustees, to continue in office for three years, subject to the like power as thereinbefore contained as to the filling up of vacancies, and so on from time to time until the said fund shall be wholly expended for the purpose above mentioned: And whereas, by a Proclamation under the hand of His Excellency Sir George Grey, K.C.B., Governor-in-Chief of the Islands of New Zealand, and bearing date the seventeenth day of January, one thousand eight hundred and fifty-two, made in pursuance of the power in the said last recited Act contained, the said Governor-in-Chief did thereby proclaim and declare that the first meeting of the Trustees named in the said recited Act should be held at Nelson on the second day of February, one thousand eight hundred and fifty-two: And whereas the said David Monro, Samuel Stephens, William Oldfield Cautley, Francis Dillon Bell, Francis Jollie, Alfred Fell, and John Waring Saxton, as such Trustees as aforesaid, have in pursuance of the said Proclamation proceeded to hold meetings for the despatch of business connected with the aforesaid trust, and have entered into arrangements with the Commissioners of Her Majesty's Treasury whereby a certain sum, being part of the aforesaid sum of twenty-five thousand pounds which had been invested as aforesaid, was placed at the disposal of the said Trustees, and have made certain appropriations of the said fund, and have appointed a Secretary, and have otherwise proceeded to transact the duties of their office: And whereas the said David Monro, Samuel Stephens, William Oldfield Cautley, Francis Dillon Bell, Francis Jollie, Alfred Fell, and John Waring Saxton, as such Trustees as aforesaid, will go out of office on the first day of January, one thousand eight hundred and fifty-five, and it is expedient to make provision for the election of seven new Trustees, and of Auditors, and for the other purposes mentioned in the said recited Act:

NOW BE IT ENACTED by the General Assembly of New Zealand:—

1. From and after the passing of this Act every Trustee to be elected a member of the said Board of Trustees, and every Auditor to be

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be elected as hereinafter mentioned, shall be elected by the votes of the owners and occupiers of land actually residing within the Province of Nelson aforesaid and qualified as hereinafter mentioned, and such owners and occupiers respectively shall be entitled to a vote or votes in the proportions and in the manner hereinafter mentioned in that behalf, that is to say,—

Every owner of land of the value of one hundred pounds sterling, or of the annual rental of fifteen pounds, shall have one vote.

Every owner of land of the value of five hundred pounds sterling, or of the annual rental of fifty pounds, shall have two votes.

Every owner of land of the value of one thousand pounds or upwards, or of the annual rent of one hundred pounds or upwards, shall have three votes, which shall be the maximum.

Every occupier of land paying a rent not less than fifteen pounds per annum shall have one vote.

Every occupier of land paying a rent of fifty pounds and upwards shall have two votes, which shall be the maximum; but no person shall be entitled to record his vote or votes in any such election in the double capacity of owner and occupier.

2. The Superintendent of the Province of Nelson shall, as soon as conveniently may be after the passing of this Act, by Proclamation to be published in the *Government Gazette* of the said Province, make all necessary provisions for the registration and revision of lists of all persons qualified to vote at the elections to be holden as aforesaid, and for the appointing of returning officers, and the conducting such elections, and for determining the validity of such elections, and otherwise for insuring the orderly effective and impartial conduct of such elections.

Superintendent to make provisions for registration &c. conduct of elections generally.

3. Every person within the said Province who shall be duly qualified and registered as an elector as aforesaid shall be qualified to be elected a Trustee or Auditor.

Qualification for Trustees.

4. On the first day of January, one thousand eight hundred and fifty-five, seven of the electors, duly qualified and registered as aforesaid, shall be elected Trustees, to continue in office for the period of three years next ensuing such election, and the present or any other retiring Trustees or Trustee who shall be duly qualified and registered as aforesaid shall be eligible for re-election.

Election to take place on 1st January.

5. Every Trustee elected under the provisions of this Act may, by writing under his hand addressed to the Secretary for the time being, resign his seat, which shall thereupon become vacant.

Trustees may resign.

6. If any Trustee shall for six months fail to give his attendance at the Board without leave of absence, or shall cease to be qualified as an elector, or shall become a bankrupt or an insolvent debtor within the meaning of any law which may hereafter be in force within the Colony of New Zealand relating to bankrupts, or shall become a public defaulter, or be attainted of treason or convicted of felony or any infamous crime, his seat at the Board shall thereby become vacant: Provided always that it shall not be lawful for any such leave of absence to be granted for more than two years, nor to more than two Trustees at the same time, so that under no circumstances shall there be less than five Trustees resident in the Province of Nelson.

Seats how to be vacated.

7. When and so often as any vacancy shall occur in the Board of Trustees, the remaining or continuing Trustees shall signify the same to the Superintendent, and the Superintendent shall, by Proclamation in the *Government Gazette* of the said Province of Nelson, appoint some

Superintendent to notify vacancy in the Board.

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some day (not being less than thirty nor more than sixty days after the date of such notice) on which day some person or persons duly qualified and registered as aforesaid shall be elected to fill up such vacancy.

Trustees to make rules and regulations for the conduct of business.

8. For the purpose of managing and conducting the affairs and business of the said trust, it shall be lawful for the said Board of Trustees, at any time and from time to time after the passing of this Act, to make rules and regulations for such of the purposes set forth in the Schedule marked A to this Act annexed as the nature and business of the said Trust may require, and either with or without provision for such other purposes (not inconsistent with law or with the provisions of this Act) as the said Board of Trustees shall think proper, and such rules and regulations from time to time to revoke alter vary and amend as the said Board of Trustees shall think fit, and such rules and regulations, and every revocation variation alteration and amendment thereof, shall be signed by at least three of the said Trustees, and shall be certified by them in writing in the form set forth in the Schedule marked B to this Act annexed, and shall immediately after the making thereof be published in the *Government Gazette* of the Province of Nelson.

To administer the funds for the benefit of the Province of Nelson.

9. Subject to the provisions of this Act the Trustees to be elected as aforesaid shall and may dispose of the said trust funds for the benefit of the said Province of Nelson to the purposes mentioned and set forth in the hereinbefore recited Act, and in such proportions as to any of the said purposes as to them shall seem meet, and shall and may in all things conduct and manage the affairs and business of the said trust, and enter into make do and execute all such contracts engagements acts deeds matters and things as may be necessary or expedient for the disposal and appropriation of the said trust fund, and for the conduct and management of the affairs and business of the said trust.

Trustees to have a common Seal.

10. The said Board of Trustees shall have and use a common Seal, and all deeds and other legal instruments shall be sealed therewith in the presence of not less than three of the said Trustees, who shall also affix their signatures thereto, and every deed or other legal instrument so signed and sealed shall be valid and effectual in the law to all intents and purposes, and the party producing such act or instrument shall not be bound to offer or produce any evidence that such common Seal was affixed thereto in such presence as aforesaid.

Not to be personally liable.

11. The Trustees and their Secretary respectively shall in no case be personally liable, nor shall the private estates and effects of any of them be liable, for the payment of any moneys costs or otherwise in respect of any contract which shall be made by them or any of them, or for any act deed or matter lawfully done or executed by them or any of them, in their or his official capacity as Trustees or Trustee or Secretary respectively.

Remuneration of Trustees.

12. The Trustees for the time being shall receive amongst them for their attendance to the duties of Trustees a sum not exceeding in the whole the sum of one hundred pounds, but no one Trustee shall receive any fee for any meeting at which he was not present, nor more than one guinea for any one meeting at which he shall attend.

Election of Auditors.

13. On the first of January next, and on the first of January in every succeeding year (except such day shall happen to be Sunday, in which case the election shall take place on the next day), the electors duly qualified and registered as aforesaid shall elect two persons, who shall be called "Auditors of the Trust Accounts."

In case of no election, Superintendent to appoint Auditors.

14. If no Auditors be elected as aforesaid, or if only one such Auditor be elected, or if any Auditors or Auditor shall die or become incapable

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incapable of acting or shall decline to act at the prescribed period, it shall be lawful for the Superintendent of the Province of Nelson to appoint an Auditor or Auditors to act as aforesaid, and such Auditor or Auditors shall continue to act until the next election of Auditors.

15. On the tenth day of December in every year the said Trustees shall cause the accounts of the said trust to be balanced, and a full and fair balance sheet to be made up, and previously to such balance sheet being delivered to the Auditors, the same shall be examined by and signed by three of the said Trustees, and thereupon the same shall be recorded in the books of account of the said Trustees.

Trustees to prepare
a balance sheet.

16. Within seven days after the making of such balance sheet, the said Trustees shall deliver the same, together with the accounts of the said Trust from the last previous audit, to the Auditors, and the Auditors shall examine the same, and shall, within ten days after the receipt of such balance sheet and accounts, either confirm such accounts and report generally thereon, or shall, if they do not see fit to confirm such accounts, report specially thereon, and deliver such accounts balance sheet and report respectively to the said Trustees.

Accounts to be
audited.

17. The said Trustees shall, on the twenty-first day of December in each year, prepare a general report made up to that day of the business and affairs of the said trust, showing the then existing property effects debts contracts and liabilities of the trust, together with such further information as may be necessary to show the working of the said trust, and such report, together with the balance sheet of the said Trustees and the report of the Auditors, shall forthwith be published in the Government *Gazette* of the Province of Nelson.

Annual report to be
published.

18. This Act shall be entitled and may be cited as "*The Nelson Trust Funds Act, 1854.*"

How this Act may be
cited.

SCHEDULES.

SCHEDULE A.

1. For regulating the meetings of Trustees, the proceedings thereat, and the adjournment thereof.
2. For recording the attendances of Trustees at meetings.
3. For the determination of questions upon which the votes of the Trustees may be equally divided.
4. For the appointment of a Chairman, and for supplying any vacancy in the office of Chairman.
5. For the appointment of a Secretary and other officers and servants.
6. For providing for the remuneration of the Secretary and other officers and servants.
7. For providing for the remuneration of the Auditors.
8. For providing for the receipt custody and issue of moneys belonging to the trust.
9. For keeping the books records and papers of the trust.
10. For determining what books of account and other documents may be inspected by the electors, and regulating such inspection.

SCHEDULE B.

WE do hereby certify that the within written rules and regulations have been made by the Trustees of the Nelson Trust Funds, and that the particulars therein contained are correctly set forth.

Licensing Amendment.

No. V.

LICENSING AMEND-
MENT.

AN ACT for amending an Ordinance passed by the Governor and Legislative Council of New Zealand for regulating the Sale of Fermented and Spirituous Liquors. [14th September, 1854.]

Preamble.

WHEREAS under an Ordinance passed by the Governor and Legislative Council of New Zealand in the Second Session of the same Council, entitled "*An Ordinance for regulating the Sale of Fermented and Spirituous Liquors*," persons who shall sell fermented and spirituous liquors, not being duly licensed according to the provisions of such Ordinance, are made liable to the penalties therein mentioned, and all liquors exposed for sale in any house or premises not licensed according to the provisions of such Ordinance are declared to be forfeited :

Ordinance not to extend to persons authorized by Speaker of Legislative Council or House of Representatives.

1. Be it enacted by the General Assembly of New Zealand, that nothing in the said Ordinance contained shall extend to render any person liable to the penalties therein mentioned who shall, under the written authority of the Speaker of the Legislative Council or of the Speaker of the House of Representatives in the said General Assembly, sell fermented or spirituous liquors within any building used for the purposes of the meeting of the General Assembly of New Zealand, or to render liable to forfeiture any liquors exposed to sale by any such person within any such building.

Indemnity.

2. All persons who shall have, at any time heretofore, sold or disposed of any fermented or spirituous liquors within any such building as aforesaid, shall be and they are hereby respectively indemnified against all penalties incurred by reason thereof.

Short Title.

3. This Act shall be entitled "*The Licensing Amendment Act, 1854.*"

No. VI.

WASTE LANDS.

AN ACT for regulating the Disposal of the Waste Lands of the Crown in New Zealand.

[14th September, 1854.]

Preamble.

WHEREAS by an Act passed in the Session of the Imperial Parliament holden in the fifteenth and sixteenth years of the reign of Her present Majesty, entitled "*An Act to grant a Representative Constitution to the Colony of New Zealand*," it was enacted that, subject to the provisions therein contained, it should be lawful for the General Assembly of the said Colony to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown in New Zealand, and that, subject to the said provisions, and until the General Assembly should otherwise enact, it should be lawful for Her Majesty, by instructions to be issued under the Signet and Sign Manual, or signified through one of Her Majesty's Principal Secretaries of State, to delegate such powers to the Governor of the said Colony : And whereas such power, pending the first meeting of the
General

Waste Lands.

General Assembly, was delegated to the said Governor by such instructions as aforesaid: And whereas certain general land regulations for the Colony of New Zealand were, in pursuance of such powers so delegated, lawfully issued by the Governor of the said Colony in a Proclamation dated the said fourth day of March, one thousand eight hundred and fifty-three: And whereas within certain parts of the said Colony certain other regulations for the disposal and management of the waste lands are now in force: And whereas it is expedient that, until it shall be otherwise enacted by the General Assembly, the Governor shall have the power, subject to the conditions and in the manner hereinafter mentioned, to issue and put in force regulations for the sale letting disposal and occupation of the waste lands of the Crown within the several Provinces of the said Colony:

BE IT THEREFORE ENACTED AND DECLARED by the General Assembly of New Zealand as follows:—

1. All regulations for the sale letting disposal and occupation of the waste lands of the Crown in New Zealand now in force within the said Colony, or any part thereof, are hereby confirmed and declared to have been valid from the time when the same were put in force: Provided always that any such regulations may be amended altered or repealed by any regulations to be made and published as hereinafter contained.

Confirming regulations now in force.

2. If at any time the Superintendent and Provincial Council of any Province shall recommend to the Governor any regulations for the sale letting disposal and occupation of the waste lands of the Crown within such Province, or any part thereof, it shall be lawful for the Governor, if he shall think fit, from time to time, with the advice of his Executive Council, by Proclamation in the New Zealand Government *Gazette*, to issue and put in force such regulations within such Province, or any part thereof, on a day to be named in the *Gazette* in which the same shall be published, not being less than one calendar month from the publication thereof.

Superintendent and Provincial Council of Province may recommend regulations for disposal of waste lands to the Governor.

3. No such regulations shall be proposed to any Provincial Council for their adoption by the Superintendent, or by any Member thereof, unless the same shall have been previously published in the Government *Gazette* of the Province in which such regulations are proposed to be brought into operation, or in some newspaper to be published in the capital town thereof, for the space at least of twenty-eight days, nor until fourteen days after the commencement of the Session in which the same shall be proposed: Provided always that it shall be competent for the Provincial Council at their pleasure to alter or amend any regulations which shall be so proposed to them as aforesaid.

Such regulations shall be previously published in the Provincial Government *Gazette*.

4. The term "Governor" in this Act shall include the Officer Administering the Government for the time being.

Interpretation.

5. This Act shall be entitled and may be cited as "*The Waste Lands Act, 1854.*"

Short Title.

*Public Reserves.***No. VII.****PUBLIC RESERVES.**

AN ACT for regulating the Management of certain Lands reserved for Public Purposes in the several Provinces of New Zealand.

[14th September, 1854.]

Preamble.

WHEREAS in the several Provinces of New Zealand lands have been heretofore and may hereafter be reserved for various purposes of public utility, the legal title whereto is vested in Her Majesty: And whereas it is expedient to establish in each of the said Provinces a system of local management of such of the said lands as are or may be held for purposes of local concern:

BE IT ENACTED by the General Assembly of New Zealand as follows:—

Governor may grant to Superintendents Her Majesty's interests in demesne lands.

1. It shall be lawful for the Governor of New Zealand, with the advice of his Executive Council, at any time and from time to time after the passing of this Act, in the name and on the behalf of Her Majesty, to grant to the Superintendent of each Province in New Zealand, and his successors, all such estate and interest as Her Majesty now hath or may have in all or any of the lands within such Province forming part of the demesne lands of the Crown, which shall have been at any time heretofore and now are or may hereafter be reserved or set apart for purposes of public utility within the said Province, except such of the said lands as shall have been and now are or may hereafter be reserved for purposes of military defence, the service of any office or department of the General Government, or for the benefit of the native inhabitants of the said Colony.

Also in lands reclaimed from the sea &c.

2. It shall be lawful for the Governor of the said Colony, with the advice of his Executive Council, to grant and dispose of any land reclaimed from the sea, and of any land below high-water mark in any harbour, arm, or creek of the sea, or in any navigable river or on the sea coast within the said Colony, either to the Superintendent of the Province and his successors, in or to which such land is situate or adjacent, or in such other manner to such other persons and upon such terms as shall be thought fit: Provided always that every such grant or disposition within any Province, other than to the Superintendent thereof, shall be made in pursuance of a joint recommendation by the Superintendent of such Province and of the Provincial Council thereof: Provided also that nothing herein contained shall prejudice the rights of persons claiming water frontage.

Such grant to be valid against Her Majesty, her heirs and successors.

3. Every such grant shall be sealed with the Public Seal of the Colony, and shall be valid and effectual as against Her Majesty, her heirs and successors, and shall have the same force and effect as a direct grant from the Crown, and for the purposes of registration shall be deemed to be a grant from the Crown, and every such grant shall declare the purposes for which such lands shall be held, whether general or specific, as the case may be.

Superintendent to be deemed and taken to be a body corporate.

4. The Superintendent of each of the said Provinces and his successors shall, for the purposes of this Act, be deemed and taken to be a body corporate, and shall take and bear the name of the Superintendent of such Province, and by that name shall have perpetual succession, and shall be capable in law to do and to suffer, in respect of the land to be vested in him by virtue of this Act, whatever may be lawfully done and suffered by a body corporate.

5. Every

Public Reserves.

5. Every Superintendent of a Province in whom any such lands shall become vested, shall hold the same upon trust for the public service of such Province for the purposes specified in such grant, with as full power to dispose of and manage the same for such purposes as if the same were vested absolutely in such Superintendent, subject nevertheless to the provisions hereinafter contained.

Superintendent shall hold lands upon trust for the public service of his Province.

6. The management and administration of such lands within each Province so to be vested in the Superintendent thereof shall be carried on and conducted by such Superintendent and with the advice of his Executive Council in case there shall be such Council. And such management and administration shall continue until other provision be made in that behalf by some Act or Ordinance of the Provincial Council of such Province, to be passed in manner hereinafter mentioned.

Management and administration to be carried on by the Superintendent with his Executive Council (if any).

7. No lands so to be granted as aforesaid within any Province to the Superintendent thereof and his successors shall be alienated by way of sale or mortgage or by lease for any longer term than three years, except by the authority of some Act or Ordinance of the Provincial Council of such Province to be passed in that behalf, nor except by deed signed by the Superintendent and sealed with the Public Seal of the Province: Provided always that no Act or Ordinance authorizing any sale shall come into operation till the time in which such Act or Ordinance may be disallowed by the Governor shall have expired.

Land not to be alienated for more than three years, except as herein provided.

8. The specific purposes for which any such lands within any Province shall be held may be changed, and the same lands may be appropriated to other and different purposes of public utility for the public service of such Province: Provided that no such change or new appropriation shall be made without the authority of an Act or Ordinance of the Provincial Council of such Province, to be duly passed in that behalf.

Purposes may be changed.

9. The Superintendent of each Province shall, as soon as conveniently may be, lay before the Provincial Council thereof full and true particulars of all transactions matters and things whatsoever in any way relating to the management and administration of the said lands so to be vested in him as aforesaid.

Superintendent to lay particulars of all matters before Provincial Council.

10. All the rents issues profits and proceeds arising from such lands within each Province, and from the sale mortgage or other disposition thereof, shall be from time to time paid and accounted for to the Provincial Treasurer of such Province, or other person acting in that behalf, and shall be appropriated in such manner as the Superintendent and Provincial Council of such Province shall by any Act or Ordinance to be duly passed in that behalf direct.

Appropriation of rents &c.

11. The Superintendent and Provincial Council of any Province may, by any Act or Ordinance duly passed in that behalf, regulate the management and administration of the lands so to be vested in the Superintendent of such Province.

Administration to be regulated by Act or Ordinance of Provincial Council.

12. Nothing herein contained shall in any way prejudice or affect the right of any person or body corporate in to or over any such lands, except the right of Her Majesty, her heirs and successors.

Rights of others than Her Majesty not to be affected.

13. Whenever any land shall have been set apart by the Governor of New Zealand as a public reserve, and shall, by Proclamation to be published in the New Zealand Government *Gazette*, have been declared to have been so set apart as a reserve made for the General Government, such land shall not thereafter be alienated by way of sale mortgage lease or otherwise: Provided always that if, at any future time, any such land shall not be required by the General Government, it shall be lawful for the Governor, after receiving for the General Government a reasonable sum for the improvements made thereon, to grant the

Reservation to be proclaimed in New Zealand Government *Gazette*.

Law Practitioners.

same or any part thereof to the Superintendent of the Province in which such land is situate, and his successors, and the said land so granted shall thenceforth be deemed in all respects to have been land granted under the first section of this Act.

Grants already made to Trustees, and not accepted or acted on before 1st January, 1855, to be void.

14. In case any grant shall have been made by the Governor of the said Colony of any land which, but for such grant, would have come within the provisions of this Act, to any Trustee or Trustees for any purpose of public utility within the said Colony, if such grant shall not be accepted or acted on by such Trustee or Trustees on or before the first of January, one thousand eight hundred and fifty-five, such grant shall be and is hereby declared to be void and of no effect, and the lands included therein may be granted and disposed of according to the provisions of this Act in like manner as if no such grant had been made.

Interpretation of word "Governor."

15. The term "Governor" throughout this Act shall be held to include the Officer Administering the Government of this Colony for the time being.

Short Title.

16. This Act shall be entitled "*The Public Reserves Act, 1854*," and may be cited and referred to by that title.

No. VIII.

LAW PRACTITIONERS.

AN ACT to enable the Barristers and the Solicitors of the Supreme Court to act as general Law Practitioners.

[14th September, 1854.]

Preamble, Ordinance Session IX., No. 3.

WHEREAS by the Ordinance No. III. of the late Legislative Council of this Colony, passed in the Ninth Session thereof, it was enacted that it should be lawful for any person being a barrister or solicitor of the Supreme Court to act therein in the twofold capacity of barrister and solicitor for a period of five years from the passing of such Ordinance, subject to the proviso therein contained: And whereas the said Ordinance expired in the month of November in the year last passed, and has not since been revived, nor any of the provisions thereof: And whereas it is expedient that the barristers and the solicitors of the said Supreme Court should be empowered to act as general law practitioners within this Colony and its dependencies:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

Barristers and solicitors of the Supreme Court may act as general law practitioners within this Colony and its dependencies.

1. It shall be lawful for any barrister or solicitor of the said Supreme Court to act as well in the capacity of barrister and advocate as of attorney and solicitor within this Colony and its dependencies, and in the several Courts of Justice which are now or shall be at any future time therein erected and constituted, for the period of five years, to be computed from the passing of this Act.

No action to be carried on against any barrister for having acted as solicitor.

2. No action shall be commenced or carried on in the said Supreme Court against any barrister thereof for having acted as an attorney or solicitor of such Court since the expiration of the Ordinance hereinbefore recited.

Short Title.

3. This Act shall be termed and may be cited and referred to as "*The Law Practitioners Act, 1854*."

Secondary Punishment.

No. IX.

AN ACT to abolish the Punishment of Transportation, and to substitute Penal Servitude within the Colony in lieu thereof. [16th September, 1854.]

SECONDARY PUNISHMENT.

WHEREAS by reason of the difficulty of transporting offenders beyond the seas it has become expedient to make temporary provision for the substitution of other punishment in lieu of transportation:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

I.—PENAL SERVITUDE SUBSTITUTED FOR TRANSPORTATION.

1. On and after the first day of January, one thousand eight hundred and fifty-five, no person shall be sentenced to transportation.

Transportation abolished.

2. Any person who, if this Act had not been passed, might have been sentenced to transportation, shall be liable, at the discretion of the Court, to be kept in penal servitude within the Colony for such term as hereinafter mentioned.

Penal servitude substituted for transportation.

3. The terms of penal servitude to be awarded instead of the transportation to which any offender would have been liable if this Act had not been passed shall be as follows, that is to say,—

Equivalent terms of servitude or transportation.

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life.

4. In every case when, at the discretion of the Court, one of any two or more terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned in relation to such terms of transportation.

The Court to decide upon one of two or more terms.

5. Provided always that nothing in this Act contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation, but when such other punishment may be awarded at the discretion of the Court instead of transportation, or in addition thereto, the same may be awarded instead of or (as the case may be) in addition to the punishment substituted for transportation under this Act.

Not to prevent other punishments being awarded.

6. Whenever the Governor of the Colony shall be pleased to extend mercy to any offender convicted of any offence for which he may be liable to the punishment of death, upon condition of his being kept to penal servitude for any term of years or for life, such intention of mercy shall have the same effect and may be signified in the same manner, and all Courts Justices and others shall give effect thereto and to the condition of the pardon in like manner, as in cases where the

Penal servitude may in certain cases be substituted for capital punishment.

Governor

Secondary Punishment.

Governor of the Colony is now pleased to extend mercy upon condition of transportation beyond seas, the order for the execution of such punishment as the Governor may have made the condition of mercy being substituted for the order of transportation.

Convicts already under sentence of transportation to be kept in penal servitude.

7. And whereas there are divers persons now in custody under sentence or order of transportation, who cannot conveniently be sent beyond the seas: Be it therefore enacted that every person who may be under such sentence or order when this Act shall come into operation shall, instead of being transported for the period for which such person shall have been so sentenced or ordered as aforesaid, be kept in penal servitude within the Colony for and during the lowest term hereinbefore provided as an equivalent for the period of transportation to which such person may have been sentenced or ordered as aforesaid, such term of penal servitude being computed to commence from the date of the conviction of such person.

And to be deemed to have been sentenced to penal servitude.

8. Every person who shall be kept in penal servitude as last aforesaid shall be deemed to have been sentenced to be kept in penal servitude under this Act.

II.—PENAL SERVITUDE WHAT AND HOW TO BE REGULATED.

Penal servitude what. Convicts not to be assigned.

9. Every person, except as hereinafter mentioned, who shall be kept in penal servitude shall, during the term of his servitude, be employed on the roads or public works, or otherwise be kept to hard labour in such part of the Colony of New Zealand as the Governor shall in that behalf direct, and either in irons or under such other restraint and subject to such correction as may be necessary for his safe custody and strict discipline, and for the purpose of being so employed as aforesaid every such convict may be removed from place to place, either by sea or land, and may be confined in such public gaol, at such penal station, or in such place of confinement, or may otherwise be kept in custody, as the Governor shall from time to time direct: Provided always that every person who shall have been convicted of any capital offence, and whose punishment shall have been commuted for penal servitude for life, shall be confined in some public gaol in close custody, and be kept to hard labour in separate confinement for the remainder of his life: Provided also that nothing herein contained shall authorize the Governor to issue any directions or regulations which shall permit the assignment to any person or persons whatsoever of any prisoner so sentenced as aforesaid.

Governor to make regulations for management &c. of convicts.

10. It shall be lawful for the Governor from time to time to make such rules and regulations as to him shall seem meet for the employment safe custody management and discipline of the convicts under sentence of penal servitude, and to enforce the observance of such rules and regulations by solitary confinement for any period or periods not exceeding fourteen days at any one time, and not to be repeated at a less interval than forty-two days, by placing in irons, and by such other prison discipline as may be prescribed in that behalf: Provided always that no rule or regulation awarding any such punishment as aforesaid shall come into operation until a copy thereof shall have been first published in the New Zealand Government *Gazette*.

III.—ESCAPE FROM PENAL SERVITUDE HOW PUNISHED.

Escape of convicts how punished.

11. If any person who shall have been sentenced to be kept in penal servitude for any term other than for life shall be afterwards at large within any part of the Colony of New Zealand, without some lawful cause, before the expiration of the term of such servitude, every such offender so being at large and being thereof lawfully convicted

Secondary Punishment.

convicted shall be kept in penal servitude for any term not exceeding five years, to commence and be computed from the expiration of the term of the original sentence.

12. If any male offender who shall have been sentenced to be kept in penal servitude for the term of his life shall afterwards be found at large within any part of the Colony of New Zealand without some lawful cause, every such offender so being at large and being thereof lawfully convicted shall be kept in solitary confinement during such periods, not exceeding fourteen days at a time or three months in the space of one year, as the Court shall direct.

Escape of convicts under sentence for life.

13. Whoever shall discover and prosecute to conviction, or shall give such information as shall lead to the conviction of, any offender being at large contrary to the provisions of this Act, shall be entitled to a reward not exceeding twenty pounds, at the discretion of the Judge, for every such offender so being convicted.

Reward for the discovery &c. of escaped convicts.

14. If any person shall rescue or attempt to rescue or assist in rescuing or attempting to rescue any convict under sentence of penal servitude from the custody of any Sheriff, Gaoler, Overseer, or other person conveying removing transporting or re-conveying such convict, or if any person shall aid or assist any convict under sentence of penal servitude to escape from the custody of any Sheriff, Gaoler, Overseer, or other person, such person so offending shall, upon conviction thereof, be sentenced to penal servitude for any term not exceeding ten years.

Punishment for rescuing convicts.

15. In any indictment against any offender for being found at large contrary to the provisions of this Act, and also in any indictment against any person who shall rescue or attempt to rescue or assist in rescuing or attempting to rescue any such offender from such custody, or who shall aid or assist any such offender to escape from such custody, it shall be sufficient to charge and allege the sentence or order made for the penal servitude of such offender, without charging or alleging any indictment trial or conviction of such offender.

Form of indictment for escape &c.

16. The certificate in writing, under the hand of the Registrar or other officer having the custody of the records of the Court where such sentence or order of penal servitude shall have been made or recorded, containing the substance of such sentence or order, shall be sufficient evidence thereof, and shall be received in evidence of such sentence or order upon proof of the signature and official character of the person signing the same.

Proof of previous sentence.

IV.—MISCELLANEOUS PROVISIONS.

17. It shall be lawful for the Governor, by instructions under his hand, to delegate to the Superintendent of any Province, on such terms and conditions and subject to such limitations and restrictions as may be prescribed in that behalf, all or any of the powers hereinbefore reserved to the Governor by the ninth clause of this Act.

Governor may delegate certain powers to Superintendent of a Province.

18. And whereas it may be expedient that persons in confinement under sentence of imprisonment with hard labour should from time to time be set to work outside the precincts of the place of their imprisonment: Be it enacted and declared that any person in custody under such sentence as aforesaid may be employed at hard labour beyond the precincts of the gaol in which he may be lodged, any law or usage to the contrary notwithstanding: Provided always that every such person, notwithstanding such employment, shall, as respects the provisions of the Prisons Ordinance, No. 7 of Session VII., be deemed to be within the limits of the gaol in which he shall be lodged.

Convicts under sentence of imprisonment may be employed outside the gaol.

19. Provided always that nothing herein contained shall in any manner affect Her Majesty's royal prerogative of mercy, or any prerogative

Prerogative of mercy not to be affected.

Powers of Attorney.

gative of mercy vested in the Governor of the Colony for the time being.

Interpretation of the word "Governor."

20. In the interpretation of this Act the word "Governor" shall extend to the Officer Administering the Government.

Short Title.

21. This Act shall be termed and may be cited and referred to as "*The Secondary Punishment Act, 1854.*"

No. X.

POWERS OF ATTORNEY.

AN ACT to give greater effect to Powers of Attorney.

[16th September, 1854.]

Preamble.

WHEREAS difficulties frequently arise as to titles to land, by reason of conveyances or other instruments and acts affecting the same having been executed and done under powers of attorney from absent persons, of whom it cannot be known whether they are alive or whether they may not have revoked such powers of attorney at the date of the execution of such conveyances or other instrument, or of such acts being done:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand:—

Certain powers of attorney to continue in force until notice of death or of revocation shall have been received by the attorney.

1. Whenever the person who may have executed or shall hereafter execute any power of attorney (whether such person were or be at the time within the Colony or not) shall not have declared or shall not declare therein that such power shall continue in force only until his death or revocation thereof, then and in every such case such power shall, so far as may concern all contracts entered into *bonâ fide*, and all conveyances leases mortgages and other dispositions of or relating to lands or tenements in the Colony of New Zealand, for valuable consideration only, and no further or otherwise, operate and continue in force until notice of his death or of the revocation of such power shall have been received by the attorney named therein; and every act (within the scope of the powers and authority conferred upon the said attorney to such extent as aforesaid) heretofore or hereafter to be done or suffered by him after such death or revocation as aforesaid, and before notice thereof shall have been received, shall be as effectual in all respects as if such death or revocation had not happened or been made.

A solemn declaration made by the attorney shall, in certain cases, be conclusive proof of non-revocation.

2. A solemn declaration, in the form set forth in the Schedule hereunto annexed, made by any such attorney, that he has not received any notice or information of the revocation of such power of attorney by death or otherwise, shall, if made immediately before or after any such act as aforesaid, be taken to be conclusive proof of such non-revocation at the times thereof respectively.

Justice of the Peace or Notary Public may take declarations in the form in the Schedule. Penalty for false declarations.

3. It shall be lawful for any Justice of the Peace or Notary Public to take and receive the declaration of any person voluntarily making the same before him in the form in the Schedule to this Act annexed, and any person who shall wilfully and corruptly make and subscribe any such declaration knowing the same to be untrue in any material particular, shall be deemed guilty of misdemeanour, and on conviction thereof shall be liable, at the discretion of the Court trying the offence, to be imprisoned, with or without hard labour, for any term not exceeding three years, or to pay such fine, or both, as the said Court shall award.

4. This

Appropriation.

4. This Act shall be termed "*The Powers of Attorney Act, 1854,*" Short Title.
and may be cited and referred to as such.

SCHEDULE REFERRED TO IN THE FOREGOING ACT.

I, A. B., of [*place of abode and occupation*] do solemnly and sincerely declare that [*insert Form of declaration.*
facts]. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act of the General Assembly of New Zealand, intituled "*The Powers of Attorney Act, 1854.*"

No. XI.

AN ACT to provide for the Appropriation of the Public APPROPRIATION.
Revenue of New Zealand.

[16th September, 1854.]

No. XII.

AN ACT to regulate the Law of Marriage in the MARRIAGE.
Colony of New Zealand.

[16th September, 1854.]

WHEREAS an Ordinance was enacted by the Lieutenant-Governor Preamble.
of New Zealand, with the advice and consent of the Legislative Council thereof, entitled "*An Ordinance for regulating Marriages in New Zealand*" (No. 7 of Session No. VIII.): And whereas it is expedient that the said recited Ordinance should be repealed and other provisions should be made for regulating marriages in New Zealand:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. From and after the first day of January, one thousand eight hundred and fifty-five, the said recited Ordinance shall be and the same is hereby repealed. Repeal of Ordinance No. 7 Sess. No. VIII.

I.—REGISTER OFFICES AND OFFICERS.

2. It shall be lawful for the Governor, by Proclamation to be for Districts to be proclaimed.
that purpose issued in the New Zealand Government *Gazette*, to divide the Colony of New Zealand into such and so many districts as he shall think fit, and every such district shall be called by a distinct name, and shall be a Registrar's district for the purposes hereinafter mentioned: Provided always that it shall be lawful for the Governor to revoke such Proclamation, and to issue from time to time a new Proclamation altering the division of districts in any part of the Colony as he shall think fit.

3. For the purposes hereinafter mentioned it shall be lawful for Registrars to be appointed.
the Governor, by warrant under his hand, from time to time to appoint such persons as he shall think fit, to be and be called "Registrars of Marriages," under this Act, and also from time to time to remove any person so appointed and to appoint others in their place.

4. The said Registrars shall be and they are hereby empowered Registrars' power to levy fees.
to levy and receive the several fees authorized to be collected by them under and by virtue of this Act, to be applied in manner hereinafter provided.

5. No

Marriage.

Registrars not liable to serve on juries.

5. No Registrar appointed under the provisions of this Act shall be compellable to serve on any jury or inquest, or to fill any parochial or corporate office whatsoever.

II.—NOTICE OF INTENDED MARRIAGES.

Notice of every intended marriage to be given to the Registrar.

6. In every case of marriage intended to be solemnized in the Colony of New Zealand, one of the persons intending marriage shall, under his or her hand, give notice, in the form in the Schedule A to this Act annexed, to the Registrar of the district within which one of the persons shall have dwelt for not less than three days, and shall therein truly state the age name and surname and the calling or profession and condition of each of the persons intending marriage, the dwelling-place of each of them, and the time that each of them has dwelt in such district, and the church building or place in which such marriage is intended to be solemnized: Provided always that if the persons intending marriage dwell in the districts of different Registrars, the like notice shall be given to the Registrar of each district.

And filed and copied by him.

7. The Registrar shall keep all such notices with the records of his office, and shall also, immediately on receiving any such notice, enter a true copy thereof fairly into a book to be called the "Marriage Notice Book:" Provided always that before the copy of any such notice shall be so entered in the Notice Book, the Registrar shall require the person giving such notice to make a solemn declaration to the truth of the several particulars set forth in such notice.

Fees on leaving such notice.

8. There shall be paid to the Registrar by the person leaving the said notice of marriage with the Registrar, a fee of two shillings and sixpence.

Notice book to be open for inspection.

9. Every such "Marriage Notice Book" shall be open to all persons desiring to inspect the same, between the hours of ten in the morning and four in the afternoon of every day except Sunday, Christmas Day, Good Friday, and the Queen's birthday, and for every such inspection there shall be paid to the Registrar a fee of one shilling.

Certificate for marriage to be issued.

10. It shall be lawful for the Registrar to whom such notice shall have been given as aforesaid, immediately upon receipt of such notice as aforesaid, to issue a certificate in the form Schedule B to this Act annexed, in the cases following, that is to say,—First, when it shall appear from the notice and solemn declaration herein mentioned that both the persons intending marriage are of full age, or, if a person be under age, that such person is a widow or widower. Secondly, where the person being under age, and not a widow or widower, the consent in writing of the parent or guardian as herein required to the marriage of such person shall appear upon the notice, which consent shall be signed by the parent or guardian either before the Registrar at his office, or before a Justice of the Peace or a Solicitor of the Supreme Court, and be attested by such Registrar, Justice, or Solicitor, and for every such certificate the Registrar shall be entitled to a fee of twenty shillings. In all other cases the Registrar shall not issue his certificate until after the expiration of fourteen days after the receipt by him of such notice; and for every certificate as last mentioned he shall be entitled to a fee of five shillings.

No certificate to be issued if there be any lawful impediment.

11. No such certificate shall be issued by any Registrar if any lawful impediment be shown to the satisfaction of such Registrar to the issue thereof, nor if the issue of such certificate shall have been forbidden in manner hereinafter mentioned by any person or persons authorized in that behalf as hereinafter provided.

Declaration to be made by person before certificate granted.

12. Before any certificate as aforesaid shall be granted by any such Registrar, one of the persons intending marriage shall appear personally

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personally before such Registrar, and shall make his or her solemn declaration that he or she believes that there is not any impediment of kindred or alliance, or other lawful hindrance, to the said marriage, and that one of the persons has, for the space of three days immediately before the day of making such declaration, had his or her place of abode within the district wherein such marriage is to be solemnized. And where either of the persons, not being a widow or widower, shall be under the age of twenty-one years, such declaration shall further state that the consent of the person or persons whose consent to such marriage is by law required, has been obtained thereto, or that there is no person resident in the Colony having authority to give such consent, as the case may be.

13. Every such certificate as aforesaid issued by any such Registrar shall be full authority for any Officiating Minister to celebrate any marriage when both the persons intending to contract such marriage dwell in the same district; but if those persons dwell in different districts, certificates from the Registrars of both districts shall be required: Provided always that no such certificate or certificates shall oblige any Officiating Minister to solemnize any marriage.

The certificate to authorize but not oblige Officiating Ministers.

14. Whenever a marriage shall not have been celebrated within three calendar months after the notice herein required to be given shall have been given to the Registrar, such notice and any certificate which may have been granted thereupon shall be utterly void.

Notice certificate &c. to be good for three months only.

15. Every Registrar shall, on the thirty-first day of March, the thirtieth June, the thirtieth September, and the thirty-first December, in every year, make a return to the Registrar-General of Births, Deaths, and Marriages, or to such other officer as may be appointed by the Governor in that behalf, of every certificate granted by such Registrar since his last return, and of the particulars stated in every notice received by him.

Registrars to make quarterly returns.

III.—CONSENTS TO MARRIAGE, "CAVEATS," ETC.

16. The father, if resident within the Colony, of any person under twenty-one years of age, such person not being a widower or widow, or, if the father shall be dead, the guardian or guardians of the person of the party so under age lawfully appointed or one of them; and in case there shall be no guardian or guardians, or in case the father shall not be resident within the Colony, then the mother of such person, if resident in the Colony, and if there shall be no mother resident within the Colony, then the guardian or guardians (if any) of the person appointed by the Supreme Court, or one of them, shall have authority to give consent to the marriage of such person, and such consent is hereby required for the marriage of such person so under age, unless there shall be no person within the Colony authorized to give such consent.

Consent necessary when under age.

17. In case the father or fathers of the persons so under age as aforesaid, or the guardian or guardians, mother or mothers, or any person whose consent is made necessary as aforesaid, shall be *non compos mentis*, or shall unreasonably or from undue motives refuse or withhold his or her or their consent to a proper marriage, then it shall be lawful for any person desirous of marrying in any of the above-mentioned cases, to apply by petition to a Judge of the Supreme Court in a summary way, and in case the marriage proposed shall upon examination appear to be proper, any such Judge shall judicially declare the same to be so, and such judicial declaration shall be deemed and taken to be as good and effectual, to all intents and

In certain cases consent of Judge of Supreme Court may be given.

Marriage.

purposes, as if the father, guardian or guardians, or mother of the person so petitioning, had consented to such marriage.

Issue of certificates may be forbidden.

18. Any person whose consent is required as aforesaid may forbid the issue of the Registrar's certificate, by writing at any time in the presence of the Registrar before the issue of such certificate the word "Forbidden" opposite to the entry of the notice of such intended marriage in the "Marriage Notice Book," and by subscribing thereto his or her name and place of abode, and their relationship or guardianship, by reason whereof he or she is authorized to forbid such certificate.

Caveat may be entered.

19. Any person having just and reasonable cause in that behalf may, on the payment of five shillings, enter a *caveat* with the Registrar against the grant of a certificate for the marriage of any person named in such *caveat*. And if any *caveat* be entered with the Registrar, such *caveat* being duly signed by or on behalf of the person who entered the same, together with his or her place of residence, and the ground of objection on which his or her *caveat* is founded, no certificate shall be granted until the Registrar shall have examined into the matter of the *caveat*, and be satisfied that it ought not to obstruct the grant of the certificate for the said marriage, or until the *caveat* be withdrawn by the person entering the same: Provided always that in case of a Registrar refusing the grant of a certificate, the person applying for the same shall have a right to appeal to a Judge of the Supreme Court in a summary way, who shall thereupon either confirm the refusal or direct the grant of the certificate.

If *caveat* vexatious.

20. Every person who shall enter a *caveat* with the Registrar against the issue of any certificate on grounds which a Judge of the Supreme Court shall declare to be frivolous and vexatious, and that they ought not to obstruct the issue of the certificate, shall be liable for the costs of the proceedings, and for damages to be recovered in an action by the person against whose marriage such *caveat* shall have been entered.

IV.—SOLEMNIZATION OF MARRIAGES.

The Registrar's certificate to be delivered to the Officiating Minister.

21. The Registrar's certificate or certificates, as the case may be, shall, immediately before the solemnization of any marriage, be delivered by one of the persons about to be married to the Officiating Minister, or to the Registering Officer of the Society of Friends (commonly called Quakers) for the place where the marriage is solemnized according to the usage of the said Society, or to the officer of a Synagogue by whom the marriage is registered if the same shall be solemnized according to the usages of the people professing the Jewish religion; and in all other cases shall be delivered to the Registrar present at such marriage, as is hereinafter provided.

Marriages when to be solemnized.

22. Every such marriage shall be solemnized in the place stated in the notice of such marriage between the persons described in the notice, according to such form and ceremony as they may see fit to adopt: Provided nevertheless that every such marriage shall be solemnized with open doors, between the hours of eight in the morning and four in the afternoon, in the presence of an Officiating Minister or other person duly authorized by this Act, and in the presence of two or more witnesses.

Marriages may be solemnized at the office of Registrar.

23. Any person who shall object to be married under the provisions of this Act in the presence of any Officiating Minister may, after compliance with the provisions of this Act in all other particulars, contract and solemnize marriage at the office and in the presence of some Registrar, in the presence of two witnesses, with open doors and
between

Marriage.

between the hours aforesaid: Provided that in the presence of the Registrar and witnesses as aforesaid, each of the persons shall declare,—

I do solemnly declare that I know not of any lawful impediment why I, A.B., may not be joined in matrimony to C.D. And each of the persons shall say to the other—

I call upon these persons here present to witness that I A.B., do take thee, C.D., to be my lawful wedded wife [*or husband*].”

24. The Registrar shall be entitled, for every marriage which shall be solemnized under this Act in his presence as aforesaid, to receive from the persons married the sum of three pounds.

Fee in such case to Registrar.

25. After any marriage shall have been solemnized, it shall not be necessary, in support of such marriage, to give any proof of the actual dwelling of either of the persons so married, previous to the marriage, within the district wherein such marriage was solemnized, for the time required by this Act, or of the consent of any person whose consent thereunto is required by law, nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

After marriage no proof of consent &c. necessary.

26. It shall be lawful for the Officiating Minister or Registrar before whom any marriage is solemnized, according to the provisions of this Act, to ask from the persons to be married the several particulars required to be registered concerning such marriage.

Officiating Ministers may inquire particulars to be registered.

V.—REGISTRATION OF MARRIAGES.

27. Every Officiating Minister, and every Registrar, immediately after a marriage solemnized by him, or which may have taken place in his presence, shall register in a book to be kept for that purpose the several particulars relating to such marriage, according to the form in Schedule C to this Act annexed, and every such entry shall be signed by such Officiating Minister or Registrar, as the case may be, present at such marriage, and by the persons married, and by two witnesses, and shall be made in order from the beginning to the end of such book.

Marriages to be celebrated by ministers.

28. Every such Officiating Minister or Registrar who shall neglect to register any marriage solemnized by him, or which may have taken place in his presence, shall forfeit and pay a penalty of fifty pounds, to be recovered in a summary way.

Penalty.

29. Every Officiating Minister or Registrar, as the case may be, before whom any marriage is solemnized or has taken place, shall, in the months of July, October, January, and April respectively, make and transmit to the Registrar-General of Births, Deaths, and Marriages, or other officer to be appointed by the Governor in that behalf, a true copy, certified by such Officiating Minister or Registrar under his hand, of all the entries of marriages in the Register Books kept by him since the last return, and if there shall be no marriage entered therein since the last return, he shall certify the fact under his hand and shall keep the said Marriage Register Books safely. And every Officiating Minister or Registrar who shall refuse or neglect to make and transmit such return or certificate within the several times herein specified, shall be liable for every such offence to forfeit a sum not exceeding ten pounds, to be recovered in a summary way.

Minister to forward copies of marriage registers to Registrar-General quarterly.

30. If any persons shall knowingly and wilfully intermarry on or after the said first day of January, one thousand eight hundred and fifty-five, without certificate from the Registrar, or in the absence of an Officiating Minister or Registrar when the presence of an Officiating Minister or Registrar as aforesaid is necessary under this Act, the marriage of such persons shall be null and void.

Marriages unduly solemnized with the knowledge of both persons to be void.

31. If

Marriage.

On marriage of minors without consent, offending party to forfeit property acquired by such marriage.

31. If any valid marriage shall, after the said first day of January, one thousand eight hundred and fifty-five, be procured by a party to such marriage to be solemnized between persons one or both of whom shall be under the age of twenty-one years, not being a widower or widow, contrary to the provisions of this Act, by means of such party falsely swearing or declaring to any matter or matters to which such party is hereinbefore required personally to declare, such party wilfully and knowingly so declaring, then and in such case it shall be lawful for Her Majesty's Attorney-General, by information in the Supreme Court, at the relation of a parent or guardian of the minor whose consent has not been given to such marriage, to sue for a forfeiture of all the estate right title and interest in any property which hath accrued or shall accrue to the party so offending by force of such marriage; and such Court shall have power in such suit to declare such forfeiture, and thereupon to order and direct that all such estate right title and interest in all property as shall then have accrued or shall thereafter accrue to such offending party by force of such marriage, shall be secured under the direction of such Court for the benefit of the innocent party, or of the issue of the marriage, or of any of them, in such manner as the said Court shall think fit, for the purpose of preventing the party offending from deriving any interest in real or personal estate or pecuniary benefits from such marriage; and if both the parties so contracting marriage shall, in the judgment of the Court, be guilty of any such offence as aforesaid, it shall be lawful for the said Court to settle and secure such property or any part thereof immediately for the benefit of the issue of the marriage, subject to such provisions for the offending parties, by way of maintenance or otherwise, as the said Court under the particular circumstances of the case shall think reasonable, regard being had to the benefit of the issue of the marriage during the lives of the parents, and of the issue of the parties respectively by any future marriage, or of the parties themselves, in case either of them should survive the other.

All settlements &c. on any such marriage void.

32. All agreements settlements and deeds entered into and executed by the parties to any marriage, in consequence of or in relation to which marriage such information as aforesaid shall be filed by either of the said parties before and in contemplation of such marriage, or after such marriage, for the benefit of the parties, or either of them, or their issue, so far as the same shall be contrary to and inconsistent with the provisions of such a security and settlement as shall be made by or under the direction of the Supreme Court as aforesaid, under the authority of this Act, shall be absolutely null and have no force or effect.

Proceedings to be taken within one year after such marriage.

33. Any original information to be filed for the purpose of obtaining a declaration of any such forfeiture as aforesaid, shall be filed within one year after such relator or relators hath or have known or discovered the solemnization of the marriage by which such forfeiture shall have been incurred.

If marriage be under any false notice or certificate, like forfeiture.

34. If any valid marriage shall be had under the provisions of this Act by means of any false notice certificate or declaration made by either party to such marriage, as to any matter to which a notice certificate or declaration is herein required, it shall also be lawful for the Attorney-General to sue for a forfeiture of all estate and interest in any property accruing to the offending party by such marriage, and the proceedings thereupon and the consequences thereof shall be the same as hereinbefore provided.

Making false affirmation or declaration a misdemeanour.

35. Every person who shall knowingly and wilfully make any false affirmation or declaration for the purpose of procuring any such certificate as aforesaid, shall be deemed to be guilty of a misdemeanour.

36. Every

Marriage.

36. Every person who shall forbid the issue of the Registrar's certificate by falsely representing himself or herself to be a person whose consent to such marriage is required by law, knowing such representation to be false, shall be deemed guilty of a misdemeanour.

The making of a false representation a misdemeanour.

37. If any person shall, from and after the first day of January, one thousand eight hundred and fifty-five, falsely pretend to be an Officiating Minister, and shall solemnize matrimony, any such person knowingly and wilfully so offending, and being lawfully convicted thereof, shall be deemed and adjudged to be guilty of felony, and shall be sentenced to penal servitude for a term of seven years.

Any person solemnizing matrimony falsely pretending to be an Officiating Minister a felony.

38. Every person who, on or after the said first day of January, one thousand eight hundred and fifty-five, shall knowingly and wilfully solemnize matrimony in any other place than the church office or place specified in the certificate required by this Act, and every person who shall knowingly and wilfully solemnize matrimony on or after the said first day of January, one thousand eight hundred and fifty-five, without a certificate from the Registrar as required by this Act, shall be deemed and adjudged to be guilty of a misdemeanour.

Solemnizing matrimony otherwise than according to this Act a misdemeanour.

39. Every Registrar who shall knowingly and wilfully issue any certificate for marriage after the expiration of three calendar months after the notice shall have been entered by him as aforesaid, or any certificate for marriage except the provisions of this Act be first complied with, or any certificate the issue of which shall have been forbidden as aforesaid by any person authorized to forbid the issue of such certificate, or who shall knowingly and wilfully register any marriage herein declared to be null and void, and every Registrar who shall knowingly and wilfully solemnize, in his office or elsewhere, any marriage herein declared to be null and void, shall be deemed and adjudged to be guilty of felony, and shall be sentenced to penal servitude for a term not exceeding seven years.

Registrar acting illegally in certain cases to be guilty of felony.

40. Any Officiating Minister or Registrar who shall knowingly or wilfully, without the consent of parents or guardians, solemnize or be present at any marriage wherein one or both of the persons has not or have not attained the full age of twenty-one years, shall for every such offence forfeit and pay a sum not exceeding one hundred pounds, to be recovered by action in the Supreme Court.

Persons solemnizing marriage of minors without consent liable to a penalty.

41. Every action or prosecution under this Act shall be commenced within the space of three years after the offence was committed.

Prosecutions under this Act to be commenced within three years after offence.

VI.—OFFICIATING MINISTERS.

42. Any minister of religion whose name shall have been sent in to the Registrar-General of Births, Deaths, and Marriages, or other officer to be appointed by the Governor in that behalf, by the persons or person within the Colony in whom ecclesiastical authority shall for the time being be vested, or reputed to be vested, over any of the religious bodies enumerated in the Schedule D to this Act annexed shall, subject to the conditions hereinafter mentioned, be an Officiating Minister within the meaning of this Act, and the name of every such minister of religion shall be certified under the hand or hands of the person or persons aforesaid, and shall be entered and published as hereinafter provided: Provided always that any minister of religion not connected with any of the bodies enumerated in the aforesaid Schedule to this Act annexed, who shall present to any Registrar a certificate signed by twenty-four householders resident in the district for which such Registrar shall be appointed, declaring that such minister is their Officiating Minister, shall be entitled to have his name inserted in the list of Officiating Ministers in the meaning of this Act: Provided always that such certificate shall be attested by two Justices

Officiating Ministers who.

Marriage.

of the Peace; and such attested certificate shall be sent in to the Registrar-General, or other officer as aforesaid, anew in the month of December in every year, and no such attested certificate presented to any Registrar by any minister as aforesaid shall continue in force unless renewed in like manner.

Ecclesiastical authorities to send in names of ministers and certify suspension or deprivation of any ministers.

43. The person having ecclesiastical authority over the several religious bodies as aforesaid shall, upon the suspension or deprivation of any Minister whose name shall have been sent in to the Registrar-General or other officer as aforesaid in manner hereinbefore mentioned, forthwith certify such suspension or deprivation to the Registrar-General or other officer as aforesaid, who shall forthwith make a minute of such suspension or deprivation in the List of Officiating Ministers hereinafter mentioned, and no such person shall be deemed an Officiating Minister until his name shall have been again sent in to the Registrar-General or other officer as aforesaid, in manner hereinbefore mentioned.

List of ministers to be sent in in the month of December.

44. The several ecclesiastical authorities as aforesaid of the respective religious bodies shall send in to the said Registrar-General or other officer as aforesaid a correct list of such Officiating Ministers in the month of December in every year.

Registrar-General to file certificates, enter names of officiating ministers in books, and publish lists.

45. The Registrar-General or other officer as aforesaid shall file all such certificates and lists and keep them with the records of his office, and shall also forthwith enter the names sent to him as hereinbefore mentioned in a book to be furnished him by the Government, and to be called the "List of Officiating Ministers," and shall from time to time alter and correct the said list as occasion shall require, and shall, in the month of January in every year, cause a copy of such list to be published in the *New Zealand Government Gazette*. And in case of any additional names of ministers being sent in to him during any part of the year in the manner aforesaid, the Registrar-General or other officer as aforesaid shall cause such names to be published forthwith in the *New Zealand Government Gazette*, and the persons so gazetted shall be deemed Officiating Ministers for the purpose of this Act: Provided always that in case of notice being sent to the Registrar-General or other officer as aforesaid of the suspension or deprivation of any minister whose name may have been entered upon the list of Officiating Ministers, the Registrar-General or other officer as aforesaid shall thereupon cause a notification to be published in the *New Zealand Government Gazette* that the name of such minister is withdrawn from the list of Officiating Ministers, and such person shall from the date of such publication cease to be an Officiating Minister in the meaning of this Act.

MISCELLANEOUS PROVISIONS.

Marriage heretofore celebrated valid.

46. Every marriage heretofore and prior to the sixteenth day of September, one thousand eight hundred and forty-seven, *bonâ fide* celebrated in New Zealand by any clergyman, minister, or other person, whether the same was so celebrated in any church chapel or building set apart for public worship, or other building or place, and every marriage heretofore since the sixteenth September, one thousand eight hundred and forty-seven, *bonâ fide* celebrated by any clergyman, minister, or other person, in accordance with the formalities prescribed by the said recited Ordinance No. VII. of Session VIII., shall be deemed as valid as if such marriage had been performed under the provisions of this Act: Provided always that nothing contained in this Act shall extend or be construed to extend to render valid any marriage in respect to which a lawful impediment may have existed at the time of such marriage.

47. Nothing

Marriage.

47. Nothing herein contained shall apply to any marriage which may be contracted otherwise than according to the provisions of this Act between two persons both of the native aboriginal race: Provided that this Act shall come into operation in respect of marriages between persons of the said race in such districts and at such times as the Governor shall by Proclamation from time to time appoint: Provided also that persons of the aboriginal native race may, if they desire, contract marriage according to the provisions of this Act.

Act not to extend to marriages of Natives.

48. All fees collected under the authority of this Act by any Registrar shall be accounted for quarterly, and paid over to the Colonial Treasurer, or to such other person as the Governor shall direct, for the public uses of the Colony, and for the support of the Government thereof.

Fees how to be accounted for.

49. The word "Governor" in this Act shall include the Officer Administering the Government for the time being.

Interpretation.

50. This Act shall be entitled and may be cited as "*The Marriage Act, 1854.*"

Short Title.

SCHEDULES.

SCHEDULE A.

To the Registrar of Marriages for the District of
I HEREBY give you notice that a marriage is intended to be had within three calendar months from the date hereof, between me and the other party herein named and described, that is to say,—

Name and Surname.	Condition.	Calling or Profession.	Age.	Dwelling-place.	Length of Residence.	Church, Building, Office, or place where the Marriage is to be Solemnized.	District in which the other Party Resides, where the Parties dwell in different Districts
James Smith	Bachelor	Blacksmith	25	Queen Street, Auckland	10 days	St. Paul's Church, Auckland.	
Mary Green	Spinster		19	Prince Street, Auckland	10 days		

Witness my hand, this day of , one thousand eight hundred and
JAMES SMITH.

SCHEDULE B.

G.H. , the Registrar of Marriages for the District of
To A.B., of , an Officiating Minister for the District of , and all other
Officiating Ministers for the same District.

WHEREAS C.D., of , has given notice to me, according to the provisions of an Act of the General Assembly of New Zealand, intituled "*The Marriage Act, 1854,*" of a marriage intended to be solemnized between the said C.D., and E.F., of (spinster): And whereas the said C.D. has complied with all the requirements of the said Act: Now I, G.H., the Registrar of Marriages for the District of , do hereby certify to you, the said A.B., and to all other Officiating Ministers for the District of , that the said C.D. has complied with the requirements of the said Act, and marriage may be solemnized between the said C.D. and E.F. Provided that such marriage be publicly solemnized in the presence of you, the said A.B., or any one of you [or the Registrar, or Registering Officer of the Society of Friends], and two or more witnesses, within three calendar months from the [Here insert the date of giving notice] in the [Here describe the church building office or place where the marriage is to be solemnized] between the hours of eight in the forenoon and four in the afternoon.

Given under my hand, this day of one thousand eight hundred and
G.H., Registrar.

Provincial Waste Lands.

SCHEDULE C.

1855. MARRIAGES IN THE DISTRICT OF (AUCKLAND.)

No.	When Married, and where.	Names and Surnames.	Age.	Rank or Profession.	Condition.	Signatures of Parties.	Name of Officiating Minister [or Registrar].	When Registered.	Signature of Officiating Minister [or Registrar].
5	4th February, 1855, St. Paul's Church, Auckland.	John Cox. Mary Thompson.	25 19	Clerk. Dress-maker.	Bachelor. Spinster.	John Cox, Mary Thompson.	A.B., Officiating Minister [or Registrar].	4th Feb., 1855.	A.B., Officiating Minister [or Registrar].

Married, after the delivery to me of the Certificate required by the Act of the General Assembly of New Zealand, intituled "*The Marriage Act, 1854*," by

A.B., Officiating Minister, [or Registrar].

This Marriage was solemnized between us,

John Cox, { In the presence }
Mary Thompson, { of us, }

John Hastings,
Geoffrey Mitchel.

SCHEDULE D.

The United Church of England and Ireland.
The Church of Scotland.
The Roman Catholic Church.
The Free Church of Scotland.
All Presbyterian Congregations.
The Wesleyan Methodist Society.

All Congregational Independents.
Baptists.
The Primitive Methodist Society.
The Lutheran Church.
All Hebrew Congregations.
The Society of Friends.

No. XIII.

PROVINCIAL WASTE
LANDS.

AN ACT to authorize the General Assembly to empower the Provincial Councils to enact Laws for regulating the Sale Letting Disposal and Occupation of the Waste Lands of the Crown.

[16th September, 1854.]

[Reserved for the signification of her Majesty's pleasure.]

Preamble reciting
New Zealand Consti-
tution Act.

WHEREAS by an Act of the Imperial Parliament of the Session holden in the fifteenth and sixteenth years of the reign of Her Majesty Queen Victoria, chapter 72, it is amongst other things enacted that, subject to the provisions therein contained, it shall be lawful for the General Assembly of New Zealand to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown: And whereas it is expedient that the Superintendent of any Province, with the advice and consent of the Provincial Council thereof, should have the power to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown within the limits of such Province:

BE IT THEREFORE ENACTED by the General Assembly:—

General Assembly au-
thorized to empower
Provincial Councils
to make laws for re-
gulating &c. the
waste lands of the
Crown.

1. Subject to the provisions in the said recited Act contained, it shall be lawful for the General Assembly of New Zealand to authorize and empower the Superintendent of any Province, with the advice and consent of the Provincial Council thereof, to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown in such Province, either absolutely or upon such terms or conditions and subject to such restrictions and limitations as may be prescribed by any Act or Acts to be passed by the said General Assembly in that behalf, anything in the said recited Act to the contrary notwithstanding.

2. And

Provincial Waste Lands.

2. And whereas in the said in part recited Act the Governor is authorized and required to pay, out of the revenue arising from the disposal of the waste lands of the Crown in New Zealand, all the costs charges and expenses incident to the collection management and receipt thereof: And whereas it is also provided by the said Act that all costs charges and expenses in relation to the revenue of the said waste lands shall be regulated and audited in such manner as shall be directed by laws of the said General Assembly: And whereas it is expedient that the General Assembly should be authorized to vest such powers and duties in the Superintendents and Provincial Councils respectively: Be it therefore enacted that it shall be lawful for the General Assembly of New Zealand to authorize and empower the Superintendent and Provincial Council respectively of each Province (so far as relates to the administration of the revenue arising from the waste lands of the Crown in such Province) to perform and exercise all the powers and duties so vested in the Governor and General Assembly respectively as aforesaid: Provided always that from the time such powers and duties as aforesaid shall be so vested in any Superintendent and Provincial Council, all the costs charges and expenses incident to the administration of the waste lands in any such Province shall be regulated paid and audited in such manner as shall be provided in that behalf by laws to be from time to time enacted by the Superintendent of such Province, with the advice and consent of the Provincial Council thereof.

General Assembly authorized to empower Superintendents &c. to exercise powers vested in Governor and General Assembly.

3. This Act shall not come into operation until it shall have received the Royal assent, and until the notification of such assent shall have been made in the New Zealand Government *Gazette*, by order of the Governor or the Officer Administering the Government of New Zealand for the time being.

Act not to come into operation till it shall have received the Royal assent.

4. This Act shall be entitled and may be cited as "*The Provincial Waste Lands Act, 1854.*"

Short Title.

Naturalization.

ANNO DECIMO NONO
VICTORIÆ REGINÆ.

SESSION III. No. I.

NATURALIZATION.

AN ACT for the Naturalization of certain Persons in the Colony of New Zealand. [15th September, 1855.]

Preamble reciting No. 2, Session II.

WHEREAS by an Act made and passed by the General Assembly of New Zealand, intituled "The Naturalization Act, 1854," (No. 2, Session II.,) it was among other things enacted that all and singular the persons who should be declared to come within the operation of the said Act by any Proclamation to be issued by the Governor should be deemed and taken, until the next Session of the General Assembly within the Islands of New Zealand, to be natural born subjects of Her Majesty: And whereas the persons particularly described in the Schedule marked A hereunto annexed have from time to time been so declared to come within the operation of the said recited Ordinance, and it is expedient that there should be removed from them within the Colony of New Zealand the disabilities to which aliens are by law subjected:

BE IT ENACTED by the General Assembly of New Zealand as follows:—

Persons named in Schedule A to be naturalized.

1. All and singular the persons who are particularly described in the Schedule marked A to this Act annexed shall, to all intents and purposes whatever within the Colony of New Zealand, be deemed and taken to be, and to have been from the dates set opposite their names respectively, natural born subjects of Her Majesty, as if they had been respectively born within the realm of England.

Persons may be naturalized by Proclamation.

2. And whereas there are certain other persons resident in New Zealand whom it may be expedient to relieve from the disabilities to which aliens are by law subject, but whose names and descriptions have not been accurately ascertained: Be it further enacted that all and singular the persons who shall be declared to come within the operation of this Act by any Proclamation to be issued in that behalf by His Excellency the Governor or Officer Administering the Government, shall be deemed and taken, until the termination of the next Session of the General Assembly, to be natural born subjects of Her Majesty within the Islands of New Zealand, as fully to all intents and purposes as if their names had respectively been inserted in the Schedule hereunto annexed: Provided always that every such Proclamation shall contain the description occupation or calling of the person or persons therein named, and of his or their residence at the date of such Proclamation.

Short Title.

3. This Act shall be entitled and may be cited as "The Naturalization Act, 1855."

SCHEDULE.

Land Claimants Ordinance Amendment.

SCHEDULE A.

Date of Proclamation.	Name.	Native of	Occupation.	Date from which Naturalization is to take effect.	Residence.
Oct. 6, 1853...	William Goff ...	France ...	Storekeeper...	Oct. 6, 1853 ...	Whanganui
Nov. 1, 1854...	Ferdinand Meier	Prussia ...	Landing Waiter H.M. Customs	Sept. 16, 1854 ...	Wellington
Dec. 29, 1854...	August Zollner ...	Germany ...	Farmer ...	Jan. 1, 1854 ...	Mahurangi
Dec. 29, 1854...	Frederick Helmas	Germany ...	Farmer ...	Jan. 1, 1855 ...	Mahurangi
Jan. 24, 1855...	John Godfried Engst	Germany ...	Merchant ...	July 2, 1852 ...	Chatham Islands
Mar. 8, 1855...	Charles Arnaboldi	Italy ...	Optician ...	Feb. 26, 1855 ...	Auckland
April 21, 1855...	Adolphe de Meuron	Switzerland...	Settler ...	Mar. 16, 1855 ...	Auckland
April 21, 1855...	Charles Petschler	Germany ...	Merchant ...	Mar. 20, 1855 ...	Auckland
April 21, 1855...	Adolphe David ...	Belgium ...	Settler ...	Mar. 22, 1855 ...	Auckland
June 12, 1855...	Henry Cooper ...	India ...	Labourer ...	May 17, 1855 ...	Auckland
June 30, 1855...	Leon De Laville...	France ...	Clerk in Survey Office	June 18, 1855 ...	Auckland
June 30, 1855...	Paul Henri Droz...	Switzerland...	Watchmaker and Jeweller	June 18, 1855 ...	Auckland
June 30, 1855...	Auguste Berthold	Switzerland...	Watchmaker and Jeweller	June 18, 1855 ...	Auckland

No. II.

AN ACT to amend "*The New Zealand Company's Land Claimants Ordinance*," Session XI., No. 15.

LAND CLAIMANTS
ORDINANCE AMEND-
MENT.

[15th September, 1855.]

WHEREAS by an Ordinance made and passed by the Governor-in-Chief of New Zealand, with the advice and consent of the Legislative Council thereof, entitled "*An Ordinance to ascertain the Contracts and Engagements entered into by the New Zealand Company for the disposal of certain Lands in the Islands of New Zealand, and to provide for the completion of such Contracts and Engagements by the Colonial Government*," after reciting that in certain cases various dealings had been had between the persons claiming title to lands in regard to which the land orders thereinbefore mentioned related, and that, for the purpose of preventing injury and inconvenience to persons who might have dealt with such claimants in respect of the lands so claimed by them, it might be expedient that the legal estate in the land to be comprised in any such grant as therein mentioned should in certain cases be deemed to have been in the grantee prior to the date of such grant, it was enacted that it should be lawful for the Commissioner who should hear and decide any such claim, at his discretion, to report that for the purpose aforesaid it would be expedient that such legal estate should be deemed to have been in such grantee from and after a date to be named by such claimant in that behalf: And whereas it was by the sixteenth section of the said Ordinance provided that in every such case it should be the duty of the Colonial Secretary of the Province of New Munster, before issuing any such grant, to indorse thereon the date so reported as aforesaid, and the legal estate in the land to be comprised in such grant should be deemed to have been in the grantee thereof, from the date so to be indorsed as aforesaid: And whereas by virtue of a certain Act of Parliament made and passed in the fifteenth and sixteenth years of the reign of Her Majesty Queen Victoria, entitled "*An Act to grant a Representative*"

Preamble.

representative

English Acts Act.

sentative Constitution to the Colony of New Zealand," the office of Colonial Secretary for the Province of New Munster ceased to exist: And whereas great injury and inconvenience have been sustained by grantees in certain cases by reason of there being no person duly authorized to make the indorsement by the said recited Ordinance required to be made by the Colonial Secretary for the Province of New Munster: And whereas it is expedient that provisions should be made for remedying and preventing such injury and inconvenience:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. That clause sixteen of the said recited Ordinance shall be and the same is hereby repealed.

2. Whenever such indorsement as aforesaid shall not already have been duly made, it shall be the duty of the Colonial Secretary of New Zealand in all cases in which the Commissioner or Commissioners who shall already have heard and decided or who shall hereafter hear and decide any such claim as in the said recited Ordinance mentioned shall have already reported or shall hereafter report that, for the purposes in the said recited Ordinance in that behalf mentioned, it would be expedient that the legal estate in the land to be comprised in any such grant as therein mentioned should be deemed to have been in the grantee from and after a date to be named by the claimant in that behalf, to indorse upon every such grant the date so reported or to be reported as aforesaid, and thereupon the legal estate in the land to be comprised in such grants shall be deemed to have been in the grantee from the date so to be indorsed as aforesaid.

3. This Act shall be entitled and may be cited and referred to as "*The Land Claimants Ordinance Amendment Act, 1855.*"

Repeal of clause 16 of N. Z. Company's Land Claimants' Ordinance.

Duty mentioned in repealed clause to be performed by Colonial Secretary of New Zealand.

Short Title.

No. III.

ENGLISH ACTS.

AN ACT for bringing into operation within the Colony certain Acts of the Imperial Parliament.

[15th September, 1855.]

Preamble.

WHEREAS certain Acts of the Imperial Parliament, specified in the Schedule hereunto annexed, have been passed for the amendment of the law, and it is expedient that the same be adopted and brought into operation within the Colony:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

Certain Acts adopted.

1. The several Acts of the Imperial Parliament specified in the Schedule hereunto annexed shall be taken to extend to this Colony, and shall be applied therein in the administration of justice in like manner as Acts of Parliament passed before the establishment of the Colony are applied.

Commencement of Act.

2. This Act shall come into operation on the first day of October, one thousand eight hundred and fifty-five.

Short Title.

3. This Act shall be termed and may be cited and referred to as "*The English Acts Act, 1855.*"

SCHEDULE.

Appropriation.

SCHEDULE.

Statute 9 and 10 Victoria, c. 24—"An Act for removing some defects in the Administration of Criminal Justice."

Statute 17 and 18 Victoria, c. 24—"An Act to amend the law relating to the Administration of the Estates of Deceased Persons."

No. IV.APPROPRIATION.

AN ACT to provide for the Appropriation of the Public Revenues of New Zealand.

[15th September, 1855.]

Pensions.

ANNO DECIMO NONO ET VICESIMO
VICTORIÆ REGINÆ.

SESSION I. No. I.

PENSIONS.

AN ACT to provide for the retirement of certain Officers of the Executive Government. [7th May, 1856.]

Preamble.

WHEREAS an alteration is about to be made in the mode of Executive Government in the Colony of New Zealand, whereby the holders of the offices of Colonial Secretary, Attorney-General, and Colonial Treasurer of New Zealand will become removable from office on grounds merely political: And whereas it is expedient, with a view to the immediate retirement or removal from office of the present holders of the said offices, namely, Andrew Sinclair, Esquire, the Colonial Secretary, William Swainson, Esquire, the Attorney-General, and Alexander Shepherd, Esquire, the Colonial Treasurer, and with a view to the immediate introduction of the said altered mode of Executive Government, that a retiring provision be made for the said present holders of the said offices:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

Governor may remove from office A. Sinclair, W. Swainson, and A. Shepherd.

1. Whenever it shall appear to the Governor that it would be expedient that the said Andrew Sinclair, William Swainson, and Alexander Shepherd, or any of them, should cease to hold office as aforesaid, it shall be lawful for the Governor to remove them or him therefrom.

Annuities to be paid out of the general revenue on their ceasing to hold office.

2. To every of them, the said Andrew Sinclair, William Swainson, and Alexander Shepherd, on ceasing to hold office, either by such removal or by resignation of office at the request of the Governor, there shall be paid out of the general revenue of New Zealand an annuity or pension, for the term of his natural life, after the rate set opposite to his name in Schedule A to this Act.

To be paid quarterly.

3. The said annuities or pensions shall commence on the several days on which the said Andrew Sinclair, William Swainson, and Alexander Shepherd shall respectively cease to hold office as aforesaid, and shall be paid quarterly, that is to say, on the first day of January, the first day of April, the first day of July, and the first day of October in every year.

Provision that pension or annuity shall cease or be lessened in certain cases of holding other offices under Government.

4. In case any of them, the said Andrew Sinclair, William Swainson, and Alexander Shepherd, shall accept or shall have accepted any office of emolument under the British or any Colonial Government or under any of the Provincial Governments of New Zealand, if the emoluments of such office shall be equal to or exceed in amount the annuity or pension hereby made payable to him, then and in every such case such annuity or pension shall wholly cease; and if such emolument shall be less than the annuity or pension hereby made

Naturalization.

made payable to him, then and in every such case such annuity or pension shall thenceforth be reduced by the amount of such emolument; but in either case during such period or periods only as such office of emolument shall be held by him: Provided that for the purposes of the foregoing provision any half pay or pension in respect of any office now or heretofore held by the said annuitants shall not be deemed to be an emolument of office.

5. Provided always that if it shall at any time within twelve months from the passing of this Act appear expedient to the Governor of the said Colony to commute the said pensions respectively or any or either of them for a sum of money in gross, it shall be lawful for the said Governor to commute such pensions respectively for the sum of money in gross respectively mentioned in Schedule B to this Act, and to pay the same sums respectively out of the general revenue of the said Colony.

Governor may commute pensions within twelve months.

6. This Act shall be entitled and may be cited as "*The Pensions Act, 1856.*" Short Title.

SCHEDULES.

SCHEDULE A.

PENSIONS.

	£	s.	d.
To the said Andrew Sinclair, such sum as shall be fixed by Her Majesty by instructions under her Signet or Sign Manual, or signified, through one of Her Majesty's principal Secretaries of State, to the Governor of the said Colony, not exceeding the sum of	466	13	4
To the said William Swainson, such sum as shall be fixed as aforesaid, not exceeding the sum of	400	0	0
To the said Alexander Shepherd, such sum as shall be fixed as aforesaid, not exceeding the sum of	480	0	0

SCHEDULE B.

COMMUTATION OF PENSIONS.

To the said Andrew Sinclair, a sum equal to four years and a half purchase of such sum as shall be fixed as aforesaid as the pension payable to him.
 To the said William Swainson a sum calculated at the like rate.
 To the said Alexander Shepherd a sum calculated at the like rate.

No. II.

AN ACT for the Naturalization of certain Persons in the Colony of New Zealand. [7th July, 1856.]

NATURALIZATION.

WHEREAS by an Act made and passed by the General Assembly of New Zealand, intituled "*The Naturalization Act, 1854,*" (No. 2, Session II.,) it was among other things enacted that all and singular the persons who should be declared to come within the operation of the said Act by any Proclamation to be issued by the Governor, should be deemed and taken, until the next Session of the General Assembly, within the Islands of New Zealand, to be natural born subjects of Her Majesty: And whereas the persons particularly described in the Schedule marked A hereunto annexed have from time to

Preamble reciting No. 2, Session II.

Naturalization.

to time been so declared to come within the operation of the said recited Ordinance, and it is expedient that there should be removed from them within the Colony of New Zealand the disabilities to which aliens are by law subjected :

BE IT ENACTED by the General Assembly of New Zealand as follows :—

1. All and singular the persons who are particularly described in the Schedule marked A to this Act annexed shall, to all intents and purposes whatever within the Colony of New Zealand, be deemed and taken to be and to have been, from the dates set opposite their names respectively, natural born subjects of Her Majesty, as if they had been respectively born within the realm of England.

2. And whereas there are certain other persons resident in New Zealand whom it may be expedient to relieve from the disabilities to which aliens are by law subject, but whose names and descriptions have not been accurately ascertained : Be it further enacted that all and singular the persons who shall be declared to come within the operation of this Act by any Proclamation to be issued in that behalf by His Excellency the Governor or Officer Administering the Government shall, as from the time to be in the respective cases in that behalf specified by such Proclamation, be deemed and taken, until the termination of the next Session of the General Assembly, to be and to have been, as from such specified time, natural born subjects of Her Majesty within the Islands of New Zealand, as fully to all intents and purposes as if their names had respectively been inserted in the Schedule hereunto annexed : Provided always that every such Proclamation shall contain the description occupation or calling of the person or persons therein named, and of his or their residence at the date of such Proclamation.

3. This Act shall be intituled and may be cited as “ *The Naturalization Act, 1856.*”

Person named in Schedule A to be naturalized.

Persons may be naturalized by Proclamation.

Short Title.

SCHEDULE A.

Date of Proclamation.	Name.	Native of	Occupation.	Date from which Naturalization is to take effect.	Residence.
Oct. 12, 1855...	John Maké ...	Germany ...	Labourer ...	May 28, 1855 ...	Nelson.
Oct. 12, 1855...	Carl Locbe ...	Germany ...	Labourer ...	May 28, 1855 ...	Nelson.
Oct. 12, 1855...	Henry Ziems ...	Germany ...	Musician ...	May 8, 1855 ...	Nelson.
Oct. 12, 1855...	Carl Ziems ...	Germany ...	Musician ...	May 8, 1855 ...	Nelson.
Oct. 12, 1855...	Fritz Ziems ...	Germany ...	Musician ...	May 8, 1855 ...	Nelson.
Oct. 12, 1855...	Matthias Achilles...	Germany ...	Musician ...	May 8, 1855 ...	Nelson.
Oct. 12, 1855...	Carl Brenneke ...	Germany ...	Musician ...	May 8, 1855 ...	Nelson.
Oct. 12, 1855...	Theodore Bode ...	Germany ...	Musician ...	May 8, 1855 ...	Nelson.
Oct. 12, 1855...	Joseph Bormann...	Germany ...	Musician ...	May 8, 1855 ...	Nelson.
Oct. 12, 1855...	Ludwig Gründer...	Germany ...	Musician ...	May 8, 1855 ...	Nelson.
Oct. 12, 1855...	Ernest Peinemann	Germany ...	Musician ...	May 8, 1855 ...	Nelson.
Feb. 11, 1856...	John Inez ...	Portugal ...	Carpenter ...	Jan. 1, 1854 ...	Auckland.
Feb. 11, 1856...	Theodore Barnhard Thebing	Prussia ...	Doctor ...	April 15, 1855 ...	Nelson.
Feb. 11, 1856...	Benjamin Moses ...	Germany ...	Storekeeper ...	Jan. 1, 1853 ...	Auckland.
Feb. 11, 1856...	Wendolin Albiets...	Germany ...	Labourer ...	Jan. 1, 1853 ...	Auckland.

*Law Amendment.***No. III.**

AN ACT for the amendment of the Law of Evidence,
and of the Law of Debtor and Creditor.

LAW AMENDMENT.

[7th July, 1856.]

BE IT ENACTED by the General Assembly of New Zealand as follows:—

EVIDENCE.

1. If any person called as a witness, or required or desiring to make an affidavit or deposition, shall refuse or be unwilling from alleged conscientious motives to be sworn, it shall be lawful for the Court or Judge or other presiding officer or person qualified to take affidavits or depositions, upon being satisfied of the sincerity of such objection, to permit such person, instead of being sworn, to make his or her solemn affirmation or declaration in the words following, *videlicet* :—

Affirmation instead of oath in certain cases.

I, A.B., do solemnly sincerely and truly affirm and declare that the taking of any oath is, according to my religious belief, unlawful; and I do also solemnly sincerely and truly affirm and declare, &c.

Which solemn affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form.

2. If any person making such solemn affirmation or declaration shall wilfully falsely and corruptly affirm or declare any matter or thing which, if the same had been sworn in the usual form, would have amounted to wilful and corrupt perjury, every such person so offending shall incur the same penalties as by the law are or may be enacted or provided against persons convicted of wilful and corrupt perjury.

Persons making a false affirmation to be subject to the same punishment as for perjury.

3. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may, in case the witness shall in the opinion of the Judge prove adverse, contradict him by other evidence, or by leave of the Judge prove that he has made at other times a statement inconsistent with his present testimony; but before such last-mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

How far a party may discredit his own witness.

4. If a witness, upon cross-examination as to a former statement made by him relative to the subject matter of the cause and inconsistent with his present testimony, does not distinctly admit that he has made such statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

Proof of contradictory statements of adverse witness.

5. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him: Provided always that it shall be competent for the Judge at any time during the trial to require the production of the writing for his inspection, and he may thereupon make such use of it for the purpose of the trial as he shall think fit.

Cross-examination as to previous statements in writing.

Law Amendment.

Proof of previous conviction of a witness may be given.

6. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanour, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for such offence, purporting to be signed by the Clerk of the Court or other officer having the custody of the records of the Court where the offender was convicted, or by the deputy of such Clerk or officer (for which certificate a fee of five shillings and no more shall be demanded or taken), shall, upon proof of the identity of the person, be sufficient evidence of the said conviction without proof of the signature or official character of the person appearing to have signed the same.

Attesting witness need not be called except in certain cases.

7. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto.

Comparison of disputed writing.

8. Comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be genuine shall be permitted to be made by witnesses, and such writings and the evidence of witnesses respecting the same may be submitted to the Court and jury as evidence of the genuineness or otherwise of the writing in dispute.

ATTACHMENT OF DEBTS.

Examination of judgment debtor as to debt due to him.

9. It shall be lawful for any creditor who has obtained a judgment in the Supreme Court of New Zealand, to apply to the Court or a Judge for a rule or order that the judgment debtor should be orally examined as to any and what debts are owing to him before a Judge or Registrar of the Court, or such other person as the Court or Judge shall appoint; and the Court or Judge may by such rule or order, or any subsequent rule or order, command the attendance of such judgment debtor before the person appointed to take such examination for the purpose of being orally examined as aforesaid, or the production of any writings or other documents to be mentioned in such rule or order, and may impose therein such terms as to such examination, and the costs of the application, and of the proceedings thereon and otherwise, as to such Court or Judge shall seem just.

Judge may order an attachment of debts.

10. It shall be lawful for a Judge, upon the *ex parte* application of such judgment creditor, either before or after such oral examination, and upon affidavit by himself or his solicitor stating that judgment has been recovered and that it is still unsatisfied and to what amount, and that any other person is indebted to the judgment debtor and is within the jurisdiction, to order that all debts owing or accruing from such third person (hereinafter called the sub-debtor) to the judgment debtor shall be attached to answer the judgment debt; and by the same or any subsequent order it may be ordered that the sub-debtor shall appear before the Judge, or a Registrar of the Court as such Judge shall appoint, to show cause why he should not pay the judgment creditor the debt due from him to the judgment debtor, or so much thereof as may be sufficient to satisfy the judgment debt.

Order for attachment to bind debts.

11. Service of an order that debts due or accruing to the judgment debtor shall be attached, or notice thereof to the sub-debtor, in such manner as the Judge shall direct, shall bind such debts in his hands.

Proceedings to levy amount due from sub-debtor to judgment debtor.

12. If the sub-debtor does not forthwith pay into Court the amount due from him to the judgment debtor, or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due from him to the judgment debtor, or if he does not appear upon

Bank Paper Currency.

upon summons, then the Judge may order execution to issue, and it may be sued forth accordingly, without any previous writ or process, to levy the amount due from such sub-debtor towards satisfaction of the judgment debt.

13. If the sub-debtor dispute his liability, the Judge, instead of making an order that execution shall issue, may order that the judgment creditor shall be at liberty to proceed against the sub-debtor by writ, calling upon him to show cause why there should not be execution against him for the alleged debt, or for the amount due to the judgment debtor if less than the judgment debt, and for costs of suit; and the proceedings upon such suit shall be the same as nearly as may be as upon a writ of revivor issued under the general rules of the said Court.

Judge may allow judgment creditor to sue sub-debtor.

14. Payment made by or execution levied upon the sub-debtor under any such proceeding as aforesaid shall be a valid discharge to him as against the judgment debtor to the amount paid or levied, although such proceeding may be set aside or the judgment reversed.

Sub-debtor discharged.

15. In each judicial district of the Supreme Court there shall be kept at the Registrar's Office a debt attachment book, and in such book entries shall be made of the attachment and proceedings thereon, with names dates and statements of the amount recovered and otherwise; and copies of any entries made therein may be taken by any person upon application to the Registrar.

Attachment books to be kept by the Registrars of the Court.

16. The costs of any application for an attachment of debt under this Act, and of any proceedings arising from or incidental to such application, shall be in the discretion of the Court or a Judge.

Costs of application.

LOST INSTRUMENTS.

17. In case of any action founded upon a bill of exchange or other negotiable instrument, it shall be lawful for the Court or a Judge to order that the loss of such instrument shall not be taken advantage of, provided an indemnity is given, to the satisfaction of the Court or Judge or a Registrar thereof, against the claims of any other person upon such negotiable instrument.

Actions on lost instruments.

18. This Act shall be intituled and may be cited as "*The Law Amendment Act, 1856.*"

Short Title.

No. IV.

AN ACT to enable certain Banking Companies to issue Paper Money. [7th July, 1856.]

BANK PAPER CURRENCY.
RENOX.

WHEREAS it is expedient to enable the Governor of New Zealand, with the advice of his Executive Council, to permit certain Banking Companies to issue paper money:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. It shall be lawful for the Governor or other Officer Administering the Government for the time being of New Zealand, with the advice of his Executive Council, by Proclamation in the New Zealand Government *Gazette*, from time to time to proclaim and declare that any Banking Company or Copartnership incorporated by Her Majesty's Letters Patent, which by virtue of such Letters Patent is or shall be empowered

Governor, with advice of Executive Council, may authorize Banks incorporated by Royal Charter to issue paper money.

Nelson Trust Funds Amendment.

empowered to carry on the business of a banker in New Zealand, and to issue and circulate within the said Colony the promissory notes of the Company payable to bearer on demand, may lawfully issue and circulate such notes within the said Colony, any Law or Ordinance to the contrary thereof notwithstanding, but subject to the provisions and restrictions in such Letters Patent contained.

Governor, with advice of his Executive Council, may authorize Union Bank of Australia to issue paper money.

2. It shall further be lawful for the Governor or other Officer Administering the Government for the time being of New Zealand, with the advice of his Executive Council, in like manner to proclaim and declare that the Joint Stock Company or Copartnership now carrying on the business of a banker in New Zealand under the style of "The Union Bank of Australia," may lawfully issue and circulate within the Colony the promissory notes of the Company payable to bearer on demand, any Law or Ordinance to the contrary thereof notwithstanding: Provided that all such notes bear date at the place of issue and be there payable in coin of the realm or other coin lawfully current in the said Colony.

Royal Charters granted to Banking Companies to have the effect of Acts of the Assembly.

3. All Letters Patent and Charters of Incorporation granted or to be granted by Her Majesty to Companies or Copartnerships for banking purposes, shall to all intents and purposes be as effectual within the said Colony as Acts of the General Assembly of New Zealand.

Short Title.

4. This Act shall be intituled and may be cited as "*The Bank Paper Currency Act, 1856.*"

No. V.

NELSON TRUST FUNDS AMENDMENT.

AN ACT to alter and amend "*The Nelson Trust Funds Act, 1854.*" [7th July, 1856.]

Preamble.

WHEREAS an Act was passed by the General Assembly of New Zealand, entitled "*The Nelson Trust Funds Act, 1854,*" and it is expedient to repeal certain sections of the said Act and substitute other provisions in lieu thereof:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

Repeal of sections 12, 15, and 16.

1. Sections numbered twelve, fifteen, and sixteen in the said recited Act are hereby repealed.

Remuneration of Trustees.

2. The Trustees for the time being elected under the said in part recited Act shall receive amongst them, for their attendance to the duties of trustees, a sum not exceeding in the whole the sum of one hundred pounds in any one year, but no one Trustee shall receive any fee for any meeting at which he was not present nor more than one guinea for any one meeting at which he shall attend.

Trustees to prepare a balance sheet.

3. On the first day of December in every year the said Trustees shall cause the accounts of the said trust to be balanced, and a full and fair balance sheet to be made up, and previously to such balance sheet being delivered to the Auditors the same shall be examined by and signed by three of the said Trustees, and thereupon the same shall be recorded in the books of account of the said Trustees.

Accounts to be audited.

4. Within fourteen days after the making of such balance sheet the said Trustees shall deliver the same, together with the accounts of the

English Acts.

the said trust from the last previous audit, to the Auditors, and the Auditors shall examine the same, and shall within six days after the receipt of such balance sheet and accounts either confirm such accounts and report generally thereon, or shall, if they do not see fit to confirm such accounts, report specially thereon and deliver such accounts balance sheet and report respectively to the said Trustees.

5. This Act shall be intituled and may be cited as "*The Nelson Trust Funds Amendment Act, 1856.*" Short Title.

No. VI.

AN ACT for bringing into operation within the Colony certain Acts of the Imperial Parliament.

ENGLISH ACTS.

[7th July, 1856.]

WHEREAS certain Acts of the Imperial Parliament specified in the Schedule hereunto annexed have been passed for the amendment of the law, and it is expedient that the same be adopted and brought into operation within this Colony: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. The several Acts of the Imperial Parliament specified in the Schedule hereunto annexed shall be taken to extend to this Colony, and shall be applied therein in the administration of justice in like manner as Acts of Parliament passed before the establishment of the Colony are applied. Certain Acts adopted.

2. This Act shall come into operation on the thirtieth day of September, in the year one thousand eight hundred and fifty-six. Commencement of Act.

3. This Act shall be intituled and may be cited as "*The English Acts Act, 1856.*" Short Title.

SCHEDULE.

Statute 18 and 19 Victoria, c. 43.—"An Act to enable Infants, with the approbation of the Court of Chancery, to make binding Settlements of their Real and Personal Estate on Marriage."

Statute 18 and 19 Victoria, c. 111.—"An Act to amend the Law relating to Bills of Lading."

*Nelson Wesleyan Chapel Sale.***No. VII.****NELSON WESLEYAN
CHAPEL SALE.**

AN ACT to authorize the Sale of certain Land in the Town of Nelson, and of Buildings thereon, appropriated as a Chapel and School House for the use of the Wesleyan Methodists; and to provide for the Investment of the Proceeds of Sale in the purchase of other Lands and the Erection of Buildings, to be vested in Trustees and appropriated for the like purposes. [29th July, 1856.]

Preamble.

WHEREAS by a certain deed or grant bearing date the sixth day of September, one thousand eight hundred and fifty-one, under the Seal of the Province of New Munster, all that piece or parcel of land situate lying and being in the Town of Nelson, in New Zealand, containing one-quarter of an acre, more or less, bounded on the North-east and South by Bridge Street, and on the West by Waimea Street, with all the rights and appurtenances whatsoever thereunto belonging, was granted unto James Watkin, of the Settlement of Wellington, Wesleyan Minister; Samuel Ironside, of the Settlement of Nelson, Wesleyan Minister; John Aldred, of the Settlement of Wellington aforesaid, Wesleyan Minister; William Hough, of the Settlement of Nelson, Storekeeper; Adam Jackson, also of Nelson, Carter; John Riley, also of Nelson, Carpenter; and Richard Wallis, of Waimea East, in the District of Nelson, Schoolmaster, to hold unto the said James Watkin, Samuel Ironside, John Aldred, William Hough, Adam Jackson, John Riley, and Richard Wallis, and the survivors of them, and the heirs and assigns of such survivor, upon trust to permit the said land and all buildings thereon erected or to be erected to be for ever appropriated and used as and for a chapel and school-house for the use of the people called Methodists, in the connexion established by the late Reverend John Wesley: And whereas the said site and the buildings erected thereon as aforesaid have become inappropriate for the purposes of the said trust, and the said Trustees are desirous of selling and disposing of the same, and of investing the moneys to arise from such sale in the purchase of another and more appropriate site for and the erection thereon of suitable buildings to be appropriated and used for the purposes of the said trust.

BE IT ENACTED by the General Assembly of New Zealand as follows:—

**Power to sell land
&c. at Nelson.**

1. It shall be lawful for the Trustees or Trustee for the time being of the said piece or parcel of land buildings and premises so appropriated and used as and for a chapel and school-house for the use of the people called Methodists, in the connexion established by the late Reverend John Wesley, and situated within the said Town of Nelson as aforesaid, at any time after the passing of this Act, absolutely to make sale and dispose of the said trust premises, either by public auction or by private contract, and in such manner as the said Trustees or Trustee for the time being shall think fit, and to convey the same trust premises when sold to the person or persons who shall agree to become the purchaser or purchasers thereof.

**Trustees to invest
proceeds in purchase
of other land and to
erect buildings and**

2. The said Trustees or Trustee for the time being shall, immediately after such sale, lay out and invest the money which shall arise from such sale in the purchase of an appropriate site within the said
Town

Nelson Wesleyan Chapel Sale.

Town of Nelson, and in the erection thereupon of a chapel and school-house; and the said Trustees or Trustee for the time being, and the survivors and survivor of them, and the heirs and assigns of such survivor, shall stand and be seized of the hereditaments so to be purchased as aforesaid, and of the chapel and school-house to be erected and built thereon as aforesaid, upon trust, to permit the same to be forever appropriated and used as and for a chapel and school-house for the use of the people called Methodists, in the connexion established by the late Reverend John Wesley.

hold same upon trusts for use of Wesleyan Methodists.

3. Every receipt which shall be given by the said Trustees or Trustee for the time being for the purchase money of the hereditaments hereby authorized to be sold, shall be a good valid and sufficient acquittance for the same; and every sale which shall be made, and every contract for sale which shall be entered into, and every conveyance which shall be executed by the said Trustees or Trustee for the time being, under the authority of this Act, shall be binding and conclusive on all persons claiming any benefit or interest under the trusts of the said deed of grant of the sixth day of September, one thousand eight hundred and fifty-one, saving always to the Queen's most excellent Majesty, her heirs and successors, and to all and every other person and persons, bodies politic corporate and collegiate, his her and their heirs successors executors and administrators, all such estate right title and interest (other than such as are expressly barred or meant and intended to be barred by this Act) as they every or any of them had and enjoyed, of in to or in respect of the lands and premises hereby authorized to be sold and disposed of previous to the passing of this Act, or could or might have had or enjoyed in case the same had not been made.

Trustees' receipts to be sufficient discharges.

4. In case, at any time after the sale and disposition hereby authorized to be made, the Trustees or Trustee for the time being acting in the trusts hereinbefore mentioned, or any of them, or any future Trustees or Trustee to be appointed as hereinafter mentioned, shall die or decline to act, or be absent from the Colony of New Zealand for the space of six calendar months, or be desirous of being discharged from or be incapable of acting in the said trusts or any of them, it shall be lawful for the continuing Trustees or Trustee, or the executors or administrators of the last acting Trustee, or if all the then acting Trustees shall decline to act, then for the majority of the Trustees so declining to appoint by deed any person or persons to be Trustees or Trustee in the place of the Trustees or Trustee so dying or declining to act, or being absent, or being desirous of being discharged, or becoming incapable to act as aforesaid; and upon every such appointment the trust property shall vest without any conveyance in the continuing Trustees or Trustee jointly with such new Trustees or Trustee, their heirs and assigns, as joint tenants, or if there be no continuing Trustees or Trustee, then in the new Trustees, their heirs and assigns, upon the same trusts and with the same powers as the original Trustees or Trustee.

Appointment of new Trustees.

5. This Act may be cited for all purposes as "*The Nelson Wesleyan Chapel Sale Act, 1856.*"

Short Title.

Bills of Sale Registration.

No. VIII.

BILLS OF SALE
REGISTRATION.AN ACT for preventing Frauds upon Creditors by Secret
Bills of Sale of Personal Chattels.

[29th July, 1856.]

Preamble.

WHEREAS frauds are frequently committed upon creditors by secret bills of sale of personal chattels, for remedy whereof—

BE IT ENACTED by the General Assembly of New Zealand as follows:—

Bills of sale to be void unless filed within twenty-one days.

1. Every bill of sale of personal chattels made after the passing of this Act, either absolutely or conditionally and subject or not subject to any trust, and whereby the grantee or holder shall have power either with or without notice, and either immediately after the making of such bill of sale or at any future time, to seize or take possession of any property or effects comprised in or made subject to such bill of sale, and every schedule or inventory which shall be thereto annexed or therein referred to, or a true copy thereof, and of every attestation of the execution thereof, shall, together with an affidavit of the time of such bill of sale being made or given, and a description of the residence and occupation of the person making or giving the same, or in case the same shall be made or given by any person under or in the execution of any process, then a description of the residence and occupation of the person against whom such process shall have issued, and of every attesting witness to such bill of sale, be filed with the Registrar or Deputy Registrar of the Supreme Court for the district division or province within which such bill of sale shall be made or given, within twenty-one days after the making or giving of such bill of sale (in like manner as a warrant of attorney in any personal action is now by law required to be filed), otherwise such bill of sale shall, as against all assignees of the estate and effects of the person whose goods or any of them are comprised in such bill of sale under any laws now or hereafter to be in force relative to bankruptcy or insolvency, or under any assignment for the benefit of the creditors of such person, and as against all sheriff's officers and other persons seizing any property or effects comprised in such bill of sale in the execution of any process of any Court of Law or Equity authorizing the seizure of the goods of the person by whom or of whose goods such bill of sale shall have been made, and against every person on whose behalf such process shall have been issued, be null and void to all intents and purposes whatsoever so far as regards the property in or right to the possession of any personal chattels comprised in such bill of sale, which at or after the time of any bankruptcy or insolvency, or of the execution by the debtor of such assignment for the benefit of his creditors, or of executing such process, as the case may be, and after the expiration of the said period of twenty-one days, shall be in the possession or apparent possession of the person making such bill of sale, or of any person against whom the process shall have issued under or in the execution of which such bill of sale shall have been made or given, as the case may be.

Deafezance or condition of bill of sale to be written on some paper or parchment.

2. If such bill of sale shall be made or given subject to any defeazance or condition or declaration of trust not contained in the body thereof, such defeazance or condition or declaration of trust shall for the purposes of this Act be taken as part of such bill of sale, and shall be written on the same paper or parchment on which such bill of sale shall be written, before the time when the same or a copy thereof respectively

Bills of Sale Registration.

respectively shall be filed, otherwise such bill of sale shall be null and void to all intents and purposes as against the same persons and as regards the same property and effects as if such bill of sale or a copy thereof had not been filed according to the provisions of this Act.

3. The said Registrar or Deputy Registrar shall cause every bill of sale and every such schedule or inventory as aforesaid and every such copy filed in his said office under the provisions of this Act to be numbered, and shall keep a book or books in his said office, in which he shall cause to be entered an alphabetical list of every such bill of sale, containing therein the name address and description as well of the person making or giving the same as of the person to whom or in whose favour the same shall have been given; or in case the same shall be made or given under or in the execution of any process as aforesaid, then the name addition and description of the person against whom such process shall have issued, and also of the person to whom or in whose favour the same shall have been given, together with the number and the dates of the execution and filing of the same, and the sum for which the same has been given, and the time or times (if any) when the same is thereby made payable, according to the form contained in the Schedule to this Act, which said book or books, and every bill of sale or copy thereof filed in the said office, may be searched and viewed by all persons, at all reasonable times, paying to the officer for every search against one person the sum of two shillings and no more.

Registrar to keep book containing particulars of each bill of sale.

4. There shall be paid to the Registrar or Deputy Registrar, upon the filing of every such bill of sale or a copy thereof as aforesaid, the fee or sum of two shillings and no more.

Fee for filing bill of sale.

5. Any person shall be entitled to have an office copy or an extract of every bill of sale, or the copy thereof filed as aforesaid, upon paying for the same at the rate of fourpence for every folio of seventy-two words contained in such copy or extract.

Office copies or extracts to be given on payment.

6. It shall be lawful for any Judge of the Supreme Court to order a memorandum of satisfaction to be written upon any bill of sale or copy thereof respectively as aforesaid, if it shall appear to him that the debt (if any) for which such bill of sale is given as security shall have been satisfied or discharged.

Satisfaction may be entered.

7. In construing this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such constructions, that is to say,—The expression “Bill of Sale” shall include bills of sale assignments transfers declarations of trust without transfer and other assurances of personal chattels, and also powers of attorney and authorities or licenses to take possession of personal chattels as security for any debt, but shall not include the following documents, that is to say, assignments for the benefit of the creditors of the person making or giving the same, marriage settlements, transfers or assignments of any ship or vessel or any share thereof, transfers of goods in the ordinary course of business of any trade or calling, bills of sale of goods in foreign parts or at sea, bills of lading, warehouse keepers’ certificates, warrants or orders for the delivery of goods, or any other documents used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by indorsement or delivery, the possessor of such document to transfer or receive the goods thereby represented. The expression “Personal Chattels” shall mean goods furniture fixtures and other articles capable of complete transfer by delivery, and shall not include chattel interests in real estate nor shares or interest in the stock funds or securities of any Government or in the capital or property of any Incorporated or Joint

Interpretation clause.

Building Societies Amendment.

Stock Company, nor chuses in action, nor any stock or produce upon any farms or lands which by virtue of any covenant or agreement or of the custom of the country ought not to be removed from any farm where the same shall be at the time of the making or giving of such bill of sale; and personal chattels shall be deemed to be in the "apparent possession" of the person making or giving the bill of sale so long as they shall remain or be in or upon any house mill warehouse building works yard land or other premises occupied by him, or as they shall be used and enjoyed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person.

Short Title.

8. This Act may be cited for all purposes as "*The Bills of Sale Registration Act, 1856.*"

SCHEDULE.

Name &c. of the Person making or giving the Bill of Sale or of the person divested of property.	Name &c. of the Person to whom made or given.	Whether Bill of Sale, Assignment, Transfer, or what other Assurance, and whether absolute or conditional.	Date of Execution.	Date of Filing.	Sum for which made or given.	When and how Payable.

No. IX.

BUILDING SOCIETIES
AMENDMENT.

AN ACT to amend an Ordinance of the Legislative Council of New Zealand, Session XI., No. 11, intituled "*An Ordinance for the Regulation of Building and Land Societies.*" [29th July, 1856.]

Preamble.

WHEREAS by an Ordinance of the Governor-in-Chief of New Zealand, by and with the advice of the Legislative Council thereof, passed in the fifteenth year of the reign of Her Majesty, intituled "*An Ordinance for the regulation of Building and Land Societies,*" it was amongst other things enacted that two copies, fairly printed on parchment, of all rules made in pursuance of the said Ordinance shall be submitted to the Revising Officer, and it is also provided that the number of shares held by any one member of a Building Society shall not exceed five; and it is expedient to amend such provision as follows:—

BE IT ENACTED by the General Assembly of New Zealand,—

Rules may be written or printed on paper or parchment.

1. The rules to be made and submitted to the Revising Officer, in pursuance of the said recited Ordinance, may be either fairly written or printed on paper or parchment.

Member of Building Societies may hold more than five shares in a Society.

2. It shall be lawful for any one member of any Society established under the provisions of the said in part recited Ordinance, to hold any number of shares in such Society: Provided always that any such Society may if it shall think fit, by any rule or rules certified

New Zealand Native Reserves.

certified in manner provided by the said Ordinance, prescribe a maximum number of shares to be held by any one member thereof.

3. This Act may be cited for all purposes as "*The Building Societies' Amendment Act, 1856.*" Short Title.

No. X.

AN ACT for the management of Lands set apart for the benefit of the Aboriginal Inhabitants of New Zealand. [6th August, 1856.]

NEW ZEALAND
NATIVE RESERVES.

WHEREAS in various parts of New Zealand lands have been and may hereafter be reserved and set apart for the benefit of the aboriginal inhabitants thereof, and it is expedient that the same should be placed under an effective system of management: And whereas the title of the said aboriginal inhabitants has been extinguished over some portions of such lands, and over other portions thereof such title has not been extinguished:

Preamble.

BE IT ENACTED by the General Assembly of New Zealand as follows:—

Enactment.

1. It shall be lawful for the Governor of the said Colony at any time and from time to time, by Letters Patent under the Public Seal of the Colony, to appoint persons to be Commissioners for carrying this Act into effect, who shall be styled "Commissioners of Native Reserves," and such Commissioners from time to time to remove.

Governor may appoint Commissioners.

2. Several and distinct Commissions may be issued to several and distinct sets of Commissioners with several and distinct limits of jurisdictions.

Distinct Commissions may be issued.

3. In every Commission there shall not be less than three Commissioners.

Number of Commissioners.

4. The Governor may from time to time frame and establish rules for the conduct of business under such Commissions, and may from time to time alter the same, which rules and all alterations thereof shall be published in the Government Gazette of the said Colony, and when published shall have the force of law.

Governor to frame rules of procedure.

5. The Commissioners may appoint Clerks and other officers for the necessary conduct of business under such Commissions.

Commissioners to appoint Clerks and other officers.

6. When any lands within the jurisdiction of any Commissioners shall have been or shall be reserved or set apart for the benefit of the said aboriginal inhabitants over which lands the Native title shall have been extinguished, such Commissioners shall have and exercise over such lands full power of management and disposition, subject to the provisions of this Act; and, subject to such provisions, may exchange absolutely, sell lease or otherwise dispose of such lands in such manner as they in their discretion shall think fit, with a view to the benefit of the aboriginal inhabitants for whom the same may have been set apart. And no purchaser lessee or other person paying money to such Commissioners shall be afterwards answerable for such money or be bound to see to the application thereof.

Commissioners to have full powers of management.

7. No sale exchange lease or other disposition of such lands, except a lease not exceeding twenty-one years in possession, shall be valid without the assent in writing of the Governor first obtained for every such purpose; and every conveyance lease and other disposition

Governor's assent to be necessary.

made

New Zealand Native Reserves.

made by the said Commissioners under the authority of this Act shall be valid in law provided that there shall be thereon indorsed, except on any lease not exceeding twenty-one years as aforesaid, a memorandum to be signed by the Governor declaring his assent thereto.

Lands may be set apart as special endowments.

8. The Commissioners with such assent as aforesaid may set apart any such lands as sites for churches chapels or burial-grounds, and also by way of special endowment for schools hospitals or other eleemosynary institutions for the benefit of the said aboriginal inhabitants, and may either manage such lands for the benefit of such special endowments, and may exercise in relation thereto the same powers as are hereby vested in them, or may with such assent as aforesaid transfer such lands to any person or persons body corporate or bodies corporate as Trustees of such endowments, subject to such provisions for insuring the proper application thereof as may be thought fit.

Application of moneys.

9. All moneys which shall come to the hands of the Commissioners under the provisions of this Act, except in respect of special endowments, shall be applied by such Commissioners for the benefit of the aboriginal inhabitants for whose benefit such lands may have been set apart in such manner as the Governor of the said Colony may from time to time direct.

Proceeds of special endowments.

10. All moneys which shall come to the hands of the said Commissioners in respect of special endowments shall be applied to the proper objects of such endowments.

Publication of accounts.

11. The Commissioners shall publish yearly, in the Government *Gazette* of the Province wherein such lands shall be situate, a statement of all dealings and transactions whatever respecting such lands, together with a general report of their proceedings and of the state of the property under their charge, and an account of all moneys received and expended by them under this Act.

Governor to regulate expenses.

12. The Governor in his discretion shall from time to time regulate the expenses of management and make provision for auditing the accounts.

Expenses of management.

13. Such expenses of management shall be defrayed by each set of Commissioners or by any Trustees respectively out of any money which shall come into their hands under the provisions of this Act.

Provisions of the Act extended to lands over which Native title not extinguished, with the assent of the aboriginal inhabitants.

14. Where any lands shall have been set apart or reserved for the special benefit of the said aboriginal inhabitants or any of them, or where upon any sale of lands by Natives a certain portion of the district sold shall have been or shall be specially excepted out of such sale, but over which lands so reserved set apart or excepted the Native title shall not have been extinguished, it shall be lawful for the Governor, with the assent of such aboriginal inhabitants, to be ascertained in manner provided by this Act, to declare such lands to be subject to the provisions of this Act, and to appoint Commissioners for the management thereof in like manner as if such Native title had been extinguished.

Grants may be made in severalty to aboriginal inhabitants.

15. Any set of Commissioners appointed under this Act, with the assent of the Governor, may make a conveyance or lease in severalty of any lands within the limits of their jurisdiction to any of the aboriginal inhabitants for whose benefit the same may have been reserved or excepted, either for or without valuable consideration, and either absolutely or subject to such conditions as the said Commissioners may think fit.

Governor may grant to Trustees land appropriated by aboriginal inhabitants to the endowment of schools &c.

16. Where any lands shall have been at any time heretofore or shall hereafter be set apart or appropriated by any aboriginal inhabitants entitled thereto for the sites of churches chapels or burial-grounds, and for the endowment of schools hospitals or other eleemosynary institutions for the benefit of such aboriginal inhabitants, it shall be lawful

for

Magistrates' Indemnity.

for the Governor, with the assent of the said aboriginal inhabitants, to be ascertained in manner herein provided, to grant such lands to any person or persons, whether of the Native or European race, or any body corporate or bodies corporate nominated by or on behalf of such aboriginal inhabitants, and such lands shall be held for the purpose of such special endowments with such powers as are hereby vested in Commissioners under this Act and subject to the provisions thereof: Provided always that nothing in this Act contained shall have the effect of removing any invalidity or curing any defect in any grant or other conveyance made or issued before the passing of this Act, under which any lands may have been granted or assured to any person or persons for religious charitable or educational purposes for the benefit of the aboriginal inhabitants: Provided also that nothing in this Act contained shall extend or be implied to extend to give validity to any appropriation or setting apart of any lands for such purposes as aforesaid, which have been heretofore so appropriated or set apart in contravention of any terms of purchase or contracts affecting such land.

17. The Governor shall appoint some competent person to ascertain the assent of the said aboriginal inhabitants, and such person shall proceed according to such rules as shall be prescribed in that behalf by the said Governor. And the report of such person, if adopted by the Governor, shall be final and conclusive as to such assent, and the publication of such report and the adoption thereof in the Government *Gazette* of the said Colony shall be evidence of such assent: Provided always that whenever such assent shall have been ascertained as aforesaid, the land to which the same shall relate shall be conveyed to Her Majesty, her heirs and successors, and shall then become subject to the provisions of this Act.

Assent of aboriginal inhabitants to be ascertained by some person appointed by the Governor.

18. Every act which is authorized or required to be done by the Governor under this Act shall be done only with the advice and consent of the Executive Council of the Colony.

Acts to be done with advice of Executive Council.

19. The term "Governor" shall mean the person for the time being administering the Government of New Zealand; and the term "Aboriginal Inhabitant" shall include Half-castes.

Interpretation of "Governor" &c.

20. This Act may be cited for all purposes as "*The New Zealand Native Reserves Act, 1856.*"

Short Title.

No. XI.

AN ACT to remove doubts respecting the Validity of the Appointment of certain Justices of the Peace.

MAGISTRATES' INDEMNITY.

[29th July, 1856.]

WHEREAS doubts have arisen respecting the validity of the appointments of certain persons to be Justices of the Peace, and it is expedient that such doubts be removed:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. All persons whose appointments as Justices of the Peace for the Colony or Islands of New Zealand, or for any Province of the said Colony, have at any time heretofore been notified in the New Zealand Government *Gazette*, by the direction of the Governor of the said Colony

All persons heretofore gazetted as Justices to be deemed to have been duly appointed.

Marriage Act Amendment.

Colony, or of the Officer lawfully Administering the Government thereof, shall be deemed to have been duly appointed as such Justices, notwithstanding such persons may not have been appointed by Commission under the Public Seal of the Colony, and notwithstanding any other defect or informality in their appointments.

Short Title.

2. This Act shall be intitled and may be cited as "*The Magistrates' Indemnity Act, 1856.*"

No. XII.

AN ACT to amend "*The Marriage Act, 1854.*"

[29th July, 1856.]

MARRIAGE ACT
AMENDMENT.

Preamble.

WHEREAS by the seventeenth section of "*The Marriage Act, 1854,*" it is provided that in certain cases the consent of a Judge of the Supreme Court to the marriage of a person under age may be substituted for the consent of the father guardian or mother of such person: And whereas it is expedient that the said provision be amended:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

Repealing section 17
of "*The Marriage
Act, 1854.*"

1. The said seventeenth section of the Marriage Act is hereby repealed.

In certain cases Judge
of Supreme Court
may consent to
marriage of infants.

2. In case any father guardian or mother, whose consent is made necessary by the said Act to the marriage of a person under age, shall be *non compos mentis*, or in case any such guardian shall unreasonably or from undue motives refuse or withhold his consent to a proper marriage, then it shall be lawful for any person desirous of marrying in any of the above-mentioned cases, to apply by petition to a Judge of the Supreme Court in a summary way, and in case the marriage proposed shall, upon examination, appear to be proper, such Judge shall judicially declare the same to be so, and such judicial declaration shall be deemed and taken to be as good and effectual to all intents and purposes as if the father guardian or mother of the person so petitioning had consented to such marriage.

No. XIII.

AN ACT for enabling the affairs of the Colonial Bank
of Issue to be wound up. [29th July, 1856.]NEW ZEALAND
COLONIAL BANK OF
ISSUE WINDING-UP.

Preamble.

WHEREAS it is expedient to enable the Governor of the Colony to wind up and close the affairs of the Colonial Bank of Issue:

BE IT ENACTED by the General Assembly as follows:—

Governor to wind up
the affairs of the
Bank.

1. It shall be lawful for the Governor of the Colony, at such time and in such manner as may be deemed convenient after the passing of this Act, to wind up close and settle the affairs of the Colonial Bank of Issue, and for that purpose, when and as may be deemed expedient, to call in all outstanding notes of the said Bank and pay the same
without

New Zealand Colonial Bank of Issue Winding-up.

without any power of reissuing the same; and to sell and dispose of call in and convert into money all parliamentary and public stocks or funds, and all property whatsoever held on account of the said Colonial Bank of Issue, and to apply the proceeds thereof towards satisfying the liabilities of the said Colonial Bank of Issue; and as to the surplus, if any, of such proceeds, to apply the same in such manner as shall be directed by any Act of the General Assembly; and to make good any deficiency of such proceeds out of the general revenue of New Zealand.

2. It shall be lawful for the Governor to contract with any Banking Company for the winding up of the affairs of the said Colonial Bank of Issue upon such terms and conditions as may be agreed on: Provided that in every such contract there shall be an express condition that such Banking Company shall save harmless and keep indemnified the Colony of New Zealand and the Government and revenue thereof from and against all losses and liabilities whatsoever on account of the said Colonial Bank of Issue.

May contract with any Banking Company to wind up affairs.

3. Pending the winding up and settlement of the affairs of the said Bank, it shall be lawful for the Governor from time to time to invest any moneys held on account of the said Colonial Bank of Issue upon the security of debentures charged on the public revenue of the Colony of New Zealand, or upon any other public securities of the said Colony.

Governor may make investments in Colonial or other Government securities.

4. This Act shall be entitled "*The New Zealand Colonial Bank of Issue Winding-up Act, 1856.*"

Short Title.

No. XIV.

AN ACT to enable the Governor of New Zealand to raise a Loan not exceeding One hundred thousand pounds by the issue of Debentures.

NEW ZEALAND
DEBENTURE.

[29th July, 1856.]

WHEREAS it is expedient to raise a temporary loan for the public service of the Colony of New Zealand:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. It shall be lawful for the Governor of New Zealand to borrow any sum or sums of money not exceeding in the whole the sum of one hundred thousand pounds, and to take up the same on debentures from time to time as he may deem expedient.

Governor may borrow not exceeding £100,000 on debentures.

2. Such debentures shall be in the form or to the effect set forth in the Schedule to this Act annexed, and shall on the face thereof bear the signatures of the Governor, the Colonial Secretary, and the Colonial Treasurer: Provided always that no debenture shall be issued for a sum less than ten pounds nor for any fractional part of ten pounds.

Debentures to be in the form set forth in the Schedule.

3. Every such debenture shall be dated on the day on which the same shall be issued, and shall bear interest from that day not exceeding the rate of ten pounds for every one hundred pounds by the year, payable half yearly on the first days of January and July in every year at such place in New Zealand or elsewhere as shall be therein named: Provided always that it shall be lawful for the Governor, if

To bear interest not exceeding £10 per cent. per annum.

Coupons may be appended.

New Zealand Debenture.

he shall think fit, to direct that coupons in such form as he shall approve shall be appended to all or any of such debentures, and such coupons shall be sufficient warrants or authorities for the payment of the interest therein specified as the same shall from time to time become due.

Principal and interest charged on revenue from Customs &c.

4. The principal and interest of such debentures are hereby charged upon and made payable out of the revenue arising in the Colony of New Zealand from the duties of import and export and from all taxes duties rates and imposts levied or to be levied under any Act or Acts of the said General Assembly.

No priority amongst debenture holders.

5. The holder of any debenture issued under this Act shall not have any preference over any other such holder by reason of priority of date of such debenture or otherwise.

Principal sums payable not sooner than the 1st day of July, 1858, or later than the 1st July, 1861.

6. The principal sum secured by any such debenture shall be payable on some day certain to be named in such debentures not sooner than the first day of July, one thousand eight hundred and fifty-eight, or later than the first day of July, one thousand eight hundred and sixty-one.

Interest to cease to be payable after day fixed for payment of principal.

7. Interest shall cease to be payable on any debenture issued under this Act on the day next after the day fixed for the payment thereof.

Governor to cause debentures to be sold for best prices to be obtained for same.

8. The Governor shall cause every such debenture issued under the authority of this Act to be sold, either in New Zealand or elsewhere, by public competition or otherwise, for the best price that can be obtained for the same.

Interpretation of the word "Governor."

9. In the interpretation of this Act the word "Governor" shall be deemed to include the Officer Administering for the time being the Government of the Colony of New Zealand.

Short Title.

10. This Act may be cited for all purposes as "*The Debenture Act, 1856.*"

SCHEDULE.

NEW ZEALAND DEBENTURE.

No in Words and Figures.	}	Date.	{	No in Words and Figures.
Amount in Words and Figures.	}		{	Amount in Words and Figures.

DEBENTURE for the Sum of Pounds Sterling, issued under the authority of an Act of the General Assembly of New Zealand.

ON presentation at the Colonial Treasury in New Zealand, on the day of , one thousand, eight hundred and , the bearer of this Debenture will be entitled to receive the sum of pounds sterling.

Interest in the meantime after the rate of per cent. per annum will be payable to the bearer of this Debenture on the first days of January and July in every year, at the [Colonial Treasury, Auckland, or at the Bank of Sydney, or elsewhere, as the case may be].

Dated at Government House this day of , one thousand eight hundred and and

A.B., Governor.
C.D., Col. Sec.

Entered at the Colonial Treasury, New Zealand, and issued at this day of , one thousand eight hundred and Colonial Treasurer.

NOTES.—The principal and interest of this Debenture are charged upon and payable out of the revenue arising from the duties of import and export and all taxes duties rates and imposts levied by the General Assembly,
No interest will be payable on this Debenture after the day therein fixed for the payment of the same.

Supreme Court Procedure.

No. XV.

AN ACT for regulating the Procedure of the Supreme Court. [7th August, 1856.]

SUPREME COURT
PROCEDURE.

WHEREAS the Supreme Court of New Zealand hath a legal jurisdiction similar to that of the Superior Courts of Law at Westminster, and an equitable jurisdiction similar to that of the Court of Chancery, and also a jurisdiction similar to that of the Ecclesiastical Courts of England, so far as relates to testacy and intestacy: And whereas the rules of practice and of pleading in the said several Courts are very various and conflicting, and in many respects inapplicable to the circumstances of this Colony, and unsuited to the constitution of the said Court; and it is desirable for the due administration of justice in the said Court that a uniform and simple system of procedure should be established: And whereas by certain Commissions issued by Sir George Grey, late Governor-in-Chief of this Colony, sealed with the Public Seal of this Colony, and dated respectively the nineteenth day of November, one thousand eight hundred and forty-nine, and the twenty-eighth October, one thousand eight hundred and fifty-two, the Judges of the said Supreme Court were appointed to make diligent and full inquiry into the course of proceeding in actions and other civil remedies in use in the said Court from the commencement to the termination of such proceedings, and into the process practice pleading and other matters connected therewith, and also what parts of such process practice pleading and other matters might be applicable to the said Supreme Court, and what changes it might be desirable to introduce therein, having in view the union of the said several jurisdictions and the convenience and benefit of the suitors therein: And whereas the said Commissioners have reported the result of their inquiries, and have also drawn up a body of General Rules for regulating the procedure of the said Court in all actions and civil proceedings therein: And whereas it is expedient that all existing Rules and Orders of the said Court, excepting such as are hereinafter mentioned, be revoked and repealed: And whereas it is also expedient that the said body of General Rules drawn up by the said Commissioners as aforesaid, with such amendments as have been made therein by the Legislature, be established as a code of civil procedure for the said Court, and that provision be made for enabling the Judges of the said Court, under due restrictions, to alter the Rules for the time being in force for regulating the pleading practice and procedure, both civil and criminal, of the said Court, and from time to time to make such new Rules as they may deem advisable:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. The said General Rules of Procedure and the Schedules thereto annexed (which General Rules and Schedules are set forth in the Schedule to this Act annexed) shall henceforth be the sole authority by which all matters and questions of practice pleading and procedure in all actions suits and other civil proceedings in the said Court shall be regulated and determined, except only those matters as to which the practice of any of the Superior Courts of England is in the said Rules expressly retained.

2. All the General Rules and Orders hitherto in force for regulating the practice pleading and procedure of the said Supreme Court are hereby revoked and repealed, except the Rules touching the administration of the estates and effects of persons deceased (second May,

Preamble.

General Rules in Schedule to be sole authority in all matters of practice pleading and procedure in civil proceedings in Supreme Court.

All General Rules hitherto in force revoked, except Rules touching administration of estates of deceased persons.

Superintendents Deputy.

one thousand eight hundred and forty-four), and also the Rules touching official administration (seventeenth December, one thousand eight hundred and forty-five).

Judges may make other Rules with consent of Governor and Executive Council, to be in force until termination of following Session of General Assembly.

3. It shall be lawful for the Judges of the said Court from time to time, by other Rules to be made for that purpose, to alter or revoke the Rules set forth in the Schedule to this Act annexed, or any of them, or any other Rules of the said Court which now are or hereafter shall be in force; and also from time to time to make such additional Rules touching the practice pleading and procedure of the said Court in all matters both civil and criminal as the said Judges may deem advisable: Provided always that all Rules to be made under the authority hereof shall be submitted to the Governor in Council, and upon being approved by the Governor and Executive Council, shall have the same force and effect, until the termination of the Session of the General Assembly next following their approval as aforesaid, as if they had been inserted in this Act.

Commencement of Act.

4. This Act shall come into operation on the first day of January, one thousand eight hundred and fifty-seven.

Short Title.

5. This Act may be cited for all purposes as "*The Supreme Court Procedure Act, 1856.*"

No. XVI.

SUPERINTENDENTS
DEPUTY.

AN ACT to make provision for the performance of the Duties of Superintendents during the temporary Absence of such Superintendents, and during Vacancies in the Office. [6th August, 1856.]

Preamble.

WHEREAS it is expedient that provision should be made for the more effectual performance of the duties of Superintendents of the several Provinces of New Zealand during the temporary absence of any such Superintendent, and also during any vacancy which may occur in the office of Superintendent:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

A Deputy may be appointed by Superintendent to act during his absence from the Province.

1. It shall be lawful for the Superintendent of any Province, by Proclamation to be published in the Government *Gazette* of such Province, to appoint such person as he may think fit, being a registered elector of such Province, to be his Deputy, and as such to perform and exercise all the acts and powers (except such powers as are conferred by the Constitution Act, 15 and 16 Vict. c. 72,) which may be exercised and performed by such Superintendent, or such of them only as shall be specified in such Proclamation; and the acts of such Deputy Superintendent, so far as authorized by such Proclamation, shall be as effectual in all respects as if performed by the Superintendent himself: Provided always that such Deputy Superintendent shall act only during the absence of the Superintendent from the Province, and in case of vacancy by his death resignation or otherwise during such absence, until his successor shall have been elected: Provided always that it shall not be lawful that the duties of any Superintendent shall be performed by deputy for any greater number of days collectively than one hundred and fifty in any period of twelve calendar months from the date of such Proclamation.

2. Whenever

New Zealand Loan.

2. Whenever any vacancy other than in the cases hereinbefore provided for shall arise, from death resignation or otherwise, in the office of Superintendent of any Province, all the acts and powers which may be performed and exercised by the Superintendent of any such Province (except such powers as are conferred by the said Constitution Act) shall during such vacancy (unless a Deputy as hereinbefore mentioned shall at the time exist in the Province where such vacancy shall occur) be performed and exercised by the Speaker of the Provincial Council thereof.

In case of vacancy in the office of Superintendent, Speaker of Provincial Council to perform duties.

3. This Act may be cited for all purposes as "*The Superintendents Deputy Act, 1856.*" Short Title.

No. XVII.

AN ACT for raising a Loan of Five hundred thousand pounds for the Public Service of the Colony of New Zealand. [7th August, 1856.]

NEW ZEALAND.
LOAN.

WHEREAS it is expedient to raise a loan for the purpose of liquidating the charge secured by Acts of the Imperial Parliament to the New Zealand Company, and consolidating the public debts and liabilities of the Colony of New Zealand: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. It shall be lawful for Her Majesty, her heirs and successors, to appoint one or more person or persons to be an agent or agents in England for the purpose of raising and managing the loan or loans proposed to be raised under and by virtue of this Act.

Her Majesty may appoint agents to raise and manage a loan.

2. Such agent or agents shall have full power and authority to borrow and raise in Great Britain, by bonds debentures or otherwise, such sums, not exceeding in the whole the sum of five hundred thousand pounds sterling, as the Lords Commissioners of Her Majesty's Treasury or any three of them shall, at the request of the Governor or Officer Administering the Government of the Colony of New Zealand, from time to time determine and direct.

Such agent or agents shall have power to raise any sums not exceeding £500,000.

3. Every bond debenture or other security granted under this Act shall bear interest after a rate not exceeding four pounds for every one hundred pounds by the year, shall be for such sum and in such form, shall be signed on behalf of the said Colony, and shall be transferable and negotiable, in such manner as such agent or agents shall prescribe.

Bonds &c. to be for sums and in form, and to be negotiable as prescribed by agents.

4. The interest on every such bond debenture or other security shall be payable at such times and place in London as shall be fixed and named for that purpose in such bond debenture or other security.

Interest payable in London.

5. All sums of money borrowed and raised under the authority of this Act, and interest thereon, shall be made a first charge upon the general revenue of the Colony of New Zealand.

Principal and interest charged on general revenue of the Colony of New Zealand.

6. The money to be borrowed under the authority of this Act shall be applied, in such manner as the Lords Commissioners of Her Majesty's Treasury or any three of them shall from time to time direct and appoint, to the several purposes specified and set forth in the Schedule to this Act.

Money raised to be applied to purposes set forth in Schedule.

7. The principal sums so to be borrowed and raised as aforesaid shall be made payable and repaid at the expiration of thirty years from the

Principal to be repaid at the expiration of 30 years.

Counties.

the several days on which they shall respectively be borrowed and raised as aforesaid.

Six per cent. to be paid annually to pay interest and provide a sinking fund.

8. For the purpose of paying the said interest and providing a sinking fund for the liquidation of the principal, there shall be paid yearly out of the general revenue of the Colony, to such persons as Her Majesty shall appoint, such sum as shall be equal to six per cent. per annum on the total of the principal from time to time borrowed, and after paying the interest thereout as the same shall from time to time become due, the balance thereof shall be set apart as a sinking fund, and shall be invested by such person or persons in the purchase of such securities as the Lords Commissioners of Her Majesty's Treasury or any three of them shall from time to time direct, and shall be increased by accumulation in the way of compound interest or otherwise.

Definition of general revenue of the Colony of New Zealand.

9. For the purposes of this Act the general revenue of the Colony of New Zealand shall be deemed and taken to include all the revenue which shall arise from duties of import and export, from Post Office receipts and Supreme Court fees, from the disposal of the waste lands of the Crown, and from all taxes duties rates and imposts levied or to be levied by virtue of any Act of the General Assembly of New Zealand.

Short Title.

10. This Act may be cited for all purposes as "*The New Zealand Loan Act, 1856.*"

SCHEDULE.

1. In liquidation and full discharge of the debt due to the New Zealand Company now charged on the sales and other alienations of the waste lands of the Crown in New Zealand, and towards repayment of such sums as the Province of Auckland shall have paid towards the liquidation of the said debt, the sum of £200,000.
2. In payment of any public debt of the Colony of New Zealand which shall be due on the 1st day of January, 1858, any sum not exceeding £120,000.
3. For the purpose of extinguishing the rights of the aboriginal inhabitants to lands in the Northern Island of New Zealand, any sum not exceeding £180,000.

No. XVIII.

COUNTIES.

AN ACT to authorize the Division of the Provinces of the Colony of New Zealand into Counties Hundreds and Parishes. [7th August, 1856.]

Preamble.

WHEREAS it is expedient to authorize the subdivision of the several Provinces of the Colony of New Zealand for civil purposes :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows :—

Governor empowered to divide Provinces into Counties &c.

1. It shall be lawful for the Governor or Officer for the time being Administering the Government of the said Colony, from time to time, on the recommendation of the Superintendent of any Province of the said Colony, by Proclamation to be published in the *Government Gazette* of the Colony, to divide such Province into counties, and to subdivide such counties into hundreds and parishes, or to constitute any portion of such Province a county hundred or parish (all which counties hundreds and parishes shall have such designations and limits as in and by the Proclamation constituting the same shall be pre-
scribe

Savings Bank Ordinance Amendment.

scribed), and also in like manner and on the like recommendation from time to time to alter or annul any such division or subdivision for the time being subsisting, or the designation thereof, whether made or given under the authority of this Act or prior to the passing thereof.

2. This Act may be cited for all purposes as "*The Counties Act, 1856.*" Short Title.

No. XIX.

AN ACT to amend "*An Ordinance to provide for the Management of Savings Banks.*"

SAVINGS BANK
ORDINANCE
AMENDMENT.

[6th August, 1856.]

WHEREAS by the twenty-sixth section of an Ordinance of the Lieutenant-Governor and Legislative Council of New Zealand, enacted in the Eighth Session of the said Council, intituled "*An Ordinance to provide for the Management of Savings Banks,*" provision is made for a periodical division among the depositors, in any bank established under the said Ordinance, of any surplus of the income of such Bank over and above the sum of one hundred pounds, which may remain after the payment of interest on deposits the expenses of management and other charges in the said section specified: And whereas such provision having been found practically inconvenient it is expedient that the said section be repealed:

Preamble, reciting
26th section of
Savings Banks Ordinance of 8th Session of Legislative Council.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. The said twenty-sixth section of the said Ordinance is hereby repealed.

Recited section repealed.

2. This Act may be cited for all purposes as "*The Savings Bank Ordinance Amendment Act, 1856.*"

Short Title.

No. XX.

AN ACT to amend "*An Ordinance to provide for the establishment of Resident Magistrates' Courts, and to make special provision for the Administration of Justice in certain cases,*" passed by the General Legislative Council of New Zealand, Session VII., No. 16. [15th August, 1856.]

RESIDENT MAGISTRATES' COURTS
ORDINANCE
AMENDMENT.

WHEREAS it is expedient to make further provision to secure the satisfactory administration of justice in Resident Magistrates' Courts in New Zealand:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. No Resident Magistrate after the passing of this Act shall practice or be directly or indirectly concerned as a solicitor attorney or proctor; and any Resident Magistrate so appointed who shall

No Resident Magistrate, after passing of this Act, to practice as attorney &c. under penalty of £50.

Resident Magistrates' Courts Ordinance Amendment.

shall practice or be directly or indirectly concerned as aforesaid shall for every such offence forfeit and pay the sum of fifty pounds, to be recovered by action in the Supreme Court by any one who may sue for the same.

In cases of assault Resident Magistrate to have power to imprison.

2. In every case of assault over which a Resident Magistrate shall have jurisdiction, it shall be lawful for him to adjudge in lieu of fine a term of imprisonment, with or without hard labour, not exceeding two calendar months.

Plaintiff not to divide cause of action.

3. It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions in any Resident Magistrate's Court.

Power to summon witnesses in civil cases.

4. It shall be lawful for every Resident Magistrate or Justice of the Peace to issue a summons to any person to appear and give evidence before him in any civil action then pending, and every person who shall neglect or refuse to appear as aforesaid, or who shall refuse to give evidence, shall be liable to a penalty not exceeding ten pounds, or in default of payment to be imprisoned for a term not exceeding fourteen days.

Process to be served by bailiff if one appointed.

5. In all cases where a bailiff shall have been appointed for any Resident Magistrate's Court, all process from the said Court shall be served by the bailiff or his assistants when the person upon whom the process is to be served shall reside within ten miles in a straight line from the place where the said Court is usually held, and the said bailiff or his assistants shall be entitled to receive the fees specified in Schedule A to this Act annexed, which fees shall be accounted for to the Clerk of the said Court, who shall pay over the same in like manner as other fees received by such Clerk: Provided always that all such fees shall be prepaid: Provided further that it shall be lawful for the said Resident Magistrate to refund to the said bailiff or his assistants, out of the fees which shall be received in respect of Schedule A to this Act annexed, any amount actually expended by him or them in serving such process as aforesaid.

Witnesses entitled to expenses.

6. Every person who shall be summoned and who shall appear as a witness shall be entitled to an allowance or compensation for expenses and loss of time according to the scale contained in Schedule B to this Act annexed. And in any case of nonsuit any Resident Magistrate or any two Justices of the Peace shall have power to award to the defendant such costs as to him or them shall seem reasonable, and the amount so awarded may be recovered in the same manner as if judgment had been given for the said amount.

Limitation of powers under Resident Magistrates' Ordinance.

7. And whereas it is now lawful, under and by virtue of an Ordinance intituled "*The Resident Magistrates' Ordinance*," Session VII., No. 16, for any Resident Magistrate or any two or more Justices of the Peace to hear and determine in a summary way any claim or demand whatsoever of a civil nature in which neither of the parties are of the Native race, and where the debt or damage shall not exceed twenty pounds: And whereas it is expedient that such jurisdiction should be restricted: Be it further enacted as follows:—It shall not be lawful for any Resident Magistrate nor Justices of the Peace to take cognizance of any such claim or demand in which the validity of any devise bequest or limitation under any will or settlement may be disputed, or for any malicious prosecution, or for any libel or slander, or when any title to land is in dispute, or of any action for criminal conversation, or for seduction or breach of promise of marriage.

Short Title.

8. This Act may be cited for all purposes as "*The Resident Magistrates' Courts Ordinance Amendment Act, 1856.*"

Religious Charitable and Educational Trusts.

SCHEDULES.

SCHEDULE A.

TABLE OF FEES TO BE PAID FOR SERVING PROCESS.

Serving summons or subpoena if within one mile of the Court House	...	3s.
For every extra mile (one way)	... ..	1s.
For executing warrant beyond one mile from the Court House per mile (one way)	...	1s.

SCHEDULE B.

ALLOWANCE TO WITNESSES.

For every witness residing within one mile from the Court House, a sum not exceeding	... ..	10s.
For every extra mile (one way)	... ..	1s.

No. XXI.

AN ACT to render more simple and effectual the Titles by which Property is held for Religious Charitable or Educational Purposes in New Zealand.

RELIGIOUS CHARITABLE AND EDUCATIONAL TRUSTS.

[6th August, 1856.]

WHEREAS it is expedient to render more simple and effectual the titles by which property is held for religious charitable or educational purposes in New Zealand:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. Wherever any freehold or leasehold property has been acquired or hereafter shall be acquired by or on behalf of any religious denomination congregation or society or body of persons associated for religious or charitable purposes or for the promotion of education; and wherever the conveyance assignment or other assurance of such property has been or may be taken to or in favour of a Trustee or Trustees to be from time to time appointed, or of any party or parties named in such conveyance assignment or other assurance, or subject to any trust for any such denomination congregation or society or body of persons or for the individuals composing the same; such conveyance assignment or other assurance shall not only vest the freehold or leasehold property thereby conveyed assigned or otherwise assured in the party or parties named therein, but shall also effectually vest such freehold or leasehold property in their successors in office for the time being and the old continuing Trustees if any jointly, or if there be no old continuing Trustees then in such successors for the time being wholly chosen and appointed in the manner provided or referred to in or by such conveyance assignment or other assurance, or in any separate deed or instrument, declaring the trust thereof; or if no mode of appointment be therein set forth prescribed or referred to, or if the power of appointment be lapsed, then in such manner as shall be agreed upon by such denomination or by a body constituted to represent them, or by such congregation society or body of persons, upon such and the like trusts and with and under and subject to the same powers and provisions as are contained or referred to in such conveyance or assignment or other assurance, or in any such separate deed or instrument upon which such property is held, and that without any transfer assignment conveyance or other assurance whatsoever, anything in such conveyance assignment or other assurance or in any separate

Freehold of trust property to vest in Trustees or in their successors, to be appointed as herein provided.

Religious Charitable and Educational Trusts.

separate deed or instrument contained to the contrary notwithstanding: Provided always that in case of any appointment of a new Trustee or Trustees or of the conveyance of the legal estate in any such property being made as heretofore was by law required, the same shall be as valid and effectual to all intents and purposes as if this Act had not been passed.

Evidence of appointment how to be preserved.

2. For the purpose of preserving evidence of every such choice and appointment of a new Trustee or new Trustees and of the person or persons in whom such property shall so from time to time become legally vested, every such choice and appointment of a new Trustee or new Trustees shall be made to appear by some deed under the hand and seal of the Chairman for the time being of the meeting at which such choice and appointment shall be made, and shall be executed in the presence of such meeting, and attested by two or more credible witnesses; which deed may be in the form or to the effect of the Schedule to this Act annexed, or as near thereto as circumstances will allow, and may be given and shall be received as evidence in all Courts and proceedings in the same manner and on the like proof as deeds, and shall be evidence of the truth of the several matters and things therein contained.

Grants to be deemed and taken to have conveyed &c. the fee simple of the several allotments of land mentioned therein from the date of such grants.

3. And whereas certain grants from the Crown of land in the Colony of New Zealand have been made and issued, and certain conveyances and assurances of land in the said Colony have been signed and executed, granting conveying and assuring the several allotments or parcels of land in the said grants conveyances and assurances particularly described, to the office-bearers of different religious denominations and their successors: And whereas doubts have arisen as to the estate which in law has been granted conveyed or assured by the said grants conveyances and assurances respectively, and it is expedient that the said doubts should be set at rest: Be it therefore further enacted by the General Assembly of New Zealand as follows:—Whenever any such grant conveyance or other assurance shall have been made and issued or signed and executed other than to or in favour of a Corporation, sole or aggregate, the same shall be deemed and taken to have granted conveyed and assured, from the days of the date thereof respectively, unto the person or persons designated in such grant conveyance or assurance, his or their heirs and assigns, the fee simple in the allotments of land therein respectively described and purported to be granted conveyed and assured, subject nevertheless to the trusts if any in the said grants conveyances and assurances respectively set forth concerning the same.

Trustees empowered to convey trusts &c. to new Trustees, their heirs and assigns, under trusts of model deeds.

4. And whereas with regard to the lands in the said grants conveyances and assurances described, and also to the site of chapels, ministers' dwellings, and schools of the Religious Societies denominated Wesleyan Methodists, it is expedient to make provision for creating a succession of properly qualified Trustees according to the usages of the said Society, and for defining the manner in which the trusts upon which they are respectively held shall be fulfilled: Be it therefore further enacted by the said General Assembly:—It shall be lawful for the person or persons to whom any land or hereditaments have been or shall or may be hereafter granted or conveyed by the Crown or by any person or persons whomsoever for any estate or interest upon trust for the said Religious Society denominated Wesleyan Methodists, and for the survivors or survivor of such persons, or their or his heirs or assigns, and he and they are hereby authorized and required at any time, upon the request in writing of any three or more of the members of the said Society, to convey the said trusts premises lands and hereditaments to any number of Trustees to be nominated and elected according to the usages

Religious Charitable and Educational Trusts.

usages of the Society, not being less than three, and to their heirs and assigns, in order that the said trust premises lands and hereditaments may be fully and completely vested in such Trustees, their heirs and assigns, upon the trusts and for the ends intents and purposes, and with under and subject to the powers provisions agreements and declarations mentioned expressed and declared in a model deed of the people called Methodists, late in connection with the Reverend John Wesley, to be enrolled in Her Majesty's Supreme Court of New Zealand within ninety days after the passing of this Act, after proof shall have been made, to the satisfaction of His Excellency the Governor and the Executive Council, that the same is a deed recognized as a model deed of the said Society, such proof to be certified on the said deed by indorsement to be made by the Clerk of the said Executive Council: Provided always that it shall be lawful for any one or more person or persons to whom any such lands shall have been originally granted or conveyed upon trust for the said Religious Society to act as new Trustees or Trustee if and when duly nominated and elected as aforesaid for that purpose, and the said trust premises lands and hereditaments may be re-vested in or retained by him or them either alone or in conjunction with another Trustee or other Trustees, in the same manner as if he or they had been originally a Trustee or Trustees of the said land so required to be conveyed as aforesaid.

5. In the construction of this Act the term "Office Bearers" shall be deemed to include the Roman Catholic Bishop of Auckland and the General Superintendent of the Wesleyan Mission, and any Trustee or Trustees in whom land is vested in trust for that body or on behalf of the said Religious Society denominated Wesleyan Methodists.

Construction of the term "Office Bearers."

6. This Act may be cited for all purposes as "*The Religious Charitable and Educational Trusts Act, 1856.*"

Short Title.

SCHEDULE.

MEMORANDUM of the choice and appointment of new Trustees of the following properties, viz:—[*Description of property*] situate , at a meeting of [*Description of congregation society or body of persons*] duly convened and held for that purpose at or in [*Name of place*] on [*Date*] and of which [*Name of Chairman or President, A.B.*] was Chairman and President.

Names and description of all the Trustees on the constitution or last appointment of Trustees made day of .

ADAM BELL, of .
CHARLES DIXON, of .
EDWARD FORSTER, of .

Names and descriptions of all the Trustees in whom the said property now becomes legally vested:—

First. Old continuing Trustees,—

CHARLES DIXON, of .
EDWARD FORSTER, of .

Second. New Trustees now chosen and appointed,—

BENJAMIN ADAMS, of .
JONATHAN EDMONDS, of .

Dated this day .

A. B.,
Chairman or President of the said Meeting.

Signed sealed and delivered by the said A. B., as Chairman or President of the said meeting, at and in the presence of the said meeting, on the day and year aforesaid, in the presence of ,

C. D.
E. F.

Waste Lands.

No. XXII.

WASTE LANDS.

AN ACT to empower the Superintendents and Provincial Councils to enact Laws for regulating the Sale Letting Disposal and Occupation of the Waste Lands of the Crown. [16th August, 1856.]

[Disallowed, Gazette, 4th June, 1858.]

Preamble reciting New Zealand Constitution Act and "Provincial Waste Lands Act, 1854."

WHEREAS under and by virtue of an Act of the Imperial Parliament passed in the Session holden in the fifteen and sixteenth years of the reign of Her Majesty Queen Victoria, intituled "An Act to grant a Representative Constitution to the Colony of New Zealand," and of an Act of the General Assembly of New Zealand, intituled "The Provincial Waste Lands Act, 1854," the General Assembly of New Zealand is enabled to authorize and empower the Superintendent of any Province, with the advice and consent of the Provincial Council thereof, to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown in such Province, either absolutely or upon such terms and conditions and subject to such restrictions and limitations as may be prescribed by any Act or Acts to be passed by the said General Assembly in that behalf: And whereas it is expedient that the Superintendent of any Province, with the advice and consent of the Provincial Council thereof, shall have the power to make laws as aforesaid:

BE IT ENACTED by the General Assembly of New Zealand as follows:—

Superintendents and Provincial Councils empowered to make laws for regulating sale &c. of the waste lands of the Crown.

1. Subject to the provisions in the said recited Act of the Imperial Parliament contained, it shall be lawful for the Superintendent of each of the Provinces of New Zealand, with the advice and consent of the Provincial Council thereof, at any time and from time to time to make laws for regulating the sale letting disposal and occupation of the waste lands of the Crown within such Province, and also to amend alter or repeal any Laws Ordinances or Regulations now in force for any such purposes within the same: Provided always that every Bill for such purpose shall be reserved for the signification of the Governor's pleasure thereon.

Superintendent may remove persons employed in the administration of the waste lands of the Crown and appoint others.

2. It shall be lawful for each of the Superintendents of the said Provinces respectively to remove any person now employed in the administration of the waste lands of the Crown in such Province, and provisionally, until other provisions be made by law in that behalf, to appoint any other person or persons with full powers to perform and exercise all the powers duties and functions which may be performed or exercised by any person so removed.

Persons specially appointed by Superintendent may perform functions now vested in Commissioner of Crown Lands.

3. Where, by any Law or Ordinance, or any regulations in force within any Province, any act matter or thing is authorized or required to be done or performed by or in relation to a Commissioner of Crown Lands, every such act matter or thing shall, until other provision be made by law in that behalf, be valid and effectual if done or performed by or in relation to a person specially appointed in that behalf by the Superintendent of such Province, by warrant under his hand.

Governor authorized to fulfil contracts &c.

4. It shall be lawful for the Governor at any time to fulfil and perform any contract promise or engagement heretofore made, under the authority of law, by or on behalf of Her Majesty with respect to any lands situate in any of the said Provinces, and nothing contained in this Act, or in any law made in pursuance hereof, shall prejudice any such contract promise or engagement, or any subsisting rights

Public Offices.

rights or claims in respect of land or land orders land scrip or government scrip.

5. It shall moreover be lawful for the Governor at any time and from time to time to except from sale, and either reserve to Her Majesty, her heirs and successors, or to dispose of in such other manner as for the public interest may seem best, such of the said waste lands in any of the said Provinces as may be required for the purposes of military defence, or for the construction of trunk lines of road, or as sites for public buildings for the use of the General Government; and all such exceptions shall be deemed to have been made whenever the Governor by writing under his hand shall have notified to the Superintendent of the Province in which any land so excepted is situate, that the same is required for any of the purposes aforesaid, and such notification shall have been published in the *New Zealand Government Gazette*: Provided always that no lands hereafter acquired from the aboriginal inhabitants shall be open for sale or disposal until the Governor shall have notified, by Proclamation in the *New Zealand Government Gazette*, that the Native title shall have been extinguished over such lands.

Governor empowered to make reserves.

6. The term "Governor" shall mean the person for the time being lawfully administering the Government of New Zealand.

Interpretation of the word "Governor."

7. This Act may be cited for all purposes as "*The Waste Lands Act, 1856.*"

Short Title.

No. XXIII.

AN ACT to enable the Governor to Sell certain Allotments of Land in the City of Auckland and apply the proceeds towards erecting Public Offices.

PUBLIC OFFICES.

[16th August, 1856.]

WHEREAS several allotments or parcels of land situate in the City of Auckland have been set apart and are now used as the sites of public offices for some of the departments of the General Government of New Zealand: And whereas it is desirable to enable the Governor to sell and dispose of the said allotments or parcels of land, and the buildings erected thereon, and to apply the proceeds towards building public offices on more convenient sites:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. It shall be lawful for the Governor or other Officer for the time being lawfully Administering the Government of New Zealand, whenever he shall think fit, to sell and dispose of all or any of the said allotments or parcels of land more particularly mentioned and described in the Schedule to this Act annexed, or any part thereof, by public auction, either altogether or in lots, and to make and execute in the name and on behalf of Her Majesty, under the Public Seal of the said Colony, any grant or grants to the purchaser or purchasers thereof, and every such grant shall be deemed to convey an estate in fee simple free from incumbrances and without liability on the part of the purchaser or purchasers to see to the application of the purchase money.

Governor authorized to sell allotments of land described in Schedule.

2. The money to arise from every such sale shall be applied, first, in payment of any expenses attending the same, and secondly in or towards

Money to be applied towards erecting public offices for General Government.

Privileges.

towards the erection of public offices on some convenient site or sites in the City of Auckland for the General Government of New Zealand, and any surplus shall be disposed of as directed by the General Assembly of New Zealand.

Short Title.

3. This Act may be cited for all purposes as "*The Public Offices Act, 1856.*"

SCHEDULE.

1. All that allotment or parcel of land situate in Princes Street, in the City of Auckland, and being allotment No. 1 of Section No. 7 of the said city, containing 1 rood 7 perches.
2. All that other parcel of land situate in Princes Street, in the City of Auckland, and being the eastern half of allotment No. 17A of Section No. 4 of the said city, containing 13 perches.
3. All that other parcel of land in the City of Auckland, having a frontage to High Street of 57 feet and a frontage to Chancery Street of 67 feet 6 inches, and being a part of allotment No. 4 of Section 4 of the said city, and which said parcel of land with the buildings thereon was purchased for or on behalf of the Government of New Zealand for public offices of certain departments of the Government.

No. XXIV.

PRIVILEGES.

AN ACT to declare certain Privileges of Legislative Bodies and Officers of the Government of the Colony and Provinces of New Zealand, to confer certain Powers on the said Legislative Bodies, and to give Protection to Persons employed in the Publication of Papers under the authority of the same. [14th August, 1856.]

Preamble.

WHEREAS it is essential to the due and effectual exercise and discharge of the duties and functions of the several Legislative Bodies in the Colony of New Zealand, and of the officers of the Government of the said Colony and of the several Provinces thereof, that certain of the privileges immunities and powers of the said Legislative Bodies and of the said officers should be defined and declared by Legislative enactment: And whereas it is also essential for the objects aforesaid that certain powers should be conferred on the said Legislative Bodies, and that no obstruction or impediment should exist to the publication of such of the reports papers votes and proceedings of the said Legislative Bodies as they shall respectively deem fit or necessary to be published:

BE IT THEREFORE DECLARED AND ENACTED by the General Assembly of New Zealand as follows:—

1. The Speaker of any such Legislative Body, acting under a standing or special order of the Legislative Body over which he presides, hath and hereafter shall have power to direct all such proceedings as he may consider essential to the maintenance of order within such Legislative Body during the sittings thereof, and if any person, whether a Member of such Legislative Body or not, being within the place of assembling of any such Legislative Body, shall refuse or neglect to obey the order of the Speaker, or shall otherwise wilfully disturb the said Legislative Body, he may by warrant of the Speaker be forthwith

Persons refusing to obey Speaker liable to a penalty.

Privileges.

forthwith committed to the custody of the Sergeant-at-Arms or other officer of such Legislative Body who may be appointed in that behalf, and such person so offending shall be liable to pay such penalty, not exceeding twenty pounds, as shall be imposed by such Legislative Body, and in default of payment thereof shall be liable to be imprisoned in some common gaol or other convenient place to be named by the Speaker, for any period not exceeding one month, to be fixed by such Legislative Body, or until such fine shall be paid.

2. The two Houses of the General Assembly shall severally have power, by the warrant of the Speakers thereof respectively, to require all persons whomsoever, except the Governor, to attend such House or any Committee of the same for the purpose of giving evidence, and also to require all public officers of the Colony (except the Governor) and all public officers of any Province thereof to produce any books papers and documents relating to the public service.

Powers of the two Houses of the General Assembly to compel attendance to give evidence.

3. The Provincial Councils of the Provinces of New Zealand shall severally have power, by warrant of the Speakers thereof respectively, to require all persons whomsoever within any such Province, except the Governor, the Judges of the Supreme Court, the Members of the Executive Council of the Colony, the Members of the General Assembly, and the Superintendents of Provinces, to attend such Provincial Council, or any Committee of the same, for the purpose of giving evidence on any matter relating to the public service of the Province, and also to require all such persons within such Province, except as aforesaid, to produce any books papers and documents relating to the public service thereof: Provided that no such attendance before such Council or Committee shall be required to continue beyond a longer period than six consecutive days during any one Session.

Power of Provincial Council to compel attendance of persons to give evidence &c.

4. Any person refusing or neglecting to obey any such warrant as aforesaid, to attend or to produce such papers as aforesaid, or to answer any questions pertinent to the matter in question put to him by such Legislative Body or Committee, shall be liable, unless some reasonable cause shall be shown, to such penalty not exceeding twenty pounds as shall be imposed by such Legislative Body, and in default of payment thereof may be committed to a common gaol or other convenient place to be named by the Speaker for a period not exceeding one month, to be fixed by such Legislative Body, or until such fine shall be paid: Provided always that such person's attendance as a witness or a juror in any Court of Justice, after having been duly required to attend by lawful process, shall (amongst others) be deemed a reasonable excuse, and no person shall be compelled to answer any question to which an answer could not be required from a witness on examination in the Supreme Court: Provided also that every person who shall attend to give evidence in obedience to any such warrant shall be entitled to receive expenses equal in amount to those allowed to witnesses under like circumstances by the Supreme Court.

Persons refusing or neglecting to obey warrant liable to penalty.

5. Nothing in the foregoing provisions of this Act shall apply to any officer or other person serving on full pay in Her Majesty's Army or Navy, unless such officer or other person shall hold some civil appointments in the Colony, and the purposes for which the said provisions are enforced shall have reference to the civil government thereof.

Nothing in these provisions to apply to officers of the Army or Navy.

6. All words spoken by any Member of any Legislative Body in his place therein or in any Committee thereof, and all words spoken by any person in evidence before any such Legislative Body or any Committee of the same, and all words spoken by the Superintendent of any Province in addressing any Provincial Council, and all written communications from any officer of the Government of the Colony,

Members or persons giving evidence and officers of Government not liable to actions for libel in certain cases.

Privileges.

or of any Province thereof, to any other person whomsoever, on or relating to the public service of the said Colony or of such Province, shall be taken and deemed to be words spoken or communications written under privilege, and no such person shall be liable to any action suit prosecution or other proceeding for libel or scandal on account of such words or communications, in any Court of Law, unless it shall be proved that the same were spoken or written without probable cause, and that the person speaking or writing the same was actuated by malice towards the person affected thereby, or if it shall be proved that the same were substantially true.

Act to be deemed in force from proclamation of Constitution Act.

7. The privileges and immunities hereinbefore declared or conferred shall be deemed to have existed in full force from the date of the proclamation of the Constitution Act within the said Colony, and no person shall be liable to any action suit prosecution or other legal proceedings in respect of any communication or words written or spoken by him which are declared to be privileged by this Act; and all actions suits prosecutions or other legal proceedings which have been brought or commenced in respect of any such communications or words shall forthwith abate and discontinue, and no execution or other proceedings shall be allowed to issue or be taken in respect thereof: Provided always that the plaintiff in any such action suit prosecution or other proceedings so abating or being discontinued by virtue hereof as aforesaid, shall be entitled to his taxed costs up to the day of such abatement or discontinuance.

Proceedings criminal or civil against persons for publication of reports &c. by order of any Legislative Body, to be stayed upon production of a certificate, verified by affidavit, to the effect that such publication is by order of such Legislative Body.

8. It shall be lawful for any person who now is or hereafter shall be a defendant in any civil or criminal proceeding commenced or prosecuted in any manner soever for or on account or in respect of the publication of any report paper votes or proceedings by such person or by his servant, or by or under the authority of any such Legislative Body, to bring before the Court in which such proceeding shall have been or shall be so commenced or prosecuted, or before any Judge of the same, first giving twenty-four hours' notice of his intention so to do to the prosecutor or plaintiff in such proceeding, or to his solicitor, a certificate under the hand of the Speaker of such Legislative Body, stating that the report paper votes or proceedings, as the case may be, in respect whereof such civil or criminal proceedings shall have been commenced or prosecuted, was published by such person or by his servant by order or under the authority of such Legislative Body, together with an affidavit verifying such certificate, and such Court or Judge shall thereupon immediately stay such civil or criminal proceeding, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to determined and superseded by virtue of this Act.

Any such proceeding to be stayed when commenced or prosecuted in respect of a copy of any report verified by affidavit.

9. In case of any civil or criminal proceeding heretofore or to be hereafter commenced or prosecuted for or on account or in respect of the publication of any copy of such report paper votes or proceedings, it shall be lawful for any defendant at any stage of the proceedings to lay before the Court or Judge such report paper votes or proceedings, and such copy with an affidavit verifying such report paper votes or proceedings and the correctness of such copy, and the Court or Judge shall immediately stay such civil or criminal proceeding, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to determined and superseded by virtue of this Act.

In proceedings for printing any extract or abstract of any report &c. if shown that such extract or abstract was bona

10. It shall be lawful, in any civil or criminal proceeding heretofore or to be hereafter commenced or prosecuted for printing any extract from or abstract of any such report paper votes or proceedings, to give in evidence under the general issue such report paper votes or proceedings,

Customs Duties.

proceedings, and to show that such extract or abstract was published *bonâ fide* and without malice, and if such shall be the opinion of the jury, a verdict of not guilty shall be entered for such defendant. *Ade* made, defendant entitled to verdict of not guilty.

11. All Members of the Executive Council of the Colony, and all Superintendents of Provinces, shall be exempt from serving on any jury whatever, and all Members of the General Assembly shall be exempt from serving on any jury and from attending any Court of Justice as a witness during any Session of the General Assembly, and during such time as shall be reasonably required for going to or returning from the place of meeting of such Assembly, to attend any Session thereof. Exemption from serving on juries and attendance as a witness or juror during Session.

12. Nothing in this Act contained shall be deemed taken held or construed, directly or indirectly, by implication or otherwise, to restrict in any manner whatsoever the privileges or immunities of any such Legislative Body, or of any person or persons not expressly named in this Act. Act not to affect privileges of any Legislative Body or other persons.

13. The word "Governor" shall mean the person for the time being lawfully administering the Government of the Colony; the word "Officer of the Government," when referable to any Province, shall be deemed to include the Superintendent of such Province; the words "Legislative Body" shall be taken to include the Legislative Council, the House of Representatives, and the several Provincial Councils now or hereafter existing within the Colony; and words importing the masculine gender only, shall include females. Interpretation of words "Governor," "Legislative Body," &c.

14. This Act may be cited for all purposes as "*The Privileges Act, 1856.*" Short Title.

No. XXV.

AN ACT to alter the Duties of Customs.

CUSTOMS DUTIES.

[11th August, 1856.]

WHEREAS it is expedient to alter the duties of Customs payable on the importation of goods wares and merchandise into the Colony of New Zealand: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. Any duties of Customs chargeable upon the goods wares and merchandise next hereafter mentioned, imported into the Colony of New Zealand, shall cease and determine from and after the fifth day of August, one thousand eight hundred and fifty-six, viz.:— Duties chargeable on goods specified to cease from 5th of August, 1856.

1. All articles for the supply of Her Majesty's land and sea forces.
2. Animals, living.
3. Bricks, slates, and stones for building purposes, and mill stones
4. Boats.
5. Books, printed, not being account books.
6. Bottles full of an article subject to duty.
7. Bullion and coin.
8. Casks, empty.
9. Coal.
10. Corn, grain, meal, flour, bread, and biscuit.
11. Gunpowder, fit only for blasting purposes.
12. Iron, pig.
13. Machinery, viz., brick and tile making, draining, flax hay and wool pressing, straw and turnip cutting, reaping thrashing and winnowing machines, steam engines and apparatus for ditto, and machinery for mills, including hand flour mills.

14. Manure.

Customs Duties.

- 14. Manure.
- 15. Oil, blubber, and bone, being the produce of fish or marine animals.
- 16. Plants, bulbs, trees, and seeds.
- 17. Passengers' personal baggage.
- 18. Ploughs and harrows.
- 19. Specimens illustrative of Natural History.
- 20. Tobacco for sheep wash, subject to its being rendered unfit for human consumption, and to such regulations as the Governor shall from time to time prescribe in that behalf.

Duties chargeable on goods specified to cease and other duties to be charged.

2. The duties of Customs now chargeable on the importation of goods wares and merchandise next hereafter specified shall cease and determine, and in lieu thereof the following duties shall be charged on all such goods wares and merchandise imported into the Colony of New Zealand or cleared from any warehouse for home consumption, from and after the fifth day of August, one thousand eight hundred and fifty-six, viz. :—

	s.	d.
1. Ale, beer, cider, and perry, in wood, the gallon ...	0	6
Ale, beer, cider, and perry, in bottle, the gallon ...	1	0
2. Cigars and snuff, the lb. ...	3	0
3. Coffee, chicory, cocoa, and chocolate, the lb. ...	0	2
4. Iron, rod, bar, bolt, hoop, and sheet, not otherwise manufactured, per cwt. ...	1	0
5. Salt, per cwt. ...	1	0
6. Spirits and strong waters of every kind, sweetened or otherwise, of any strength not exceeding the strength of proof by Syke's hydrometer, and so on in proportion for any greater strength than the strength of proof, the gallon ...	8	0
7. Sugar, raw and refined, of all kinds, and treacle and molasses, the lb. ...	0	0½
8. Tea, the lb. ...	0	3
9. Tobacco, the lb. ...	1	3
10. Wine, in wood and bottle, containing less than 25 per cent. of alcohol of a specific gravity of .825 at the temperature of 60 degrees Fahrenheit's thermometer, the gallon ...	3	0
11. Wood of all kinds not manufactured into furniture, the cubic foot ...	0	2
12. Boots and shoes, hats, apparel of all kinds and all material for making apparel, jewellery, cutlery, clocks, watches, and plated ware, and all silk, woollen, cotton, and linen manufactures (except corn and gunny bags and wool-packs), sperm, stearine, and wax candles (measuring outside the packages), the cubic foot ...	3	0
13. All other goods wares and merchandise (measuring outside the packages), the cubic foot ...	1	0
Or at the option of the principal officer of Customs at the port of entry at which the same shall be imported, the cwt. ...	2	0

Remission of duties on wines for the consumption of military and naval officers.

3. A drawback of the whole of such duties shall be allowed for wines intended for the consumption of the officers of Her Majesty's Troops serving in the Colony of New Zealand, and of the officers of Her Majesty's Navy serving on board any of Her Majesty's ships in the seas adjoining thereto, or such wines may be landed on first importation or delivered out of bond free of duty, subject in all cases to such regulations as the Governor shall from time to time prescribe :

Provided

Governor's Salary.

Provided always, if any such wines shall be subsequently sold in the said Colony, except for the use or consumption of any of Her Majesty's military or naval officers serving as aforesaid, the same shall be forfeited and liable to seizure accordingly.

4. All duties of Customs under this Act shall be charged and paid according to the standard Imperial weights and measures, and where such duties are charged according to any specified quantity weight or size, the same shall be chargeable in proportion on any greater or less quantity weight or size.

Duties to be charged according to standard Imperial weights and measures.

5. The duties of Customs imposed by this Act shall be raised levied collected and paid in like manner as if the said duties had been imposed by the Ordinance, Session I., No. 3, to provide for the collection of duties imposed on goods imported into and for the general regulation of the revenue of Customs in the Colony of New Zealand and its dependencies, and subject also to all such provisions and regulations as may for the time being be in force under or by virtue of any local Act or Ordinance for the collection and for the general regulation of the revenue of Customs in the Colony of New Zealand.

How to be levied and paid.

6. And whereas contracts or agreements may have been made for the sale or delivery of some of the goods or commodities on which increased or additional duties of Customs are by this Act imposed, which contracts or agreements may have been made with no reference to such additional duties, and thereby the several contractors may be materially affected: For remedy thereof be it enacted that every person who shall have made or entered into any such contract or agreement shall be and is hereby authorized and empowered, in the case of any such contract or agreement, to add so much money as will be equivalent to the increased or additional duty hereby granted on any such goods or commodities respectively to the price thereof, and shall be entitled by virtue of this Act to be paid and to sue for and recover the same accordingly.

Additional duties may be added to prices agreed on in existing contracts.

7. The term "Governor" shall mean the person for the time being lawfully administering the Government of the Colony of New Zealand.

Interpretation of term "Governor."

8. This Act may be cited for all purposes as "*The Customs Duties Act, 1856.*"

Short Title.

No. XXVI.

An ACT to alter the Civil List granted to Her Majesty by the Constitution Act so far as relates to the Salary of the Governor. [15th August, 1856.]

GOVERNOR'S SALARY.

[Reserved for Her Majesty's assent. Assented to, *Gazette*, August 5, 1857.]

WHEREAS by an Act of the Imperial Parliament passed in the Session held in the fifteenth and sixteenth years of the reign of Her Majesty Queen Victoria, intituled "*An Act to grant a Representative Constitution to the Colony of New Zealand*," it is enacted that there shall be payable to Her Majesty every year, out of the revenue arising from taxes duties rates and imposts, and from the disposal of the waste lands of the Crown in New Zealand, the several sums mentioned in the Schedule to the said Act annexed: And whereas the salary payable to the Governor by the said Schedule is two thousand five hundred pounds per annum: And whereas it is by the

Preamble reciting creation of civil list by Constitution Act.

Auckland Hospital and Grammar School Reserves.

said Act further enacted that it shall be lawful for the General Assembly of New Zealand, by any Act or Acts, to alter all or any of the sums mentioned in the said Schedule, but that every Bill which shall be passed altering the salary of the Governor should be reserved for the signification of Her Majesty's pleasure thereon: And whereas it is expedient that the salary payable to the said Governor by the said Schedule should be altered as hereinafter provided:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

£3,500 instead of
£2,500 payable to
Her Majesty as the
salary of the
Governor.

1. There shall be payable to Her Majesty every year out of the revenue arising from taxes duties rates and imposts levied under any Act or Acts of the said General Assembly, and from the disposal of the waste lands of the Crown in New Zealand, the sum of three thousand five hundred pounds as and for the salary of the Governor instead and in lieu of the sum of two thousand five hundred pounds as provided by the said Schedule.

£3,500 instead of
£2,500 to be payable
from the 1st day of
July, 1856.

2. As soon as this Act shall come into operation in accordance with the fifty-ninth section of the said recited Act of the Imperial Parliament, the said salary of three thousand five hundred pounds shall be deemed to have commenced from the first day of July, one thousand eight hundred and fifty-six.

Short Title.

3. This Act may be cited for all purposes as "*The Governor's Salary Act, 1856.*"

No. XXVII.

AUCKLAND HOSPITAL
AND GRAMMAR
SCHOOL RESERVES.

AN ACT to vest in the Superintendent of the Province of Auckland certain Lands heretofore granted to Trustees as Reserves for a Hospital and for Grammar Schools. [14th August, 1856.]

Preamble.

WHEREAS by three several Crown Grants bearing date respectively the twenty-fourth day of August, one thousand eight hundred and fifty, the twenty-eighth day of October, one thousand eight hundred and fifty, and the twenty-fourth day of April, one thousand eight hundred and fifty-one, all those several allotments or parcels of land mentioned or described in the First Schedule to this Act annexed were granted to Andrew Sinclair, Esquire, the Colonial Secretary, William Swainson, Esquire, the Attorney-General, and Alexander Shepherd, Esquire, the Colonial Treasurer, and other the person or persons for the time being respectively discharging the duties of the said offices, upon trust for the site and for an endowment for or towards the maintenance and support of a hospital, as in the said grants respectively mentioned, and upon further trust to convey the said allotments or parcels of land unto such other person or persons, either jointly with themselves or otherwise, as the Governor of the Province of New Ulster should from time to time in writing under his hand direct and appoint, subject nevertheless to the trusts and with the powers in the said grants respectively declared and contained: And whereas by three several deeds poll bearing date respectively the twentieth day of April, one thousand eight hundred and fifty-four, and indorsed on the three said recited Crown Grants respectively, all those same allotments or parcels of land were conveyed and assured unto Robert Henry Wynyard

Recital of grants to
Trustees of reserves
for a hospital.

Of conveyances to
new Trustees.

Auckland Hospital and Grammar School Reserves.

Wynyard, Superintendent of the Province of Auckland, Frederick Whitaker, Daniel Pollen, John Anderson Gilfillan, and James Thomas Boylan, Members of the Executive Council of the said Province, and James O'Neill and Patrick Dignan, and unto the Superintendent and Members of the Executive Council of the said Province for the time being, to hold the said allotments or parcels of land upon the trusts and with the powers by the said recited Crown Grants expressed and declared of and concerning the same: And whereas by four other Crown Grants bearing date respectively the twenty-fourth day of October, one thousand eight hundred and fifty, the twenty-eighth day of October, one thousand eight hundred and fifty, the fourteenth day of April, one thousand eight hundred and fifty-one, and the ninth day of December, one thousand eight hundred and fifty-three, all those several allotments or parcels of land mentioned or described in the Second Schedule to this Act annexed were granted to Andrew Sinclair, Esquire, the Colonial Secretary, William Swainson, Esquire, the Attorney-General, and Alexander Shepherd, Esquire, the Colonial Treasurer, or other the person or persons for the time being respectively discharging the duties of the said offices, upon trust as an endowment for or towards the maintenance of a college and grammar school or schools as in the said grants respectively mentioned, and upon further trust to convey the said allotments or parcels of land unto such other person or persons, either jointly with themselves or otherwise, as the Governor of the Province of New Ulster should from time to time in writing under his hand direct and appoint, subject nevertheless to the trusts and with the powers in the said grants respectively declared and contained: And whereas by four several deeds poll indorsed on the lastly recited Crown Grants, three of which indorsed deeds bear date respectively the twentieth day of April, one thousand eight hundred and fifty-four, and the fourth of which indorsed deeds bears date the eighth day of May, one thousand eight hundred and fifty-four, all those same allotments or parcels of land were conveyed and assured unto Archibald Clark, Laughlin O'Brien, William Connell, Thomas Russell, David Nathan, John Anderson Gilfillan, and Frederick Ward Merriman, to hold the same upon the trusts and with the powers by the said Crown Grants respectively expressed and declared of and concerning the same: And whereas doubts have arisen as to the validity and effect of the said recited Crown Grants and the said recited conveyances, and the Trustees, by such conveyances appointed, have not taken upon themselves the trusts thereof: And whereas, in order to the due management and administration of the said trusts lands, it is expedient that the same should be vested in the Superintendent of the Province of Auckland and his successors, subject to the provisions of an Act of the General Assembly of New Zealand, entitled "*The Public Reserves Act, 1854*:"

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. All the lands mentioned or described in Schedule A to this Act annexed are hereby vested in the Superintendent of the Province of Auckland and his successors, and shall for all purposes whatsoever be deemed to have been lands duly granted to him and his successors, under "*The Public Reserves Act, 1854*," for the purposes specified respectively in the three several Crown Grants firstly hereinbefore recited.

2. All the lands mentioned or described in Schedule B to this Act annexed are hereby vested in the Superintendent of the Province of Auckland and his successors, and shall for all purposes whatsoever be deemed

Recital of grants to Trustees of reserves for college and grammar schools.

Of conveyances to new Trustees.

Of doubts of validity of grants.

Lands described in Schedule A vested in Superintendent of Auckland subject to certain trusts.

Lands described in Schedule B vested in Superintendent of Auckland subject to certain trusts.

Auckland Hospital and Grammar School Reserves.

deemed to have been land duly granted to him and his successors under "*The Public Reserves Act, 1854*," for the purposes specified respectively in the four several Crown Grants secondly hereinbefore recited.

Leases heretofore granted valid.

3. All leases heretofore made of any portions of the said lands shall be deemed to have been valid leases of the land therein respectively comprised, notwithstanding any defect in the title of the Trustees by whom the said leases were respectively made.

Arrears of rent payable to Superintendent.

4. All rents and arrears of rent and other moneys now due or recoverable in respect of any of the said lands, or in respect of the occupation thereof, shall be payable and paid to and recoverable by the said Superintendent and his successors.

Rights &c. of Superintendent same as though leases granted by him.

5. The said Superintendent and his successors shall in all respects have and exercise all the rights remedies and powers as though the said leases respectively had been duly made by the said Superintendent to the respective lessees therein named.

Short Title.

6. This Act may be cited for all purposes as "*The Auckland Hospital and Grammar School Reserves Act, 1856*."

SCHEDULES.

SCHEDULE A.

1. All that allotment or parcel of land, containing one rood and one perch (more or less), being No. 12 of Section No. 4 of the Town of Auckland, in the Parish of Waitemata, in the County of Eden.
2. All that allotment or parcel of land, containing one rood and thirty-seven perches (more or less), being No. 16 of Section No. 7 of the Town of Auckland aforesaid.
3. All that allotment or parcel of land, containing one rood and three perches (more or less), being No. 8 of Section No. 15 of the Town of Auckland aforesaid.
4. All those allotments or parcels of land, containing one rood and thirty-six perches (more or less), being Nos. 7, 8, 9, and 10 of Section No. 9 of the Town of Auckland aforesaid.
5. All that piece or parcel of land, containing thirteen perches (more or less), being the western half of allotment No. 17A of Section No. 4 of the Town of Auckland aforesaid.
6. All that allotment or parcel of land, containing two roods and sixteen perches (more or less), being No. 1 of Section No. 31 of the Town of Auckland aforesaid.
7. All that allotment or parcel of land, containing seven acres and one rood (more or less), being No. 21A of Section No. 11 of the Suburbs of Auckland aforesaid.
8. All that allotment or parcel of land, containing fourteen acres and eight perches (more or less), being No. 8A of Section No. 12 of the Suburbs of Auckland aforesaid.
9. All that allotment or parcel of land, containing fifty-three acres (more or less), being No. 7A of Section No. 12 of the Suburbs of Auckland aforesaid.
10. All that allotment or parcel of land, containing twenty-seven acres and twenty-three perches (more or less), being No. 17A of Section No. 12 of the Suburbs of Auckland aforesaid.
11. All that allotment or parcel of land, containing four acres and one rood (more or less), being No. 14A of Section No. 12 of the Suburbs of Auckland aforesaid.
12. All those allotments or parcels of land, containing one hundred and two acres one rood and twenty-four perches (more or less), being Nos. 14, 15, 16, 17, and 20 of the Parish of Takapuna, County of Eden aforesaid.
13. All that allotment or parcel of land, containing thirty-one acres and two roods (more or less), being No. 18 of Section No. 9 of the Suburbs of Auckland aforesaid.
14. All that allotment or parcel of land, containing forty acres (more or less), being No. 24 of Section No. 6 of the Suburbs of Auckland aforesaid.
15. All that section, containing three acres three roods and twenty-seven perches (more or less), being Section No. 98 of the Suburbs of Auckland aforesaid.
16. All that allotment or parcel of land, containing twelve acres (more or less), situated in the Suburbs of Auckland aforesaid, being allotment No. 41 of Section No. 3.
17. All that allotment or parcel of land, containing by admeasurement three acres and fourteen perches (more or less), situated in the Suburbs of Auckland aforesaid, being allotment No. 1 of Section No. 99.

SCHEDULE B.

Friendly Societies.

SCHEDULE B.

1. All that allotment or parcel of land, containing by admeasurement three acres (more or less), situate in the Town of Auckland aforesaid, being No. 1 of Section No. 10.
2. All those allotments or parcels of land, containing one rood and thirty-six perches (more or less), situated in the Town of Auckland aforesaid, and being Nos. 11, 12, 13 and 14 of Section No. 9.
3. All those allotments or parcels of land, containing sixteen acres and twenty perches (more or less), situated in the Suburbs of Auckland aforesaid, and being Nos. 2c, 2d, 2e, and 2f of Section No. 10.
4. All those allotments or parcels of land, containing one acre one rood and twenty perches (more or less), situated in the Town of Auckland aforesaid, and being Nos. 14, 15, 16, 17, and 18 of Section No. 22.
5. All those allotments or parcels of land, containing fourteen acres one rood and twenty-seven perches, situated in the Suburbs of Auckland aforesaid, and being Nos. 18 and 19 of Section No. 4.
6. All that allotment or parcel of land, containing one hundred and fifty-five acres (more or less), situated in the Parish of Pakuranga, in the County of Eden aforesaid, and being farm No. 59.
7. All that piece or parcel of land situated in the Parish of Pakuranga aforesaid, containing fifty-three acres (more or less), being part of farm No. 17.
8. All that allotment or parcel of land, containing nine acres and one rood (more or less), situated in the Suburbs of Auckland aforesaid, and being No. 9 of Section No. 95.
9. All those allotments or parcels of land, containing nineteen acres and two roods (more or less), situated in the Suburbs of Auckland aforesaid, being Nos. 23A and 23B of Section No. 6.
10. All that allotment or parcel of land, containing five acres (more or less), situated in the Parish of Takapuna aforesaid, and being No. 20 of Section No. 2.
11. All that allotment or parcel of land, containing three acres (more or less), situated in the Suburbs of Auckland aforesaid, and being No. 2 of Section No. 15.
12. All those allotments or parcels of land, containing four acres (more or less), situated in the City of Auckland aforesaid, and being Nos. 20 and 21 of Section No. 9.

No. XXVIII.

AN ACT for the Regulation and Management of FRIENDLY SOCIETIES.
Friendly Societies in New Zealand.

[16th August, 1856.]

WHEREAS the protection and encouragement of Friendly Societies, Preamble.
for raising by voluntary subscriptions of the members thereof separate funds for the purpose of affording relief and maintenance to the members thereof in sickness old age and for other purposes of a provident and benevolent nature, is likely to be attended with very beneficial effects by promoting the happiness of individuals and at the same time diminish public burdens; and as it is expedient to give protection to such Societies and the funds thereby established, and to afford encouragement to form like Societies within the Colony of New Zealand:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. It shall be lawful for any number of persons to establish a Society, or branch of the same, under the provisions of this Act, for the purpose of raising by voluntary subscriptions of the members thereof, with or without the aid of donations, a fund for any of the following objects, that is to say,—

- (1.) For insuring a sum of money to be paid on the death of a member to the widower or widow of a member, as the case may be, or to the child or to the executors administrators

Friendly Societies.

or assigns of such member, or for defraying the expense of the burial of a member, or of the husband wife child or kindred of a member, subject always to the restrictions hereinafter enacted in that behalf.

- (2.) For the relief maintenance or endowment of the members, their husbands wives children or kindred, in infancy old age sickness widowhood or any other natural state of which the probability may be calculated by way of average.
- (3.) For insuring or making good any loss or damage of live or dead stock goods or stock-in-trade implements and tools sustained by any member by fire flood shipwreck or any contingency of which the probability may be calculated by way of average.
- (4.) For the frugal investment of the savings of the members, for better enabling them to purchase food firing clothes or other necessaries, or the tools implements or materials of their trade or calling, or to provide for the education of their children or kindred : Provided that the shares in any such Investment Society shall not be transferable, and that the investment of each member shall accumulate or be employed for the sole benefit of the member investing, or of the husband wife children or kindred of such member, and that no part thereof shall be appropriated to the relief maintenance or endowment of any other person whomsoever, and that the whole amount of the balance due, according to the rules of such Society, to such member, shall be paid to him or her on withdrawing from such Society.
- (5.) For any purpose which shall be certified to be legal by Her Majesty's Attorney-General of the said Colony, as a purpose to which the powers and facilities of this Act ought to be extended :

Provided always that it shall not be lawful for any Society or branch established under this Act to assure the payment to or on the death of any member, or on any contingency, or for any of the purposes for which the payment of sums may be assured under this Act, of any sum exceeding one hundred pounds, nor any annuity exceeding thirty pounds per annum, nor a sum in sickness exceeding twenty-one shillings per week.

No sum to be paid on death of child except for funeral.

2. In all Societies established under the provisions of this Act, it shall not be lawful for the Trustees or other officers, or other person or persons who have the custody of the moneys of such Society, to assure a sum of money to be paid on the death of a child, whether a member of such Society or not, under the age of ten years, except the actual funeral expenses, not exceeding three pounds in case of such child, to be paid to the undertaker or person by whom the burial is conducted, and whose receipt alone shall be sufficient discharge to the Society; nor to pay any sum of money which may have been insured and become payable on the death of any member thereof, or of the husband wife or child of any member, unless the party applying for the same shall produce and deliver to the officer a certificate signed by a physician, surgeon, or apothecary, or Coroner, in the Form B set forth in the Schedule to this annexed, except in such cases where from the nature of the circumstances it is impossible to procure such certificate; and if any officer of such Society shall pay or cause to be paid such sum of money as aforesaid without such certificate as aforesaid, such officer shall be liable to a penalty not exceeding three pounds, to be recoverable before any Resident Magistrate or any two or more Justices of the Peace sitting in Sessions in the district or nearest

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nearest to the district or place where such Society or branch is established, to be paid to the Benevolent Society established in the place or nearest to where the business of such Society or branch is situated.

3. It shall be lawful for the persons intending to establish, under the provisions of this Act, a Friendly Society, or branch thereof, to make or adopt rules for the government and guidance of the same, and for the admission and guidance of members, and to make such provision in the rules as they shall think fit for ordaining repealing altering or amending any rules, and to impose reasonable fines and forfeitures on any member offending against the regulations of the same, and to form a General Committee or Board of Management, and to delegate to the same all or any of the powers given by this Act to be executed, either with respect to the management of the Society or branch, or the enactment amendment repeal or alteration of the rules thereof, and in such rules there shall be distinctly set forth,—

Power to frame rules and appoint Committee and officers.

- (1.) The name and designation of such Society or branch and place where the business thereof is carried on, the whole of the objects and intentions for which it is founded, the whole of the purposes to which the funds thereof are applicable according to the rules and tables thereof, and the conditions under which any member, or party claiming under or by a member, may become entitled to any benefit assured thereby.
- (2.) The manner of making repealing or altering rules, of appointing Trustees, Treasurer, or other person or persons who shall have the custody of the money of such Society, and an officer who shall keep the books and accounts and prepare the returns required by this Act, a General Board of Committee of Management, and the duties and powers of each.
- (3.) The mode in which the funds shall be invested.
- (4.) The manner in which disputes between the Society or branch and any member thereof, or person claiming on account or through any member, shall be settled.

4. The rules of every such Society or branch shall provide that all moneys received or paid on account of each and every particular fund or benefit assured to the Members thereof, their husbands wives children or kindred, for which a separate table of contributions payable shall have been adopted, shall be entered in a separate account distinct from the moneys received and paid on account of any other benefit or fund.

Separate account for each fund.

5. Such Society or branch shall not be deemed to be legally established under this Act, nor be entitled to any of the provisions of the same, unless the rules and every amendment of the rules or tables made from time to time shall have been duly certified as hereinafter provided.

Society or branch not legally established till rules certified.

6. Two printed or written copies of all rules and tables adopted by such Society or branch, together with the name and residence of every Trustee thereof, signed by three members and countersigned by the Clerk or Steward or other officer, with all convenient speed after the same shall be made altered or amended, and so from time to time after the making altering or amending thereof, shall be transmitted to the Attorney-General for the said Colony or to a barrister-at-law appointed by the Governor for the time being of the said Colony, for the purpose of ascertaining whether such rules or any amendment or alteration thereof are according to law; and the said Attorney-General or the said barrister so to be appointed as aforesaid is hereby required without unnecessary delay to examine the said rules, and see that the said

Attorney-General or barrister to certify rules.

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said rules are framed in conformity with law, and that no rule or part thereof is repugnant to another, and that the same are reasonable and proper; and he shall give a certificate in the form set forth in Schedule A to this Act annexed, and thereupon one copy of the said rules with the said certificate annexed shall and may, within ninety days from the date of such certificate, be filed and registered by the Secretary, Treasurer, or one of the Trustees or Directors of the said Society or branch with the Registrar or Deputy Registrar of the Supreme Court for the Province in which the place of business of such Society or branch shall be held, and every such Registrar is hereby required to file and keep the said copy of the rules and certificate amongst the records of his office, and thereupon such Society or branch shall be denominated "Certified Friendly Society," and all rules alterations and amendments thereof, when certified and registered as before mentioned, shall be binding upon the several members of such Society or branch, and all persons claiming by or under them.

Fee for certificates.

7. For every such certificate of rules of any Friendly Society, a fee of two guineas shall be paid to the said Attorney-General or barrister so certifying, and for every certificate of rules of any branch of such Society a fee of one guinea, and for every certificate of amendment repeal or alteration of rules of any Society or branch, a fee of one guinea shall be paid.

Treasurer to give bond.

8. Every Treasurer or other person who has the custody of the money of any Society or branch established under the provisions of this Act, before he shall be admitted to take upon him the execution of any such office shall become bound in a bond according to the form set forth in the Schedule C to this Act annexed, with two sufficient sureties, for the just and faithful execution of such office, and for rendering a just and true account according to the rules of such Society or branch, and at such times as he shall be required so to do by a Trustee or Trustees of the said Society, or by a majority of the members present at any meeting of such Society, in such penal sum of money as by the Trustees or Board of Management shall be deemed expedient, and every such bond to be given by or on behalf of such officer shall be given to the Trustees of the said Society or branch for the time being, and in case of forfeiture it shall be lawful to sue upon such bond in the name of the Trustees for the time being for the use of the said Society or branch.

Trustees &c. to invest funds.

9. The Trustees or Treasurer or other person who has the custody of the money for the time being of any such Society or branch shall, and they are hereby required, from time to time, by and with the consent of such Society or branch, to be had and testified in such manner as the rules shall direct, to lay out and invest such part of all sums of money as shall at any time be collected given or paid to and for the purposes of such Society as may not be wanted for the immediate use thereof, or to meet the usual accruing liabilities of such branch or society, in the names of such Trustees in any Savings Banks, subject to the provisions of Acts in force relating to the same, or in any public funds, or at interest upon Government securities, or on mortgage of freehold or leasehold property,—such leasehold being for a term of years absolute, of which not less than twenty years shall be unexpired,—or in or upon the security of any Government stocks funds or debentures, or any rates authorized to be levied and mortgaged by any act of the General Assembly, or on any loan to any member of any such Society on the security of any policy of assurance effected on his own life, provided that the amount of such loan shall not exceed the actual estimated value of such policy at the time such loan be made; and from time to time, with such consent as aforesaid, to alter

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alter and transfer such securities and funds and to make sale thereof respectively, and all dividends interest and proceeds which shall from time to time arise from the moneys so laid out or invested as aforesaid shall be brought to account by such Trustees, and shall be applied to and for the use of such Society or branch according to the rules thereof: Provided always that it shall be lawful for the Trustees or Treasurer as aforesaid, with the consent of such Society or branch as aforesaid, to purchase hire or take upon lease any room or premises for the purpose of holding therein the meetings of such Society or branch, or for the transaction of business relating thereto, and to hold the same in trust and for the use of such Society or branch, and to sell exchange let and demise the same, in whole or in part, with such consent as aforesaid.

10. All hereditaments moneys goods chattels and effects whatever, and all titles securities for money or other obligatory instruments and evidences or muniments, and all rights or claims belonging to or had by such Society or branch, shall be vested in the Trustees or Trustee for the time being of the same for the use and benefit of such Society or branch and the respective members thereof, their respective executors and administrators, according to their respective claims and interests; and after the death or removal of any Trustees or Trustee shall vest in the succeeding Trustees or Trustee for the same estate and interest as the former Trustees or Trustee had therein, and subject to the same trusts, without any conveyance or assignment whatever; and also shall for all purposes of action or suit, as well criminal as civil, in law or in equity, in any wise touching or concerning the same, be deemed and taken to be and shall in every such proceeding (where necessary) be stated to be the property of the person or persons appointed to the office of Trustee of such Society for the time being, in his or their proper name or names, without further description; and such person or persons shall and they are hereby respectively authorized to bring and defend, or cause to be brought and defended, any action suit or prosecution, criminal as well as civil, in any Court of Law or Equity, touching or concerning the property right or claim aforesaid of or belonging to or had by such Society or branch, and such persons shall and may in all cases concerning the property right or claim aforesaid of such Society, sue and be sued plead and be impleaded in any Court of Law or Equity in their or his proper names or name as Trustees or Trustee of such Society or branch without other description; and no such suit action or prosecution shall be discontinued or abate by the death of such person, or his removal from the office of Trustee, but the same shall and may be proceeded in by the succeeding Trustees or Trustee in the proper name of the person commencing the same, and such succeeding Trustees or Trustee shall pay or receive the same costs as if the action or suit had been commenced in his or their name for the benefit of or to be reimbursed from the funds of such Society or branch: Provided always that no person shall be deemed to be a Trustee under the meaning of this Act until the resolution of the Society or branch appointing him Trustee shall have been transmitted, under the hand of three members of the Society or branch, and signed by such Trustee and by the Secretary of the Society, countersigned by the Registrar or Deputy Registrar of the Supreme Court for the Province in which the place of business of the said Society or branch shall be held, to be by him deposited with the rules of the Society or branch in his custody as aforesaid.

Property vested in Trustees.

11. No Treasurer or Trustee or other officer of any Society or branch established under the authority of this Act shall be liable to make good any deficiency which may arise in the funds thereof, unless

Responsibility of Treasurer.

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he shall have declared, by writing under his hand, to be deposited with the Registrar or Deputy Registrar respectively of the Supreme Court as before, that he is willing so to be answerable; and it shall be lawful for each of such persons to limit his responsibility to such sum as shall be specified in such writing: Provided always that every Treasurer, Trustee, or other officer shall be personally responsible and liable for all moneys actually received by him on account of or for the use of such Society or branch.

Trustees to make annual return.

12. The Trustees or other officer of every such Society or branch in whose charge the accounts of the said Society are kept shall, once in every year, prepare or cause to be prepared a general statement, under the several heads of information in Schedule D to this Act, of the funds and effects of such Society or branch during the past twelve months, as accurately as such officer may be able to furnish the information required, and shall file the same with the said Registrar or Deputy Registrar of the Supreme Court as aforesaid on some day before the first of February in each year; and every such statement shall be attested by two Trustees of such Society, and by the Auditor, if any such shall have been appointed, and shall be countersigned by the officer who keeps the accounts of such Society, and every member shall be entitled to receive from the said Society a copy of such statement on payment of one shilling.

In default of return Trustees to be incapable of bringing action.

13. If in any year such statement shall not have been transmitted as aforesaid on or before the last day of February, or if any fraudulent or wilfully false return shall have been filed, such Trustees are hereby declared to be incapable of prosecuting any action in any Court of Law or Equity on behalf of such Society or branch until they shall have duly furnished to the Registrar or Deputy Registrar respectively of the Supreme Court such statements as aforesaid.

When Trustees shall be absent, Judge may order stock to be transferred and dividends paid.

14. Whenever it shall happen that any person in whose name any part of the several stocks annuities funds and debentures of any certified or Friendly Society is or shall be standing as a Trustee of any such Society or branch shall be out of the said Colony, or shall have been removed from his office of Trustee, or shall be an insolvent or lunatic, or it shall be unknown whether such Trustee is living or dead, it shall be lawful for a Judge of the Supreme Court of the said Colony, upon the petition of any duly appointed Trustee or Trustees of such Society or branch, by order under his hand, with or without reference to the Registrar or a Deputy Registrar of the said Court, to appoint a person or persons in the room of the person or persons so insolvent or lunatic to transfer such stock annuities or funds standing as aforesaid to and into the name of the duly appointed Trustee or Trustees, and also pay over to such person or persons as aforesaid the dividends of such stock annuities or funds; and whenever it shall happen that one or more only and not all or both of such Trustees as aforesaid shall be so absent or have been removed or be an insolvent or lunatic, or it be unknown whether one or more of such Trustees be living or dead, it shall be lawful for a Judge of the said Court in manner before mentioned to direct that the other and others of such Trustees do transfer such stock annuities or funds to or into the name of such person so appointed Trustees as aforesaid jointly with the continuing Trustees (if any), and also receive and pay over the dividends of such stock annuities or funds as such Society shall direct.

Act to be an indemnity.

15. This Act shall be a full and complete indemnity and discharge to all persons and Companies, their officers and servants, for all acts and things done by such person or persons authorized by such Judge as aforesaid pursuant hereto, and such acts and things shall not be questioned or impeached in any Court of Law or Equity to their prejudice or detriment.

16. If

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16. If any dispute shall arise between the members or persons claiming under or on account of any member of any Society or branch established under this Act, and the Trustees, Treasurer, or other officer, or Committee thereof, it shall be settled in such manner as the rules of such Society or branch shall direct, and the decision so made shall be binding and conclusive; but if such dispute be of such kind that, for the settlement of it according to the rules now in force, recourse must be had to the Supreme Court of the said Colony in its equitable jurisdiction, it may be referred, at the option of either party, to the Resident Magistrate or to any two or more Justices of the Peace sitting in Petty Sessions in the district or nearest to the district or place in which the meetings of such Society or branch shall be held, who shall proceed *ex parte*, on notice in writing to the other of the said parties being left at his usual place of residence or abode ten days previously; and such Resident Magistrate or Justices are hereby authorized to require of all parties who are or may have been members Trustees or officers of such Society, to produce before them all books or other documents relating to the concerns of such Society, and thereupon, if such Resident Magistrate or Justices shall so think fit, it shall be lawful for them to determine the said dispute and to displace any such Trustee or officer or to make such award as the justice of the case in their opinion may require, and such decision or award shall be binding and conclusive.

Disputes to be settled according to rules.

17. If it shall be provided by the rules of such Society or branch that disputes which may arise between any member thereof and the Trustees, Committee, or officers on the part of the Society, shall be settled by arbitration, the number of arbitrators and mode of election shall be stated in the rules, and in case any of such Arbitrators shall at any time neglect or refuse to act, the members of such Society or branch, at a general meeting or general Committee thereof, are hereby required forthwith to elect and appoint some other person to be an Arbitrator in his place, and the rules shall direct in what manner such Arbitrators or any of them shall proceed to determine such disputes, and the award so made by them, or so many as may be appointed for the purpose, according to the rules, which shall be final and binding on all parties without appeal, and shall not be removed to any Court of Law or Equity; and if either of the said parties shall refuse or neglect to comply with or conform to the decision of the said Arbitrators, or the major part of them, it shall and may be lawful for any Resident Magistrate or any two or more Justices of the Peace sitting in Petty Sessions in the district or nearest to the district or place within which such Society or branch shall be established, upon good and sufficient proof being adduced before them of such award having been made, and of the refusal of the party to comply therewith, upon complaint made by or on behalf of the party aggrieved, to summon the person against whom such complaint shall be made to appear at a time and place to be named in such summons, and upon his or her appearance, or in default thereof, upon due proof upon oath of the service of such summons, to make such order thereupon as may to them seem just; and if the sum of money awarded, together with the sum for costs, not exceeding the sum of twenty shillings, as to such Justices shall seem meet, shall not be immediately paid, then such Justices shall, by warrant under their hands, cause such sum and costs aforesaid to be levied by distress or by distress and sale of the moneys goods chattels securities and effects belonging to the said party or to the said Society, together with all further costs and charges attending such distress and sale or other legal proceedings, returning the overplus (if any) to the said party or to the said Society, or to

Rules for arbitration.

Friendly Societies.

one of the Trustees thereof, and in default of such distress being found, or in case of such other legal proceeding being ineffectual, then to be levied by distress and sale of the proper goods of the said party, or of the officer of the said Society so neglecting or refusing as aforesaid, together with such further costs and charges as aforesaid, returning the surplus (if any) to the owner: Provided always that whatever sums shall be paid by any such officers so levied on his or her property or goods, in pursuance of the award of Arbitrators or order of any Resident Magistrate or Justices, shall be repaid, with all damages accruing to him or her, by and out of the moneys belonging to such Society, or out of the first moneys which shall be thereafter received by such Society.

If no arbitrators appointed or award given Justices may decide.

18. If the rules of any such Friendly Society or branch shall have provided for the settlement of disputes by arbitration, but no Arbitrator shall have been appointed or no award shall have been made within twelve months after such complaint has been made to the officers of such Society or branch, or if the rules shall have directed that any dispute between the members and the Trustees or other officer of the Committee of Management shall be settled by Justices of the Peace, then it shall be lawful for any Resident Magistrate or any Justice of the Peace usually acting in the district or nearest to the district or place in which the principal business of the Society or branch is carried on, on complaint being made to him by any member or person claiming under a member thereof of any matter in dispute between him and such Society or branch, to summon the person against whom which complaint shall be made to appear at a time and place to be named in such summons, and upon his appearance, or in default thereof upon due proof on oath of the service of such summons, it shall be lawful for any Resident Magistrate or any two Justices to proceed to hear and determine the said complaint; and in case the said Resident Magistrate or Justices shall order any sum of money to be paid by such person against whom such complaint shall be made, and such person shall not pay the same to the person and at the time specified by the said Resident Magistrate or Justices, they shall proceed to enforce their order in the manner hereinbefore directed to be used in case of any neglect to comply with the decision of the Arbitrators appointed under the authority of this Act.

Remedy to member unjustly expelled.

19. In case any member of any such Society or branch shall have been expelled from such Society, and the award of the Arbitrators or the order of the Resident Magistrate or Justices shall direct that he or she shall be reinstated, it shall be lawful for such Arbitrators to award or Resident Magistrate or Justices to order, in default of such reinstatement, such a sum of money to be paid to such Member by the Trustees of such Society as to such Arbitrators, Resident Magistrate, or Justices, may seem just and reasonable, which said sum of money, if not paid, shall be recoverable from the said Society or branch, or the Treasurer, Trustee, or other officer, in the same way as any money awarded by Arbitrators is recoverable under this Act.

In case of fraud Justices may summon and hear complaints.

20. For the more effectually preventing fraud and imposition on the funds of such Societies, if any officer, member, or any other person being or representing himself to be a member of such Society or branch, or the nominee, executor, administrator, or assignee of any member thereof, or any other person whatever, shall in or by any false representation or imposition obtain possession of the moneys securities books papers or other effects of such Society or branch, or any part thereof, or having the same in his or her possession shall withhold or misapply the same, it shall be lawful for any Resident Magistrate or Justice of the Peace usually acting in the district or nearest to the district

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district or place where such Society or branch is situated, upon complaint made on oath or affirmation by any officer of such Society or branch appointed for that purpose, to summon such person against whom such complaint shall be made to appear at a time and place to be named in such summons, and upon his or her appearance, or in default thereof upon due proof upon oath or affirmation of the service of such summons, it shall be lawful for any Resident Magistrate or any two Justices usually acting as aforesaid to hear and determine the said complaint, and upon due proof of such fraud the said Resident Magistrate or Justices shall convict the said party, and award double the amount of the money so obtained or withheld to be paid to the Treasurer, to be applied by him to the purposes of the Society or branch, or order the said securities books papers or other effects to be delivered to the Society or branch, together with such costs as shall be awarded by the said Resident Magistrate or Justices, not exceeding the sum of five pounds; and in case such person against whom such complaint shall be made shall not pay the sum of money so awarded to the person and at the time specified in the said order to deliver the said effects as aforesaid, such Justices are hereby required, by warrant under their hands and seals, to cause the same to be levied by distress and sale of the goods of such person on whom such order shall have been made, or by other legal proceedings, together with such costs as shall be awarded by the said Resident Magistrate or Justices, not exceeding the sum of twenty shillings, and also the costs and charges attending such distress and sale or other legal proceedings, returning the overplus (if any) to the owner; and in default of such distress being found, or of such effects as aforesaid being returned, the said Resident Magistrate or Justices of the Peace shall commit such person so proved to have offended to the nearest common gaol or house of correction, there to be kept to hard labour for such period, not exceeding three calendar months, as to them shall seem fit: Provided nevertheless that nothing herein contained shall prevent the said Society or branch from proceeding, by prosecution or complaint, against the party complained of; and provided also that no party shall be proceeded against by prosecution or complaint if a previous conviction has been obtained for the same offence under the provisions of this Act.

21. No sentence order or adjudication of any Resident Magistrate or Justices under this Act shall be removed, by *certiorari* or otherwise, into any Court of Law, nor shall the same be restrained by the injunction of any Court of Equity. No certiorari.

22. Every person who shall have or receive any part of the moneys effects or funds of or belonging to any such Society or branch, or shall in any manner have been or shall be entrusted with the disposal management or custody thereof, or of any securities books papers or property relating to the same, his or her executors administrators and assigns respectively shall, upon demand made or notice in writing given or left at the last or usual place of residence of such persons, in pursuance of any order of not less than two Trustees, or three Members of the Committee or Board of Management, give in his account at the usual meeting of such Society or branch, or to such Committee or Board of Management, to be examined and allowed or disallowed, and shall, on the like demand or notice, pay over all the moneys remaining in his hands, and assign and transfer or deliver all securities and effects books papers and property in his hands or custody, to the Treasurer or Trustee for the time being, or to such other person as such Committee or Board of Management shall appoint; and in case of any neglect or refusal to deliver such account or pay over such moneys or to assign transfer or deliver such securities and effects books papers and property

Treasurer &c. to render accounts and upon demand pay over moneys &c. to party appointed by Societies &c.

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in manner aforesaid, it shall be lawful to and for the members of every such Society, or Committee or Board of Management thereof, to apply to any Resident Magistrate or any two or more Justices of the Peace sitting in Petty Session in the district or nearest to the district or place in which the meetings of the said Society or branch shall be held, who shall and may proceed thereupon in a summary way, and make such order therein as to such Justices may seem just.

Minors may be members but not hold office.

23. A minor may become a member of any such Society or branch, and he is hereby empowered to execute all instruments and give all necessary acquittances: Provided always that such minor shall not be competent, during his minority, to hold any office as Director, Trustee, Treasurer, or Manager in such Society or branch.

Consent necessary for dissolution of Society.

24. It shall not be lawful for the members of any such Society or branch, by any rule or order or resolution, to dissolve or determine such Society or branch so long as the intents and purposes declared by the rules of such Society or any of them remain to be carried into effect, without obtaining the votes of consent of five-sixths in number of the then existing members, to be ascertained in manner hereinafter mentioned, and also the consent of all persons then receiving or then entitled to receive relief, either on account of sickness age or infirmity, to be testified under their hands individually and respectively; and for the purpose of ascertaining the votes of such five-sixths in number every member shall be entitled to one vote and an additional vote for every five years that he may have been a member; and in all cases of dissolution the intended appropriation or division of the funds or other property shall be fairly and distinctly stated in the proposed plan of dissolution prior to such consent being given; and it shall not be lawful for such Society or branch, by any rule, to direct the division or distribution of such stock or fund or any part thereof to or amongst the several members of such Society other than for carrying into effect the general intents and purposes declared by the rules originally certified; and all such rules for the dissolution or determination thereof, without such consent as aforesaid, or for the distribution or division of the stock or funds contrary to the rules, shall be void and of none effect; and in the event of such division or misappropriation of the funds without the consent hereby declared to be requisite, any Trustee or other officer or person aiding or abetting therein shall be liable to the like penalties as are in this Act provided in cases of fraud: Provided always that it shall be lawful for any two or more Societies or branches to become united or incorporated in one Society or branch, upon such terms as shall be approved by the major part of the Trustees and Board of Management of both Societies or branches.

Rules &c. under hand of Registrar of Supreme Court to be received without proof of signature.

25. All rules alteration of rules transcript or copy of or extracts from all rules and alteration of rules, and all awards writings and documents of what nature or kind soever, relating to any Society or branch directed by this Act to be certified by the Registrar or Deputy Registrar of the Supreme Court having the custody thereof and purporting to be signed by him shall, in the absence of anything to the contrary, be received in all Courts of Law or Equity and elsewhere without proofs of the signature thereto.

Circulating false copies of rules &c. a misdemeanour.

26. If any person shall circulate amongst or give to members or any member of a Friendly Society established under this Act, or to any person intending or applying to become a member of such Society, a copy of any rules or tables or any alterations or amendments of the same other than those respectively which have been enrolled or certified by the Attorney-General or certifying barrister, or shall make any alteration in or addition to any of the rules tables alterations or amendments after they shall have been duly enrolled or certified

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certified by the Attorney-General or certifying barrister, or shall knowingly circulate or print any rules tables alterations or amendments purporting to have been duly enrolled or certified under this Act but which shall not have been so enrolled or certified, every person so offending shall be deemed guilty of a misdemeanour and may be prosecuted and punished accordingly.

27. If any person appointed to any office in any Friendly Society or branch thereof established under this Act, and being intrusted with the keeping of the accounts, or having in his hands or possession by virtue of his said office or employment any moneys or effects belonging thereto, or any deeds or securities relating to the same, shall die, or become an insolvent, or have any execution or attachment or other process issued against his lands goods chattels or effects, or make any assignment disposition or other conveyance thereof for the benefit of his creditors, his heirs executors administrators or assignees, or other person having legal right, or the Sheriff or other officer executing such process, shall, within forty days after demand made in writing by the order of any such Society or branch, or of not less than three of the Committee of Management assembled at any meeting thereof, deliver and pay over all moneys and other things belonging to such Society or branch to such a person as the Society shall appoint, and shall pay out of the estates assets or effects of such persons all sums of money remaining due which such person received by virtue of his said office or employment before any other of his debts are paid or satisfied, or before the money directed to be levied by such persons as aforesaid is paid over to the party issuing such process, and all such assets lands goods chattels property estates and effects shall be bound to the payment and discharge thereof accordingly.

Executors &c. of officers of Friendly Societies to pay money due to Society before any other debts, within forty days after demand in writing.

28. If any person after the passing of this Act shall become a member of more than one Society or branch, and thereby be entitled to certain benefits on account of the same kind of assurance from more than one Society or branch, it shall not be lawful for him to claim or receive such benefit from any other Society or branch without signing a declaration that the joint value or amount of all the benefits in any one kind of assurance to which he may be entitled from any Society or Societies, branch or branches, of which he may be a member, does not in the aggregate exceed the amount of one hundred pounds in one sum, or an annuity of thirty pounds per annum, or a sum in sickness of twenty-one shillings per week from each Society, and in case such declaration shall not be true, such member shall be liable to the penalties hereinbefore enacted in cases of fraud.

Limitation of benefit to members.

29. When on the death of any member of any such certified Friendly Society already established any sum not exceeding fifty pounds shall become payable, it shall be lawful for the Trustees for the time being of such Society, if they shall be satisfied that no will was made and left by such deceased member, and that no letters of administration or confirmation will be taken out of the funds goods and chattels of such depositor, to pay the same to the widower or widow of such member, as the case may be, or to the child of such member, as the case may be, or the child of such member, if so directed by any rule of such Society or branch, and in case there shall be no such direction, then to pay and divide the same to and amongst the person or persons entitled to the effects of the deceased intestate without taking out letters of administration.

For payment of sums not exceeding £50 when members are intestate.

30. Whenever the Trustees of any certified Friendly Society or branch, at any time after the decease of any member, shall have paid and divided any sum of money to or amongst any person or persons who shall at the time of such payment appear to such Trustees to be entitled

What payment on account of deceased members valid.

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entitled to the effects of any deceased intestate member, the payment of any such sum or sums of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased intestate member, or as the lawful representative or representatives of such member, against the funds of such Society or branch, or against the Trustees thereof, but nevertheless such next of kin or representatives shall have remedy for such money so paid as aforesaid against the person or persons who shall have received the same.

Payment on death of members.

31. From and after the passing of this Act it shall not be lawful for any Society to grant any assurance whereby the sum assured on the death of the member shall be payable to any nominee, or to any other person than the widower or widow of a member (as the case may be), or the child, or the executors administrators or assigns of such member, or in case the member shall die intestate and the sum payable on his death shall not exceed fifty pounds, to the person whom the Trustees shall consider entitled to the goods and effects of the member so dying intestate: Provided always that it shall be lawful for any such Society to add to its rules a rule or rules whereby any sum payable on the death of a member may be made payable to the executors administrators or assigns of such member.

Donations.

32. It shall be lawful for any Society established under this Act to receive any property whatsoever by gift grant bequest devise or otherwise from any person or persons, and all such property shall vest in the Trustee or Trustees of the said Society in trust for the use of such Society.

Construction of terms.

33. In the construction of this Act, unless there shall be something in the subject matter or context repugnant thereto, the word "Society" shall include every branch thereof by whatever name it may be designated; the words "Committee of Management" shall mean the body of members appointed to manage and direct the affairs of the Society, by whatever name such body may be called; the word "Secretary" shall mean the Clerk or person who keeps the accounts of the Society.

Short Title.

34. This Act may be cited for all purposes as "*The Friendly Societies Act, 1856.*"

SCHEDULES.

SCHEDULE A.

FORM OF ATTORNEY-GENERAL'S OR BARRISTER'S CERTIFICATE TO RULES OF REGISTERED FRIENDLY SOCIETIES.

I HEREBY certify that these rules [*or alteration of rules, as the case may be,*] are in conformity to law and to the provisions of the Act in force relating to Registered Friendly Societies.

Dated at _____, this _____ day of _____, A.B., Attorney-General or Barrister.

SCHEDULE B.

FORM OF MEDICAL CERTIFICATE.

I HEREBY certify that _____, late of _____, died the _____ day of _____, and I have no reason to attribute his death to poison violence or criminal neglect.

Dated at _____, this _____ day of _____.

A.B., _____ Profession.
Residence.

FORM

Friendly Societies.

FORM OF CORONER'S CERTIFICATE.

I HEREBY certify that I have this day held an inquest on the body of _____, late of _____, who was found dead, and the Jury have returned the following verdict :

and it does not appear to me that he has been deprived of life by means of any person beneficially interested in obtaining burial money from any Society.

Dated at _____ this _____ day _____ A.B., Coroner.

SCHEDULE C.

FORM OF BOND.

Know all men by these presents, that we, A.B., of _____, Treasurer [*or Steward, &c.*] of the _____ Society established at _____, in the Colony of New Zealand, and C.D., of _____, and E.F., of _____, as sureties on behalf of the said A.B., are jointly and severally held and firmly bound to G.H., of _____, I.K., of _____, and L.M., of _____, the Trustees of the said Society, in the sum of _____, to be paid to the said G.H., I.K., and L.M., as such Trustees, or their successors Trustees for the time being, or their certain attorney, for which payment well and truly to be made we jointly and severally bind ourselves and each of us by himself, our and each of our heirs executors and administrators, firmly by these presents.

Dated the _____ day of _____

Whereas the above bounden A.B. hath been duly appointed Treasurer [*or Steward, &c.*] of the _____ Society established as aforesaid, and he, together with the above bounden C.D. and E.F. as his sureties, have entered into the above written bond, subject to the condition hereinafter contained: Now therefore the condition of the above written bond is such that if the said A.B. shall and do justly and faithfully execute his office of Treasurer [*or Steward, &c.*] of the said Society established as aforesaid, and shall and do render a just and true account of all moneys received and paid by him and shall and do pay over all the moneys remaining in his hands, and assign and transfer or deliver all securities and effects, books papers and property of or belonging to the said Society in his hands or custody to such person or persons as the said Society shall appoint, according to the rules of the said Society, together with the proper or legal receipts or vouchers for such payments, and likewise shall and do in all respects well and truly and faithfully perform and fulfil his office of Treasurer [*or Steward, &c.*] to the said Society, according to the rules thereof, then the above written bond shall be void and of no effect, otherwise shall be and remain in full force and virtue.

SCHEDULE D.

HEADS OF INFORMATION TO BE FURNISHED TO THE REGISTRAR OR DEPUTY REGISTRAR OF THE SUPREME COURT.

Return of _____ Society, established at _____, for the Year ending _____
Date of balancing books in each year _____

Members—

Number admitted since last balance	...	...	...
Number died since last balance	...	...	...
Number withdrawn or expelled	...	...	...
Number of members at this date	{ Male	...	...
	{ Female	...	...
	{ Honorary	...	...

Sickness—

Number of members sick in the year	{ Male	...	...
	{ Female	...	...

Income—

Donations and honorary subscriptions	...	...	...
Entrance money	...	...	...
Contributions for sickness	...	...	...
Contributions for sums on death	...	...	...
Contributions for endowments	...	...	...
Contributions for annuities	...	...	...
Interest received	...	...	...
Total income	...	...	...
Total capital of Society	[Here state where the same is placed]		

Expenditure—

Sick pay or allowances	...	...	...
Annuities	...	...	...
Death of { Members	...	...	...
{ Wives	...	...	...
Endowments	...	...	...
Extra expenses	...	...	...
Total expenditure	...	...	...

Observations—

_____ day of _____, in the year _____

To be signed by two Trustees, Auditor, and the officer who keeps the accounts of the Society.

Resident Magistrates' Courts Extension of Jurisdiction.

No. XXIX.

THE RESIDENT MA-
GISTRATES' COURTS
EXTENSION OF
JURISDICTION.

AN ACT to extend the Jurisdiction of Resident Magistrates' Courts in Civil Cases. [15th August, 1856.]

Preamble.

WHEREAS it is expedient that the jurisdiction of the Resident Magistrates' Courts in the Colony of New Zealand should be extended in civil matters :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows :—

Governor to bring
Act into operation.

1. It shall be lawful for the Governor, upon the request of the Superintendent of any Province, by Proclamation in the *Government Gazette*, to bring this Act into operation in respect to any Resident Magistrate's Court having jurisdiction within such Province, from and after a certain day to be named in such Proclamation, and to define the districts within which cases may be heard in such Court under the provisions of this Act.

Superintendent to fix
times of sitting.

2. The Superintendent of the Province within which any such Resident Magistrate's Court shall be situated shall, by Proclamation in the *Government Gazette* of such Province, fix the days upon which such Court shall sit to hear and determine causes under the provisions of this Act.

Jurisdiction extended
to £100.

3. Every case of a civil nature, of such kind as may now be lawfully tried in any Resident Magistrate's Court where the debt or damage claimed does not exceed twenty pounds, may be tried in a Resident Magistrate's Court in respect to which this Act is in operation, where the debt or damage claimed shall not exceed one hundred pounds.

Cases to be heard
before the Resident
Magistrate or person
appointed by
Governor.

4. All cases that shall be tried by a jury as hereinafter provided shall be tried before a Resident Magistrate: Provided always that it shall be lawful for the Governor from time to time to appoint some other person, being one of Her Majesty's Justices of the Peace, to preside at the trial of such causes in the place of the Resident Magistrate.

Cases above £5 may
be tried by jury.

5. In any action in which the amount of the debt or damage claimed shall exceed five pounds, it shall be lawful for either the plaintiff or the defendant to require a jury to be summoned to try the said action.

Party demanding jury
to give notice.

6. The party requiring the jury to be summoned shall give a written notice thereof to the Clerk of the Court, either personally or by leaving the same at his office, and shall pay into Court the costs hereby fixed for the summoning and attendance of the said jury.

Clerk to summon
twelve jurors.

7. Upon receiving such notice the Clerk of the Court shall summon twelve jurors, residing within three miles of the place where the sittings thereof shall be held, chosen in alphabetical order as their names shall appear on the Jury List of the Province or district.

Summons when to be
served.

8. Every such summons shall be served on such juror personally, or by leaving the same at his ordinary place of abode, at least two clear days before the sitting of the Court.

Jury to be reduced to
four by challenge.

9. When the jurors shall be in attendance, if their number shall be odd the Clerk shall strike off one, and the number being even, the defendant and plaintiff alternately shall each strike off one, until the number shall be reduced to four, and the four thus remaining shall be impannelled and sworn to give their verdict in the cause to be brought before them.

When jury cannot
agree to a verdict.

10. In every trial where the jury shall have remained six hours in deliberation and shall be unable to agree upon a verdict, the Court shall

Resident Magistrates' Courts Extension of Jurisdiction.

shall order them to be discharged; and in every such case where the amount claimed shall not exceed twenty pounds the Court shall determine the case summarily, and where such amount shall exceed twenty pounds, no judgment shall be given.

11. Any juryman or witness failing to attend a summons or subpoena issued under this Act, or to produce such documents or papers as may be set forth in any such subpoena, shall be liable to a penalty not exceeding ten pounds, to be imposed by the Court, and in default of payment shall be imprisoned for a term not exceeding fourteen days.

Penalty for non-attendance to summons.

12. Whenever the sum claimed shall exceed five pounds, either party may appeal against the decision on any point of law, such appeal to be made to the Supreme Court as follows:—The plaintiff and the defendant shall each, within one week after the day of trial, deliver to the presiding Judge a statement in writing of the point in issue; and such presiding Judge shall state in writing his decision of the point in issue in accordance with the facts as proved at the trial; and the statements so prepared shall be forwarded by such presiding Judge without delay to the Registrar of the Supreme Court having jurisdiction over the Province where the trial took place. And the Judge of the said Supreme Court shall decide the point at issue within fourteen days after such statement shall have been received by him, and shall direct the judgment of the Resident Magistrate's Court to be given accordingly, and the same shall be given accordingly.

Appeal to Supreme Court in certain cases.

13. In all cases where such appeal to the Supreme Court shall be demanded, notice thereof in writing shall be given to the presiding Judge, and also to the opposing party in the action, within forty-eight hours after the trial shall have concluded; and such notice may be given either personally or by leaving the same at the office or residence of the presiding Judge, or, in the case of the plaintiff or defendant, by leaving the same at his ordinary place of business or abode, or at the office of the counsel or attorney appearing for him at the trial.

Notices to be given in case of appeal.

14. No judgment or execution shall be stayed unless the party appealing shall give such security as the Court shall deem sufficient for the sum required to meet the whole costs of the action and appeal; and, in the case of the defendant, for such additional sum as shall meet the amount of the judgment.

Execution when to be stayed.

15. It shall be lawful for the presiding Judge in any such Court to reserve any points of law for the decision of the Supreme Court, and any Judge having jurisdiction over the district in which any Resident Magistrate's Court may be situated shall give his decision on any point of law so referred to him, and the decision of the Resident Magistrate's Court shall be in accordance therewith.

Presiding Judge may reserve points of law.

16. In addition to the fees now payable by suitors in the Resident Magistrate's Court, there shall be paid the fees hereinafter mentioned, that is to say,—

Additional fees.

				s.	d.
For serving each summons	...	...	...	2	6
For each juror sworn	...	...	...	10	0

and such fees shall be borne by the plaintiff or defendant, as the Court may direct.

17. Nothing in this Act shall be taken to alter any of the provisions of an Ordinance of the Lieutenant-Governor and Legislative Council of New Zealand, intituled "*The Resident Magistrates' Courts Ordinance*," Session VII., No. 16, so far as the same relates to the trial of causes in which one or both of the parties shall be of the Native race.

Native cases excepted.

18. In all cases not herein specially provided for, the Governor, with the approval of any Judge of the Supreme Court, may from time to

Governor may make rules.

Local Posts.

to time frame and establish rules and orders for all proceedings under this Act, and may from time to time alter the same, and such rules and orders, and all alterations thereof, shall be published in the *Government Gazette*, and when so published shall have the force of law.

Interpretation of word "Governor."

19. The term "Governor" shall mean the person for the time being lawfully administering the Government of New Zealand.

Short Title.

20. This Act may be cited for all purposes as "*The Resident Magistrates' Courts Extension of Jurisdiction Act, 1856.*"

No. XXX.

LOCAL POSTS.

AN ACT to enable Local Posts to be established within the several Provinces of New Zealand.

[15th August, 1856.]

Preamble.

WHEREAS it is expedient that increased facilities should be afforded for the establishment of local posts and local communications within the several Provinces of New Zealand:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

Postmaster may establish local posts.

1. It shall be lawful for the Postmaster of the principal post office of any Province in New Zealand from time to time to establish any local post or postal communication within such Province whenever he shall have been requested by the Superintendent acting upon an address of the Provincial Council to establish the same; and every post or postal communication so established shall be deemed to be a part of the postal service of New Zealand established under the authority of the laws in force in that behalf.

Superintendent to fix rates of postage for local posts.

2. It shall be lawful for the Superintendent of any Province, by Proclamation in the *Government Gazette* thereof, to fix the rates of postage payable for the transmission by any such post or postal communication of letters newspapers and other papers and parcels, and from time to time by any such Proclamation to alter repeal or abolish any postage so fixed as aforesaid, and to fix any other rate of postage in lieu thereof. And all postage from time to time to become payable by virtue of any such Proclamation shall be charged and be payable accordingly: Provided always that no such rate of postage shall exceed the sum which may have been specified for any such service by the Provincial Council of such Province.

Revenues accruing under this Act to be applied to cost of service.

3. The said Postmaster shall cause a separate account to be kept of all the postal revenues accruing under this Act; and all such revenues shall be expended in defraying the cost of the various postal services established under this Act in the Province in which such revenues shall have arisen, and in no other object whatsoever.

Deficiency of revenue for the service to be made up from Provincial revenue.

4. If the revenues arising in respect of any postal service established under the provisions of this Act shall be insufficient to defray the cost of such postal service, any such deficiency shall be made up out of the Provincial revenues of the Province within which such revenue is established. And it shall not be lawful for any such Postmaster to establish any such service or incur any expense thereon until the Superintendent thereof shall have guaranteed the payment of any sums which may be necessary to make up any such deficiency as aforesaid.

Short Title.

5. This Act may be cited for all purposes as "*The Local Posts Act, 1856.*"

No. XXXI.

*Land Orders and Scrip.***No. XXXI.**

AN ACT to define and settle the Rights of Holders of LAND ORDERS AND SCRIP.
 Land Orders and Scrip. [16th August, 1856.]

WHEREAS by virtue of contracts between the New Zealand Company and the purchasers of land from that Corporation, and also by virtue of certain Acts Ordinances Proclamations and Regulations, certain persons are or claim to be entitled to and possessed of land orders and scrip empowering them to select specified quantities of the waste lands of the Colony, subject to certain exceptions, and certain of the said scrip is payable as cash at specified rates at any general land sales within the Colony except as aforesaid: And whereas there are remaining undisposed of in the several Provinces of New Zealand the following quantities of waste lands over which the Native title has been extinguished by the Crown, that is to say,—In Auckland, two hundred and nineteen thousand acres or thereabouts; in Wellington, three million acres or thereabouts; in New Plymouth, twenty-five thousand acres or thereabouts; in Nelson, fourteen million acres or thereabouts; in Canterbury, nine million acres or thereabouts; in Otago, fifteen million acres or thereabouts: And whereas it is expedient to define and settle the rights of the said owners of such land orders and scrip:

BE IT ENACTED by the General Assembly of New Zealand as follows:—

1. Notwithstanding the provisions of any Act Ordinance Regulation or Proclamation to the contrary, all land orders issued by the New Zealand Company, which have not been exercised or commuted, entitling the holders or owners thereof to select a definite quantity of land within any of the said Company's settlements except New Plymouth, may hereafter be exercised and used in the selection of the same quantity of land as is specified in such land orders out of the waste lands of the Crown over which the Native title shall have been extinguished at the date of the passing of this Act, situate within the Province in which such settlement lies but not elsewhere, subject to the ordinary regulations for the time being in force as regards shape frontage and other particulars of selection, and subject to the exceptions and reservations hereinafter contained; and all such selections shall be made, according to priority of application, at the Land Office of the district wherein the same are to be made.

2. The commutation of New Zealand Company's land orders and scrip for Government scrip, made in accordance with the provisions of "*The New Zealand Company's Land Claimants' Ordinance*," shall in all cases be deemed to have been valid up to the date of the passing of this Act, but no such commutation shall be made after such date.

3. All such scrip as aforesaid issued by the Government of New Zealand remaining unexercised at the date of the passing of this Act may be exercised within the Province within which the settlement is situated in respect of which such scrip was issued and not elsewhere; but, except as hereinafter is provided with respect of the Province of New Plymouth, no such scrip shall be exercised over any lands in which the title of the Natives shall not have been extinguished at the date of the passing hereof.

4. Where selection has heretofore been made, by virtue of any such land orders, of lands over which the Native title is not extinguished, such land orders shall not entitle the holders to claim such lands when the Native title may hereafter be extinguished, but the same shall be deemed to be unexercised land orders and exercisable as such.

Land Orders and Scrip.

How scrip to be exercised in Province of New Plymouth.

5. Within the Province of New Plymouth, Government scrip shall be available in the purchase of lands over which the Native title now is or hereafter shall be extinguished, subject nevertheless to the regulations respecting Government scrip now in force within the said Province.

How original land orders may for the future be exercised in the Province of New Plymouth.

6. Within the said Province of New Plymouth, every unexercised original land order issued by the Plymouth Company of New Zealand or by the New Zealand Company, and conferring or purporting to confer on the owner or holder thereof the right to select, in a fixed and definite order of choice, fifty acres of land within the Settlement of New Plymouth, shall entitle such owner or holder, in priority to general purchasers and according to the aforesaid order of choice, to select out of any lands over which the Native title now is or hereafter shall be extinguished, and which shall be declared open for purchase (except the Huia village site), one acre of town land, or twelve and a half acres of suburban land, or fifty acres of rural land, at the option of such owner or holder, and subject to the following conditions, that is to say,—Provided, first, that every such selection in town or suburban land, or in rural land, divided into sections, be, so far as may be, of an entire section or sections, the proper quantity being made up where necessary by including some contiguous portion of an adjoining section, or where a section may exceed in area the whole quantity to be selected, by dividing a section, in either of which cases the portion taken shall be laid off by the Government Surveyor. And provided, secondly, that for the purpose of enabling such selections to be made according to the priority aforesaid, a convenient day and place be appointed for the purpose by the Superintendent of the Province, by notice published in the *Government Gazette* of the Province, which notice shall be published at least three months before the day appointed hereby. And provided, thirdly, that every such selection be made subject to the ordinary regulations in force respecting shape frontage and other particulars of selection. And provided, lastly, that such right of prior selection shall be at an end so soon as two hundred and fifty acres of town land, two thousand five hundred acres of suburban land, and forty thousand acres of rural land, to be approved of by the Governor, shall have been offered for selection. And all such land orders then remaining unsatisfied shall be subject to the provisions next hereinafter made respecting other original land orders within the said Province.

Rate at which scrip is to be computed in the Province of New Plymouth.

7. Within the Province of New Plymouth all unsatisfied original land orders issued by the Plymouth Company of New Zealand or by the New Zealand Company, and conferring or purporting to confer on the owners or holders thereof the right to select land within the Settlement of New Plymouth, and to priority of application or otherwise than in a fixed and definite order of choice, shall be considered as equivalent, in the purchase of waste lands of the Crown, to an amount of Government scrip computed at the rate of two pounds sterling in Government scrip for every acre of land which such land orders purport to entitle the holders to select, and all supplementary land orders, and compensation or land scrip issued by the said New Zealand Company, shall be considered as equivalent in the purchase of waste lands of the Crown within the said Province to an amount of Government scrip computed at the rate of one pound sterling in Government scrip for every acre of land which such last-mentioned land orders or land scrip purports to entitle the holders to select. And all such land orders and land scrip, as well original as supplementary, shall not be otherwise available or exercisable for the purchase or selection of waste lands of the Crown.

Land orders and scrip not to be

8. The Superintendent and Provincial Council of any of the said Provinces

Land Claims Settlement.

Provinces, except the Province of New Plymouth, may from time to time, by Act or Ordinance, declare certain districts within the said waste lands in each Province to be townships, with rural and suburban lands annexed thereto, and also agricultural and small farm reserves, and no Government scrip shall be exercised within such districts except in payment to the extent of twenty per cent. of the purchase money of any allotments therein purchased, unless with the express consent of such Superintendent and Provincial Council; and where the amount of any Government scrip tendered in the purchase of any allotment shall exceed twenty per cent. of the price thereof, the party tendering the same shall be entitled to a credit for the balance of such scrip towards further purchases, and so on in like manner, until the scrip be exhausted: Provided that such reserves shall not in any Province exceed in the aggregate one hundred thousand acres.

exercised within
certain districts.

9. This Act may be cited for all purposes as "*The Land Orders and Scrip Act, 1856.*" Short Title.

No. XXXII.

AN ACT to provide for the final Settlement of Claims arising out of dealings with the Aborigines of New Zealand. [16th August, 1856.]

LAND CLAIMS
SETTLEMENT.

Preamble.

WHEREAS sundry claims to land have arisen within the Colony of New Zealand in respect of dealings with the aboriginal inhabitants thereof:

And whereas sundry Crown Grants have been issued in respect of the aforesaid claims under the Public Seal of the Colony of New Zealand: And whereas, for the settlement of the said claims or the rendering valid the said grants, the undermentioned Ordinances have been from time to time passed by the Governor and Lieutenant-Governor and the Legislative Council of the said Colony:—

Recital of Ordinances
of Legislative
Council.

(1.) Session I., No. 2—"An Ordinance to repeal within the said Colony of New Zealand a certain Act of the Governor and Legislative Council of New South Wales, made and passed in the fourth year of the reign of Her present Majesty, and adopted under an Ordinance of the Governor and Legislative Council of New Zealand, for extending the Laws of New South Wales to the said Colony of New Zealand, and which said Act of the Governor and Council of New South Wales is intituled 'An Act to empower the Governor of New South Wales to appoint Commissioners with certain powers to examine and report on Claims to Grants of Land in New Zealand,' and also to terminate any Commission issued under the same, and to authorize the Governor of the Colony of New Zealand to appoint Commissioners with certain powers to examine and report on Claims to Grants of Land therein, and to declare all other titles except those allowed by the Crown null and void."

(2.) Session III., No. 3—"An Ordinance to amend 'The Land Claims Ordinance' Session I., No. 2."

(3.) Session VII., No. 22—"An Ordinance to authorize Compensation

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pensation in Colonial Debentures to be made to certain Claimants to land in the Colony of New Zealand.”

(4.) Session X., No. 4—“An Ordinance for quieting Titles to Land in the Province of New Ulster.”

And whereas many of the said land claims are still unsettled, and the validity of the said grants is disputed on various grounds, and it is essential to the peace and well-being of the Colony that all such land claims should be finally settled and such disputed grants corrected: And whereas, by reason of lapse of time and other circumstances, proceedings cannot be effectually taken under the said recited Ordinances for affecting the said objects, and it is expedient that new and other provisions should be made in that behalf:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. So much of the said Ordinances, Session I., No. 2, Session III., No. 3, Session VII., No. 22, and Session X., No. 4, as is repugnant to the provisions of this Act is hereby repealed.

I.—ESTABLISHMENT AND CONSTITUTION OF COURT OF COMMISSIONERS.

2. It shall be lawful for the Governor of the Colony from time to time, by Letters Patent under the Public Seal of the Colony, to appoint Commissioners for carrying this Act into effect, who shall be styled “Land Claim Commissioners,” and from time to time, by warrant under his hand, to remove any such Commissioner.

3. Every Commissioner shall have all the powers hereby vested in the Commissioners.

4. Every Commissioner, before proceeding to act, shall take and subscribe before a Judge of the Supreme Court an oath that he will faithfully perform the duties of his office.

5. The Governor may from time to time, by warrant under his hand, upon the recommendation of the Commissioners, appoint Assistant Commissioners for carrying this Act into effect, and from time to time to remove any such Assistant Commissioner.

6. The Commissioner’s Court shall be deemed a Court of Record, and shall be open to the public, and shall have the powers incident to Courts of Record; and the Commissioners and Assistant Commissioners shall have the like power to compel the attendance of witnesses and production of books and papers as Judges of the Supreme Court, and may issue warrants and processes accordingly, and may administer oaths. Every decision of the Commissioners shall be final and conclusive, subject only to any alteration to be made on appeal as hereinafter provided.

7. The Commissioners shall frame and establish rules for the sittings of the Court, and notices thereof, the notification of proceedings, and generally for the conduct of business under this Act, and may from time to time alter such rules. And all such rules and all alterations thereof shall be submitted to the Governor in Council, and upon being approved of shall be published in the *Government Gazette* of the Colony, and when so published shall have the force of law.

8. The Governor shall fix the salaries to be paid to the Commissioners and Assistant Commissioners.

II.—POWERS OF COMMISSIONERS, SUBJECTS OF INQUIRY, AND MODE OF INVESTIGATION.

9. The Commissioners shall have power, according to the provisions of this Act, to hear and determine all claims which might have been heard examined and reported on under the provisions of the said recited Ordinances, Session I., No. 2, Session III., No. 3, and all claims whatsoever

Repeal of so much of recited Ordinances as is repugnant to this Act.

Governor to appoint Commissioners.

Every Commissioner to have full powers of Commissioners. Commissioners to take oath faithfully to perform duties.

Governor may appoint Assistant Commissioners.

Commissioners’ Courts to be Courts of Record and open to the public.

Commissioners shall establish rules of procedure.

Governor to fix salaries of Commissioners and Assistant Commissioners.

Commissioners to hear and determine old land claims and examine and dispose of grants under same and pro-emptive claims.

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whatsoever to land or compensation arising out of dealings with the aboriginal inhabitants of the Colony prior to the establishment of British sovereignty, or since that period, with the sanction of the Government, or under the Proclamations issued by Governor Fitzroy, dated respectively the twenty-sixth of March, one thousand eight hundred and forty-four, and the tenth of October, one thousand eight hundred and forty-four, and to examine and determine all questions relating to grants issued in respect of the same, subject to the exceptions and provisions hereinafter contained.

10. The Commissioners may direct any Assistant Commissioner to examine into and report as to the circumstances relating to any claim to be investigated under this Act, or as to the practicability of giving possession of any land to be given in right of any grant, and as to any other matter or thing to be inquired of under this Act, and every such Assistant Commissioner may examine and report accordingly; and in making such examination and report the Assistant Commissioners shall proceed according to such directions as shall be laid down in that behalf by the Commissioners in accordance with the provisions of this Act.

May direct Assistant Commissioners to examine into and report as to any grant or claim.

11. All reports by Assistant Commissioners shall be returned to the Commissioners, and in finally hearing and deciding upon claims the Commissioners may proceed upon such reports in like manner as if such examination had taken place before the Commissioners themselves.

Reports to be delivered to and guide Commissioners.

12. Any person objecting to any claims or grants to be investigated or examined under this Act, may appear and have such objections heard by the Commissioners and Assistant Commissioners, on payment of the fees prescribed in Schedule A to this Act annexed.

Objections to be heard on payment of fees.

13. Where any claimant grantee or other person interested in any claim or grant which shall be examined by the Commissioners shall consider himself aggrieved by any decision of the Commissioners, he may within one calendar month after such decision appeal to any Judge of the Supreme Court upon a case, in writing, to be stated or settled by the Commissioners, a copy of which case may be taken by the appellant, upon which case the Judge shall certify his opinion in writing to the Commissioners, and the Commissioners shall be bound to follow such opinion, and agreeably to such opinion shall reverse alter or confirm their decision.

Appeal in cases of parties aggrieved.

14. The Commissioners may, either at the instance of a party or of their own motion, in any case of doubt upon a question of law, submit a case thereon in writing to any Judge of the Supreme Court, who shall certify his opinion thereon in writing to the Commissioners, and the Commissioners shall follow such opinion.

Questions of law may be submitted by Commissioners for the opinion of one of the Judges of the Supreme Court.

III.—CLAIMS NOT TO BE HEARD.

15. It shall not be lawful for the Commissioners to entertain or investigate any claims in any of the following cases:—

Classes of claims which shall not be heard by the Commissioners.

(1.) In which the claim shall not have been made and notified in writing to the Government of the Colony prior to the passing of this Act.

No new claims to be heard.

(2.) In which the claims shall have been heard and allowed wholly or in part, and in respect of which the claimant shall have accepted, in satisfaction of such claim, compensation in money or debentures, or a grant of land.

Nor claims in right of which grants have been issued.

(3.) In which the claim shall have been heard by a former Commissioner and disallowed, except as hereinafter provided, with respect to claims arising under the Proclamation of the tenth of October, one thousand eight hundred and forty-four.

Nor claims under the Proclamation of the 10th October, 1844, already disallowed.

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Nor where claim
lapsed through
default of claimant.

Claims to be
preferred.

- (4.) In which the right of the claimant to have his claim heard and decided under a former law shall have lapsed through default of the claimant, except as last aforesaid.
- (5.) In which the claimant shall not, before the first day of July, one thousand eight hundred and fifty-eight, have notified his intention to have his claim heard under the provisions of this Act.

IV.—PROCEEDINGS WITH RESPECT TO VOIDABLE GRANTS.

Attorney-General to
call in voidable grants.

16. The Attorney-General shall on behalf of Her Majesty, by notice in the form or to the effect prescribed in the Schedule B to this Act annexed, to be published in the *Government Gazette*, call on and require the person or persons interested in or holding or claiming title under any Crown Grant heretofore issued in respect of any of the aforesaid claims made of lands over which it may be alleged that the Native title has not been extinguished, or in which it may be alleged that there is such uncertainty of description as would render the same void or voidable in law, or that there is not a map which has been approved of by the Government of the lands granted delineated or indorsed thereon, to produce such Crown Grant to the said Commissioners on or before some specified day, and also by the same or any other such notice to specify some day for hearing and determining the validity of such grant: Provided that no such proceeding shall be initiated after the first day of July, one thousand eight hundred and fifty-eight.

Commissioners to
examine grant.

17. The Commissioners on the day specified in such notice shall, after due proof thereof, proceed to examine the grant, and shall proceed according to rules to be established as aforesaid in that behalf.

Grants not produced
or found void to be
declared so; Commis-
sioners decision to
have same effect as
repeal by *scire facias*.

18. If at the time and place appointed such grant be not produced, or if on production thereof and on examination of the circumstances it shall appear that the Native title over the land granted or over any part thereof is not extinguished, or that there is in such grant such uncertainty of description as would render the same void or voidable in law, then, after hearing the case, if the Commissioners after giving effect to the provisions of the said recited Ordinance, Session X., No. 4, shall be of opinion that the same is void or voidable in law, they may adjudge and determine such grant to be null and void; and such adjudication shall have the same force and effect in annulling and making void the same as if the same were repealed by process of *scire facias*.

Claimants to have
survey made and
maps produced.

19. If upon the production of such grant it shall appear that the same is not void or voidable in law, but that no accurate map of the lands granted is delineated or indorsed thereon, the Commissioners may make an order requiring the person or persons producing such grant to deliver to the Commissioners, at some specified place and time, such an accurate map as aforesaid, certified by some competent Surveyor to be approved of by the Commissioners, and in default thereof the Commissioners may adjudge and determine such grant to be null and void, and such adjudication shall have such force and effect as aforesaid.

Grants declared void
to be cancelled.

20. Every grant so adjudged to be null and void shall be forthwith delivered up and cancelled.

Valid grants to be
returned indorsed.

21. If after such hearing the grant shall appear to the Commissioners sufficient and valid in law, the same shall forthwith be delivered to the person or persons by whom the same shall have been produced; but the Commissioners in every such case shall indorse upon the grant a certificate of the validity of such grants, and every grant so indorsed shall be deemed to be valid to all intents and purposes whatsoever.

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22. In the case of grants without accurate maps, and as to which such maps shall be furnished as aforesaid, the Commissioners shall cause copies of such maps, properly certified by the Commissioners, to be delineated or indorsed on the grants, and such grants shall thereupon be delivered to the person or person producing the same, on payment of fees.

Commissioners shall cause maps to be delineated on grants.

23. When in pursuance of the provisions of this Act any such grant shall be adjudged by the Commissioners to be null and void, and the same shall in pursuance of such adjudication be delivered up and cancelled, it shall be lawful for the Commissioners, at the time of such adjudication or at some subsequent day to be fixed by the Commissioners, and upon application of any person or persons who may appear to the Commissioners interested therein, to direct that there shall be issued in favour of the person or persons who may appear to the Commissioners best entitled thereto a new grant, or several new grants, under the Public Seal of the Colony, of such lands as the Commissioners shall agreeably to the provisions herein contained direct, and the Commissioners shall proceed according to the following rules:—

New grants to be issued in lieu of those cancelled.

- (a.) Where a definite quantity of land shall have been specified in the cancelled grant, if the boundaries described shall be of sufficient extent, the Commissioners shall adjudge such quantity, with an addition not exceeding one-sixth, to be selected by the grantee out of the lands comprised within such boundaries.
- (b.) If the boundaries described shall not contain the requisite quantity, the grant shall be adjudged for so much as the boundaries do contain, in satisfaction of all claim.
- (c.) Where there shall be several grants of the same land, or of land within the same boundaries, the Commissioners shall adopt such scheme of division selection or apportionment as shall in their judgment be best adapted to meet the justice of the case.
- (d.) In no case shall any person be entitled to a new grant of more than the quantity expressed in the cancelled grant, except that the grant may be extended to one-sixth more than such expressed quantity.
- (e.) In all cases accurate maps of the lands to be granted shall be furnished to the Commissioners at the cost of the parties; such maps to be certified by some competent Surveyor to be approved of by the Commissioners.
- (f.) In any case not specially provided for, the Commissioners shall proceed according to such rules as they may judge best adapted to meet the justice of the case, but as near as may be in accordance with the provisions of this Act.

24. Every new grant shall be subject in equity to the same claims rights and interests as the cancelled grant in lieu whereof such new grant shall have been issued.

To be subject to the same equities as cancelled grants.

V.—PROCEEDINGS WITH RESPECT TO CLAIMS FOR WHICH NO GRANTS HAVE BEEN ISSUED.

Old Land Claims.

25. In respect of claims arising under purchases made from the Natives before the fourteenth of January, one thousand eight hundred and forty, which, under the provisions of this Act, the Commissioners are empowered to investigate, the Commissioners, in order to ascertain and determine the quantity of land which may be granted to any claimant, shall in every case inquire into and set forth, so far as it shall

In claims prior to January, 1840, Commissioners to ascertain amount of acres to be granted.

be

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be possible to ascertain the same, the price or valuable consideration, with the sterling value thereof, paid to aboriginal owners of the land, the time manner and circumstances of the payment, and the number of acres such payment would have been equivalent to according to the rates fixed in the Schedule C appended to this Act. And the Commissioners shall direct the issue of a grant to the person they in their judgment may deem entitled thereto, for the number of acres so to be ascertained as above mentioned.

In cases of special hardship Commissioners may increase amount of acres in grant.

26. Provided that in any case in which it may appear to the Commissioners that special hardship has been suffered by a claimant by reason of delay in settling the claim without default of the claimant, the Commissioners may increase the number of acres to be granted by not more than one-fourth: Provided also that no grant shall be issued of land exceeding in extent the quantity originally claimed.

Maximum of 2,560 acres not to be exceeded except in special cases.

27. Provided also that no grant shall be issued which shall convey more than the maximum of two thousand five hundred and sixty acres to any one claimant; but, under special circumstances, the Commissioners may recommend the Governor to extend the amount to be granted beyond the maximum aforesaid, accompanying such recommendation with a report of the special circumstances.

Governor not to issue grants in any case for more land than conveyed in any existing grant.

28. In such special case it shall be lawful for the Governor to issue a grant of land not exceeding the quantity recommended by the Commissioners; provided however that no grant shall be issued of land exceeding the maximum comprised in any grant heretofore issued.

Pre-emptive Waiver Claims.

One-fourth of value to be paid for land to be granted under Proclamation of 10th October, 1844.

29. For all lands to be granted under direction of the Commissioners in satisfaction of claims arising under the said Proclamation of the tenth of October, one thousand eight hundred and forty-four, and in respect of which claims no grants or compensation shall have been received by the claimant, there shall be paid by the claimant for every acre of land so to be granted a sum not exceeding five shillings: Provided that the Commissioners may reduce the sum to be paid by any claimant to any sum not less than one shilling per acre, and in fixing the payment to be made by any claimant they shall, as nearly as may be, fix the amount to be paid at one-fourth the estimated value of the land.

Grants in such cases not to exceed 500 acres with additional quantity as compensation.

30. No grant shall be directed in respect of any such last-mentioned claim for more than five hundred acres of land: Provided that in every such last-mentioned case the Commissioners may, in their discretion, award and direct a grant to be made of an additional quantity of land by way of compensation for loss and damage sustained by reason of the non-settlement of such claim: Provided that in no case shall a larger extent of land be granted as compensation than five hundred acres, nor more than was comprised in the original claim.

One-fourth of the value to be paid for such compensation land.

31. In every case of compensation in land in respect of claims under the Proclamation of the tenth of October, one thousand eight hundred and forty-four, the claimants shall pay after a rate not exceeding one pound and not less than one shilling per acre for all land to be granted to them as such compensation, and in fixing the payment to be made by any claimants, they shall, as nearly as may be, fix the amount to be paid at one-fourth the estimated value of the land.

VI.—GENERAL PROVISIONS.

When lands to which claimant may be declared entitled have been alienated, Commissioners may direct compensation

32. In any case of claim or grant, when the particular lands which would otherwise have been directed to be granted shall have been alienated by Government, the Commissioners may direct a grant to be made of other lands, being part of the demesne lands of the Crown

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Crown in the Province in which the claim arises, by way of compensation for the original claim. In estimating the quantity of compensation land to be given as last aforesaid, the Commissioners shall estimate the same by the amount realized upon such alienation of the land comprised in the original claim, but in no case shall the original land be estimated as having realized more than one pound per acre.

in other lands ;
quantity to be given ;
how to be estimated.

33. Provided always, and notwithstanding anything in this Act contained, in any case not hereinbefore provided for in which under special circumstances, in the judgment of the Commissioners, manifest hardship or injustice shall have been done or suffered, they may recommend to the Governor that such case be specially considered, and the Governor, if he shall think fit, may order the Commissioners to hear such claim, and the Commissioners shall hear it accordingly, and decide the same according to equity and good conscience, and may direct a grant of land or compensation in land as they may think equitable according to the circumstances.

General power to
Commissioners to
investigate cases of
proved injustice and
award compensation.

34. Derivative claims may be heard and decided under this Act, as well as original claims, and in all cases of dispute between claimants, the Commissioners may decide the same according to their judgment, and such decision shall be binding on the parties, subject to appeal as hereinbefore provided.

Derivative claims
may be heard under
this Act, and in cases
of dispute, decision of
Commissioners
binding.

35. No subdivision of an original claim shall entitle parties to a larger grant or more favourable terms of settlement than if the claim had remained entire.

No sub-division of
original claim to
extend grant.

36. Where lands claimed or granted shall have been subdivided, and shall be claimed by several parties, the Commissioners shall, in directing grants to be issued and compensation to be made under this Act, make such order and direction as to them shall seem best adapted to meet the justice of the case.

In cases of subdivi-
sion Commissioners
to make such award
as may seem fit.

37. No compensation shall in any case be given in money scrip or land credits exercisable over unspecified or undefined lands.

No compensation to
be given in money
scrip or indefinite
land credits.

38. No lands shall be included in any grant under the provisions of this Act over which it shall not be proved to the satisfaction of the Commissioners that the Native title is extinguished, or which shall be required for any purposes of public utility or convenience ; and before any grant shall be recommended, it shall be the duty of the Commissioners to ascertain from the General Government and from the Government of the Province wherein such lands are situated whether the lands proposed to be granted or any part thereof are required for any such purpose.

No land over which
Native title not
extinguished or re-
quired by General or
Provincial Govern-
ments for public
purposes to be
granted.

39. In any case of claim or grant heard or examined by the Commissioners, under the provisions of this Act, in which the Native title shall not be proved to have been extinguished over the lands comprised in such claim or grant, or any part thereof, it shall be lawful for the Governor, on behalf of Her Majesty, on payment by the claimant of the estimated cost of extinguishing the Native title to such lands, or any part thereof, and all expenses incident thereto, to extinguish such title and obtain a cession of such lands to Her Majesty, and thereupon to make a grant of the same, in accordance with the provisions of this Act, and in like manner as if the Native title had been proved to have been extinguished.

Where Native title
not extinguished,
Governor may at cost
of claimant cause it
to be extinguished.

40. The Commissioners shall not recommend any lands to be granted unless and until such lands shall have been effectually marked out upon the ground, and a certificate to that effect, signed by some competent surveyor approved by the Commissioners, shall have been delivered to the Commissioners ; and no grant shall be issued for any such land until a survey thereof shall have been made and a proper plan of the same deposited with the Commissioners.

No lands to
be recommended for
a grant until marked
out on the ground by
a surveyor.

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Governor to prescribe rules as to shape of blocks.

41. The Governor may from time to time prescribe such rules as regards the shape and frontage of all lands to be granted under the provisions of this Act as to him may seem fit, and the Commissioners shall observe all such rules.

Governor may issue grants of waste lands in conformity with the provisions of this Act.

42. The Governor may make and issue grants of land out of the waste lands of the Crown in any Province, in conformity with the provisions of this Act, in satisfaction of claims arising within such Province.

Commissioners may order surveys and charge costs of same to grantees.

43. In all cases of surveys and maps required by this Act, the Commissioners may in their discretion order such surveys or maps to be made under their own direction, and may charge after the rate of one shilling and sixpence per acre for all lands surveyed; such charge to be paid by each grantee respectively before or at the time of the issue of his grant.

Allowance in land to be made for surveys.

44. In every case of surveys and maps, whether made by parties themselves or by order of the Commissioners under the power last aforesaid, allowance shall be made in land for the charges of such surveys and maps at the rate of one shilling and sixpence per acre, and an additional quantity of land shall be granted to the respective parties by way of compensation in respect of such allowance, to be computed at the rate of one acre for every ten shillings paid on account of such charges.

Compensation to be given to the amount of fees paid in respect of Crown Grants.

45. Every person paying fees in respect of any Crown Grant examined by the Commissioners under this Act, shall be entitled to an allowance in land by way of compensation after such rate as the Commissioners shall deem equivalent in value to the amount of fees so paid.

Compensation to be awarded out of lands claimed, else out of lands specially reserved for the purpose.

46. All compensation land shall be awarded out of the lands in respect of which the claim arises, if available, but if not, then (except in cases under sections twenty-nine, thirty, and thirty-one of this Act) out of any lands which may be specially set apart by the Superintendent of the Province, with the assent of the Governor, for the purpose of satisfying such compensation claims; and if no such lands shall be so specially set apart, then generally out of the waste lands of the Province in which the claim arises: Provided always, if the land available in respect of which the claim arises be of such character as not to afford reasonable compensation to the party entitled thereto, the Commissioners may in their discretion award an additional number of acres not exceeding one acre for every acre of compensation land.

Grantees at their own cost to select land.

47. All lands authorized to be granted by this Act shall be selected by and at the cost of the grantee.

In case of opposition Commissioners may give costs to either party.

48. In case of any opposition to any grant or claim (except the opponent be of the Native race or a Half-caste), the Commissioners may, if they think fit, award such costs as they may deem reasonable, not exceeding the expenses actually incurred, to be paid by either party to the other.

Validity of grant under this Act.

49. Every grant of land made in pursuance or purporting to be made in pursuance of this Act shall be deemed and taken to be a good valid and effectual conveyance of the land thereby intended to be conveyed, against Her Majesty, her heirs and successors, and against all other persons whatsoever.

Proceedings under this Act need not be conducted according to the strict letter of the law.

50. All proceedings under this Act may be conducted, not according to strict law, but according to equity and good conscience, and no informality whatever shall vitiate such proceedings. And in all cases not specially provided for by this Act, the Commissioners shall make such orders and adjudications and give such directions as shall in their judgment be most agreeable to equity and good conscience, and as nearly as may be in accordance with the provisions of this Act.

51. There

Land Claims Settlement.

51. There shall be paid the fees and expenses set forth in the table in the Schedule A to this Act annexed, and a table of such fees and expenses shall be published in the *Government Gazette*.

Fees to be paid by suitors.

52. All such fees and expenses shall be paid into a common fund, out of which the salaries and expenses incident to the Commission shall be defrayed, and the deficiency if any shall be defrayed out of the general revenue of the Colony.

How to be disposed of.

53. No grants shall be issued nor any proceedings taken under the provisions of this Act until payment has been made of the respective fees prescribed in the Schedule of Fees appended to this Act.

No grants to be issued or proceedings taken until all fees paid.

54. And whereas there are cases in which aboriginal native women have married men not being aborigines, and there are children of such marriages, and there are also other children where the maternal parent only is of the Native race: And whereas various transactions in land have taken place in reference to such persons, and it is expedient that inquiry should be made into such cases with a view to make a just provision for the same: Be it therefore further enacted that the Commissioners appointed under this Act shall make full inquiry into all such cases, and report the evidence taken and their opinions thereon to the Governor.

Commissioners to inquire into land transactions in which aboriginal women and half-caste children are concerned, and report the result to the Governor.

55. The term "Governor" shall mean the Officer for the time being lawfully Administering the Government of the Colony of New Zealand. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender only, shall include females.

Interpretation.

56. This Act may be cited for all purposes, as "*The Land Claims Settlement Act, 1856.*"

Short Title.

SCHEDULES.

SCHEDULE A.

FEES PAYABLE.

	£	s.	d.
Upon the notification of any claim under the provisions of this Act, by the claimant	5	0	0
For the hearing of every objection or opponent to a claim (the objector or opponent not being of the aboriginal race), by such objector or opponent	1	0	0
For every summons for witnesses, each summons containing one name, by the party requiring the same	0	5	0
For every witness examined or document or voucher produced in evidence, by the party in whose behalf examined or produced	0	1	0
For taking down the examination of every witness, by the party on whose behalf examined	0	2	6
For every one hundred words after the first one hundred, by the same	0	1	0
For every final award or recommendation of the Commissioners, by the person in whose favour made	5	0	0
For every grant issued under the authority of this Act, by the grantee	1	0	0
For every one hundred acres of land included in such grant (except under pre-emptive claims)	0	10	0
For every grant which shall be examined if found invalid or corrected	2	0	0
For every grant already made on which a plan shall be indorsed by Commissioners	5	0	0
For indorsing certificate of validity	2	0	0
For every appeal, by the appelliant	5	0	0
For every one hundred words copied for the purpose of such appeal, by the appelliant	0	1	0

SCHEDULE B.

Scotch Law Practitioners.

SCHEDULE B.

FORM OF NOTICE.

PURSUANT to the provisions of "*The Land Claims Settlement Act, 1856*," all persons interested in or claiming title under any of the Crown Grants specified in the Schedule hereunto annexed are hereby, on behalf of Her Majesty, required to produce or cause to be produced such Crown Grants before the Commissioners of Land Claims at _____, on the _____ day of _____.

In default of the above grants being produced on the day and at the place above mentioned (unless the non-production thereof be accounted for to the satisfaction of the said Commissioners), the said grants will, under the provisions of the aforesaid Act, be declared null and void, and become so to all intents and purposes in like manner as if the same had been repealed in the Supreme Court by process of *scire facias*.

A.B., Attorney-General.

Grantee.	Date of Issue of Grant.	Locality of Land Granted.

SCHEDULE C.

Time when the Purchase was made.	Per Acre.
From 1st January, 1815, to 31st December, 1824	£ s. d. | £ s. d. 0 0 6 | 0 0 0
" 1825, " 1829	0 0 6 | 0 0 8
" 1830, " 1834	0 0 8 | 0 1 0
" 1835, " 1836	0 1 0 | 0 2 0
" 1837, " 1838	0 2 0 | 0 4 0
" 1839, " 1839	0 4 0 | 0 8 0

And 50 per cent. above these rates for persons not personally resident in New Zealand or not having a Resident Agent on the spot.

Goods when given to the Natives in barter for land to be estimated at three times the selling price in Sydney at the time.

No. XXXIII.

AN ACT to enable Persons qualified to Practice in the Sheriff Courts of Scotland to be admitted to Practice in the Supreme Court. [16th August, 1856.]

SCOTCH LAW
PRACTITIONERS.

Preamble.

WHEREAS it is expedient to extend the privilege of enrollment to practice as a solicitor in the Supreme Court of New Zealand to persons qualified to practice or to be admitted to practice in any Sheriff Court in Scotland:

BE IT ENACTED by the General Assembly of New Zealand as follows:—

Persons qualified to practice in the Sheriff Courts of Scotland may be admitted to practice in the Supreme Court.

1. In addition to the persons qualified to be enrolled in the Supreme Court of New Zealand to practice therein as solicitors, there may, from and after the passing of this Act, be enrolled so to practice in the said Court all persons who shall have been admitted to practice as writers or solicitors in any Sheriff Court in Scotland or who shall have become qualified to be admitted so to practice in any such Court.

Short Title.

2. This Act may be cited for all purposes as "*The Scotch Law Practitioners Act, 1856*."

No. XXXIV.

Provincial Councils Powers.

No. XXXIV.

AN ACT to extend the Powers in certain cases of Superintendents and Provincial Councils.

THE PROVINCIAL
COUNCILS POWERS.

[16th August, 1856.]

[Reserved for Her Majesty's assent. Assented to, *Gazette*, 5th August, 1857.]

WHEREAS by an Act of the Imperial Parliament passed in the Session held in the fifteenth and sixteenth years of the reign of Her present Majesty, intituled "*An Act to grant a Representative Constitution to the Colony of New Zealand*," it is amongst other things enacted that it shall be lawful for the Superintendent of each Province established by the said Act, with the advice and consent of the Provincial Council thereof, to make and ordain all such Laws and Ordinances (subject and except as hereinafter mentioned) as may be required for the peace order and good government of such Province, provided that the same be not repugnant to the law of England: And it is further enacted that it shall not be lawful for any such Superintendent and Provincial Council to make or ordain any Law or Ordinance for the establishment or abolition of any Court of Judicature, of civil or criminal jurisdiction, except Courts for trying and punishing such offences as by the law of New Zealand are or may be made punishable in a summary way, or for altering the constitution jurisdiction or practice of any such Court except as aforesaid: And it is further enacted that it shall not be lawful for any such Superintendent and Provincial Council to make or ordain any Law or Ordinance for altering in any way the criminal law of New Zealand except so far as relates to the trial and punishment of such offences as are now or may, by the criminal law of New Zealand, be punishable in a summary way: And it is further enacted that it shall be lawful for the General Assembly to alter the provisions of the said Act respecting the powers of such Provincial Councils as aforesaid, provided always that any Bill for such purpose shall be reserved for the signification of Her Majesty's pleasure thereon: And whereas for the purpose of enforcing obedience to such Laws and Ordinances as may be passed by any Superintendent and Provincial Council, under and by virtue of the authority of the said recited Act of the Imperial Parliament, it is expedient that any such Superintendent and Provincial Council should have power to alter the jurisdiction of certain Courts of Judicature of civil jurisdiction, and also in certain cases to alter the criminal law of New Zealand, and to declare certain acts to be offences, and to provide for the trial and punishment of such offences, notwithstanding that such offences by the criminal law of New Zealand may not be punishable in a summary way:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

1. It shall be lawful for the Superintendent and Provincial Council of any Province in New Zealand to make or ordain Laws or Ordinances for altering the civil jurisdiction of any Court of Summary Procedure having jurisdiction in such Province in all suits or proceedings where the debt or damage claimed shall not exceed twenty pounds.

Power to Superintendents and Provincial Councils to enact laws altering the civil jurisdiction of Courts having jurisdiction in cases when not more than £20 claimed.

2. The Superintendent and Provincial Council of any Province in New Zealand shall have power by any Acts or Ordinances to enact that certain acts or omissions contrary to the provisions of such Acts or Ordinances shall be offences within the Province to which such Act or Ordinances shall relate, punishable summarily or otherwise, as may thereby

Power to Superintendents and Provincial Councils to enact laws imposing a penalty not exceeding £100 or six months imprisonment.

Provincial Laws.

thereby be directed: Provided always that no felony shall be thereby created nor any punishment or penalty attached to any such act or omission which shall exceed six months imprisonment with hard labour or one hundred pounds sterling in amount for any one offence.

Short Title.

3. This Act may be cited for all purposes as "*The Provincial Councils Powers Act, 1856.*"

No. XXXV.

PROVINCIAL LAWS.

AN ACT to give the validity of Acts of the General Assembly to certain Laws made by the Superintendents and Provincial Councils of the several Provinces of New Zealand.

[16th August, 1856.]

Preamble reciting "*Provincial Councils Powers Act, 1856,*" whereby it is enacted Superintendents of Provinces may alter the civil jurisdiction of any Court in such Provinces, also certain Acts or Ordinances of the Provinces not hitherto valid as Acts of the General Assembly.

WHEREAS an Act has been passed in the present Session of the General Assembly of New Zealand, and has been reserved for the assent of Her Majesty, intituled "*The Provincial Councils Powers Act, 1856,*" whereby it is enacted that it shall be lawful for the Superintendent and Provincial Council of any Province in New Zealand to make or ordain Laws or Ordinances for altering the civil jurisdiction of any Court of Summary Procedure having jurisdiction in such Province, in all suits or proceedings where the debt or damage claimed shall not exceed twenty pounds: And it is also further enacted that the Superintendent and Provincial Council of any Province in New Zealand shall have power by any Acts or Ordinances to enact that certain acts or omissions contrary to the provisions of such Acts or Ordinances of such Superintendent and Provincial Council shall be offences, within the Province to which such Act or Ordinance shall relate, punishable summarily or otherwise as may thereby be directed: Provided always that no felony shall be thereby created nor any punishment or penalty attached to any such act or omission which shall exceed six months' imprisonment with hard labour, or one hundred pounds sterling in amount, for each conviction: And whereas certain Acts and Ordinances have been passed by the Superintendents and Provincial Councils of the said Provinces, creating special offences not at the time of the passing thereof known to the law of New Zealand or summarily punishable thereby, and attaching penalties to the commission thereof, and which Acts and Ordinances have received the assent of the Governor or Officer Administering the Government, or have been left to their operation:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand as follows:—

This Act to have retrospective effect, and all Provincial Acts or Ordinances hitherto made and not disallowed by Governor, rendered valid and effectual from respective dates of passing thereof.

1. Every Act or Ordinance, and every enactment and provision thereof, heretofore passed by any Superintendent and Provincial Council, which has not been disallowed by the Governor or Officer Administering the Government, and which would have been legal and valid if the hereinbefore recited Act of the General Assembly had been in force at the time of the passing of such Act or Ordinance, shall be as valid and effectual and shall be deemed to have been as valid and effectual from the time of the passing thereof as though the same had been passed by the General Assembly of New Zealand.

Short Title.

2. This Act may be cited for all purposes as "*The Provincial Laws Act, 1856.*"

No. XXXVI.

Appropriation.

No. XXXVI.

AN ACT to provide for the Appropriation of the Public APPROPRIATION ACT.
Revenues of New Zealand,

[16th August, 1856.]

Interpretation.

ANNO. VICESIMO PRIMO ET VICESIMO
SECUNDO

VICTORIÆ REGINÆ.

SESSION II. No. I.

INTERPRETATION. AN ACT for the Interpretation of Acts of the General Assembly of New Zealand. [28th May, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

All Acts to be deemed Public Acts.

1. Every Act of the General Assembly of New Zealand shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such unless the contrary be expressly provided by the Act.

Acts to be divided into sections.

2. Every Act shall be divided into sections if there be more enactments than one, which sections shall be deemed to be substantive enactments without any introductory words.

Acts assented to, when to come into operation.

3. Every Act which shall not prescribe the time from which it is intended to take effect, and which shall have been assented to in Her Majesty's name, shall come into operation on the day on which it shall receive the Governor's assent.

Reserved Acts when to come into operation.

4. Every Act which shall not prescribe the time from which it is intended to take effect, and which shall be reserved for the signification of Her Majesty's pleasure thereon, shall come into operation on the day on which the Governor, by Speech Message or Proclamation, shall signify that Her Majesty has assented to the same.

Clerk of Executive Council to indorse on Acts day &c. of assent.

5. The Clerk of the Executive Council of the Colony shall insert in every Act, immediately after the title thereof, the day month and year when the same shall have been assented to by the Governor in Her Majesty's name; and when any Act shall have been reserved by the Governor for the signification of Her Majesty's pleasure thereon, then the day month and year on which the Governor, by such Speech Message or Proclamation as aforesaid shall have signified that Her Majesty has assented to such Act; and such date shall be taken to be a part of the Act, and to be the date of its commencement when no other commencement shall be therein provided.

Acts may be amended in same Session.

6. Every Act may be altered amended or repealed in the same Session of the General Assembly of New Zealand in which it may be passed.

Repeal of Repealing Act not to revive Act first repealed.

7. Whenever any Act repealing in whole or in any part any former Act shall be repealed, such last repeal shall not revive the Act or provision before repealed unless words be added reviving such Act or provision.

Acts may be cited by Short Title.

8. Every Act having a Short Title may for all purposes be cited by such Short Title.

9. In

Interpretation.

9. In the construction of all Acts the words and expressions following shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say,—

The term "Her Majesty" shall include Her Majesty, her heirs and successors. Interpretation of words &c.
Her Majesty.

The term "Governor" shall mean the person for the time being lawfully administering the Government of New Zealand. Governor.

The term "Governor in Council" shall mean the Governor with the advice and consent of the Executive Council of New Zealand. Governor in Council.

The term "Constitution Act" shall mean an Act of the Imperial Parliament made and passed in the Session held in the fifteenth and sixteenth years of Her Majesty Queen Victoria, chapter seventy-two, intituled "*An Act to grant a Representative Constitution to the Colony of New Zealand.*" Constitution Act.

The term "Constitution Amendment Act" shall mean an Act of the Imperial Parliament made and passed in the Session held in the twentieth and twenty-first years of Her Majesty Queen Victoria, chapter fifty-three, intituled "*An Act to Amend the Act for granting a Representative Constitution to the Colony of New Zealand.*" Constitution Amendment Act.

The terms "The Colony" and "This Colony" shall severally mean the Colony of New Zealand, the boundaries whereof shall be deemed to include all territories islands and countries lying between thirty-three degrees of South Latitude and fifty degrees of South Latitude, and one hundred and sixty-two degrees of East Longitude and one hundred and seventy-three degrees of West Longitude, reckoning from the meridian of Greenwich. "The Colony" and
"This Colony."

The terms "Government Gazette" and "New Zealand Gazette," shall mean the *Gazette*, published by or under the authority of the Government of New Zealand. Government Gazette.
and New Zealand
Gazette.

The words "Oath" and "Affidavit" shall include affirmation and accusation and the words "swear" shall include affirm and declare in the case of persons allowed by law to affirm or declare instead of swearing. Oath, Swear,
Affidavit.

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number. Singular and Plural.

Words importing the masculine gender only shall include females. Masculine gender.

The word "Month" shall mean calendar month. Month.

10. This Act shall be deemed to apply to all Acts already or to be hereafter passed by the General Assembly of New Zealand, except the fifth section hereof, which shall apply only to Acts to be hereafter passed. Application of this
Act.

11. This Act may for all purposes be cited as "*The Interpretation Act, 1858.*" Short Title.

*English Laws.***No. II.**ENGLISH LAWS.

AN ACT to declare the Laws of England, so far as applicable to the circumstances of the Colony, to have been in force therein on and after the Fourteenth day of January, One thousand eight hundred and forty. [28th May, 1858.]

Preamble.

WHEREAS the laws of England as existing on the fourteenth day of January, one thousand eight hundred and forty, have until recently been applied in the administration of justice in the Colony of New Zealand so far as such laws were applicable to the circumstances thereof: And whereas doubts have now been raised as to what Acts of the Imperial Parliament passed before the said fourteenth day of January, one thousand eight hundred and forty, are in force in the said Colony: And whereas it is expedient that all such doubts should be removed without delay:

BE IT THEREFORE DECLARED AND ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

The laws of England to apply to the Colony from and after the 14th day of January, 1840.

1. The laws of England as existing on the fourteenth day of January, one thousand eight hundred and forty, shall, so far as applicable to the circumstances of the said Colony of New Zealand, be deemed and taken to have been in force therein on and after that day, and shall continue to be therein applied in the administration of justice accordingly.

Short Title.

2. This Act may for all purposes be cited as "*The English Laws Act, 1858.*"

No. III.CROWN COSTS.

AN ACT to provide for the Payment of Costs in Proceedings instituted on behalf of the Crown.

[28th May, 1858.]

Preamble.

WHEREAS in divers proceedings instituted by or on behalf of the Crown against the Queen's subjects no costs are recovered by the Crown except in certain cases, and no costs are paid by the Crown to the subject: And whereas it is expedient to assimilate the law as to the recovery of costs in such proceedings by or on behalf of the Crown to that in force as to proceedings between subject and subject:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

In certain Crown suits &c., where the Crown is successful, costs to be recovered as between subject and subject.

1. In all informations actions suits and all other legal proceedings to be hereafter instituted before any Court or tribunal by or on behalf of the Crown against any Corporation or person or persons in respect of any lands tenements or hereditaments, or of any goods or chattels belonging or accruing to the Crown, or in respect of any sum or sums of money due and owing to Her Majesty, Her Majesty's Attorney-General for the Colony shall be entitled to recover costs for and on behalf of Her Majesty, where judgment shall be given for the Crown, in

Absent Defendants.

in the same manner and under the same rules regulations and provisions as are or may be in force touching the payment or receipt of costs in proceedings between subject and subject, and such costs shall be paid into the Treasury for the public uses of the Colony.

2. If in any such information action suit or other proceeding, judgment shall be given against the Crown, the defendant or defendants shall be entitled to recover costs in like manner and subject to the same rules and provisions as though such proceedings had been between subject and subject; and it shall be lawful for the Colonial Treasurer upon the warrant of the Governor, which he is hereby required to issue, to pay such costs out of any moneys which may be hereafter voted by the Parliament of the Colony for that purpose.

Defendant entitled to costs if successful against the Crown.

3. The Short Title of this Act shall be "*The Crown Costs Act*, 1858." Short Title.

No. IV.

AN ACT to provide for the Service of the Process of the Supreme Court of New Zealand upon Defendants absent from the Colony. [28th May, 1858.]

ABSENT DEFENDANTS.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. In case any defendant in any action in the Supreme Court is not within the Colony, it shall be lawful for the plaintiff to issue a writ of summons in the usual form according to the nature of the action, but which, in addition to any other indorsements required by law, shall before the same is issued be indorsed as follows, namely:— "This writ is issued out of the Supreme Court of the Colony of New Zealand for service out of the said Colony," and "This writ remains in force six calendar months including the day of the date thereof. It cannot be served after such time unless the defendant consent to be served therewith;" and the time for appearing and pleading by the defendant shall be regulated by the distance from New Zealand of the place where the defendant is residing.

Writes with certain indorsements may be issued against defendants absent from the Colony.

2. Such writ may be served on the defendant anywhere out of the Colony.

May be served anywhere out of the Colony.

3. Upon being satisfied upon affidavit that there is a cause of action which arose within the Colony, or a cause of action in respect of the breach of a contract made or to be wholly or in part performed within the Colony, and that the writ with the declaration annexed was personally served upon the defendant, or that reasonable efforts had been made to effect personal service thereof upon the defendant, and that it came to his knowledge and that either the defendant wilfully neglects to appear and plead to such writ and declaration or that he is living out of the jurisdiction of said Court in order to defeat or delay his creditors, it shall be lawful for the Court or any Judge of the Court to direct from time to time that the plaintiff shall be at liberty to proceed in the action in such manner and subject to such conditions as to such Court or Judge may seem fit, having regard to the time allowed for the defendant to appear and plead being reasonable, and to the other circumstances of the case.

Court or Judge may direct that the plaintiff may proceed in action on certain conditions.

4. Provided

Absent Defendants.

Plaintiff to prove his claim.

4. Provided always that the plaintiff shall and he is hereby required, before he obtain judgment in such action, to prove his damage or demand in such action in such manner, either before a jury or otherwise, as the Court or Judge may direct according to the nature of the case, and as near as may be in accordance with the rules of the Supreme Court for the time being in force in that behalf.

Omission to make indorsements to be an irregularity only.

5. If the plaintiff or his attorney shall omit to indorse on any writ or copy thereof any of the matters required by this Act, such writ or copy shall not on that account be held void, but it may be set aside as irregular or amended upon application to be made to the Court or a Judge thereof, and such amendment may be made upon an application to set aside the writ, upon such terms as to the Court or Judge may seem meet.

Concurrent writs may be issued.

6. A writ for service within the Colony may be issued and marked as a concurrent writ with one for service out of the Colony, and a writ for service out of the Colony may be issued and marked as a concurrent writ with one for service within the Colony, and a writ for service out of the Colony may be issued and marked as a concurrent writ with another for service out of the Colony.

Before whom affidavits under this Act may be sworn.

7. Any affidavit under this Act may be sworn in any place in Her Majesty's dominions before any person authorized by law to administer an oath in the place where the same is taken, and at any foreign port or place, before any Consul-General, Consul, Vice-Consul, or Consular Agent, for the time being appointed by Her Majesty at such port or place; and every affidavit so sworn may be used and shall be admitted as evidence, saving all just exceptions, provided it purport to have the signature thereto of any person so authorized as aforesaid, or of any such Consul-General, Consul, Vice-Consul, or Consular Agent, and be duly certified in the usual way under the hand and seal of a notary public, or upon such other proof as the Court or Judge shall think fit to receive of the official character and signature of the person appearing to have signed the same.

Forgery of signature of affidavit felony.

8. If any person shall forge any such signature to any such affidavit, or shall use or tender in evidence any such affidavit with a false or counterfeit signature thereto knowing the same to be false or counterfeit, he shall be guilty of felony, and upon conviction thereof, liable to penal servitude for any term not exceeding six years or less than one year, and every accessory before or after the fact to any such felony shall be liable to the same punishment as the principal.

Persons charged with felony may be tried in New Zealand, also accessories before and after the fact.

9. Every person who shall be charged with committing any felony under this Act may be dealt with indicted tried and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place within the Colony in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence may be dealt with indicted tried and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place in which the principal offender may be tried.

Persons making false affidavit guilty of perjury, and may be tried in New Zealand.

10. If any person shall wilfully and corruptly make a false affidavit before any person authorized by law to administer an oath as aforesaid, or before such Consul-General, Consul, Vice-Consul, or Consular Agent, every person so offending shall be deemed and taken to be guilty of perjury in like manner as if such false affidavit had been made in New Zealand upon competent authority, and shall and may be dealt with indicted tried and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place within the Colony in which he shall be apprehended or be in custody

Short Title.

11. This Act may for all purposes be cited as "*The Absent Defendants Act, 1858.*"

No. V.

Absent Debtors.

No. V.

AN ACT to render the Property in New Zealand of Debtors absent from the Colony available for the Payment of their Debts. [28th May, 1858.]

ABSENT DEBTORS.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. An action in the usual form may be commenced in the Supreme Court of New Zealand against any defendant who is not within the Colony, and the plaintiff may proceed in such action by process of foreign attachment in manner hereinafter provided.

Action may be commenced against defendant not within Colony, and the plaintiff may proceed by foreign attachment.

2. Before issuing a writ of foreign attachment, the plaintiff shall file in the Supreme Court, instead of serving it on the defendant, a copy of the writ in the action with the declaration annexed, and shall also file an affidavit verifying the matters contained in the declaration, and stating that the cause of action arose in respect of a breach of contract made or to be wholly or in part performed in the Colony of New Zealand, and that the defendant is not, to the best of the plaintiff's belief, within the said Colony.

Writ and declaration and affidavit to be filed before writ of foreign attachment issued.

3. Provided always that if it shall at any time appear that the defendant was within the jurisdiction of the Court at the time of issuing the writ, the said writ and all proceedings thereupon shall be set aside on application to the Supreme Court or a Judge thereof, with such costs, to be paid by the plaintiff to such person and in such manner, as the said Court or Judge shall direct. And in case it shall at any time appear that the cause of action did not arise in respect of a breach of contract made or to be wholly or in part performed in the said Colony, the attachment shall be forthwith dissolved by order of the Court or any Judge thereof, with costs to be paid by the plaintiff to such parties and in such manner as such Court or Judge shall direct.

If defendant in the Colony when writ issued same and all proceeding to be set aside, and if cause of action did not arise in the Colony attachment to be dissolved.

4. Upon filing such writ and declaration and affidavit as aforesaid, a writ of foreign attachment shall be issued at the plaintiff's instance, and shall be served upon the several garnishees or persons therein named, in whose hands it is intended thereby to attach any real or personal property, by delivering a copy thereof to each such garnishee or other person personally or by leaving the same at his last usual place of abode. And if the said writ of foreign attachment is intended to affect property not in the control of any garnishee or other person within the Colony, a copy thereof written on parchment in lieu of such service as aforesaid shall be affixed in some conspicuous place on the property intended to be thereby affected. Such writ shall remain in force for three calendar months, including the day of the date thereof, and it cannot be served after such time.

Upon filing writ &c. foreign attachment to issue and to be served on garnishees.

5. In addition to such service or affixing as aforesaid, a copy of the said writ shall be published in the *Government Gazette* (if any) of the Province in which the writ shall have been issued, and twice at least in one of the newspapers (if any) published in the principal town of such Province, and in one of the newspapers (if any) published in the principal town of the Province in which the property intended to be thereby affected is situate.

To be also published in *Gazette* and newspapers.

6. From the time of the service of such writ upon any garnishee, all and singular the real and personal property of whatsoever nature in the custody or under the control of such garnishee then belonging to the defendant in the action, or to or in which such defendant shall then

Property and debts bound from time attachment served.

Absent Debtors.

be legally or equitably entitled or otherwise beneficially interested whether solely or jointly with any other person, and all debts of every kind then due by any such garnishee to such defendant, although the same or any part thereof may be payable only at a future day, shall to the extent of such defendant's right title and interest therein respectively be attached in the hands of such garnishee, and, subject to any *bonâ fide* prior claim or lien thereon, shall be liable to the satisfaction of the particular demand or cause of action of which he shall by the said writ have had notice.

Garnishee parting &c. with property before attachment dissolved to be liable to damages.

7. If any such garnishee shall, without leave of the Supreme Court or one of the Judges thereof, at any time after such service and before the said attachment shall be dissolved, sell or otherwise knowingly dispose of or part with any such property, or pay over any such debt or any part thereof, excepting only to or to the use of the plaintiff in the action, he shall upon application in a summary way to the said Court or to a Judge thereof, and on proof of the facts, pay such damages to the plaintiff as such Court or Judge shall in that behalf think fit to order.

Inquiry to be made as to where cause of action arose, and as to property in garnishee's hands.

8. After such writ of attachment shall have been served or affixed and published as aforesaid, the said Court or a Judge thereof shall, on a day to be fixed by such Court or Judge, proceed to inquire and determine whether the plaintiff's cause of action arose in respect of any breach of contract made or to be wholly or in part performed within the Colony of New Zealand, and, if so, then what real and personal property belonging to the defendant has been affected by the service of the said writ as hereinbefore provided, and whether such real and personal property, or any property to which any copy of the writ of foreign attachment shall have been affixed in lieu of service as aforesaid, is or can be made available for the purpose of satisfying wholly or in part the claim of the plaintiff.

Powers of Court or Judge in making such inquiry.

9. For the purpose of disposing of any application to be made in a summary way under this Act, and for the purpose of making such inquiry and determination as aforesaid, it shall be lawful for the Court or Judge, in a summary way, to examine or permit the plaintiff to examine upon oath every such garnishee as aforesaid, and also any witnesses the Court or Judge may think proper, and for that purpose to make such orders and to issue such summonses to the several garnishees and witnesses as may be deemed expedient.

Garnishee or witness refusing to attend liable for contempt of Court.

10. Any garnishee or any witness who shall refuse or neglect to attend, or shall refuse to be examined, shall be liable to be summarily proceeded against for contempt of Court and to be punished accordingly: Provided always that it shall be lawful for the Court or Judge to dispense with the attendance of any garnishee or any witness on his submitting to be examined upon interrogatories, or before a Commissioner to be appointed, or upon such other terms as such Court or Judge shall impose.

Garnishees' or witnesses' expenses to be paid.

11. It shall be lawful for the Court or Judge to direct the reasonable expenses of any garnishee or witness to be paid by the plaintiff, and to direct that any sums so paid shall be costs in the cause.

Property available, or the proceeds thereof, to be held subject to attachment.

12. So soon as it shall have been determined by the Court or Judge as aforesaid what real and personal property can, consistently with existing liens or prior claims thereon (to be summarily determined by the said Court or Judge) be made available for the purpose of making satisfaction to the plaintiff, the said Court or Judge shall forthwith order the same or any part thereof to be thenceforth held and to continue subject to such attachment accordingly, or to be sold or otherwise disposed of or dealt with as such Court or Judge shall think fit, and the proceeds, or in the case of debts payable the amount thereof

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thereof, to be paid subject to the attachment into the hands of some officer of the Court; and as to all real and personal property to which such order shall not apply or as to which no such order shall be made, it shall be lawful for the said Court or Judge at any time to direct that the said attachment shall be dissolved.

13. A memorial of any such order, setting forth the date thereof, the title of the cause, and so much of the order as shall relate to the land thereby affected, may be registered in the Register Office for Deeds of the district in which such land is situate, and such registration shall be affected in the same manner and shall have the like effect as the registration of a suit pending.

Memorial of order may be registered in the Register Office for Deeds of the district where land situate.

14. When more than one writ of attachment shall have been issued against the same garnishee, or the same property shall have been attached at the suit of more than one plaintiff, it shall be lawful for the said Court or any Judge to award and determine how much and what parts of the property so attached, or to what amount in value thereof, shall be retained or held under each of such writs or be paid into Court or disposed of (as the case may be) for the separate benefit of each plaintiff.

Provision in cases when more than one writ of attachment.

15. It shall be lawful for the said Court or any Judge thereof at any time to authorize any garnishee, on application being made by him, after due notice thereof to the plaintiff, to sell or dispose of or otherwise deal with any real or personal property so attached as aforesaid, and any sum of money or any real or personal property received by virtue or in respect of such authority shall be thereafter held by such garnishee, or be paid into Court, or invested or otherwise appropriated, subject to such attachment as aforesaid, or otherwise for the satisfaction of the plaintiff, as such Court or Judge shall think fit to order.

Court or Judge on application of garnishee may order sale &c. of property.

16. After the inquiry and determination as provided in section eight of this Act shall have been made as aforesaid by the said Court or by a Judge thereof, it shall be lawful for the plaintiff, on or after a day to be fixed by the Court or Judge for such purpose, to proceed in his action in the same manner as though the defendant resided in the Colony and had been duly served with the process of the Court: Provided that a bond as hereinafter prescribed shall have been first entered into; and if such bond be not entered into within fifteen days after the day so to be fixed as aforesaid, and the action proceeded with, the attachment shall be *ipso facto* dissolved and the action terminated.

After inquiry plaintiff on giving bond may proceed with action on a day to be fixed by the Court or Judge.

17. Such bond shall be entered into with the Registrar or Deputy Registrar of the Supreme Court, with sufficient sureties, satisfactory to a Judge thereof, and in such sum as any Judge thereof shall fix, and shall contain (amongst such other stipulations and conditions as such Judge may think proper and direct) a condition to pay to the said Registrar or Deputy Registrar all such sums as the said plaintiff shall recover in the action in case the judgment therein be thereafter vacated or reversed, together with the costs sustained by the defendant; and in case of any breach or alleged breach of the conditions of the said bond, it shall be lawful for the said Registrar or Deputy Registrar, by direction of a Judge of the said Court, to assign the said bond to the said defendant, who may then proceed thereon in his own name.

Nature of bond.

18. If pending any such writ of foreign attachment, or any time before final judgment shall be obtained in the action in which such writ issued, the defendant or any person on his behalf shall enter into a bond, with sufficient sureties, to be approved by a Judge of the Supreme Court, in such sums as such Judge shall think fit to order, conditioned to pay the plaintiff the amount of such debt or damages and costs as he shall at any time thereafter recover in the said action, it shall then be lawful for such defendant or person acting on his behalf to plead in the usual

If security given on behalf of the defendant, action may be defended.

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usual manner to the action within such time as such Judge shall direct, and to defend the same, and, upon giving five clear days' notice thereof to the plaintiff, to apply to the Court or to a Judge thereof, by motion as of course, that the attachment may be dissolved, and the same shall be dissolved accordingly, and the action shall thereupon proceed in the ordinary way.

After final judgment plaintiff may act as in ordinary action.

19. At any time after final judgment shall have been obtained by the plaintiff, it shall be lawful for him to act in all respects as in the case of a judgment of the Supreme Court obtained in the ordinary way, subject nevertheless to any award or determination made by the said Court or any Judge, where more than one writ of attachment shall have been issued against the same garnishee or person, or the same property shall have been attached at the suit of more than one plaintiff.

Court or judge may order debts due to defendant to be paid to plaintiff.

20. It shall also be lawful for the Court, or any Judge thereof, upon application of the plaintiff, at any time in a summary way to cause any debtor of the defendant to be summoned to attend such Court or Judge to show cause why he should not forthwith pay the amount of his debt to the plaintiff, and, if no sufficient cause be shown, to order such payment accordingly, and to enforce such order together with costs attending the same by an attachment for a contempt of Court as in other cases.

Court or Judge may order action to be brought for such debts.

21. It shall be lawful for such Court or Judge, either before summoning such debtor as aforesaid or after summoning him, if such Court or Judge shall see sufficient cause, to authorize an action for the amount of any such debt to be brought or carried on in the name of the creditor being such defendant as aforesaid. Such action shall be brought or carried on at the expense of the plaintiff, and any money recovered under the same shall be paid to the Sheriff, to be disposed of by him in the same manner as money received by him under *feri facias* issued by the plaintiff against the defendant.

Court may within three years order merits to be inquired into on application of defendant with substantial grounds of defence.

22. If after any final judgment obtained as aforesaid an affidavit or declaration as hereinafter provided shall be made by the defendant against whom such process of foreign attachment shall have been issued as aforesaid, that such defendant had at the time of obtaining the said judgment and still has a substantial ground of defence, either wholly or in part, to the plaintiff's action on the merits, and such affidavit shall at any time before the expiration of three years next after such judgment be filed in the Supreme Court of New Zealand, it shall be lawful for the said Court, upon motion by the defendant after ten days' notice thereof being given to the plaintiff, to cause the merits so alleged as aforesaid to be inquired into and determined in such manner and form, either summarily or by a feigned issue between the parties or otherwise, and at such time and under such terms and conditions, and after or without security for costs given, as to the said Court shall seem expedient for the purpose of securing the substantial ends of justice.

Such judgment may be given as justice of case requires.

23. The said Court after such inquiry and determination shall thereupon give such judgment in the matter for the vacating or reversal of the judgment in the original action, either in the whole or in part, and may from time to time make such order in the premises between the parties as the justice of the case shall appear to require.

Before whom affidavits under this Act may be sworn.

24. Any affidavit under this Act may be sworn in any place in Her Majesty's dominions before any person authorized by law to administer an oath in the place where the same is taken, and at any foreign port or place, before any Consul-General, Consul, Vice-Consul, or Consular Agent for the time being appointed by Her Majesty at such port or place; and every affidavit so sworn may be used and shall

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shall be admitted as evidence, saving all just exceptions, provided it purport to have the signature thereto of any person so authorized as aforesaid, or of any such Consul-General, Consul, Vice-Consul, or Consular Agent, and be duly certified in the usual way under the hand and seal of a notary public, or upon such other proof as the Court or Judge shall think fit to receive of the official character and signature of the person appearing to have signed the same.

25. If any person shall forge any such signature to any such affidavit, or shall use or tender in evidence any such affidavit with a false or counterfeit signature thereto knowing the same to be false or counterfeit, he shall be guilty of felony, and upon conviction thereof liable to penal servitude for any term not exceeding six years or less than one year; and every accessory before or after the fact to any such felony shall be liable to the same punishment as the principal.

Forgery of signature of affidavit felony.

26. Every person who shall be charged with committing any felony under this Act may be dealt with indicted tried and if convicted, sentenced, and his offence may be laid and charged to have been committed in any place within the Colony in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence may be dealt with indicted tried and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place in which the principal offender may be tried.

Persons charged with felony may be tried in New Zealand, also accessories before and after the fact.

27. If any person shall wilfully and corruptly make a false affidavit before any person authorized by law to administer an oath as aforesaid, or before such Consul-General, Consul, Vice-Consul, or Consular Agent, every person so offending shall be deemed and taken to be guilty of perjury in like manner as if such false affidavit had been made in New Zealand upon competent authority, and shall and may be dealt with indicted tried and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place within the Colony in which he shall be apprehended or be in custody.

Persons making false affidavit guilty of perjury and may be tried in New Zealand.

28. The property of any such absent defendant may under the provisions of this Act be attached and taken in the custody or power of the defendant's wife or of any co-defendant, and no process of foreign attachment against any such absent defendant, nor any lien intended to be thereby created upon any real or personal property of such defendant thereby attached, shall be defeated by reason of such co-defendant or any garnishee as aforesaid being or claiming to be jointly interested with such defendant therein, either as partner or otherwise; and in all cases it shall be sufficient for the purpose of this Act to attach property in the hands of the person having the actual care custody or control of the same for the time being.

Property in possession of co-defendant or wife may be attached.

29. Every writ of attachment, where the same shall have been followed by execution levied, may be pleaded in bar, by any person in whose hands any real or personal estate as aforesaid shall be attached, to any action brought by or on behalf of the defendant for the recovery of such property; and if any action shall be brought pending attachment, such action shall be stayed by order of the Court or a Judge until the attachment shall be dissolved or the proceedings thereupon be otherwise determined.

Attachment after execution levied may be pleaded in bar.

30. It shall be lawful for the said Court or any one of the Judges thereof, for the more satisfactory determination of any question of fact arising before such Court or Judge under this Act, to direct the trial of any feigned issue by a jury, and for that purpose to make all necessary orders as to the form thereof, and who shall be parties thereto, and in all such other respects as the said Court or Judge shall think fit.

Court or Judge may order questions to be tried by jury.

Unstamped Instruments.

Supreme Court may
make rules.

31. In all cases where no provision or no sufficient provision is made by this Act, it shall be lawful for the Supreme Court or the Chief Justice thereof from time to time, for the purpose of facilitating or more effectually carrying into execution any of the objects of this Act, to make and prescribe all such general rules and also all such orders applicable to particular cases only touching any of the matters intended to have been hereby provided for, and touching also the manner and form of proceeding before or applying to the said Court and any Judge thereof respectively, and also the execution of writs and orders, and the allowance and taxation of costs, and touching all such other matters having reference to the provisions of this Act as to the said Court or Chief Justice may seem expedient, and such rules and orders from time to time to revoke or alter as to the Court or Chief Justice shall appear to be requisite: Provided always that it shall be lawful for any Judge of the said Court to exercise the power hereinbefore given to the Supreme Court or Chief Justice thereof to make and prescribe orders applicable to particular cases only.

When plaintiff does
not proceed with
diligence, Court or
Judge may dissolve
attachment.

32. If it shall appear to the said Court or to a Judge thereof at any time that a plaintiff is not proceeding *bonâ fide* or with due and proper diligence, it shall be lawful for such Court or Judge to dissolve the attachment and to direct the plaintiff to pay such costs to such persons as the said Court or Judge may deem reasonable: Provided always that no attachment under this Act shall be deemed to be dissolved from any cause whatever except by an order of the said Court or a Judge thereof.

Court or Judge may
adjourn and award
costs.

33. The Court and any of the Judges thereof shall in all cases whatsoever under this Act have full power of adjournment from time to time, and also, in all cases not provided for by this Act, to award or refuse costs to be paid by and to such party as the Court or Judge shall think fit.

Interpretation.

34. In the construction of this Act the word "Garnishee" shall include every person in whose hands any real or personal property shall be attached or liable to be attached.

Short Title.

35. This Act may for all purposes be cited as "*The Absent Debtors' Act, 1858.*"

No. VI.

UNSTAMPED
INSTRUMENTS.

AN ACT to declare Unstamped Instruments executed out of but affecting Real Estate within this Colony, admissible in Evidence. [28th May, 1858.]

Preamble.

WHEREAS doubts exist whether deeds and other instruments affecting real estate in the Colony of New Zealand, if executed at any place out of the Colony where stamp laws are in force, are admissible in evidence within the Colony, on the ground that such deeds and other instruments are not stamped, and it is expedient to remove such doubts:

BE IT THEREFORE DECLARED AND ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Instruments affecting
land in the Colony
not inadmissible in
evidence on account
of not being stamped.

1. No deed or other instrument affecting real estate within the Colony of New Zealand, or power of attorney authorizing the execution of any such deed or other instrument, shall, wheresoever executed,
be

Coroners.

be inadmissible in evidence in this Colony by reason of the same not being stamped.

2. This Act may for all purposes be cited as "*The Unstamped Instruments Act, 1858.*" Short Title.

No. VII.

AN ACT to regulate the Appointment and Duties of Coroners in the Colony of New Zealand.

CORONERS.

[28th May, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. After the passing of this Act, Coroners in the Colony of New Zealand shall be appointed as provided by this Act, and not otherwise.

Appointment of Coroners.

2. It shall be lawful for the Governor in the name and on behalf of Her Majesty, from time to time, by warrant under his hand, to appoint fit persons to be Coroners of the several districts of the Colony, who shall hold their offices during pleasure.

Governor to appoint Coroners.

3. Every person now acting as Coroner shall be deemed to have been appointed under this Act.

Persons now acting deemed to have been appointed under this Act.

4. It shall also be lawful for the Governor from time to time to define the districts within which the Coroners shall respectively have jurisdiction, and any such definition to revoke or annul and the limits of such districts to alter as occasion may require: Provided always that districts already defined shall be deemed to have been defined under this Act.

Governor to define districts.

5. Every Coroner hereafter to be appointed shall, before acting as such, take an oath well and faithfully to execute the duties of his office, which oath any Justice of the Peace is hereby authorized to administer.

Oath to be taken by Coroners.

6. Coroners within the Colony of New Zealand shall have all such powers and privileges, and be liable to all such duties and responsibilities, as Coroners by law have or are liable to in England.

Their powers and duties.

7. With a view to the detection and punishment of incendiarism, it shall be lawful for the Coroner of any district within which any damage shall have been done by fire, under circumstances calculated to create a suspicion that the same was not accidental, to hold an inquest for the purpose of inquiry into the origin of such fire, and the jury on such inquest shall inquire and find whether such fire was accidental or otherwise.

Coroners to hold inquests on fires.

8. Coroners shall have similar powers in respect of inquests on fires as are hereby conferred in respect of other inquests held by them.

To have same powers as on other inquests.

9. No Coroner shall be required to hold any inquest at a greater distance than twenty miles from his residence.

Coroner not required to travel more than twenty miles.

10. If it be fit that any inquest should be held during a vacancy in the office of Coroner, or during the absence of any Coroner from his district, or at a greater distance than twenty miles from the residence of any Coroner having jurisdiction, and no Coroner shall be present within a reasonable time to hold such inquest, it shall in every such case be lawful for any Justice of the Peace to hold such inquest, with full authority in respect of the same to exercise all the powers vested in Coroners.

Justice of the Peace may hold inquests in certain cases.

Militia.

Fees payable.

11. In respect of all inquests there shall be paid the several fees specified in the Schedule hereunto annexed. Such fees shall be paid by the Colonial Treasurer, and the fees for each inquest shall be charged against the Province within which such inquest shall be held.

Coroner in certain cases to transmit copy of evidence to nearest Resident Magistrate.

12. Whenever, upon the termination of any inquest held under this Act, a verdict of wilful murder shall have been returned, and in all other cases when it shall appear to the Coroner or Justice of the Peace holding the inquest that it would be proper that a further investigation into the circumstances attending the matter giving occasion for such inquest should take place, it shall be the duty of such Coroner or Justice of the Peace to cause a copy of the evidence taken on such inquest to be forwarded forthwith to the nearest Resident Magistrate, who shall thereupon cause such an investigation as may appear to him to be proper or necessary to be forthwith made.

Ordinance Session VII., No. 5, repealed.

13. An Ordinance enacted by the Lieutenant-Governor and Legislative Council of New Zealand in the year one thousand eight hundred and forty-six, intituled "*An Ordinance to regulate the Appointment and Duties of Coroners in the Colony of New Zealand,*" is hereby repealed.

Short Title.

14. This Act may for all purposes be cited as "*The Coroners' Act, 1858.*"

SCHEDULE.

	£	s.	d.
To the Coroner or Justice of the Peace holding any inquest under this Act, for every such inquest	2	2	0
Mileage for inquests held at a distance exceeding one mile from the residence of the person holding the same, per mile (one way)	0	1	6
To the person employed to summon a jury, not being a paid servant of the Government, any sum not exceeding	0	12	0
To a medical witness for giving evidence	1	1	0
Ditto for a <i>post mortem</i> examination when required in writing, by the Coroner or Justice of the Peace holding such inquest	2	2	0

No. VIII.

AN ACT for raising a Militia within the Colony.

[28th May, 1858.]

MILITIA.

Preamble.

WHEREAS it is expedient that the European population of New Zealand should be trained to the use of arms so as to form an effective military force for the defence of the lives and property of Her Majesty's subjects within the Colony:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Power to Governor to call together Militia.

1. It shall be lawful for the Governor to call together arm and array as a Militia such persons as are hereinafter mentioned, and, subject to the provisions hereinafter contained, to cause them to be trained and exercised accordingly at such times and places as shall seem meet.

Governor to constitute Militia districts.

2. It shall also be lawful for the Governor in Council from time to time to constitute throughout the Colony, or in any part thereof, Militia Districts, and such districts from time to time to abolish and the boundaries thereof to vary, and to designate the Militia of any such district

Militia.

district by the name of a regiment battalion corps or company as he shall think fit.

3. It shall also be lawful for the Governor to appoint a proper number of officers to train discipline and command every regiment battalion or other body according to the regulations to be from time to time made in that behalf. And appoint officers.

4. It shall also be lawful for the Governor to appoint a permanent Staff in such of the said districts as he shall think fit, consisting of not more than the following persons, viz., one adjutant, one sergeant, one corporal, and one bugler or drummer, who shall be paid out of such sums as shall from time to time be appropriated by the General Assèmbly for that purpose, after the following rate, viz. :— And Staff.

Each adjutant, not exceeding	...	...	8s. a day.
Each sergeant, not exceeding	...	...	4s. a day.
Each corporal, not exceeding	...	...	3s. a day.
Each bugler or drummer, not exceeding	...	...	2s. 6d. a day.

5. It shall also be lawful for the Governor to cause the Militia of every district to be formed and regulated, as to regiments battalions corps and companies, in such manner as to His Excellency shall seem meet. And to regulate the formation of regiments &c.

6. It shall also be lawful for the Governor from time to time to make such regulations respecting the training and exercise arms and accoutrements clothing and equipment pay rations and lodging of such Militia, or any part thereof, and respecting all other matters connected therewith, which may be required for promoting the efficiency of such Militia as a military force: Provided always that the regulations so to be made shall not in anywise be repugnant to the provisions of this Act. And to make regulations for training &c.

7. In all cases of actual invasion or upon imminent danger thereof, and in all cases of rebellion or insurrection, or upon any imminent danger to the safety of any part of the Colony, it shall be lawful for the Governor, or such person as he shall from time to time by warrant under his hand appoint as his deputy for that purpose, to direct the Officer Commanding the Militia of any district with all convenient speed to draw out for actual service such Militia force, or such part or number thereof as the Governor or such deputy shall judge necessary, and in such manner as shall to him seem best adapted to the circumstances of the danger, and to lead the said forces into any part of the district in which such Militia shall have been raised, and such Militia shall continue on actual service so long as, in the opinion of the Governor, the danger shall render their services necessary: Provided always that neither the whole nor any part of the Militia to be raised in any district shall on any account be carried or ordered to go beyond the boundaries of such district, except only such as shall volunteer for service out of the same. And to call Militia or any part thereof into actual service.

8. When the Governor or his deputy as aforesaid shall think fit to draw out a portion only of the Militia of any district, the persons to be so drawn out shall be chosen by ballot according to such rules as the Governor shall from time to time make for that purpose: Provided always that when any person so chosen by ballot shall produce for his substitute a man who shall be approved of as fit and able to serve by the Commanding Officer of the regiment battalion corps or company of the district in which he shall propose to serve, such substitute shall be accepted instead of the balloted person, and any balloted person for whom such substitute shall be so produced approved and accepted shall be exempt from service for one year unless the whole of the Militia of the district shall be drawn out for actual service during such year, and such substitute shall serve as if he had himself been balloted or chosen. When part only called out, to be chosen by ballot.
Substitutes may be provided.

Militia.

Militiaman if seriously wounded entitled to pension.

9. Every Militiaman who shall be so seriously wounded or otherwise injured when on actual service as to afterwards impede his obtaining a livelihood, shall be entitled to a pension, so long as he shall be so disabled, according to such regulations as the Governor in Council shall from time to time make in that behalf, as nearly as the circumstances will admit, in accordance with the regulations in force in respect of the Queen's regular troops, and of a similar amount.

Who liable to serve as Militiamen.

10. Every man except as hereinafter excepted between the ages of eighteen years and sixty years, being a British subject and not an aboriginal native, who shall reside within the Colony, shall be liable to serve in such Militia: Provided that the Judges of the Supreme Court, Members of the Executive Council of the Colony, Members of the General Assembly, Superintendents of Provinces, Members of Provincial Councils during Session, Clergymen, Priests, Ministers of Religion, and Catechists, shall be exempt from serving in any such Militia.

Magistrates to form Militia List.

11. A Justice of the Peace to be appointed in every Militia District by the Governor shall, in the month of March in every year, call a special meeting of the Justices of the Peace residing within such district for the purpose of forming a Militia List, and the Justices at such meeting, or at any adjournment thereof (any two being a quorum), shall prepare a list, in alphabetical order, of all men residing within such district who shall be liable under the provisions of this Act to serve as Militiamen, setting forth the christian and surname of each at full length, together with his place of abode calling or business. The Justice so appointed as aforesaid shall forthwith cause copies thereof to be affixed on such conspicuous places throughout the district as to him shall seem meet, and to such list and copies thereof shall subjoin a notice that all objections thereto will be heard and determined by such Justices at any time within ten days after the date of such notice: Provided that it shall be lawful for the Governor from time to time, by notice published in the New Zealand Government *Gazette*, to vary the months appointed for the preparation of such lists.

Justices to correct list.

12. Such Justices shall have power, after hearing such objections, to strike out of the said list the names of all persons who shall not be liable to serve as Militiamen, and also of such as are afflicted by lunacy or unsoundness of mind, or deafness blindness lameness or by any other disorder that may render them unfit for active service in any such Militia; and also during such ten days to add such names as may be found to have been accidentally or improperly omitted.

Copy of list to be sent to person appointed by the Governor.

13. A copy of the list so corrected by the said Justices shall be transmitted by them forthwith to such person as the Governor shall from time to time appoint to receive the same.

Persons on existing lists liable to serve.

14. Until the formation of Militia Lists under this Act, all persons on the existing Militia Lists shall be deemed liable to serve as Militiamen under the provisions of this Act.

Notice of time and place of training to be given.

15. Notice of the times and places for training and exercise, to be from time to time fixed by the Governor or by such person as he may from time to time appoint for that purpose, shall be posted in such conspicuous places within the district fourteen days at least before the time to be so appointed as aforesaid, which shall be deemed sufficient notice to every Militiaman, and all such Militiamen shall duly attend accordingly: Provided always that it shall be lawful for the Governor, or such person as he shall appoint as his deputy for that purpose, from time to time to call out the whole or any part or number of any regiment battalion corps or company, as he shall think fit: Provided also that no Militiaman shall be compelled to attend for

for

Militia.

for training and exercise more than one hundred and sixty-eight hours in any one year.

16. Every Militiaman (not labouring under any infirmity incapacitating him) who shall not appear at the time and place appointed for his being trained and exercised (notice having been given as by this Act required), shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way. Penalty for not appearing.

17. Every Militiaman who, having joined the regiment battalion corps or company to which he may belong, shall desert or absent himself during any part of the time appointed for any such exercise, shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way. Penalty for not attending.

18. When the whole or any part of such Militia shall be ordered out into actual service as aforesaid, the person to whom such order shall be directed shall forthwith cause notice in writing to be given to the several Militiamen, or left at their usual place of abode, to attend at the time and place mentioned in such order. Notice to be given to Militiamen when called into actual service.

19. If any Militiaman so directed to be drawn out (not labouring under any infirmity incapacitating him to serve as a Militiaman) shall not appear and march in pursuance of such direction, every such Militiaman shall be liable to be apprehended and punished as a deserter according to the provisions of any Act then in force for punishing mutiny and desertion, and for the better payment of the army and their quarters, and of the Articles of War made in pursuance of the same. Penalty for not joining.

20. If any person knowingly shall harbour or conceal any such Militiaman when directed so to be drawn out, he shall for every such offence forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way. Penalty for concealing Militiaman.

21. Every Militiaman who shall appear at the time and place appointed for exercise, shall take an oath in the form following, viz:— Oath to be taken.

I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, and that I will faithfully serve in the Militia until I shall be lawfully discharged,

and shall thereupon be enrolled. The said oath shall be taken in the presence of the Senior Officer of Militia then present, who is hereby authorized and required to administer the same: Provided that if any Militiaman shall refuse to take such oath, he shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

22. If any Militiaman shall sell pawn or lose any of his arms clothes accoutrements or ammunition, or neglect or refuse to return the same in good order to his captain or to the person appointed to receive the same, or if any person shall knowingly and wilfully buy take in exchange conceal or otherwise receive any Militia arms clothes accoutrements or ammunition whatever, every such offender shall forfeit and pay for every such offence any sum not exceeding ten pounds, to be recovered in a summary way. Penalty for selling or receiving arms &c.

23. During the time that any such Militia shall be assembled for the purpose of being trained and exercised or for actual service, all things contained in any Act of Parliament which shall then be in force for punishing mutiny and desertion, and for the better payment of the army and their quarters, and in the Articles of War made in pursuance of such Act, shall be in force with respect to such Militia, and to all the officers, non-commissioned officers, drummers, and privates of the same in all cases whatsoever. Militia to be subject to Articles of War &c.

24. And whereas it is expedient to encourage the enrolment of Volunteers for military or naval service in the Colony: Be it therefore Volunteers may be enrolled.

further

Pensioner Villages Sale of Reserves.

further enacted that it shall be lawful for the Governor in Council from time to time to make vary and abolish regulations under which the service of Volunteers shall be accepted in any Militia District, and whenever any Volunteers shall be enrolled under such regulations they shall be subject to such of the provisions of this Act as shall be specified in such regulations and to none other of such provisions, and all such regulations shall have the same force and effect as though they had been embodied in and formed part of this Act: Provided always that whenever the whole of the Militia of any district is drawn out for actual service, the Volunteers in such district shall always be liable to serve, either as a body or such of them as are on the Militia Roll, as part of the Regular Militia, and that, whenever a certain part or number only of the Militia of any district is chosen by ballot for actual service, any Volunteers being on the Militia Roll shall be liable to such ballot, and if chosen, to serve accordingly, unless they shall be or shall consent to go if required on actual service as Volunteers.

Militia Ordinance
passed by Governor
and Legislative
Council repealed.

25. An Ordinance enacted by the Governor and Legislative Council of New Zealand, in the year one thousand eight hundred and forty-five, intituled "*An Ordinance for raising a Militia within the Colony,*" shall be repealed, so far as relates to the forming of a Militia Roll, on the passing of this Act, and so far as regards the other provisions of the said Ordinance, on the first day of November, one thousand eight hundred and fifty-eight.

Short Title.

26. The Short Title of this Act shall be "*The Militia Act, 1858.*"

No. IX.

PENSIONER VILLAGES
SALE OF RESERVES.

AN ACT to enable the Governor to sell certain Reserves in the Pensioner Villages in the Province of Auckland, and to pay over the proceeds to Her Majesty's Imperial Treasury. [3rd June, 1858.]

Preamble.

WHEREAS several companies of Pensioners have from time to time been enrolled for service for a period of seven years in the Colony of New Zealand, and the expense of sending out such Pensioners and of settling them in the Colony has been borne by Her Majesty's Imperial Government: And whereas, amongst other conditions on which such Pensioners were enrolled, it was provided that each Pensioner should have the occupation of a cottage with an acre of land attached thereto, to become at the termination of the seven years' service for which the enrolment was made the absolute property of such Pensioner provided he should have fulfilled the conditions of his agreement: And whereas from various causes there are several such cottages erected at the expense of Her Majesty's Imperial Government which have not become the property of Pensioners according to the terms of their said enrolment, and Her Majesty's Imperial Government have requested that the same may be sold and the proceeds thereof paid over to Her Majesty's Imperial Treasury:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. It

Pensioner Villages Sale of Reserves.

1. It shall be lawful for the Governor, whenever he shall think fit, to sell and dispose of by public auction all or any of the said allotments or parcels of land specified in the Schedule to this Act annexed, together with the cottages thereon erected, and in the name and on behalf of Her Majesty to make and execute, under the Public Seal of the Colony, grants in the usual form to purchasers thereof, and every such grant shall be deemed to convey an estate in fee simple free from incumbrances, and without liability on the part of the purchaser to see to the application of the purchase money.

Governor to sell allotments of land specified in Schedule.

2. The money to arise from every such sale shall, after payment thereof of the expenses attending the same, be remitted to Her Majesty's Imperial Treasury, to be disposed of in such manner as Her Majesty shall think fit to direct.

Application of proceeds.

3. The Short Title of this Act shall be "*The Pensioner Villages Sale of Reserves Act, 1858.*"

Short Title.

SCHEDULE.

Name of Pensioner Village where Allotments respectively situate.	Number of Section.	Number of Allotment.
Onehunga	5	9
"	9	5
"	9	7
"	9	10
"	16	8
"	2	41
"	3	37
"	3	39
"	3	41
"	4	42
"	6	37
"	6	42
"	7	36
"	8	39
"	11	37
"	12	37
"	12	40
"	15	37
"	46	4
"	46	6
"	48	10
"	48	17
Otahuhu	1	3
"	5	2
"	7	6
Panmure	2	61
Howick	...	22
"	...	23
"	...	35
"	...	42
"	...	47
"	...	49
"	...	52
"	...	57
"	...	70
"	...	75
"	...	83
"	...	99
"	...	101
"	...	110
"	...	115
"	...	116
"	...	131
"	...	164
"	...	203
"	...	207
"	...	213
"	...	219

Execution of Criminals.

No. X.

EXECUTION OF
CRIMINALS.

AN ACT to regulate the Execution of Criminals.

[3rd June, 1858.]

Preamble.

WHEREAS it is expedient to alter the practice observed in the execution of criminals :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Execution to be carried into effect within walls of gaol or other enclosed place.

1. From and after this Act coming into operation in any district of New Zealand, sentence of death passed upon any person by the Supreme Court of the Colony, or by any Judge of the said Court, shall be carried into execution within the walls or the enclosed yard of some gaol, or within some other enclosed place.

Governor to appoint proper gaols and places.

2. The Governor shall from time to time, by writing under his hand, appoint such gaols and other places for such executions as he may think proper ; and may revoke such appointments, and, if he shall think fit, appoint other places in lieu thereof.

Sheriff and officers of gaol to witness execution.

3. The Sheriff, the Gaoler, any of the officers of the gaol whose attendance the Sheriff may require, and a medical practitioner, shall be present at every such execution, together with any Justices of the Peace and Ministers of Religion who may desire to attend, and also such military and police guard (and other male adult spectators, not exceeding ten, unless under permission from the Governor,) as the Sheriff may think fit to admit, but no other persons whatsoever.

Medical officer to sign a certificate and witness a declaration.

4. Every one of the persons aforesaid who may attend or be present at any such execution shall continue and remain within the walls or enclosed yard of the gaol or other enclosed place until the sentence shall have been carried into execution and completed according to law, and until the medical practitioner shall have signed a certificate in the Form numbered I. in the Schedule to this Act ; and the Sheriff, Gaoler, and other officers of the gaol, and also such other of the persons present as may think fit, shall, before their departure from the gaol or place of execution, subscribe a declaration according to the Form numbered II. in the said Schedule.

Body not to be buried within eight hours, and to be viewed.

5. The body of any person on whom the sentence of death shall have been carried into execution as aforesaid shall not be buried or removed from the gaol or place where such execution is had within eight hours next after such execution, and every person who shall within that time produce to the Gaoler or other person in charge of the body an order from a Justice of the Peace requiring such Gaoler or other person to admit the bearer of such order to view the body of such person, shall and may be admitted by such Gaoler accordingly.

Inquest to be held on the body.

6. Whenever any execution shall have taken place, it shall be the duty of the Sheriff to give notice thereof forthwith to the Coroner of the district, who shall, as soon as conveniently may be, hold an inquest upon the body of the person upon whom the sentence of death has been executed ; and the jury, which shall not include any of those who witnessed the execution, on such inquest shall inquire and find whether such sentence was duly carried into effect on the body of the person condemned to execution.

Penalty for subscribing false certificate or declaration.

7. Any person who shall subscribe any certificate or declaration as aforesaid, knowing the same to be false or to contain any false statement, shall be deemed guilty of felony, and being thereof lawfully convicted shall be liable to be sentenced to penal servitude for any term not exceeding six years.

8. Every

Elections Writs.

8. Every such certificate and declaration as aforesaid shall be forthwith transmitted by the Sheriff to the Registrar or Deputy Registrar of the Supreme Court for the Province within which such execution shall have taken place, and shall be kept in his office as a record of the said Court, and shall be published in the *New Zealand Gazette*. Certificate and declaration to be kept as record of Supreme Court, and to be published in *Gazette*.

9. This Act shall come into operation in such part of the Colony of New Zealand as the Governor shall by Proclamation from time to time appoint to be districts for that purpose. Commencement and operation of Act.

10. Provided always that it shall be lawful for the Governor, with the advice of his Executive Council, by an order under his hand, to be given in any special case in which the circumstances may appear to render it expedient, to direct that sentence of death passed upon any person as aforesaid shall be carried into execution at some particular time and place within the Colony of New Zealand, to be in such order set forth, and in every such case none of the provisions of this Act shall apply to or be acted on. Governor in special cases may appoint any time and place for execution.

11. The Short Title of this Act shall be "*The Execution of Criminals Act, 1858.*" Short Title.

SCHEDULE.

FORM NO. I.

Certificate.

I, A.B., the Medical Officer in attendance at the execution of C.D., at the gaol of [or at the place of execution at], do hereby certify and declare that I have this day witnessed the execution of the said C.D. at the said gaol; and I do further certify and declare that the said C.D. was, in pursuance of the sentence of the Supreme Court, hanged by the neck until his body was dead.

Given under my hand, this day of , in the year one thousand eight hundred and , at the gaol of [or at the place of execution at].

FORM NO. II.

Declaration.

WE do hereby testify and declare that we have this day been present when the extreme penalty of the law was carried into execution on the body of C.D., convicted at the Criminal Session of the Supreme Court held at , on the day of last [instant], and sentenced to death, and that the said C.D. was, in pursuance of the said sentence, hanged by the neck until his body was dead.

Dated this day of , in the year one thousand eight hundred and , at the gaol of [or at the place of execution at].

Sheriff.
Gaoler.
Turnkey.
Justice of the Peace.
Other Spectators.

No. XI.

AN ACT to provide for the Issue of Writs for supplying Vacancies in the House of Representatives during the Recess. [3rd June, 1858.] ELECTIONS WRITS.

WHEREAS it is expedient that provision be made for supplying vacancies in the House of Representatives when the General Assembly is not in Session: Preamble.

BE

Wool and Oil Securities.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Supplying vacancies during the recess.

1. Whenever it shall be established to the satisfaction of the Speaker of the House of Representatives, at any time when the General Assembly is not in Session, that the seat of any Member of the said House has become vacant by death resignation or otherwise, the Speaker shall address the Governor, stating the existence of such vacancy and the cause thereof, and the Governor shall forthwith cause a writ to be issued for supplying such vacancy: Provided always that if, when any such vacancy shall occur or exist, there be no Speaker, or he be absent from the Colony, a Committee, consisting of the Chairman of Committees (if any) of the said House, such Members of the Executive Council as may be Members of the said House, and any two other Members of the said House, to be nominated from time to time by the Speaker for that purpose, or any two or more of such Committee, upon being satisfied of the existence of such vacancy, may in lieu of the Speaker address the Governor as aforesaid, who shall forthwith cause a writ to be issued as aforesaid: Provided also that the resignation of seats in the said House shall be addressed to the Speaker notwithstanding there may be at the time a vacancy in the office of Speaker.

Provision in case there be no Speaker.

Governor may delay execution of writ or issue *supersedeas*.

2. Whenever it shall appear to the Governor that any doubt exists as to whether a writ issued under this Act for the election of a Member of the House of Representatives has been duly issued, it shall be lawful for His Excellency to direct that the execution of such writ shall be delayed; and whenever it shall appear to the Governor that any such writ has been unduly issued, it shall be lawful for His Excellency to issue a *supersedeas* to the said writ.

Privilege of the House of Representatives saved.

3. Nothing in this Act contained shall in any wise abridge the right and privilege of the House of Representatives to be judges without appeal of the validity of the election of each Member thereof.

Short Title.

4. The Short Title of this Act shall be "*The Elections Writs Act, 1858.*"

No. XII.

WOOL AND OIL
SECURITIES.

AN ACT to enable the Proprietors of Sheep and Whaling Stations to give Valid Security on future produce of Wool Oil and Bone. [3rd June, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Advances made to proprietors of sheep or whaling stations may be secured on wool and oil of ensuing season.

1. Whenever any person shall *bonâ fide* make an advance of money or goods or give any negotiable security to any proprietor of sheep or of a whaling station in the said Colony, on condition of receiving wool of the next ensuing clip, or oil or bone to be caught in the next ensuing whaling season, and shall take a security for the delivery of the same as nearly as conveniently may be in the form or to the effect set forth in the Schedule hereunto annexed, such person shall be entitled to the wool or to the oil and bone respectively in such security mentioned, and shall be deemed to all intents and purposes to be the owner thereof and in possession of the same.

2. Provided

Wool and Oil Securities.

2. Provided always that every such security shall become and be null and void unless a duplicate or copy thereof and of every attestation thereto, together with an affidavit verifying the accuracy of such duplicate or copy, and stating the time of such security being given, with a description of the residence and occupation of the person giving the same, shall be filed within sixty-one days after the execution of such security in the office of the Registrar or Deputy Registrar of the Supreme Court for the Province within which respectively such sheep are depasturing at the time of the security being given or such whaling station is situate.

Provided that such security shall become void unless duplicate or copy filed.

3. There shall be paid to the Registrar or the Deputy Registrar, upon the filing of every duplicate or copy of any such security, a fee of five shillings.

Fee for filing.

4. Every such Registrar or Deputy Registrar shall cause every duplicate or copy of any security or transfer filed in his office as aforesaid to be numbered consecutively in the order in which they are filed, and shall keep a book or books in which he shall cause to be entered an alphabetical list of persons giving or transferring such securities in the form and containing the particulars set forth in the Form numbered I. in the said Schedule.

Books containing alphabetical list of persons giving such securities shall be kept.

5. Such book or books may be search and every duplicate or copy of any security may be examined by all persons, at all reasonable times, on payment for every search against one person of the sum of two shillings, and for every such duplicate or copy examined the sum of two shillings.

Books and securities may be searched and examined.

6. Any person shall be entitled to have an office copy of or extract from every such security or copy thereof filed as aforesaid upon paying for the same at the rate of sixpence for every folio of seventy-two words contained in such copy or extract.

Office copies or extracts to be given.

7. No subsequent sale mortgage or other incumbrance of the sheep mentioned in any such security shall extinguish suspend impair or prejudicially affect the same or the rights of the owner of such security to the wool specified therein, and if any such shall be taken in execution of any process they shall be sold, and shall thereafter continue and be subject to such security and to the rights of the owner thereof.

No subsequent sale to prejudicially affect security.

8. If the person who for the time being be the proprietor of the sheep specified in every such security shall refuse or neglect to shear the same and deliver the wool according to the terms of such security, it shall be lawful for the owner of such security to take possession of the sheep bearing such wool for the purpose of washing and shearing the same, and the expense thereby incurred, and of the packing of the wool, and conveyance of the said wool to the place designated in such security shall, if the security be for the repayment of an advance, be deemed to be part of the amount secured, and if the security be in respect of an absolute purchase, such expense shall be a debt due to the owner of the security by the proprietor of the sheep.

If proprietor neglect to shear same and deliver wool, owner of security may do so.

9. If the proprietor of any whaling station who shall have given any such security as aforesaid shall refuse or neglect to deliver the oil and bone therein specified according to the tenor thereof, it shall be lawful for the owner of the security to take possession of such oil and bone, and the expense thereby incurred and of the conveyance thereof to the place designated in such security shall, if the security be for the repayment of an advance, be deemed to be part of the amount secured, and if the security be in respect of an absolute purchase, such expense shall be a debt due to the owner of the security by the person who shall have given the same.

If proprietor of whaling station refuse or neglect to deliver oil, owner of security may take possession of same.

10. Every such security as aforesaid shall be transferable by deed, and also may be transferred by indorsement in the Form numbered

Security transferable by indorsement.

Wool and Oil Securities.

III. in the said Schedule, or to the like effect, and every transferee shall have the same right title and interest as the person in whose name such security was originally taken. The provisions hereinbefore contained as to filing a duplicate or copy of the original security shall apply to every transfer of the same.

Mortgagor of sheep, with consent of mortgagee, may give security on ensuing clip of wool.

11. It shall be lawful for the mortgagor of any sheep, with the consent in writing of the mortgagee but not without such consent, to give a valid security as aforesaid on the next ensuing clip of the wool of such sheep.

Registrar or Deputy Registrar to cancel security at request of owner.

12. It shall be lawful for the Registrar or Deputy Registrar, at the request in writing of the owner for the time being of any such security, to cancel and thereby render null and void the same by writing across the face of the duplicate or copy thereof filed in his office the word "cancelled," and affixing the date and signing his name thereto.

Frauds to entitle owner of security to recover double the amount of consideration.

13. Any person who shall give any such security as aforesaid, or who shall for the time being be the owner of any sheep or whaling station specified in any such security, and shall knowingly and wilfully sell or deliver or cause to be sold or delivered the wool or oil or bone respectively, or any part thereof, comprised in such security, without the written consent of the owner of the security, or who shall without such written consent as aforesaid knowingly and wilfully sell or dispose of or cause to be sold or disposed of any sheep whereon any such wool is growing, or any whaling station mentioned in such security, with a view of depriving the owner of the security of such wool or such oil or bone respectively, or who shall in any way by any means whatsoever directly or indirectly knowingly and wilfully destroy defeat invalidate or impair any such security, shall forfeit and pay double the sum mentioned in such security as the consideration for the same, to be recovered by the owners thereof as liquidated damages, together with full costs of suit, in any Court of competent jurisdiction.

Persons assisting in frauds liable also to double the amount of consideration stated in security.

14. Every person who shall knowingly and wilfully aid or abet any person whomsoever directly or indirectly to defeat destroy invalidate or impair any such security as aforesaid, or who shall with any such intent knowingly and wilfully remove receive take or carry away, or incite aid or abet any other person whomsoever to remove receive take carry away or deliver, any wool or any oil or bone comprised in any such security contrary to the terms thereof, shall forfeit and pay double the sum mentioned in such security as the consideration of the same, to be recovered by the owner thereof as liquidated damages, together with full costs of suit, in any Court of competent jurisdiction: Provided always that the recovery of any sum of money under the last preceding section of this Act shall not affect the right to recover also under this section, nor the recovery of any sum of money under this section affect the right to recover under the last preceding section.

Short Title.

15. The Short Title of this Act shall be "*The Wool and Oil Securities Act, 1858.*"

SCHEDULE.

FORM I.—FOR REPAYMENT OF ADVANCE.

KNOW all men by these presents, that in consideration of the sum of £ , which A.B. [*Abode and description*] admits to have received in [*Money or goods or negotiable securities, or all or any of them, as the case may be,*] from C.D., of [*Abode and description*], he the said A.B., in pursuance of "*The Wool and Oil Securities Act, 1858,*" doth hereby give unto the said C.D. security on the wool of the ensuing clip to be shorn from the flock of sheep of the said A.B., consisting in number of , or thereabouts, and now depastured at , in the Province of , in the Colony of new Zealand, under the

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the charge of E.F., and marked _____, [or on the oil and bone to be caught in the next ensuing whaling season at the whaling station of the said C.D., situate at _____, and now under the charge of E.F.]. And it is agreed by and between the said parties, A.B. and C.D., as follows, That—

(1.) The said sheep shall be shorn by and at the expense of, &c. [*Here follow the arrangements between the parties as to delivery of wool, time of repayment of advance, interest, &c.*]

Dated the _____ day of _____, in the year one thousand eight hundred and _____ C.D.

Witness

Note.—If it is intended to make sale, and not give security only for the repayment of an advance, the form may be altered as follows:—

A.B., in pursuance of “*The Wool and Oil Securities Act, 1858,*” doth hereby sell and grant unto the said C.D. all the wool [*or specifying quantity, &c.*].

FORM II.—LISTS OF SECURITIES AND TRANSFERS.

Number of Security or Transfer.	Name and Address of Person to whom Security given or Transferred.	Whether for Repayment of Advance or a Sale.	Date of Execution.	Date of Filing.	Consideration.	Description of Property comprised in Security or Transfer.

FORM III.—TRANSFER BY INDORSEMENT.

Know all men by these presents that I, the within-named C.D., do hereby transfer unto G.H. the within written security, and all my right title and interest under the same.

Dated the _____ day of _____, in the year one thousand eight hundred and _____ C.D.

Witness

No. XIII.

AN ACT to authorize the Formation of Special Partnerships. [26th June, 1858.]

SPECIAL PARTNERSHIPS.

WHEREAS it is expedient to encourage the formation of partnerships for the promotion of agricultural mining mercantile manufacturing and other undertakings, and the object thereof would be promoted by enabling persons to employ their capital as partners in certain cases without liability to the debts of the partnerships beyond the amount contributed by them :

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. After the passing of this Act, special partnerships may be formed for the transaction of agricultural mining mercantile mechanical manufacturing or other business, by any number of persons, upon the terms and subject to the conditions and liabilities hereinafter prescribed : Provided that nothing herein contained shall authorize any such partnership for the purpose either of banking or insurance.

Special partnerships may be formed, except for banking and insurance.

2. Every such partnership may consist of general partners, who shall be jointly and severally responsible as general partners are now by law, and of persons, to be called special partners, who shall contribute to the common stock specific sums in money as capital, beyond which they shall not be responsible for any debt of the partnership except in cases hereinafter provided for.

General and special partners and their liabilities.

3. All

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Certificates to be signed by the partners specifying names capital &c.

3. All the persons forming any such partnership shall, before commencing business, sign a certificate containing the style of the firm under which the partnership is to be conducted, the names and places of residence of all the partners, distinguishing the general from the special partners, the amount of capital which each special partner contributes, and also (if any) the amount contributed by the general partners to the common stock, the general nature of the business to be transacted, the principal place at which it is to be transacted, the time when such partnership is to commence, and when it is to terminate.

Style of partnership.

4. Such style or firm shall contain the names of general partners only, or the name of one such partner with (in either case) the addition of the words "and Company," and the general partners only shall transact the business of the partnership; and if in the carrying on of such business, or in any contract connected therewith, the name of any special partner shall be used with his consent or privity, or if he shall personally make any contract respecting the concerns of the partnership, every such special partner shall be deemed to be a general partner with respect to the contract or matter in which his name has been so used, or as to which he shall have so contracted.

Certificates to be acknowledged and recorded.

5. No such partnership shall be deemed formed until such certificate as aforesaid shall have been acknowledged by each partner before some Justice of the Peace and registered in the office of the Supreme Court in a book to be kept for that purpose, open to public inspection; and if any false statement shall be made in any such certificate, all the persons interested in the partnership shall be liable for all the engagements thereof as general partners: Provided that no clerical error or matter not of substance shall be deemed false within the meaning of this section unless some person may have been prejudiced thereby, in which case the special partners shall be liable to the person so prejudiced.

If false, all to be liable as general partners.

Copy of certificate to be published.

6. A copy of such certificate shall be published once at least in the New Zealand Government *Gazette* and twice in some newspaper published at the intended principal place of business of the partnership, or at the nearest place where a newspaper is published to such place of business, and in case such publication be not so made the partnership shall be deemed general.

Duration of partnerships prescribed.

7. No partnership under this Act shall be entered into for a longer period than seven years, but such partnership may be renewed at the end of that period, or at the termination of any shorter period for which a partnership may be formed.

Certificate to be signed on renewal.

8. Upon every renewal or continuation beyond the time originally agreed upon for its duration of a special partnership, a certificate thereof shall be signed acknowledged registered and published in like manner as the original certificate, and every partnership which shall be renewed or continued otherwise than in conformity with the provisions of this section shall be deemed general.

Capital stock not to be withdrawn &c.

9. During the continuance of any partnership under the provisions of this Act, no part of the certified capital thereof shall be withdrawn nor shall any division of interest or profit be made so as to reduce such capital below the aggregate amount stated in the certificate; and if any part of such capital shall be so withdrawn or any such division be made so that at any time during the continuance or at the termination of the partnership the assets shall not be sufficient to pay the partnership debts, the special partners shall be severally liable to refund every sum by them respectively received in diminution of such capital or by way of such interest or profit; and all such sums may be recovered as money had and received by them respectively to the use of the general partners, and may, in the case of any judgment

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having been obtained against the general partners, be recovered by the plaintiff against the special partners, or either of them, by process of execution to be issued under such judgment by leave of the Supreme Court.

10. All suits respecting the business of any partnership established under this Act shall be prosecuted by and against the general partners only, except in the cases in which it is provided by this Act that special partners shall or may be deemed general partners, in which cases every special partner who shall become liable as a general partner may be joined or not in the suit as a defendant, at the discretion of the party suing.

Suits to be by and against general partners.

11. No dissolution of a limited partnership shall take place, except by operation of law, before the time specified in the certificate, unless a notice of such dissolution shall be signed acknowledged registered and published in like manner as the original certificate.

Dissolution how effected.

12. In all cases not hereinbefore otherwise provided for, all the members of a limited partnership shall be subject to the liabilities and entitled to the rights of general partners.

Cases not specially provided for.

13. The general partners shall be liable to account to each other and to the special partners for their management of the partnership concerns as other partners are by law.

Accounting.

14. Every partner who shall be guilty of any fraud in the affairs of the partnership shall be liable civilly to the party injured to the extent of his damage, and shall also be liable to an indictment for a misdemeanour, punishable by fine or imprisonment, or both, at the discretion of the Court by which he shall be tried.

Frauds by partners.

15. If the general partners shall not at all times cause regular books of account to be kept, or shall not have the same open at all reasonable times to the inspection of the special partners, such special partners shall in default therein be entitled to have the partnership dissolved and the accounts thereof taken by the Supreme Court.

Books of account to be kept and to be open to inspection.

16. If the books of any special partnership shall, with the knowledge or privity of the special partners or any of them, be kept incorrectly, or contain any false or deceptive entries, whereby the ascertainment of the matters mentioned in the first part of the ninth section of this Act shall or may be affected, the certified capital of such special partners, or such one or more of them having such knowledge or privity, shall as against creditors be deemed to have been withdrawn, and they or he shall be liable accordingly under the provisions of the said ninth section.

As to liability of special partners if books be not kept or be incorrectly kept.

17. The following Acts are hereby repealed, namely:—

(1.) An Act passed by the local Legislature of the Province of Auckland, Session II., No. 2, intituled "*An Act to Legalize Partnership with Limited Liability.*"

(2.) An Act passed by the local Legislature of the Province of Wellington, Session I., No. 10, intituled "*An Act to authorize the formation of Partnerships consisting of Members some having General and others Special Liability.*"

Acts of Provincial Councils on same subject repealed except as to partnerships already formed.

Provided always that nothing herein contained shall affect any partnership already formed under either of the Acts hereby repealed, but the said Acts, so far as regards such partnership but not as respects any renewal thereof, shall be deemed to be unrepealed and shall respectively apply to the same as though this Act had not been passed.

18. The Short Title of this Act shall be "*The Special Partnerships Act, 1858.*"

Short Title.

*Foreign Seamen.***No. XIV.****FOREIGN SEAMEN.**

AN ACT for preventing Desertion and other Misconduct of Seamen belonging to Foreign Ships.

[26th June, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Foreign seamen deserting &c., may be apprehended by warrant.

1. If any seaman belonging to any foreign ship shall, whilst such shall be in any port in the Colony of New Zealand or otherwise within the limits thereof, desert or absent himself without leave, or wilfully neglect or refuse to join after signing an agreement to do so, or shall refuse to proceed to sea in such ship, it shall be lawful for any Justice of the Peace, upon the complaint upon oath of the master of such ship, to issue his warrant for the apprehension of such seaman, and thereupon deal with him as hereinafter provided, or at the request of such master to order such seaman to be put forcibly on board the ship to which he may belong, or to place such seaman at the disposal of the Consul of the Nation or State to which such vessel shall belong.

Also without warrant.

2. The master of any such ship may require any constable, who is thereupon hereby authorized without first procuring a warrant, to apprehend any such seaman so deserting absents himself neglecting or refusing to join or refusing to proceed to sea as aforesaid, and such constable shall thereupon, if such seaman requires it, convey him before a Justice of the Peace capable of hearing the complaint, to be dealt with according to law, or if he do not so require, shall convey him on board the ship to which he may belong with all convenient speed: Provided that if such apprehension be made on improper or insufficient grounds, the master who caused the same to be made shall be liable to a penalty not exceeding fifty pounds.

Punishments.

3. Every seaman of any foreign ship who shall, whilst such ship shall be in any port of this Colony or otherwise within the limits thereof, commit any of the offences hereinafter mentioned, shall upon conviction thereof in a summary way before any Justice of the Peace be imprisoned, with or without hard labour, in any gaol or house of correction for periods not exceeding the periods hereinafter set against the said offences respectively, that is to say,—

Desertion.

(1.) For desertion, or absents himself without leave, or refusing to join after signing an agreement to do so, or refusing to proceed to sea in such ship, a period of twelve weeks for the first offence, and a period of six months for a second or subsequent desertion or absence as aforesaid.

Assaulting officers.

(2.) For assaulting any master or other officer of such ship, a period of six months.

Disobedience or neglect of duty.

(3.) For wilful disobedience to any lawful command of such master or other officer of such ship, or for a wilful neglect of his duty as a seaman, or for attempting to leave any such ship without the consent of the officer in charge thereof, a period of four weeks.

Continued disobedience or neglect of duty.

(4.) For continued wilful disobedience to such lawful commands, or for continued wilful neglect of such duty, a period of twelve weeks.

Combining to disobey or neglect duty &c.

(5.) For combining with any other of the crew to desert or to disobey the lawful commands of his officers, or to neglect his duty as seaman, or impede the discharge loading or departure of the ship, or the progress of the voyage, a period

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period of twelve weeks: Provided that nothing herein contained shall take away or abridge any powers which a master of any such ship may have over his crew.

4. It shall be lawful for any Justice of the Peace, at the instance of the master of any such ship, to order any such seaman, at or after the expiration or earlier determination of his sentence of imprisonment or at any time during the continuance thereof, to be put forcibly or otherwise on board the ship to which he may belong, and in all such cases it shall be lawful for any Justice of the Peace to grant an order to any gaoler or keeper of any prison to discharge such seaman from prison into such custody as such Justice shall direct, which shall be a sufficient warrant to such gaoler or keeper to deliver such seaman into such custody and for such purpose as aforesaid.

Power to order convicted seamen to be put on board.

5. It shall be lawful for any Justice of the Peace, upon the complaint on oath of the master of any such ship that he has good cause for suspecting that any runaway seaman of such ship is harboured secreted or concealed on board any ship or boat or in any house or place whatsoever, to issue a warrant to search such ship or boat or such house or place, and to apprehend such seaman and lodge him in some place for safe custody, and such warrant shall be executed accordingly, and every such seaman shall be brought with all convenient speed before some Justice of the Peace to be dealt with according to law.

Ships or places may be searched.

6. If any person shall knowingly and wilfully harbour conceal employ or retain, or assist in harbouring concealing employing or retaining, any seaman belonging to any such ship as aforesaid, who shall have deserted or absented himself or refused or neglected to join or refused to proceed to sea as aforesaid, or shall cause induce or persuade any such seaman by words or by any other means whatsoever to violate or attempt to violate any agreement which he may have entered into to serve on board any such ship as aforesaid, or shall knowingly connive at the desertion or absence or refusal or neglect to join or refusal to proceed to sea of any such seaman, such person so offending shall for every such offence forfeit and pay a penalty not exceeding twenty pounds for the first offence, and not less than ten or more than fifty pounds for a second or subsequent offence.

Penalties for harbouring deserters &c.

7. It shall be lawful for the officer having charge of the police at any port, upon the application of the master of any such ship, to place constables on board such ship to prevent desertion therefrom and to prohibit the approach of boats without the authority of such constables or of the officer in charge of such ship.

Officer having charge of police may put constables on board ships.

8. The occupier of any boat approaching any such ship without such authority as aforesaid, after being duly warned, shall forfeit and pay any sum not exceeding ten pounds for every such offence, and any seaman attempting to leave any such ship without the consent of the officer in charge thereof may be apprehended by any constable, without warrant first obtained, and kept in safe custody, to be taken as soon as conveniently may be before some Justice of the Peace, to be dealt with according to law: Provided always that if any seaman shall make any complaint to any constable placed as aforesaid on board any ship, a statement of such complaint shall be made by such constable as soon as conveniently may be to the officer having charge of the police, who shall forthwith inquire into the ground of such complaint.

Penalty for approaching ship in boat after being duly warned.

9. In prosecuting under this Act it shall not be necessary, for the purpose of proving the articles or agreements under which any such seaman shall have engaged to serve on board any such ship, to call any subscribing or attesting witness thereto, but such articles or agreement may be proved as if there was no such subscribing or attesting witness.

Attesting witness of ships' articles need not be called.

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Penalties how recoverable, and service of summons how to be made.

10. All penalties imposed by this Act may be recovered before one or more Justices of the Peace in a summary way, and the service of any summons or other document in any proceeding under this Act shall be good service if made as now required by law, or if made by leaving a copy of such summons or other document for the person to be served on board any ship to which he may belong, with the person being or appearing to be at the time in command or charge of such ship, and explaining to such person the purport thereof.

Expenses to be paid by master.

11. All expenses incidental to the prevention of desertion apprehension confinement or removal of any seaman by virtue of the powers and authority conferred by this Act shall be paid to the officer having charge of the police by the Consul, master, mate, or other person at whose instance the same shall have been incurred.

Provisions of this Act not to be enforced except by desire of Consul &c. of Nations to which foreign ships may belong.

12. Provided always that none of the provisions of this Act shall be enforced in respect of the masters and seamen of any foreign ships until it shall have been signified in writing to the Governor of New Zealand, by a Consul or some other proper officer of the Government of the Nation or State to which any such ship shall belong, that it is the desire of such Government that this Act shall be enforced in respect of the master and seamen of the ships of such Nation or State.

After notification in *New Zealand Gazette* this Act may be enforced.

13. Whenever a notification shall have been published in the *New Zealand Gazette* to the effect that the provisions of this Act will be enforced in respect of the master and seamen of the ships of any foreign Nation or State, the same shall be enforced accordingly from and after a day to be fixed in such notification; and any printed copy of the *New Zealand Gazette*, purporting to have been printed and published by authority of the New Zealand Government, containing such notification, shall be deemed sufficient evidence that this Act may be enforced in respect of the master and seamen of any ship belonging to the Nation or State to which such notification shall refer.

Acts of Provincial Councils on same subject repealed.

14. The following Acts are hereby repealed, namely:—

- (1.) An Act passed by the Provincial Council of the Province of Auckland, Session I., No. 2, intituled "*An Act for preventing Desertion and other Misconduct of Seamen belonging to Foreign Ships.*"
- (2.) An Act passed by the Provincial Council of the Province of Wellington, Session II., No. 7, intituled "*An Act to prevent the Desertion of Seamen from Foreign Ships or Vessels.*"

Interpretation.

15. In the construction of this Act, unless there be something in the subject or context repugnant to such construction, the word "Port" shall include any roadstead harbour creek or river; and the word "Ship" every description of vessel employed on the high seas; and the term "Master" any person for the time being in command or charge of such ship; and the word "Seaman" every person except the master employed or engaged to serve in any capacity on board any such ship; and the words "Foreign Ship" all ships not entitled to be deemed British ships under an Act of the Imperial Parliament, intituled "*The Merchant Shipping Act, 1854,*" and the word "Consul" shall include Vice-Consul and any other Consular Officer or Agent.

Short Title.

16. The Short Title of this Act shall be "*The Foreign Seamen's Act, 1858.*"

*Post Office.***No. XV.**

AN ACT to regulate the Postal Service of the Colony
of New Zealand. [26th June, 1858.]

POST OFFICE.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. Every law or regulation heretofore made in the Colony whether by Act or Ordinance of any one of the several Legislatures thereof or by Proclamation or otherwise, for any of the purposes comprised in this Act, is hereby repealed and revoked.

Existing laws repealed.

2. It shall be lawful for the Governor to establish such post offices throughout the Colony as may from time to time be required, and at any time to abolish any post office already established, or to be hereafter established under this Act.

Governor may establish post offices.

3. It shall also be lawful for the Governor, in the name and on behalf of Her Majesty, from time to time to appoint and remove a Postmaster-General, and to appoint and remove such Postmasters, Officers, Clerks, Letter-carriers, servants, messengers, and other persons as may be required for the conduct of the business at the various post offices throughout the Colony.

May appoint a Postmaster-General, Postmasters, and other officers.

4. It shall be lawful for the Governor from time to time, by writing under his hand, to delegate to the Postmaster-General all or any of the powers vested in the Governor by this Act except such powers as are conferred upon the Governor in Council and such powers as are conferred by clause twenty-two of this Act, and such delegation from time to time to alter or revoke as he shall think fit.

Power of delegation.

5. Every Postmaster and other post officer shall, before the exercise by him of the duties of his office, take and subscribe a declaration before one of Her Majesty's Justices of the Peace (which declaration every Justice of the Peace is hereby authorized and required to administer) in the form in the Schedule to this Act.

Postmasters and other officers to take declaration.

6. Every person appointed under this Act may be required by the Governor to give such security as he may direct for the due and faithful discharge of the duties of the office to which such person may be appointed.

Governor may require securities from persons appointed under this Act.

7. It shall be lawful for the Governor from time to time to establish posts or postal communications within the said Colony, and to alter or annul any of the posts or postal communications already or to be hereafter established.

Governor may establish posts.

8. It shall be lawful for the Governor in Council from time to time, by Proclamation to be published in the *New Zealand Gazette*, to fix alter and abolish the rates of postage at any time payable within the Colony for the transmission of letters by post either between places within New Zealand or to or from places beyond seas, and at what time the same shall be paid, and the Postage so made payable shall be charged and paid accordingly.

Governor to fix rates of postage.

9. It shall be lawful for the Governor in Council from time to time to make rules and regulations for the managing of the several post offices, for the receiving dispatching conveying and delivering of letters (including the imposition of fees for private boxes or deliveries), for the detaining opening and return or other disposal of irregularly posted unclaimed and refused letters, or such as from any cause whatever cannot be delivered or forwarded, and the contents thereof respectively, and for the publication of the lists of the same; for the making custody and sale of postage labels, for the receiving and paying

Governor may make rules for regulating post office service.

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of money in connection with the said postal service, and for the conduct of post officers, and any such rules and regulations at any time in force to alter vary or revoke.

Governor may impose penalties.

10. For the purpose of giving effect to the rules and regulations so to be made, it shall be lawful for the Governor in Council to impose any penalty not exceeding ten pounds for any one offence against such rules and regulations.

Governor may make arrangements for transmission of money through post.

11. It shall be lawful for the Governor to make or cause to be made arrangements with the constituted authorities in England or in any of Her Majesty's colonies, for the transmission through the medium of the post of any money to or from any place whatsoever, and for the delivery and payment of the same, and to establish rates of payment for such transmission, and to make such rules and regulations as may be expedient or necessary for carrying such arrangements into effect.

Power to do all necessary acts to give effect to such arrangements.

12. It shall be lawful for the Governor to appoint such agents, to defray such expenses, and to make all such payments, and to do or cause to be done all such acts as may be necessary to give full effect to any such arrangements.

Letters may be registered.

13. Any person who shall send any letter by post shall be entitled to have the same registered at such post offices as the Governor shall at any time appoint for that purpose, upon the payment of such registration rate in addition to the other rates payable under or by virtue of this Act, as the Governor in Council shall from time to time direct: Provided always that such registration shall not render any post officer or the postal revenue in any manner liable for the loss of any such letter or the contents thereof.

Receipts may be given for letters.

14. It shall be lawful for the Postmaster-General (if he shall think fit) to direct that in case a receipt for any letters brought to any post office to be forwarded by the post shall be required, a printed or written receipt shall be given for the same, in such form as the Postmaster-General shall appoint, at the expense of the person requiring the same, and the charge for the receipt shall be fixed at such amount and shall be collected or paid at such time and in such manner as the Governor in Council shall from time to time direct; and the letters for which such receipt may be required shall be delivered to the post office and shall also be delivered from the post office under and subject to all such regulations in every respect as the Postmaster-General shall from time to time appoint; but the giving of such receipt shall not render any post officer or the postal revenue liable for the loss of any such letter or the contents thereof.

Postmaster-General may make contracts for mails.

15. It shall be lawful for the Postmaster-General, under such instructions as he shall from time to time receive from the Governor, to enter into any contract in writing from time to time on behalf of the Government of New Zealand, in the name of the Postmaster-General, for or in respect of the carriage or conveyance of mails by sea and by land, subject in all respects to such terms and conditions as he may think fit; and the Postmaster-General for the time being may sue or be sued on any such contract: Provided always that no Postmaster-General shall be personally liable in respect of any such contract.

Letters not to be carried for hire except by post.

16. No letter shall be carried for hire or reward otherwise than by post, and if any such letter shall be carried or be sent or taken charge of for the purpose of being so carried or conveyed by any person (not being a post officer), and the person so sending or conveying such letter or taking charge of the same for such carriage or conveyance, shall for every such letter forfeit and pay a penalty not exceeding

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exceeding twenty pounds; and every such letter sent or carried or taken charge of to be carried otherwise than by post shall be deemed in any prosecution for this offence to have been for hire or reward unless the contrary shall be shown by the defendant.

17. Provided always that nothing in the last preceding clause shall extend to any letter exceeding sixteen ounces avoirdupois in weight, nor to any letter concerning goods and sent with such goods and to be delivered therewith, nor containing any writ or proceeding out of any Court of Justice, or any deed conveyance affidavit or letter of attorney, nor to any letter sent by any person concerning his or her private affairs by any special messenger, nor to any letter *bonâ fide* sent or carried to or from the nearest post office, nor to any newspaper or book or to any copy of Votes and Proceedings of the Imperial Parliament or of the General Assembly of New Zealand or of any of the Legislatures of the several Provinces thereof or of any British Colony. Exceptions.

18. No person shall post or cause to be posted or send or cause to be sent or tender or deliver in order to be sent by the post any letter containing any explosive or other dangerous material or substance; and any person who shall commit any one of such offences shall be deemed guilty of a misdemeanour and be liable to be punished by fine or imprisonment, or both; and no such letter shall be forwarded by the post. Dangerous substances not to be sent by post.

19. If any person shall send to or put into or cause to be sent to or put into any post office any letter purporting to be entitled to exemption from postage, or in respect of its contents to be entitled to be sent at a lower than the ordinary rate of postage, but which letter to the knowledge of such person shall not be so entitled, the person so offending shall forfeit and pay a fine not exceeding twenty pounds. Knowingly sending as exempt letters not entitled to exemption.

20. The Postmaster-General and every Postmaster shall be entitled to examine any printed paper or any packet which shall be sent by the post as exempt from postage, or entitled to be sent at less than the ordinary rate of postage, without a cover or in a cover open at the sides, in order to discover whether it is in conformity with the regulations. Power to examine papers sent as exempt from postage.

21. Every question which shall arise whether any such printed paper or packet is entitled to the privilege of being sent free or at a reduced rate of postage, may be referred to the determination of the Postmaster-General, whose decision shall be final. Questions as to exemptions from postage.

22. It shall be lawful for the Governor, by a warrant under his hand, to direct the Postmaster-General or any Postmaster or other post officer to open detain or delay any post letter for any purpose in such warrant mentioned, and such Postmaster-General, Postmaster, or other post officer is hereby authorized and required to act in obedience to such warrant. Governor may direct letters to be opened detained or delayed.

23. In all cases in which the postage of any letter shall not have been paid by the sender thereof, and the person to whom such letter shall be addressed shall upon receiving the same and paying the postage thereof be desirous to reject such letter and to compel the sender thereof to pay such postage, it shall be lawful for the Postmaster-General, subject to any regulations the Governor in Council shall think fit to make, to cause such postage to be returned to the person by whom it shall have been paid, and to charge the same to the sender of such letter, and also the additional postage of returning the same, and in every such case the sender of such letter shall pay the postage of sending and also of returning the same, to be sued for and recovered in the name of the Postmaster-General: Provided that nothing herein contained shall operate to release the party to whom any such letter shall

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be originally addressed from his liability to pay the postage thereof upon the delivery of such letter to him.

Post office stamp to be evidence of letters being rejected &c.

24. Upon any trial or hearing of any action or proceeding for the recovery of any postage, the production of any letter in respect of which such postage shall be sought to be recovered, having thereupon a post office stamp or mark denoting that such letter had been refused or rejected, or that the person to whom any such letter had been addressed was dead or could not be found, shall be *prima facie* evidence of the refusal or rejection of such letter, or that such person was dead or could not be found, according to the import and meaning of the said post office stamp or mark thereon.

Masters of vessels to give timely notice of intended departure.

25. The master of every vessel about to proceed from any port to any other port, shall give at least twenty-four hours' notice at the post office at such port of his intended departure, and, if the vessel does not sail at the time appointed, shall also give timely notice of any alteration as to the period of her departure, so as to enable the Postmaster or other post officer to be prepared to dispatch mails on board such vessel; and if any such master shall refuse fail or neglect to give such notice, he shall for every such offence forfeit and pay a penalty not exceeding one hundred pounds.

Masters of vessels proceeding to place within three miles from any post office to give notice.

26. The master of every vessel about to proceed from any place within three miles from any post office to any other place within three miles from any post office within the Colony, shall give timely notice at such first-mentioned post office of his intended departure, so as to enable the Postmaster to forward mails by such vessel; and if any master shall refuse fail or neglect to give such notice he shall for every such offence forfeit and pay a penalty not exceeding one hundred pounds: Provided always that the Governor in Council may from time to time exempt from the operation of this clause vessels engaged in trading between particular places within the Colony, or any vessels belonging to or owned by aboriginal natives.

Officer of Customs may refuse clearance unless a certificate that notice has been given to the post office be produced.

27. The post officer at the post office at which any notice of intended departure shall be given under the twenty-fifth section of this Act shall on demand give to the master giving such notice a certificate in writing of the day and hour when the same was given, and it shall be lawful for the proper officer of Customs to refuse a clearance of the vessel in respect of which no such certificate shall be produced to him, or when it shall appear to him from such certificate that due notice as required by this Act has not been given at the post office.

Masters of vessels bound to carry mails.

28. Every master or person in charge of any vessel about to sail from any place within the Colony shall receive on board any mail which shall be tendered to him by any post officer, and shall if required give a written receipt for the same, and shall cause a description of such mail to be entered upon the Custom House manifest, and shall carefully deposit such mail in some secure and dry place on board such vessel, and shall convey the same upon the then intended voyage; and every such master or person who shall offend against any of the provisions of this clause, shall for every such offence be liable to a penalty not exceeding one hundred pounds.

Penalty for refusing.

Delivery of mails on arrival of vessel.

29. All mail bags and all loose letters, except such as are described in clause seventeen of this Act, which at the time of the arrival of any vessel at any port or place within the Colony shall be on board such vessel directed to any person within the Colony, shall be delivered on demand to the Postmaster or other post officer at such port or place, who is hereby authorized to give a receipt for the same; and any master or other person belonging to any such vessel having charge of any such mail or letter, who shall refuse or neglect to deliver the same on demand as aforesaid, or shall detain or permit the detention

of

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of the same on board such vessel, or shall not use due diligence in the delivery thereof as well as for the secure and dry custody of the same while it shall be in his charge, shall forfeit and pay for every such offence a penalty not exceeding one hundred pounds.

30. Any master passenger or other person who shall knowingly or negligently detain or delay on board such vessel or keep in his possession any mail bag or any letter (liable to postage) after the master shall have sent any of the letters brought by his vessel to the post office, shall forfeit and pay for every such mail bag and letter so delayed detained or kept, any sum not exceeding ten pounds, and if after such demand made as aforesaid, shall forfeit and pay for every such mail bag and letter so delayed detained or kept, a penalty not exceeding one hundred pounds.

Penalty for detention of mail or letter.

31. The master of any vessel arriving at any port in the Colony at which there is any post office shall as soon as practicable thereafter subscribe a declaration in the presence of the Postmaster or post officer at such port, or the town or place adjacent thereto, in the form or to the effect following, that is to say,—

Declaration by masters of vessels on arrival.

I, A.B., master of the [*State the name of the vessel*] arrived from [*State the place*] do solemnly declare that I have, to the best of my knowledge and belief, delivered to C.D., the person duly authorized to receive delivery thereof, every mail bag and letter that was on board the said vessel except such letters as are not required by law to be sent by post.

And thereupon the Postmaster or post officer taking such declaration shall grant a certificate under his hand of the making thereof, and until such certificate shall have been produced to the Collector or other proper officer of customs at such port, he shall not permit such vessel to report; and any master failing or refusing to make such declaration, or making a false declaration, shall forfeit and pay a penalty not exceeding one hundred pounds.

32. It shall be lawful for the Governor in Council from time to time to fix the amount of gratuities to be paid to the masters of vessels for the conveyance of mails or letters, and the several Postmasters throughout the Colony shall pay such gratuities accordingly.

Gratuities to masters of vessels for conveyance of mails.

33. If any Postmaster or post officer shall wilfully neglect or fail to deliver or shall retard the delivery of any mail or letter, he shall for every such offence forfeit and pay a penalty not exceeding one hundred pounds.

Penalty on post officer for detention of mail or letter.

34. Any person employed in the carrying conveying or delivering of any mail or post letter, who shall negligently lose any such mail or post letter whilst in his charge, shall, whether the same shall or shall not be afterwards recovered, forfeit and pay for every such offence a penalty not exceeding twenty pounds.

Penalty for negligently losing letters.

35. If the driver of any carriage or vehicle whatsoever used for the conveyance of a mail, or any person in charge of a mail, whether conveyed by a carriage or vehicle or on horseback or on foot, shall loiter on the road or wilfully mis-spends or lose time, so as to retard the arrival of the mail at its proper destination, or shall not in all possible cases convey such mail at the speed fixed by the Postmaster-General for the conveyance thereof, unless prevented by unavoidable circumstances, then and in every such case the driver or the person in charge (as the case may be) so offending shall forfeit and pay a sum not exceeding fifty pounds for every such offence.

Penalty on mail carriers &c. for delay.

36. The Postmaster-General shall from time to time cause all such postage labels to be made and sold as may be convenient for the prepayment of the rates of postage from time to time established under this Act.

Postage labels to be made and sold.

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Offences relating to
the use of false dies
or stamps.

37. Every person who shall commit any one of the following offences shall on being convicted thereof be adjudged guilty of felony, and shall be liable at the discretion of the Court to be sentenced to penal servitude for any term not exceeding ten years or less than two, namely, every person—

- (1.) Who shall forge or counterfeit or cause or procure to be forged or counterfeited any die plate or other instrument, or any part of any die plate or other instrument, which has been or shall or may be provided made or used by or under the direction of the Postmaster-General, or by or under the direction of any person or persons legally authorized in that behalf, for the purpose of expressing or denoting any of the rates or duties which shall be charged under or by virtue of this Act.
- (2.) Or who shall forge counterfeit or imitate, or cause or procure to be forged counterfeited or imitated, the stamp mark or impression of any such die plate or other instrument which has been or shall or may be provided made or used as aforesaid upon any paper or other substance or material whatever.
- (3.) Or who shall knowingly and without lawful excuse (the proof whereof shall be on the person accused) have in his possession any false forged or counterfeit die plate or other instrument, or part of any such die plate or other instrument, resembling or intended to resemble either wholly or in part any die plate or other instrument, which has been or shall or may be provided made or used as aforesaid.
- (4.) Or who shall stamp or mark, or cause or procure to be stamped or marked, any paper or other substance or material whatsoever with any such false forged or counterfeit die plate or other instrument, or part of any such die plate or other instrument.
- (5.) Or who shall use utter sell or expose to sale, or shall cause or procure to be used uttered sold or exposed for sale, or shall knowingly and without lawful excuse (the proof whereof shall be on the person accused) have in his possession any paper or other substance or material having thereon the impression or any part of the impression of any such false forged or counterfeit die plate or other instrument, or part of any such die plate or other instrument as aforesaid, or having thereon any false forged or counterfeit stamp or impression resembling or representing either wholly or in part, or intended or liable to pass or be mistaken for, any stamp mark or impression of any such die plate or other instrument, which has been or shall or may be so provided made or used as aforesaid, knowing such false forged or counterfeit stamp mark or impression to be false forged or counterfeit.
- (6.) Or who shall, with intent to defraud Her Majesty, privately or fraudulently use, or cause to be privately or fraudulently used, any die plate or other instrument so provided made or used or hereafter to be provided made or used as aforesaid, or shall with such intent privately or fraudulently stamp or mark or cause or procure to be stamped or marked any paper or other substance or material whatsoever with any such die plate or other instrument.
- (7.) Or who shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession

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possession any paper or other substance or material so privately or fraudulently stamped or marked as aforesaid.

38. Every person who shall commit any one of the offences following shall, on being convicted thereof, forfeit and pay a penalty not exceeding fifty pounds, namely, every person—

Penalties for removal
&c. of postage labels
or stamps already
used.

- (1.) Who shall fraudulently get off or remove, or cause or procure to be gotten off or removed, from any letter or cover or any paper or other substance or material, any postage label or the stamp or impression of any die plate or other instrument so provided made or used or hereafter to be provided made or used as aforesaid, with intent to use join fix or place such postage label stamp or impression for with or upon any other letter cover paper or other substance or material.
- (2.) Or who shall fraudulently use join fix or place for with or upon any letter or cover or any paper or other substance or material any such postage label stamp or impression as aforesaid, which shall have been gotten off or removed from any other letter cover paper or other substance or material.
- (3.) Or who shall fraudulently erase cut scrape discharge or get out of or from, or shall cause or procure to be so erased cut scraped discharged or gotten out of or from, any letter or cover or any paper or other substance or material any name date or other matter or thing thereon written printed or expressed, with intent to use any stamp or mark then impressed or being upon such letter or cover or paper or other substance or material, or that the same may be used for the purpose of defrauding Her Majesty of any of the rates or duties which shall be charged under or by virtue of this Act.
- (4.) Or who shall make do or practice or be concerned in any other fraudulent act contrivance or device whatever not specially provided for, with intent or design to defraud Her Majesty of any of the rates or duties which shall be charged under or by virtue of this Act.

39. Every person who shall, contrary to his duty, open or procure or suffer to be opened a post letter, or shall wilfully delay or detain, or procure or suffer to be detained or delayed, a post letter, shall be guilty of a misdemeanour, and being convicted thereof shall suffer such punishment by fine or imprisonment, or by both, as to the Court shall seem meet: Provided always that nothing herein contained shall extend to the opening or detaining or delaying of a post letter returned for want of true direction, or of a post letter returned by reason that the person to whom the same shall be directed is dead or cannot be found, or shall have refused the same or shall have refused or neglected to pay the postage thereof, nor to the opening or detaining or delaying of a post letter in obedience to an express warrant in writing under the hand of the Governor of New Zealand.

Illegally opening or
delaying letters.

40. Every post officer who shall steal or shall for any purpose whatever embezzle secrete or destroy a post letter shall be guilty of felony, and shall, at the discretion of the Court, be kept in penal servitude for any term not exceeding six years; and if such post letter so stolen or embezzled secreted or destroyed shall contain therein any chattel or money whatsoever, or any valuable security, every such offender shall be kept in penal servitude for life.

Embezzlement of
letter by post officer.

41. Every person who shall steal from or out of a post letter any chattel or money or valuable security, shall be guilty of felony, and shall be kept in penal servitude for life.

Stealing money &c.
from or out of letters.

42. Every

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Persons stealing mail bags or letters.

42. Every person who shall steal a mail bag or a post letter from a mail bag, or shall steal a post letter from a post office or from a post officer or from a mail, or shall stop a mail with intent to rob or search the same, shall be guilty of felony, and shall be kept in penal servitude for life.

Persons unlawfully opening mail bags.

43. Every person who shall unlawfully open any mail bag shall be guilty of felony, and shall be kept in penal servitude for any term not exceeding five years.

Receivers of property sent by the post and stolen or embezzled.

44. Every person who shall receive any mail bag or post letter or any chattel or money or valuable security the stealing or taking or secreting or embezzling whereof shall amount to felony under this Act, knowing the same to have been feloniously stolen taken embezzled or secreted, or to have been sent or to have been intended to be sent by the post, shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact or for a substantive felony, and in the latter case whether the principal felon shall or shall not have been previously convicted or shall or shall not be amenable to Justice, and every such receiver howsoever convicted shall be kept in penal servitude for life.

Post officer issuing money order with fraudulent intent.

45. Every post officer who shall grant or issue any post office money order with a fraudulent intent shall be guilty of felony, and shall be kept in penal servitude for any term not exceeding six years.

Fraudulently secreting or detaining misdelivered mail bag or letter.

46. Every person who shall fraudulently retain, or shall wilfully secrete or keep or detain, or being required to deliver up by a post officer shall neglect or refuse to deliver up a post letter which ought to have been delivered to any other person, or a mail bag or post letter which shall have been sent, whether the same shall have been found by the person secreting keeping detaining or neglecting or refusing to deliver up the same, or by any other person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be punished by fine or imprisonment or both.

Stealing newspapers or other printed paper.

47. Every post officer who shall steal or shall for any purpose embezzle secrete or destroy, or shall wilfully detain or delay in course of conveyance or delivery thereof by the post any printed newspaper or any other printed paper whatever sent by post without covers or in covers open at the sides, shall be guilty of a misdemeanour and being convicted thereof shall be liable to be punished by fine or imprisonment or both, and every offence punishable under this clause shall not be punishable under any other of the provisions of this Act.

Exhibiting without authority post office sign.

48. If any person shall, without the authority of the Postmaster-General of the Colony or of some person deputed by him in that behalf (the proof of which authority shall rest on the person claiming to act under the same), place or erect or permit or suffer to be placed on or near to his house or premises any sign placard writing or painting bearing the words "Post Office," or any other words or mark which may imply or give reasonable cause to believe that such house or premises is or are a post office, he shall for every such offence forfeit and pay any sum not exceeding fifty pounds.

Penalty for contravening provisions of this Act.

49. Any post officer who shall offend against or wilfully neglect or omit to comply with any of the provisions of this Act, shall for any such offence neglect or omission, if not hereinbefore specifically provided for, forfeit and pay a penalty not exceeding one hundred pounds.

Punishment of principal in second degree and accessories.

50. In the case of every felony punishable under this Act, every principal in the second degree and every accessory before the fact shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act (except only a receiver of any property

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property or thing stolen taken embezzled or secreted, shall on conviction be liable to be imprisoned for any term not exceeding two years; and every person who shall aid abet conceal or procure the commission of any misdemeanour punishable under this Act, shall be liable to be indicted and punished as a principal offender.

51. Every person who shall solicit or endeavour to procure any other person to commit a felony or misdemeanour punishable by this Act, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years.

Endeavouring to procure the commission of any felony or misdemeanour.

52. Any person who shall aid abet or counsel or procure the commission of an offence under this Act punishable on summary conviction, shall on conviction thereof before any two Justices of the Peace be liable to the same forfeiture and punishment to which the principal offender is made liable by this Act.

Abettors in offences punishable on summary conviction.

53. Every person convicted of any offence for which the punishment of penal servitude for life is herein awarded, shall be liable to penal servitude for life or for any term not less than three years.

Penal servitude for life how to be construed.

54. Where a person shall be convicted of an offence punishable under this Act for which imprisonment may be awarded, the Court may sentence the offender to be imprisoned, with or without hard labour, in any common gaol or house of correction.

Imprisonment may be with or without hard labour.

55. In every case where an offence shall be committed in respect of a mail bag, or post letter, or any chattel money or valuable security sent by the post, it shall be lawful to lay in the indictment to be preferred against the offender the property of the mail bag, or of the post letter or chattel, money, or the valuable security sent by the post, in the Postmaster-General; and it shall not be necessary in the indictment to allege or to prove upon the trial or otherwise that such mail bag or post letter or valuable security was of any value; and in any indictment to be preferred against any post officer for any offence committed under this Act, it shall be lawful to state and allege that such offender was employed in the postal service of New Zealand at the time of the committing of such offence, without stating further the nature or particulars of his employment.

Property sent by the post to be laid in Postmaster-General.

56. In any indictment for any felony or misdemeanour under this Act, it shall be sufficient to lay any property in and to state or allege the same to belong to and to state or allege any act matter or thing to have been done or committed with intent to injure or defraud "Her Majesty's Postmaster-General for New Zealand," and in all such indictments it shall be sufficient to name and describe the Postmaster-General as "Her Majesty's Postmaster-General for New Zealand," without any further or other name addition or description whatsoever.

Use of Postmaster-General's name in indictments.

57. Any printed copy of the *New Zealand Gazette* purporting to be printed and published by the authority of the New Zealand Government shall be admitted as evidence by all Courts, Judges, and Justices, and others of any regulations which shall be made or issued under or by virtue of this Act and contained in any such *Gazette*, and of the due making and issuing thereof, and of the contents of any such regulations, without any further or other proof.

New Zealand Gazette to be evidence.

58. In any suit or other proceeding for the recovery of any postage under or by virtue of this Act, the person from whom any letter in respect of which any postage shall be sought to be recovered shall purport to have come shall be deemed the sender thereof, and the onus shall be on the party proceeded against to prove that such letter did not come from or was not sent by him.

Who deemed to be sender of letter.

59. In all proceedings whatsoever for the recovery of any postage, the post office mark upon any letter shall in all cases be evidence of the liability of such letters to such postage, and that the sum marked thereupon is payable as and for the postage thereof.

Evidence of postage due.

*Post Office.***Limitation of actions.**

60. If any action or suit shall be commenced against any person for anything done in pursuance of this Act, the same shall be commenced within six calendar months after the act committed and not afterwards; and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action.

Penalties recoverable in a summary way.

61. All fines and penalties imposed by this Act, or to be imposed by any rule or regulation to be made in pursuance thereof, shall be recoverable in a summary way before any two of Her Majesty's Justices of the Peace.

Application of moneys paid under this Act.

62. All sums of money which shall be received under or by virtue of this Act in respect of any rates duties fines or penalties, or on any other account whatsoever, shall be paid to Her Majesty for the public uses of the Colony.

Rewards for activity in procuring conviction.

63. In all cases in which any fine or penalty shall be paid under any conviction under the provisions of this Act, it shall be lawful for the Governor, when any person shall appear to have been active in or towards the procuring of any such conviction, to award to such person such portion of such fine or penalty, not exceeding in the whole one-half thereof, as to His Excellency shall seem meet.

Expenditure to be charged to Province within which incurred.

64. All money which shall be expended upon the postal service within any Province shall be charged by the Colonial Treasurer in account against the Province within which the same shall be expended, and may be deducted from any sums of money which shall from time to time be payable by the Colonial Treasurer to such Province.

Interpretation.

65. In the construction of this Act, unless there be something in the subject or the context repugnant to such construction, the term "Letter" shall include post letters and packets, newspapers books Votes and Proceedings of the Imperial Parliament, of the General Assembly of New Zealand, and of the Legislatures of the several Provinces thereof or of any British Colony; and the term "Mail Bag," shall mean a mail of letters or a box or parcel or any other envelope or covering in which post letters are conveyed, whether it does or does not contain post letters; and the term "Mail" shall include every conveyance by which post letters are carried, whether it be a coach or cart or horse or any other conveyance or any person employed in conveying or delivering post letters; and the term "Post Officer" shall include any Postmaster, Deputy-Postmaster, Agent, Officer, Clerk, Letter Carrier, Guard, Post-boy, rider, or any other person employed in any business of the post office, whether employed by the Governor or the Postmaster-General, or by any person under him on behalf of the postal service; and the term "Postage" shall mean the duty chargeable for the transmission of letters by post; and the term "Post Letter" shall mean any letter or packet transmitted by the post, and a letter shall be deemed a post letter from the time of its being delivered to a post office to the time of its being delivered to the person to whom it is addressed, and the delivery to a Letter Carrier or other person authorized to receive letters for the post office shall be a delivery to the post office, and a delivery at the house or office of the person to whom it is addressed, or to him or to his servant or agent or other person considered to be authorized to receive the letters according to the usual manner of delivering that person's letters, shall be a delivery to the person addressed; and the term "Post Office" shall mean any house building room or place where post letters are received or delivered, or where they are sorted made up or despatched; and the term "Port" shall include any harbour river or roadstead being a port of entry; and the term "Vessel" shall mean every description of vessel employed on the high seas or on the coast;

and

Provincial Reserved Bills.

and the term "Master" of any vessel shall include any person in charge of a vessel, whether commander, mate, or other person; and the term "Valuable Security" shall include the whole or any part of any tally order or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of the United Kingdom or Great Britain and Ireland or of any one of Her Majesty's colonies or foreign possessions, or of any foreign State, or in any fund of any body corporate company or society, or to any deposit in any savings bank, or the whole or any part of any debenture deed bond bill note warrant or order or other security whatsoever for money or for payment of money, whether of the United Kingdom of Great Britain and Ireland, or of this Colony, or of any of Her Majesty's colonies or possessions, or of any foreign State, or of any warrant or order for the delivery or transfer of any goods or valuable thing; and any "Officer" mentioned shall mean the person for the time being executing the functions of that officer; and the term "Postage Label" shall mean any piece of paper or other substance or material whatsoever having thereon the stamp mark or impression of any die plate or other instrument made or used by or under the direction of the Postmaster-General for the purpose of denoting or expressing any of the rates or duties of postage to be charged under or by virtue of this Act; and the term "Foreign Port" shall mean any port not included within the boundaries of the Colony of New Zealand.

"Master."

"Valuable Security."

"Officer."

"Postage Labels."

"Foreign Port."

66. The Short Title of this Act shall be "*The New Zealand Post Office Act, 1858.*" Short Title.

67. This Act shall come into operation on the first day of October, one thousand eight hundred and fifty-eight. Commencement of Act.

SCHEDULE.

I, A.B., do solemnly and sincerely declare that I will be true and faithful in the execution of the trust committed to my charge, and that I will not willingly or knowingly open detain return or delay, or cause or suffer or be opened detained returned or delayed, any letter which shall come into my hands power or custody by reason of my employment in the postal service, except with the consent of the person to whom such letter shall be directed or in such cases as are or may be provided for by "*The New Zealand Post Office Act, 1858.*" or by any rules or regulations to be made in pursuance thereof.

And I do further declare that I will not intentionally read the contents of any letters which I may lawfully open except so far as may be necessary for the purpose of ascertaining the name and address of the writer, or for any other lawful purpose, and that I will not divulge to any person whatever, except so far as lawfully required, any of the contents of any such letter which may have come to my knowledge in course of opening and examining the same for any such purpose as aforesaid.

No. XVI.

AN ACT to extend the time within which the Governor is required to signify his Pleasure on Bills Passed by Provincial Councils and Reserved by Superintendents. [26th June, 1858.]

PROVINCIAL
RESERVED BILLS.

WHEREAS doubts have arisen as to the meaning of the thirtieth section of the Constitution Act, and the term of three months therein limited, within which it is required that the assent of the Governor shall be given to Bills passed by Provincial Councils and reserved by Superintendents, is so short that great inconvenience has resulted

Preamble.

Bishop of New Zealand Trusts.

resulted therefrom, and it is therefore expedient that the said section should be repealed and other provisions substituted for the same :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Section 80 of Constitution Act repealed.

1. The said thirtieth section of the Constitution Act is hereby repealed.

When Bills reserved for signification of Governor's pleasure to come into operation.

2. Whenever any Bill shall have been passed by the Provincial Council of any Province, and shall have been reserved by the Superintendent for the signification of the Governor's pleasure thereon, such Bill shall not have any force or authority within the said Province until the Superintendent shall signify, either by speech or message to the Provincial Council, or by Proclamation in the *Government Gazette* of the said Province, that such Bill has been laid before the Governor and that the Governor has assented to the same ; and no Bill which shall have been so reserved shall have any force or authority within the said Province unless the Governor shall assent thereto within three months next after the day on which such Bill shall have been received by the Governor for the signification of his pleasure thereon.

Entry of speech &c. to be made in Journals of Provincial Council.

3. An entry shall be made as soon as conveniently may be in the Journals of the Provincial Council of any such Speech Message or Proclamation as aforesaid, and a duplicate thereof, duly attested by the Superintendent, shall be delivered to the Registrar of the Supreme Court or other proper officer, to be kept among the records of the Province.

Bills heretofore assented to by the Governor to have same effect as though this Act had been in operation.

4. Every Bill which has at any time heretofore been reserved by the Superintendent of any Province for the signification of the Governor's pleasure thereon, and to which the Governor has assented, shall to all intents and purposes whatsoever have the same force and effect as if, in lieu of the said section hereby repealed of the Constitution Act, this Act had been in operation at the time when such assent was given.

Short Title.

5. The Short Title of this Act shall be "*The Provincial Reserved Bills Act, 1858.*"

No. XVII.

BISHOP OF NEW ZEALAND TRUSTS.

AN ACT to authorize the Bishop of New Zealand to Convey certain Hereditaments and Premises to Trustees to be appointed in that behalf by the General Synod of the Church of England in New Zealand. [3rd July, 1858.]

Preamble.

WHEREAS at a general conference held at Auckland on the thirteenth day of June, in the year of our Lord one thousand eight hundred and fifty-seven, the Bishops and certain of the clergy and laity representing a numerous body of the members of the United Church of England and Ireland in the Colony of New Zealand, agreed to a Constitution for associating together as a branch of the United Church of England and Ireland the members of the said Church in the said Colony, and for establishing a General Synod for the management of the affairs of such branch of the said Church : And whereas it is provided by the said Constitution that the General Synod so established may appoint Trustees for the management

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management of the real and personal estate of or belonging to or held in trust for such branch of the said Church: And whereas certain allotments or parcels of land hereditaments and premises have from time to time been granted conveyed or assured unto George Augustus, Bishop of New Zealand, and his successors, Bishops of New Zealand, and the same are held by him in trust for certain religious educational charitable or other purposes expressed and declared of and concerning the said hereditaments and premises in or indorsed upon the deeds of conveyance respectively granting or assuring the same: And whereas the said Bishop of New Zealand is desirous of being divested of the said hereditaments and premises, and for the better management thereof it is expedient that the said hereditaments and premises should be vested in Trustees appointed by the said General Synod:

1. Now therefore be it enacted by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, That it shall be lawful for the said Bishop of New Zealand to convey and assure the said hereditaments and premises or any of them to such Trustee or Trustees as the said General Synod shall appoint in that behalf, subject nevertheless to all the trusts and for the intents and purposes for which the same were respectively conveyed to or are held in trust by the said George Augustus, Bishop of New Zealand.

Bishop of New Zealand authorized to convey to Trustees.

2. And be it enacted, That the Trustees for the time being of the said hereditaments and premises shall have all and singular the powers of selling exchanging and leasing the said hereditaments and premises, or any part thereof, as are particularly described in the Schedule hereunto annexed.

Trustees to have power of selling &c.

3. The Short Title of this Act shall be "*The Bishop of New Zealand Trusts Act, 1858.*"

Short Title.

SCHEDULE.

ANY Trustees or Trustee may sell and absolutely dispose of, either together or in parcels, and either by public sale or private contract, all or any part of the said trust property in respect of which no trust shall have been created inconsistent with the exercise of this present power; or may exchange the said property, or any part thereof, for any other freehold hereditaments situate in the Colony of New Zealand; and give (out of any money in their hands applicable to such purpose) or receive any money by way of equality of exchange, and may execute all such conveyances as may be requisite for effectuating such sale or exchange.

2. Provided always that all money arising from such sale, or received by any Trustees or Trustee for equality of exchange as aforesaid, after payment of the costs and expenses payable by such Trustees or Trustee in relation to such sale or exchange, shall be expended in the absolute purchase of other freehold lands or hereditaments in New Zealand.

3. All property which shall be so purchased or received in exchange as aforesaid, shall be held by the Trustees or Trustee in whom it shall become vested upon such trusts as the property so to be sold or given in exchange was held subject to.

4. Any Trustees or Trustee may from time to time, by any deed, lease any portion of the trust property vested in them or him, in respect of which no trust shall have been created inconsistent with the exercise of this present power, to any person or persons for any term not exceeding twenty-one years in possession and not in reversion, at such rent and subject to such covenants and provisoes as they the said Trustees or Trustee may deem reasonable, and may apply the rents of the property so leased to the purposes to which the annual income or proceeds of the trust property shall for the time being be properly applicable.

5. The receipt in writing of any Trustees or Trustee, or of any agent duly authorized in that behalf, shall be a good and effectual discharge for all money paid to them or him under or by virtue of these presents, and shall exonerate the person or persons paying such money from all obligation of seeing to the application thereof, and from all liability on account of the loss misapplication or non-application thereof; and it shall not be incumbent on any purchaser or other person to or with whom such sale exchange or lease as aforesaid shall be made, to inquire as to the necessity for or propriety of such sale exchange or lease.

6. Every Trustee shall be chargeable for such money only as he shall actually have received,

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received, although he shall have joined in any receipt for money received by any co-Trustee, and shall not be answerable for the act of any co-Trustee, or for any loss which may arise by reason of any trust money being deposited in the hands of any banker or agent, or from the insufficiency or deficiency of any security upon which the trust money or any part thereof may be invested, nor for any loss in the execution of the trust, unless the same shall happen through his own wilful neglect or default.

No. XVIII.

AUCKLAND ROMAN
CATHOLIC ENDOW-
MENTS SALES.

AN ACT to authorize the Sale of certain Lands at Takapuna, in the North Suburbs of Auckland, appropriated for the Maintenance and Education of Children of both Races and of Children of other Poor Persons being Inhabitants of the Islands in the Pacific Ocean; and likewise to authorize the Sale of Land situated in Nelson Street, City of Auckland, and set apart as a Site for the erection of a Church for the Roman Catholic Natives. [3rd July, 1858.]

Preamble.

WHEREAS by a certain deed of grant bearing date the nineteenth day of August, one thousand eight hundred and fifty, under the Seal of the Province of New Ulster, reciting that a school hath been established by the Government in the suburbs of Auckland for the education of children of Her Majesty's subjects of both races and of children of other poor and destitute persons being inhabitants of the islands of the Pacific Ocean, and reciting that it would promote the objects of the said institution to set apart certain pieces or parcels of land in the immediate neighbourhood thereof for the use and towards the support and maintenance of the same: All that allotment number (22) twenty-two, Parish of Takapuna, County of Eden, bounded on the North by a road (780) seven hundred and eighty links, on the East by a swamp by number (23) twenty-three, (2,030) two thousand and thirty links, on the South by a road (690) six hundred and ninety links, and on the West by a road (2,580) two thousand five hundred and eighty links, and containing (19a. 3r. 33p.) nineteen acres three roods and thirty-three perches, more or less. All those allotments being numbers (32) thirty-two (33) thirty-three and (34) thirty-four in the parish before named, bounded on the North by a road (1,540) one thousand five hundred and forty links and (3,375) three thousand three hundred and seventy-five links, on the West by a road (2,280) two thousand two hundred and eighty links, on the South by a road (760) seven hundred and sixty links, and by a swamp, and on the East by Shoal Bay, and together containing (66a. 2r. 9p.) sixty-six acres two roods and nine perches, more or less. All those allotments being numbers (35) thirty-five (36) thirty-six and (37) thirty-seven of the parish before named, bounded on the North by Shoal Bay, on the West by a road (1,680) one thousand six hundred and eighty links, on the South by a road (3,300) three thousand three hundred links and (1,510) one thousand five hundred and ten links, and together containing (66a. 2r. 34p.) sixty-six acres two roods and thirty-four perches, more or less. And all those allotments being numbers (39) thirty-nine (40)

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(40) forty (41) forty-one (42) forty-two (43) forty-three (44) forty-four (45) forty-five (46) forty-six (47) forty-seven (48) forty-eight (49) forty-nine (50) fifty of the parish before named, bounded on the North by number (68) sixty-eight, (1,700) one thousand seven hundred links, and by number (38) thirty-eight, (1,000) one thousand links and (1,740) one thousand seven hundred and forty links, on the East by a road (5,000) five thousand links, on the South by a road (4,000) four thousand links, and on the West by a road (8,000) eight thousand links, and together containing (223a. Or. 32p.) two hundred and twenty-three acres and thirty-two perches, more or less, together with the rents issues and proceeds thereof, were granted unto the Bishop of the Roman Catholic Church at Auckland, and his successors, Bishops of the Roman Catholic Church at Auckland, to hold unto the said Bishop and his successors in trust nevertheless and for the use or towards the support and maintenance of the said school, so long as religious education industrial training and instruction in the English language shall be given to youth educated therein or maintained thereat: And whereas by deed of grant bearing date the sixteenth day of September, in the year one thousand eight hundred and fifty-two, under the Seal of the Province of New Ulster, all that piece or parcel of land, containing by admeasurement (1r. 2p.) one rood and two perches, more or less, situated in the City of Auckland, Parish of Waitemata, County of Eden, and being number (10) ten of section (25) twenty-five, bounded on the North by number (9) nine, (291) two hundred and ninety-one links, on the East by number (7) seven, (90) ninety links, on the South by number (11) eleven, (291) two hundred and ninety-one links, and on the West by Nelson Street, together with all the rights and appurtenances whatsoever thereto belonging, was granted unto the Bishop of the Roman Catholic Church at Auckland for the time being in trust as a site for the erection of a church for the Roman Catholic Natives: And whereas by deed of grant bearing date the fifth day of November, one thousand eight hundred and fifty-three, under the Public Seal of the Colony of New Zealand, all that piece or parcel of land containing by admeasurement (4a. 3r.) four acres three roods, more or less, situate in the Parish of Waitemata and County of Eden, and being allotment number (15) fifteen of section number (8) eight of the suburbs of Auckland, bounded on the North and East by high water-mark of the Harbour of Waitemata, on the South by lot number (16) sixteen of the same section, (980) nine hundred and eighty links, and on the West by lot number (14) fourteen of the same section, (408) four hundred and eight links, together with the rents issues and proceeds thereof, was granted unto the Bishop of the Roman Catholic Church at Auckland, and his successors, Bishops of the Roman Catholic Church at Auckland, to hold unto the said Bishop and his successors in trust nevertheless and for the use or towards the support and maintenance and the education of children of both races and of children of other poor and destitute persons being inhabitants of the islands in the Pacific Ocean: And whereas the Right Rev. Jean Baptiste Francois Pompallier is the present Bishop of the Roman Catholic Church at Auckland: And whereas for the purpose of promoting the objects of the trusts declared by the said deed of grant of the nineteenth day of August, one thousand eight hundred and fifty, the said Bishop is desirous that such Bishop or other the Trustee for the time being of the pieces of land and other hereditaments therein comprised should be empowered to sell and dispose of the same hereditaments and to invest the moneys arising from the sale thereof in the purchase and improvement of other lands to be held upon trust for the maintenance of a school or schools within ten miles of the City of Auckland,

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Auckland, in connexion with the Roman Catholic Church, wherein religious education industrial training and instruction in the English language should be given to children of poor and destitute persons, being inhabitants of the Colony and Her Majesty's subjects, without distinction of race, or being inhabitants of any of the islands in the Pacific Ocean: And whereas it hath been represented by the said Bishop that the said piece of land comprised in the said deed of grant of the sixteenth day of September, one thousand eight hundred and fifty-two, is not a convenient site for the erection of a church for the Roman Catholic Natives, and that a part of the said piece of land comprised in the said deed of grant dated the fifth day of November, one thousand eight hundred and fifty-three, would be a suitable site for that purpose, and it is therefore expedient that the said Bishop or other the Trustee for the time being of the said piece of land comprised in the said deed of grant of the sixteenth day of September, one thousand eight hundred and fifty-two, should be empowered to sell and dispose of the same, and to invest the moneys arising from the sale thereof in the erection of such a church on some part of the said piece of land comprised in the said deed of grant dated the fifth day of November, one thousand eight hundred and fifty-three:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Power to sell lands
&c. at Auckland.

1. It shall be lawful for the said Jean Baptiste Francois Pompallier, Bishop of the Roman Catholic Church at Auckland, or other the Trustee for the time being of the said pieces of land and hereditaments comprised in the said deeds of grant dated respectively the nineteenth day of August, one thousand eight hundred and fifty, and the sixteenth day of September, one thousand eight hundred and fifty-two, at any time or times after the passing of this Act absolutely to sell and dispose of the said trust premises, or any part thereof, either by public auction or by private contract, and in such manner as the Trustee for the time being shall think fit, and to convey the fee simple and inheritance of the same trust premises, when sold, to the person or persons who shall agree to become the purchaser or purchasers thereof.

Trustees to invest
proceeds in purchase
of other lands and to
erect buildings and
hold the same upon
like trusts.

2. The said Bishop or other the said Trustee for the time being shall immediately after such sale, or so soon as convenient, lay out and invest the money which shall arise from the sale of the hereditaments comprised in the said deed of grant dated the nineteenth day of August, one thousand eight hundred and fifty, in the purchase in his own name of other lands: Provided that any part of the said money, not exceeding the value of the improvements on the hereditaments comprised in the said deed of grant dated the nineteenth day of August, one thousand eight hundred and fifty, as estimated by some qualified person to be appointed for the purpose by the Governor, may with the approval of the Governor be laid out in the erection of a school-house or other buildings for the purposes of the trust upon the land so to be purchased, or in fencing draining or otherwise improving the same.

Appointment of
Trustees.

3. The said Right Rev. Jean Baptiste Francois Pompallier, Roman Catholic Bishop of Auckland, his heirs and assigns, shall stand and be seized of the hereditaments so to be purchased as aforesaid upon trust for the maintenance of a school or schools within ten miles of the City of Auckland, in connection with the Roman Catholic Church, wherein religious education industrial training and instruction in the English language shall be given to children of poor and destitute persons, being inhabitants of the Colony and Her Majesty's subjects,

Boundaries of Provinces.

subjects, without distinction of race, or being inhabitants of any of the Islands in the Pacific Ocean.

4. The said Bishop or other the said Trustee for the time being shall lay out and invest the money which shall arise from the sale of the hereditaments comprised in the said deed of grant dated the sixteenth day of September, one thousand eight hundred and fifty-two, in the erection on any part of the said piece of land comprised in the said deed of grant dated the fifth day of November, one thousand eight hundred and fifty-three, of a church or chapel for the use of the Roman Catholic Natives, provided that the remaining portion of the same piece of land shall continue to be held upon the trusts thereof declared by the said deed of grant dated the fifth day of November, one thousand eight hundred and fifty-three.

Trustees to invest part of proceeds in erecting chapel.

5. Every receipt which shall be given by the said Bishop or other the said Trustee for the time being, for the purchase money of the hereditaments hereby authorized to be sold, shall be a good valid and sufficient acquittance for the same; and every sale which shall be made and every contract which shall be entered into and every conveyance which shall be executed by the said Bishop or other the Trustee for the time being, under the authority of this Act, shall be binding and conclusive on all persons claiming any benefit or interest under the trusts of the said deed of grant of the nineteenth day of August, one thousand eight hundred and fifty, or under the trusts of the said deed of grant of the sixteenth day of September, one thousand eight hundred and fifty-two.

Trustees receipt to be sufficient discharge.

6. The Short Title of this Act shall be "*The Auckland Roman Catholic Endowments Sales Act, 1858.*"

Short Title.

No. XIX.

AN ACT to provide for ascertaining and defining the Boundaries of the several Provinces of New Zealand.

BOUNDARIES OF PROVINCES.

[3rd July, 1858.]

WHEREAS by a Proclamation bearing date the twenty-eighth day of February, in the year one thousand eight hundred and fifty-three, given under the hand of Sir George Grey, the Governor of the Islands of New Zealand, and issued under the Public Seal thereof, the limits of the several Provinces of New Zealand were fixed and declared: And whereas disputes have already arisen between the Provinces of Canterbury and Otago as to the respective boundaries of those Provinces, and other disputes may hereafter arise as to the boundaries of some of the other Provinces of the Colony, and it is expedient that provision should be made for determining the same:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. Whenever in consequence of any dispute or otherwise the Governor shall deem it expedient that the boundaries of any one or more of the Provinces already or to be hereafter established in the Colony of New Zealand should be ascertained and defined, it shall be lawful for the Governor at any time and from time to time, by warrant under his hand, to nominate and appoint any person or persons to be a

Governor may appoint Commissioners to ascertain boundaries.

Census.

Commissioner or Commissioners to ascertain and report upon such boundaries with a view to having the same defined.

Governor may remove Commissioners and appoint others.

2. The Governor may from time to time remove any such Commissioner, and upon the removal resignation or death of any such Commissioner, may nominate and appoint any other person in his place or stead.

Duty of Commissioners to ascertain boundaries and report.

3. It shall be the duty of every such Commissioner forthwith, by survey examination of witnesses or otherwise, to ascertain the boundaries in reference to which he shall have been appointed as aforesaid, and to prepare and make out a report clearly setting forth such boundaries, and to transmit to the Colonial Secretary such report together with any evidence that may have been taken, and all other explanatory information.

Report &c. to be submitted to Governor in Council, and if boundaries approved of, to be proclaimed accordingly.

4. Such report evidence and other information shall be submitted to the Governor and Executive Council, and if the boundaries set forth in such report shall be approved of by them, the Governor shall by Proclamation declare that the boundaries so set forth in such report shall be and the same shall be deemed and taken for all purposes whatsoever to be the boundaries of the Province to which the same may relate, and to have been the boundaries thereof from the day on which such Province was established.

If report disapproved of new proceedings may be taken under this Act.

5. If the Governor and Council shall not approve of the boundaries set forth in any report so submitted to them as aforesaid, proceedings to ascertain and define the same may be again commenced and carried on under the provisions of this Act, in the same manner as though no previous report had been made and disapproved of as aforesaid.

Governor in Council may make orders for settling claims and disputes.

6. Whenever the boundaries of any Province shall have been defined as aforesaid, it shall be lawful for the Governor, from time to time as occasion shall require, to make any order for removing doubts or settling any claims or disputes which may arise in consequence of the uncertainty which has existed in reference to any boundaries, or in consequence of any proceedings under this Act; and every such order shall be final and conclusive, and shall be obeyed and carried into effect by the person or persons to whom the same shall relate.

Interpretation.

7. The term "Boundaries" shall include any boundary or a portion of any boundary or boundaries.

Short Title.

8. The Short Title of this Act shall be "*The Boundaries of Provinces Act, 1858.*"

No. XX.

CENSUS.

AN ACT for taking an account of the Population of New Zealand, and for collecting Statistical Information relating thereto. [3rd July, 1858.]

Preamble.

WHEREAS it is expedient that an account be taken, at the times and in the manner hereinafter directed, of the number and condition of the population of New Zealand, and of the live stock and of the cultivations therein respectively :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Census to be taken.

1. An account shall be taken in the month of December, in the year

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year one thousand eight hundred and fifty-eight, and in the same month in every third year succeeding, of the number and condition of persons, and of the live stock, and of the land in cultivation, within New Zealand, and of other particulars relating thereto, according to such forms of returns and instructions as the Colonial Secretary shall cause to be prepared, for the purpose of obtaining information with respect to the subjects specified in Schedules A and B to this Act annexed.

2. For the purpose of taking such account, the Governor shall from time to time appoint as many persons as may be necessary, who shall be and be called Enumerators, and shall define the districts for which they shall respectively act, and shall prescribe the number of Sub-Enumerators to be employed by each Enumerator as herein mentioned and the rates of remuneration of such Enumerators and Sub-Enumerators.

Appointment of Enumerators.

3. Every Enumerator shall, with all convenient speed after his own appointment, select and appoint, subject to the approval of the Governor, the Sub-Enumerators to be employed by him, and shall assign a sub-district to each Sub-Enumerator, and shall deliver to him a sufficient number of the said forms.

Appointment of Sub-Enumerators.

4. The master or keeper of any gaol prison hospital or lunatic asylum shall be the Sub-Enumerator of the inmates thereof, and shall conform to such instructions as the Colonial Secretary shall cause to be sent to him for obtaining the information required by this Act, so far as may relate to such inmates.

Masters &c. of gaols &c. to be Sub-Enumerators of inmates thereof.

5. Every person who shall act as Enumerator shall make and subscribe the declaration contained in Schedule C to this Act, before some Justice of the Peace, which declaration such Justice is hereby authorized and required to take; and every person who shall act as Sub-Enumerator shall make and subscribe before the Enumerator by whom he shall have been appointed, the like declaration, which declaration such Enumerator is hereby authorized and required to take.

Enumerators and Sub-Enumerators to make declaration.

6. Every person who shall accept the office of Enumerator or Sub-Enumerator, and shall afterwards neglect or refuse to do or perform any act or duty by this Act required to be done or performed by him, shall, unless prevented by sickness or other unavoidable accident, forfeit a sum not exceeding fifty pounds.

Penalty for neglecting or refusing to perform duties.

7. Every Sub-Enumerator shall, between the first and twenty-fourth days of December (both inclusive) in the years appointed, leave at every dwelling-house within his sub-district, one or more of the said forms of returns to be made by the occupier or person in charge of such dwelling-house; and every such occupier or person shall fill up and supply in the said forms, to the best of his knowledge and belief, the matters and particulars which may by the said forms and any instructions accompanying the same be required; and shall sign the said forms with his name, and deliver or cause to be delivered the said forms so filled up and signed to the Sub-Enumerator authorized to receive the same.

Enumerators to cause forms of returns to be delivered.

8. Every Sub-Enumerator shall, within his sub-district, on the twenty-sixth day of December, or as soon after as practicable, demand and receive the said forms at the dwelling-houses where the same shall have been left, and in case such forms from any cause shall not have been filled up, or shall appear to have been insufficiently or erroneously filled up, such Sub-Enumerator shall forthwith proceed to ascertain, from the occupiers or persons in charge of such dwelling-houses such matters and particulars as may be necessary to enable him to correct any errors or supply any deficiencies in such forms; and shall then and

Sub-Enumerators to collect forms.

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and there, in case he fill up the form entirely himself, sign the same with his own name, or in case he make corrections or supply deficiencies only, shall mark such corrections and additions with his initials.

Inquiries may be made for filling up forms.

9. The several Enumerators and Sub-Enumerators are hereby authorized and required to make all such inquiries of all persons whatsoever respecting those persons themselves, and all other persons, with reference to all such matters and particulars as may be necessary for filling up the said forms; and every person who shall wilfully refuse or without lawful excuse neglect to fill up the said forms to the best of his knowledge or belief, or to sign and deliver the same as herein required, or who shall wilfully refuse or neglect to answer or shall wilfully and untruly answer any such inquiries as aforesaid, or who shall wilfully make sign or deliver, or cause to be made signed or delivered, any false return of all or any of the matters or particulars aforesaid, or who shall obstruct any person in the performance of any duties imposed on him by or under the authority of this Act, shall forfeit a sum not exceeding twenty pounds.

Sub-Enumerators to deliver forms to Enumerators.

10. The several Sub-Enumerators, within seven days after all the said forms so filled up shall have been received by them, shall cause all the said forms to be delivered or transmitted to their respective Enumerators, and shall make affirmation before such Enumerator (which affirmation the said Enumerators are hereby authorized and required to administer) that the said forms so filled by the occupier or person in charge of any dwelling-house, or corrected or amended as aforesaid, are in the same state in which they were received by such Sub-Enumerators, or have been truly corrected and amended respectively in accordance with the provisions hereof and the information received by them in answer to their inquiries, and shall also make true answer to all such inquiries as the said Enumerators shall make of them as to the manner in which they have performed their duties; and it shall be lawful for the said Enumerators to direct the Sub-Enumerators to make further inquiries as to any matter respecting which in the opinion of such Enumerators further or more accurate information ought to be obtained, and such Sub-Enumerators may make such further returns signed by themselves in relation thereto, with the like liabilities in themselves and in persons refusing or neglecting to give information or giving untrue information, as are hereinbefore enacted as to their original inquiries.

Penalty for omission.

11. Any Sub-Enumerator who shall wilfully omit to deliver or transmit to his Enumerator all the forms which shall have been so filled up as aforesaid, or who shall knowingly and wilfully sign deliver or transmit any untrue form or return, or alter any form save as aforesaid, or wilfully and designedly omit to deliver or transmit any form which by the term of this Act he ought to have delivered or transmitted, shall forfeit a sum not exceeding fifty pounds.

Enumerators to make out lists.

12. Every Enumerator, within one month after he shall have received the said forms from the Sub-Enumerators appointed by him, shall from the information thereby furnished make out, according to such instructions as he may receive from the Colonial Secretary, returns of the several matters and particulars specified in such forms, and shall sign the said returns, and shall make affirmation before some Justice of Peace (which affirmation such Justice is hereby authorized and required to administer) that the said returns are correctly and truly made out to the best of his knowledge information and belief, and shall transmit all such returns and other particulars which he may have been required to furnish to the Registrar-General.

False declaration or affirmation.

13. Any Enumerator or Sub-Enumerator who shall knowingly and wilfully make a false declaration or affirmation under this Act shall be

Census.

be guilty of a misdemeanour, and being convicted thereof shall be liable to be punished by fine or imprisonment or both.

14. For the purpose of obtaining important statistical information not included in the returns which may be received from the Enumerators, the Colonial Secretary may cause inquiries, to be approved of by the Governor in Council, to be addressed to the persons having or reputed to have the superintendence of establishments or institutions of the character described in Schedule B to this Act, and all such persons shall be bound to answer such inquiries to the best of their knowledge and belief; and every person who shall refuse or neglect to answer any such inquiry, or wilfully give any false answer thereto, shall forfeit a sum not exceeding twenty pounds.

Inquiries may be addressed to certain persons by Colonial Secretary.

Penalty for refusal or neglect.

15. All fines penalties and forfeitures imposed by this Act shall be recovered in a summary manner before any two Justices of the Peace, and shall be paid to Her Majesty for the public uses of the Colony: Provided always that it shall be lawful for the Governor, when any person shall appear to have been active in or towards the procuring of any conviction under this Act, to award to such person any portion of the fine or penalty recovered not exceeding one-half thereof.

Recovery and application of penalties.

16. The Colonial Secretary shall cause abstracts to be made of the returns and other particulars of information obtained under the authority of this Act; and such abstracts shall be printed and laid before both Houses of the General Assembly in the Session next ensuing after such returns and information have been obtained.

Abstracts to be printed and laid before General Assembly.

17. This Act shall not apply to the aboriginal native race except only at such time in such places and in such manner as the Governor in Council shall from time to time direct.

Act not to apply to Natives.

18. An Ordinance of the Governor-in-Chief and Legislative Council of New Zealand, Session XI., No. 8, intituled "*An Ordinance for taking a Census of the Colony of New Zealand,*" is hereby repealed.

Census Ordinance, Session XI., No. 8, repealed.

19. In the construction of this Act the word "Dwelling-house" shall include any house building booth tent or other erection in or under which any person usually sleeps, and also all ships or vessels in any port of New Zealand,

Interpretation clause.

20. The Short Title of this Act shall be "*The Census Act, 1858.*"

Short Title.

SCHEDULES.

SCHEDULE A.

I.—DOMESTIC AND SOCIAL CONDITION OF POPULATION.

The number and description of houses or buildings.
The names and surnames of the people.
Their relation to heads of households—as wife son daughter or other relative, visitor lodger or servant.
Their condition as married or single, widower or widow.
Their sex and age.
Their rank profession or usual occupation.
Their extraction and place of birth.
Their religious denomination.
The date of their entering the Colony.
Whether British subjects or aliens.

II.—EDUCATION.

The number of persons able or not to read or write.
The number at school (distinguishing between schools supported by Government or public aid and private schools, and between day and Sunday schools.

III.—CULTIVATION AND CROPS.

The number of acres in wheat oats barley maize potatoes, garden or orchard, sown grasses and other crops, the total number of acres in cultivation, and the total number of acres fenced.

IV.—LIVE

Australasian Creditors.

IV.—LIVE STOCK.

The numbers of horses mules and asses, cattle sheep goats and pigs.

SCHEDULE B.

Churches chapels and other places of worship, the situation of each and the religious denomination to which it belongs, the number of persons it will contain, and the number generally attending.

Hospitals lunatic asylums dispensaries and other charitable institutions.

Savings Banks.

Friendly and Benevolent Societies.

Land and Building Societies and similar associations.

Mechanics Institutes and other Literary or Scientific Institutions.

Manufactories mills works mines and quarries.

SCHEDULE C.

I, _____, do hereby declare that I will act as Enumerator [or Sub-Enumerator, *as the case may be*] for the district for which I have been appointed, and do solemnly declare that I will faithfully perform the duties of the said office to the best of my knowledge and ability.

Taken before me _____, the _____ day of _____.

No. XXI.

AN ACT to give further Remedies to Creditors against Debtors removing from any other of the Australasian Colonies to the Colony of New Zealand.

[3rd July, 1858.]

AUSTRALASIAN
CREDITORS.

Preamble.

WHEREAS the proximity of the several Australasian Colonies to each other and the separation of their respective jurisdictions greatly facilitate the evasion of the judgments decrees rules and orders of the Supreme Courts of the said Colonies respectively, and it is expedient to provide a remedy in that behalf:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Memorial of judgment &c. under Seal of Supreme Court of any other Australasian Colony filed in Supreme Court of New Zealand shall be a record thereof and execution may issue.

1. It shall be lawful for any person in whose favour any judgment decree rule or order, whereby any sum of money is made payable, has been obtained in the Supreme Court of any of Her Majesty's Australasian Colonies, to cause a memorial of the same, containing the particulars hereinafter mentioned and authenticated by the Seal of the Court wherein such judgment decree rule or order was obtained, to be filed in the office of the Supreme Court of New Zealand, and such memorial being so filed shall thenceforth be a record of such judgment decree rule or order, and execution may issue thereon as hereinafter provided: Provided further that every Seal purporting to be the Seal of any such Court shall be deemed and taken to be the Seal of such Court until the contrary is proved, and the proof that any such Seal is not the Seal of such Court shall lie upon the party denying or objecting to the same.

Particulars of memorial.

2. Every such memorial shall be on parchment and signed by the party in whose favour such judgment decree rule or order was obtained, or his attorney, and shall contain the following particulars, all of which shall be fairly written, without interlineations or erasures, and, with the exception of dates, in words at length, that is to say,—The names and additions of the parties, the form or nature of the action or suit or other proceeding

Supreme Court Judges.

proceeding and when commenced, the date of the signing or entering up of the judgment or of passing the decree or of making the rule or order and the amount recovered or the decree pronounced or rule or order made, and if there was a trial, the date of such trial and amount of verdict given.

3. It shall be lawful for the Supreme Court of New Zealand, or any Judge thereof, upon the application of the person in whose favour such judgment decree rule or order was obtained, or his attorney, to grant a rule or issue a summons calling upon the person against whom such judgment decree rule or order was obtained, to show cause, within such time after personal or such other service of the rule or summons as such Judge or Court shall direct, why execution should not issue upon such judgment decree rule or order, and such rule or summons shall give notice that in default of appearance execution may issue accordingly, and if the person served with such rule or summons does not appear, or does not show sufficient cause against such rule or summons, it shall be lawful for the said Court or Judge, on due proof of such service as aforesaid, to make the rule absolute or to make an order for issuing execution as upon a judgment decree rule or order of the Supreme Court of New Zealand, subject to such terms and conditions, if any, as to such Court or Judge may seem fit, and thereupon and subject thereto the person entitled to such execution shall have and be entitled to all such process and to all such rights and remedies for the enforcement thereof, and the person against whom such execution is so authorized shall in like manner be entitled to all such protective rights and advantages as they would respectively have been entitled to had such judgment decree rule or order of the Supreme Court of any of the said Colonies been obtained in the Supreme Court of New Zealand, and all such proceedings may be had or taken for the revival of such judgment decree rule or order, or the enforcement thereof by and against persons not parties to such judgment decree rule or order, as may be had for the like purposes upon any judgment decree rule or order of the Supreme Court of this Colony.

Mode of obtaining execution.

4. The Short Title of this Act shall be "*The Australasian Creditors Act, 1858.*" Short Title.

No. XXII.

AN ACT to regulate the Appointment and Tenure of
Office of the Judges of the Supreme Court.

SUPREME COURT
JUDGES.

[3rd July, 1858.]

WHEREAS by an Act of the Governor and Legislative Council of New Zealand, Session III., No. 1, intituled "*An Act for Establishing a Supreme Court,*" it is enacted by the tenth section thereof as follows:—"The Court shall consist of one Judge, who shall be called the Chief Justice of New Zealand, and of such other Judges as Her Majesty shall from time to time be pleased to appoint: Provided that it shall be lawful for His Excellency the Governor to appoint such Judges provisionally until Her Majesty's pleasure shall be known. The Judges of the Court shall hold their offices during Her Majesty's pleasure." And whereas it is expedient to repeal the said section and to make other provisions in lieu thereof:

Preamble.

BE

Supreme Court Judges.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Section 10 of Ordinance No. 1 of Session III. repealed.

Governor to appoint Judges of Supreme Court in the name of Her Majesty.

Judges to hold office during good behaviour.

Governor may remove Judges from office on address of both Houses of General Assembly.

Power to Governor to suspend.

Judges' salaries secured.

Governor may appoint Judge for temporary purpose during pleasure.

Superannuation allowances.

To be paid out of general revenue.

Short Title.

1. The said section number ten of the said Ordinance is hereby repealed.

2. The Supreme Court of New Zealand shall consist of one Judge, to be appointed in the name and on behalf of Her Majesty, who shall be called the Chief Justice, and of such other Judges as His Excellency in the name and on behalf of Her Majesty shall from time to time appoint.

3. The Commission of the present Chief Justice and of every Chief Justice and other Judge of the said Court to be hereafter appointed (except as hereinafter provided) shall be and continue in full force during their good behaviour, notwithstanding the demise of Her Majesty, any law usage or practice to the contrary notwithstanding.

4. Provided always that it shall be lawful for the Governor of New Zealand at his discretion, in the name and on behalf of Her Majesty, upon the address of both Houses of the General Assembly, to remove any such Judge from his office and to revoke his Patent or Commission.

5. Provided also that it shall be lawful for the Governor in Council, at any time when the General Assembly shall not be in Session, to suspend any Judge from his office, and such suspension unless previously revoked shall continue in force until the end of the next Session of the General Assembly and no longer.

6. A salary equal at least in amount to that which at the time of the appointment of any Judge shall be then payable by law shall be paid to such Judge so long as his Patent or Commission shall continue and remain in force.

7. It shall also be lawful for the Governor in Council, in the name and on behalf of Her Majesty, at any time during the illness or absence of any Judge so appointed as aforesaid, or for any other temporary purpose, to appoint a Judge or Judges of the Supreme Court, to hold office during His Excellency's pleasure, and every such Judge shall be paid such salary, not exceeding the amount payable by law to a Puisne Judge of the said Court, as the Governor in Council shall think fit to direct.

8. Every Judge of the Supreme Court, holding office during good behaviour, who shall resign his office after having attained the age of sixty years, shall, after the passing of this Act, be entitled to a superannuation allowance in proportion to the amount of his annual salary at the time of resignation, after the following rate, viz.:—

After ten years' service to an annual allowance of three-twelfths of such salary.

After fifteen years' service to an annual allowance of four-twelfths of such salary.

After twenty years' service to an annual allowance of five-twelfths of such salary.

After twenty-five years' service to an annual allowance of six-twelfths of such salary.

After thirty years' service to an annual allowance of seven-twelfths of such salary.

After thirty-five years' service to an annual allowance of eight-twelfths of such salary.

9. Such superannuation allowances shall be paid quarterly out of the general revenue of the Colony during the natural lives of the several persons respectively entitled thereto.

10. The Short Title of this Act shall be "*The Supreme Court Judges Act, 1858.*"

No. XXIII.

Law Practitioners.

No. XXIII.

AN ACT to enable Barristers and Solicitors of the Supreme Court to act as General Law Practitioners.

LAW PRACTITIONERS.

[3rd July, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. For a period of five years after the passing of this Act it shall be lawful for any barrister or solicitor of the Supreme Court to act both as a barrister and solicitor within the Colony of New Zealand, and in the several Courts of Justice which now are or shall hereafter be therein erected and constituted.

Barristers and solicitors may act as general law practitioners.

2. The Short Title of this Act shall be "*The Law Practitioners' Act, 1858.*"

Short Title.

No. XXIV.

AN ACT to regulate the Appointment and Duties of Sheriffs. [3rd July, 1858.]

SHERIFFS.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. An Ordinance enacted by the Lieutenant-Governor and Legislative Council of New Zealand, intituled "*An Ordinance to Regulate the Appointment and the Duties of Sheriffs in the Colony of New Zealand,*" Session VII., No. 4, is hereby repealed.

Ordinance Sess. VII.; No. 4, repealed.

2. After the passing of this Act it shall be lawful for the Governor, and for no other person, to appoint fit persons to be Sheriffs within the Colony, who shall hold their offices during pleasure.

Appointment of Sheriffs to be made by the Governor.

3. It shall also be lawful for the Governor, and for no other person, to define the districts within which the jurisdiction of the several Sheriffs shall be exercised, and the limits of such districts from time to time to alter as occasion may be.

Districts to be defined by the Governor.

4. The several Sheriffs who are now acting shall be deemed to have been appointed, and the several defined districts for which they are respectively acting shall be deemed to have been defined, by the Governor under this Act.

Sheriffs now acting and districts defined to be deemed to have been appointed by Governor.

5. Every Sheriff shall, upon his appointment, take an oath before a Judge of the Supreme Court or some person specially appointed by such Judge, in the form set forth in the Schedule to this Act, faithfully to execute the duties of his office.

Sheriff's oath.

6. Every Sheriff shall from time to time give security for good behaviour in his office by bond to Her Majesty, by himself and such sureties and in such reasonable sum or sums respectively as the Governor may direct: Provided that all bonds or other securities for good behaviour in office given by or for any Sheriff under the provisions of the recited Ordinance or otherwise shall remain in full force and may be put in suit in like manner as if the same had been given under this Act.

Security to be given.

Existing securities to remain in force.

Sheriffs.

**Sureties may
withdraw.**

7. Every such surety may withdraw from any liability for the future under any such bond by giving to the Attorney-General for New Zealand three months' notice of his intended withdrawal, without prejudice nevertheless to any previous breach of the condition of the bond.

Duties &c. of Sheriffs.

8. Every Sheriff shall have such powers and privileges duties and responsibilities as a Sheriff by law hath or is liable to in England as a ministerial officer of one of Her Majesty's Courts at Westminster.

**Sheriff not to act as
barrister or solicitor.**

9. No Sheriff shall be in any way concerned in any suit in any Court within the Colony, either as barrister solicitor or agent.

**Service of process
when Sheriff
disqualified.**

10. Whenever any process shall issue which the Sheriff ought not by law to execute, the Supreme Court shall authorize some fit person to execute the same; and in every such case the cause of such special proceeding shall be entered upon the records of the Court.

**Chief Justice may
fix and alter fees.**

11. It shall be lawful for the Chief Justice of the Supreme Court from time to time to fix alter and abolish the fees and poundage to be paid and taken by any Sheriff, Sheriff's Officer, Bailiff, or other person employed under the Sheriff upon any proceedings in the Supreme Court, or otherwise in respect of his office or employment. Such fees and poundage shall be paid and taken as soon as they shall have been approved of by the Governor in Council.

**Fees to be paid to the
Colonial Treasurer.**

12. All fees taken by any Sheriff under any regulations made by virtue of this Act shall be paid to the use of Her Majesty for the public uses of the Colony and the support of the Government thereof, and shall be accounted for quarterly to the Colonial Treasurer.

**Governor may
appoint Deputy
Sheriffs.**

13. It shall be lawful for the Governor at any time to appoint a fit and proper person to be Deputy Sheriff for any district, to act in case of the death illness or unavoidable absence of any Sheriff; and such Deputy shall, during the time he shall so act, have all the powers and privileges and shall perform all the duties and be subject to the responsibilities of the Sheriff.

**When Deputies to
act.**

14. Whenever the Sheriff of any district shall die the Deputy Sheriff shall act as such from the day of such death, and in the case of illness or absence shall act as such from such day as the Sheriff shall certify under his hand to the Deputy Sheriff that he is ill and unable to perform his duties, or that he is about to leave his district, and such Deputy Sheriff shall cease to act as such on the day on which he shall receive from the Sheriff a certificate under his hand to the effect that he has resumed his duties. No Sheriff of any district shall have any power to act during such time as the Deputy Sheriff shall be lawfully acting.

**Act 1st Mary, Sess. II.,
c. 8, not in force
in Colony of New
Zealand.**

15. And it is hereby declared and enacted that an Act of Parliament passed in the first year of the reign of Queen Mary, Sess. II., c. 8, intituled "*An Act that Sheriffs shall not be Justices of the Peace during that office,*" shall be deemed and taken not to have been heretofore and not to be hereafter in force in the Colony of New Zealand.

Short Title.

16. The Short Title of this Act shall be "*The Sheriffs' Act, 1858.*"

SCHEDULE.

I, A.B., do swear that I will truly and faithfully, and to the best and utmost of my skill and knowledge, discharge the duties of Sheriff of the District of _____, without fear favour or malice. So help me God.

*Gaolers.***No. XXV.**

AN ACT to amend the Law relating to the Appointment of Gaolers and the Custody of Imprisoned Debtors and Criminals. [3rd July, 1858.]

GAOLERS.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for the Superintendent of every Province of New Zealand to appoint a Gaoler for every public gaol within such Province, who shall hold office during the pleasure of the Superintendent. Superintendents to appoint Gaolers.

2. Every Gaoler shall have the charge and superintendence of the gaol for which he is appointed, and the custody of all debtors and criminals imprisoned within the same, and he shall be liable to answer for the escape of any criminal or debtor from his custody whenever such escape shall happen by or through his wilful neglect and default, but not otherwise. Gaolers to have charge of gaols.

3. If any debtor in execution shall escape out of legal custody, the Gaoler or other person having the custody of such debtor shall be liable to an action for damages sustained by the person or persons at whose suit such debtor was imprisoned, and shall not be liable to an action of debt in consequence of such escape. Gaolers liable for escapes to an action of damages and not of debt.

4. Every debtor and criminal shall be deemed to be in the legal custody of the Gaoler as soon as he shall be delivered within the door of any gaol to the Gaoler or some other person employed under him in the custody of prisoners in such gaol, and the liability of the Sheriff or other person delivering such criminal or debtor shall cease on such delivery as aforesaid. Persons to be deemed in custody of Gaolers when delivered at gaol, and the liability of Sheriff and others then to cease.

5. Provided always that nothing in this Act contained shall be deemed or construed to take away or abridge the powers of any Superintendent and Provincial Council to make laws for the regulation and management of any gaol within such Province. Act not to abridge powers of Provincial Councils to make laws for management of gaols.

6. And whereas by an Ordinance passed by the Lieutenant-Governor and Legislative Council of New Zealand, Session VII., No. 7, intituled "*An Ordinance for the Regulation of Prisons,*" certain powers are given to the Sheriff of any district by the tenth and twentieth sections thereof, and it is expedient that Sheriffs should cease to exercise such powers: Be it therefore enacted that henceforth it shall not be lawful for any Sheriff to exercise any of the said powers, and that the powers conferred on the Sheriff by the said twentieth section may be exercised by the Gaoler having charge of any gaol or gaols. Powers given to Sheriffs under Prisons Ordinance to cease and the power under section 20 to be exercised by Gaoler.

7. The Short Title of this Act shall be "*The Gaolers' Act,* 1858." Short Title.

Petty Sessions.

No. XXVI.

PETTY SESSIONS.

AN Act to provide for the holding of Petty Sessions of the Peace in the Colony of New Zealand.

[3rd July, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Governor to constitute petty sessional districts.

1. It shall be lawful for the Governor, from time to time by notice in the *New Zealand Gazette*, to constitute petty sessional districts in any part of the Colony, and such districts to abolish and the boundaries thereof to define and alter as he shall think fit.

Petty Sessions to be held as the Governor shall fix.

2. Petty Sessions of the Peace shall be held in and for such districts at such times and places as the Governor shall from time to time fix by notice in the said *Gazette*.

Majority of Justices of a district may appoint a Clerk.

3. It shall be lawful for a majority of the Justices of the Peace resident within any petty sessional district from time to time to appoint and remove from office a Clerk of the Petty Sessions to be held therein, and also a person to act as bailiff and constable to attend upon the Court; and such Clerk and such bailiff and constable shall do and perform all acts and duties and shall have the same powers and privileges as are properly incident to their respective offices in this Colony, and shall be paid such salary or receive such fees in lieu thereof as the Governor shall from time to time appoint in that behalf.

Clerk to keep a list of Justices of district, and give notice in rotation of the holding of Petty Sessions.

4. The Clerk shall keep a list of all the Justices of the Peace who shall reside within the petty sessional district for which he is Clerk, and shall from time to time give notice to two of such Justices in rotation, of the time and place at which Petty Sessions of the Peace are required to be held.

Travelling expenses payable to Justices.

5. Every Justice of the Peace who shall attend at any Petty Session in pursuance of such notice shall be entitled to receive after the rate of one shilling and sixpence a mile for every mile that his place of residence shall be distant by the nearest road from the place at which the Petty Sessions shall be held.

Clerk to make quarterly report of Justices attending.

6. The Clerk of every petty sessional district shall keep a list of the Justices to whom a notice for attendance at each Petty Sessions shall have been given, and of the Justices actually attending such Petty Sessions, and shall at the expiration of each quarter forward copies of such lists to the Colonial Secretary.

Civil jurisdiction to be exercised by Justices.

7. It shall be the duty of the Justices of the Peace holding Petty Sessions under this Act to exercise all civil jurisdiction which now is or shall hereafter be vested in Justices of the Peace.

Act not to affect right of any Justice to sit at Petty Sessions.

8. Nothing in this Act contained shall be taken to limit or affect the right of every Justice of the Peace to act as such at any Petty Sessions within the Colony which may be held at any place over which his jurisdiction as a Justice extends.

Fees &c to be paid to Colonial Treasurer for use of Province in which they arise.

9. All sums of money which shall be received under or by virtue of this Act by way of fees fines or penalties, shall be paid to the Colonial Treasurer for the public use of the Province in which the same shall arise.

Expenditure to be charged against Province in which it is incurred.

10. All money which shall be expended under any of the provisions of this Act shall be charged by the Colonial Treasurer in account against the Province within which the same shall be expended, and may be deducted from any sums of money which shall from time to time be payable by the Colonial Treasurer to such Province.

11. Provided

Justices of the Peace.

11. Provided always that if any district to be constituted under the first section of this Act shall comprise portions of more than one Province, such an equitable apportionment of such sums of money and such costs and expenses shall be made between such several Provinces as the Governor shall think fit to direct.

When district comprises parts of more Provinces than one, Governor may make equitable apportionment.

12. The Short Title of this Act shall be "*The Petty Sessions Act, 1858.*"

Short Title.

No. XXVII.

AN ACT to bring into operation within the Colony certain Acts of the Imperial Parliament relating to Justices of the Peace. [*8th July, 1858.*]

JUSTICES OF THE PEACE.

WHEREAS the several Acts of Parliament specified in the Schedule hereunto annexed have been passed for the amendment of the law relating to the duties of Justices of the Peace and their protection in the execution of their offices, and it is expedient that the same should be adopted and brought into operation within the Colony:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. The several Acts of the Imperial Parliament specified in the Schedule hereunto annexed shall be taken to extend to this Colony, and shall be applied therein in the administration of justice, in the same manner as Acts of Parliament passed before the establishment of the Colony are applied, excepting section thirty-five of the 11 and 12 Vict. c. 43, the Act secondly specified in the said Schedule, which shall not be taken to so extend and shall not be so applied: Provided always that any information or complaint which may by any law in force in New Zealand be heard and determined in a summary way may be heard and determined under the provisions of the said Act, 11 and 12 of Vict. c. 43.

Acts specified in Schedule adopted.

2. In the construction of the said Acts the words and expressions following shall have the meaning hereby assigned to them unless there be something in the subject or context repugnant to such constructions, that is to say,—

Construction of terms.

The term "County" shall mean Province established or hereafter to be established in New Zealand.

County.

The terms "Clerk of the Peace" "Clerk of Sessions" and "Clerk of Indictments" shall respectively mean Registrar or Deputy Registrar of the Supreme Court, or Clerk of the District Court, as the case may be.

Clerk of Peace &c.

The term "Stipendiary Magistrate" shall mean Resident Magistrate.

Stipendiary.

3. The fees to be taken under the said Acts shall be fixed varied and abolished as the Governor in Council shall from time to time direct and appoint, and shall be paid, as the Governor shall from time to time direct, to the Colonial Treasurer, for the use of Her Majesty for public uses of the Colony: Provided always that the fees now fixed in respect of proceedings before Justices of the Peace shall be deemed to have been fixed under this Act.

Fees to be taken.

Registration.

Summary Proceedings Ordinance repealed so far as repugnant.

4. An Ordinance passed by the Governor and Legislative Council of New Zealand, Session II., No. 5, intituled "*An Ordinance to regulate Summary Proceedings before Justices of the Peace,*" is hereby repealed so far as the same is repugnant to or would prevent or interfere with the operation of the said Acts hereby adopted: Provided always that all sums of money which any person shall be bound to pay under any recognizance taken before any Justice or Justices of the Peace may be levied under the said Ordinance as though this Act had not been passed: Provided also that in all cases of summary conviction, where the person convicted shall be sentenced to imprisonment, such imprisonment shall be with or without hard labour at the discretion of the Court.

Short Title of Acts adopted.

5. The several Acts specified in the Schedule to this Act may for all purposes be cited by the several Short Titles thereto respectively annexed in the said Schedule.

Commencement.

6. This Act shall come into operation on the first day of January, one thousand eight hundred and fifty-nine.

Short Title.

7. The Short Title of this Act shall be "*The Justices of the Peace Act, 1858.*"

SCHEDULE.

Years and Chapters of Statutes.	Titles.	Short Titles.
11 & 12 Vict. c. 42.	"An Act to facilitate the performance of the Duties of Justices of the Peace out of Sessions within England and Wales, with respect to Persons Charged with Indictable Offences."	"Indictable Offences Act, 1848."
11 & 12 Vict. c. 43.	"An Act to facilitate the performance of the Duties of Justices of the Peace out of Sessions within England and Wales, with respect to Summary Convictions and Orders."	"Summary Convictions Act, 1848."
11 & 12 Vict. c. 44.	"An Act to protect Justices of the Peace from Vexatious Actions for acts done by them in execution of their Office."	"Justices Protection Act, 1848."

No. XXVIII.

REGISTRATION.

AN ACT for the Registration of Births Deaths and Marriages in New Zealand. [8th July, 1858.]

Preamble.

WHEREAS it is expedient to provide for the registration of births deaths and marriages in New Zealand:

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Repeal of Ordinance Session VIII., No. 9.

1. An Ordinance enacted by the Lieutenant-Governor and Legislative Council of New Zealand, intituled "*An Ordinance for Registering Births Deaths and Marriages in the Colony of New Zealand,*" Session VIII., No. 9, is hereby repealed: Provided always that any registration lawfully made and every act or thing whatever lawfully done

Registration.

done under the provisions of the said Ordinance shall be as good valid and effectual as though this Act had not been passed.

2. It shall be lawful for the Governor, in the name and on behalf of Her Majesty, from time to time by warrant under his hand to appoint a fit person to be Registrar-General for the Colony, and fit persons to be Registrars of Births, Deaths, and Marriages under this Act, and from time to time to remove any person so appointed: Provided always that the Registrar-General and Deputy Registrars who are now acting shall be deemed to have been appointed by the Governor, Registrar-General, and Registrars respectively under this Act: Provided also that it shall be lawful for the Registrar-General to be appointed and act as a Registrar under this Act.

Registrar-General
and Registrars to be
appointed.

3. It shall be lawful for the Governor at any time to appoint a fit person to be the Deputy of any Registrar, to act in case of death illness or unavoidable absence, and every Deputy shall, during the time he shall so act, have all the powers and privileges and perform all the duties and be subject to all the responsibilities of the Registrar for whom he shall have been appointed Deputy, and every such appointment when made shall be notified in the *New Zealand Gazette*.

Governor may
appoint Deputy of
any Registrar.

4. Whenever any Registrar shall die, the Deputy appointed as aforesaid shall act as Registrar from the day of such death, and in case of illness or absence shall act as such from such day as such Registrar or (in case of illness incapacitating him to do so) his medical attendant shall certify under his hand to the Deputy appointed as aforesaid to act for him, that he is ill and unable to perform his duties, or that he is about to be absent; and such Deputy shall cease to act as such from the day on which he shall receive from the officer whose Deputy he is, a certificate under his hand to the effect that such officer has resumed his duties. No Registrar shall have power to act during such term as his Deputy shall be lawfully acting.

When Deputy to act.

5. It shall be lawful for the Governor from time to time, by Proclamation in the *New Zealand Gazette*, to divide the Colony, for the purposes of this Act, into such and so many districts as he shall think fit, and every such district shall be called by a distinct name, and shall be a Registrar's district: Provided always that the Governor may at any time revoke the whole or any part of any such Proclamation, and issue a new Proclamation dividing the Colony or any portion of it anew into districts, or increasing the number or altering the boundaries of districts, as from time to time he may think requisite; and all births and deaths shall be registered in the district in which they respectively occur: Provided always that it shall be lawful for the Registrar of any district to register any birth or death according to the provisions of this Act, if it shall be shown to his satisfaction that the person upon whom it is obligatory to give the information herein required could not, without considerable difficulty delay or expense, attend at the office of the Registrar of the district in which the birth or death has actually taken place: Provided also that the districts now existing shall until duly altered be deemed to be districts proclaimed under this Act.

Registrars' districts.

6. The Registrar-General and every Registrar duly appointed under this Act are hereby respectively empowered to receive and take the several fees specified in this Act; and all fees so received shall be accounted for by them quarterly to the Colonial Treasurer, in such manner as he shall from time to time direct.

Fees.

7. It shall be lawful for the Registrar-General from time to time to make amend and abolish regulations (not being repugnant to the provisions of this Act, or of any Act lawfully in force for regulating marriages in the Colony,) for the general management of the Registry Offices, and the preparation and transmission of all returns required from

Regulations.

Registration.

from Registrars and Officiating Ministers respectively; and such regulations, after being approved of by the Governor, shall be obeyed accordingly.

Books forms &c.

8. The Registrar-General shall from time to time, at the public expense, furnish to all parties requiring the same such books and forms as may be requisite for the purposes of this Act.

Entries in Register Books.

9. Every Registrar shall in every case inform himself carefully of the particulars required to be registered by him touching births deaths and marriages, under any law for the time being in force, and shall without fee or reward, except when otherwise specially provided by law, enter and register all such particulars according to the forms in Schedule A and B hereunto annexed in cases of births and deaths respectively, and in cases of marriages, according to such forms as may be required by any law for the time being in force for regulating marriages in New Zealand; and every entry shall be made from page to page from the beginning to the end of the book, and every such book shall be paged consecutively: Provided always that in case of the registration of a birth when the child is illegitimate, or the father is unknown, the Registrar may enter the word "Illegitimate" or "Unknown" in the column of Schedule A headed "Name and Surname of Father."

Quarterly returns.

10. Every Registrar shall, in the months of April July October and January in each year, make and transmit to the Registrar-General true copies, certified under his hand, of all entries of births deaths and marriages made in the Register Books in his office during the three months next preceding, or a certificate under his hand that there have been no such entries, as the case may be; and every Registrar who shall refuse or neglect to do so shall be liable for every such offence to forfeit and pay a sum not exceeding ten pounds, to be recovered in a summary way.

Registrars not liable to serve on juries &c.

11. The Registrar-General and every Registrar holding office under this Act shall be exempt from serving on any jury or inquest, or in any parochial or corporate office whatever.

Registration of births.

12. In each case of a child born within the Colony, the father or mother, or some person acting on behalf of the parent, and becoming responsible under the provisions and penalties of this Act for the truth of the particulars, shall within sixty-two days (inclusive of the day of the birth), and in each case of the death of any person, the occupier of the house or tenement, or some person present at the death or in attendance during the last illness of any one dying in the Colony, or the undertaker having charge of the funeral, or some person acting on behalf of the occupier of the house or place in which the death shall have occurred, and becoming responsible under the provisions and penalties of this Act for the truth of the particulars, shall within thirty-one days (inclusive of the day of the death) inform the Registrar of the particulars required to be registered concerning such birth or death.

Case of a new-born child or a dead body being found exposed.

13. In case any new-born child or any dead body shall be found exposed, a constable of the district shall forthwith inform the Registrar thereof, and of the place where such child or dead body was found; and where an inquest shall be held on any dead body, the Coroner or Justice of the Peace holding the same shall notify to the Registrar of the district the verdict of the jury, with all other particulars required to be registered concerning the death, and such Registrar shall make the entry in his Register Book accordingly, and the same shall be signed by the Coroner or Justice of the Peace by whom the information has been given.

Occupier who deemed.

14. For the purposes of this Act, the master, keeper, chief officer,

or

Registration.

or other person in actual charge of any gaol prison house of correction hospital lunatic asylum or public or charitable institution respectively, shall be deemed the occupier thereof.

15. After the said period of sixty-two days following the day of the birth of any child born in the Colony, it shall not be lawful for any Registrar to register such birth unless the parent, or some person who was present at such birth, shall make a solemn declaration, according to the best of his knowledge and belief, of the particulars required to be registered; and upon such declaration being made, and a fee of ten shillings and sixpence paid, it shall then be lawful for the Registrar before whom such declaration is made to register the birth according to the information of the person making the same.

Limit of time for registration of births.

16. In every case of the arrival in the Colony of a child under the age of eighteen months at the time of such arrival, born at sea or in any place out of the Colony, whose parents or other persons having lawful charge of such child are about to take up their abode in the Colony, it shall be lawful for the Registrar, at any time within six months next following the day of such child's arrival, on a solemn declaration, by one of the parents or by a person having lawful charge as aforesaid of such child, of the particulars required to be registered, to register the birth of such child according to the provisions made for the registration of births taking place within the Colony, and the terms of sixty-two days and six months respectively shall be reckoned from the day of such child's arrival in the Colony instead of from the day of birth.

Children born out of the Colony.

17. It shall not be lawful for any Registrar to register the birth of any child after the expiration of six months following such birth, if in the Colony, or after the arrival therein of the child, if born at sea or out of the Colony; and no register or certified copy of a register of birth made contrary to this provision shall be received in evidence to prove the birth of any child.

Further limitation of time.

18. If any child whose birth shall have been registered without a christian or first name shall, within twelve calendar months next after such registration, have any such name given to it, the person who shall have signed the original entry may cause the name so given to be added by the Registrar to such entry on payment of a fee of two shillings and sixpence.

Registration of name.

19. Every person by whom the information contained in any register of birth or death under this Act shall have been given, shall sign his name in the register, to which shall be added, either by himself or by the Registrar in his presence, his description and place of abode; and no register of births or deaths according to this Act shall be given in evidence which shall not be signed by some person professing to be the informant of the Registrar.

Entry to be signed by informant.

20. Every Registrar, immediately upon registering any death or as soon thereafter as he shall be required so to do, shall without fee or reward deliver to the person giving information, or to the undertaker or other person having charge of the funeral, a certificate under his hand, according to the form in Schedule C hereto annexed, that such death has been duly registered; and such certificate shall be delivered by such undertaker or other person to the minister or officiating person who shall be required to bury or perform any funeral or religious service for the burial; and if any dead body shall be buried for which no certificate shall have been so delivered, the person who shall bury the same, or perform any funeral or religious service for the burial, or who shall in any other way dispose of the body, shall forthwith give notice of the facts to the Registrar: Provided always that the Coroner or Justice of the Peace holding any inquest upon any dead body for

Certificates of deaths.

Registration.

which no certificate shall have been delivered as aforesaid, may order the body to be buried, if he shall think fit, before registration; and shall in such case give a certificate of his order in writing under his hand, in the form in Schedule D hereto annexed, to the undertaker or other person having charge of the funeral.

Penalty.

21. Every person who shall bury or perform any funeral or religious service for the burial of any dead body, or shall in any other way dispose of a dead body, for which no certificate shall have been duly made and delivered as aforesaid, either by the Registrar or by the Coroner or Justice of the Peace holding an inquest on the body, and who shall not within two months give notice thereof to the Registrar of the district, shall be liable to forfeit and pay a sum not exceeding ten pounds for every such offence, to be recovered in a summary way.

Correction of accidental errors.

22. Any person upon whose information any birth or death shall have been registered, who shall discover any error to have been committed in the form or substance of such entry, shall not be liable to any penalty on account thereof if, within three months next after the discovery of such error, he shall, in the presence of the Registrar and two credible witnesses who shall respectively attest the entry, truly correct the error by signing a new entry in the margin, or in another part of the Register Book to which a distinct reference shall be made by writing across the original entry, and adding the date of such correction, but in either case without alteration or obliteration of the original entry.

Searches of Register Books and certified copies.

23. Every Registrar who shall have the keeping for the time being of any Register Book of births deaths or marriages shall, at all reasonable hours on every day except Sunday, Christmas Day, Good Friday, and public holidays, allow searches of any Register Book in his keeping to be made, and shall if called upon to do so give a copy certified under his hand of the entry of any birth or death registered, or any marriage registered by him, on payment of the following fees respectively, viz:—For a search in the Register Book extending over a period not more than one year, two shillings and sixpence, and for every additional year, one shilling; and for every single certified copy of an entry, two shillings and sixpence, or if such certified copy be under the seal of the Registrar, five shillings.

General registry indexes.

24. The Registrar-General shall cause indexes of the certified copies transmitted to him by the Registrars according to the provisions of this Act to be made and kept in his office, and shall permit any person demanding to do so to search any such index, and to have a copy, certified under the Registrar-General's hand, of any entry of a birth death or marriage duly returned and certified to him by any Officiating Minister or Registrar, or a certified copy of such record of any marriage, the particulars of which have been duly forwarded to the Registrar-General by the Officiating Minister or Registrar or other legally competent person by whom such marriage was celebrated or registered, as may be authorized by any Act for regulating marriages which may be in force in the Colony. And for every search in any index in the office of the Registrar-General, a fee of five shillings shall be paid by the person requiring such search; and for every certified copy of any entry in the records of his office, shall be paid a fee of two shillings and sixpence, or if such certified copy be under the seal of the Registrar-General, a fee of five shillings.

Certified copies of entries to be received as *primâ facie* evidence.

25. Certified copies of registers or entries made or given by the Registrar-General or any Registrar, and purporting to be signed by such officers respectively, shall be received as *primâ facie* evidence in

any

Registration.

any Court of Justice within the Colony of the fact of the birth death or marriage to which the same relates.

26. Every person who shall offend against this Act by refusing or neglecting to give any notice or information required by any of the foregoing sections, shall for every such offence forfeit a sum not exceeding ten pounds: Provided that in the case of a birth, the father, or if he be dead or absent or the child be illegitimate the mother of the child, and in the case of a death the occupier of the house in which such death shall have taken place, shall respectively be the persons liable to this penalty.

Penalty on refusing or neglecting to give information.

27. Every Registrar who shall refuse or without reasonable cause omit to register any birth of which he shall have had due notice and information as aforesaid, and every person having the custody of any Register Book, or certified copy thereof, or of any part thereof, who shall negligently lose or injure the same, or negligently allow the same to be injured whilst in his keeping, shall forfeit and pay a sum not exceeding twenty pounds for every such offence.

Penalties on Registrars.

28. Every person who shall wilfully make or cause to be made, for the purpose of being inserted in any Register Book of births deaths or marriages, any false statement touching any of the particulars required to be known and registered under the provisions of this Act or of any Act for regulating marriages in the Colony which shall at the time be in force, shall be deemed guilty of a misdemeanour.

Punishment for false statements.

29. Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any Register Book of births deaths or marriages, or any part or certified copy of any part thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of such Register Book or certified copy thereof, or shall wilfully insert or cause to be inserted in any Register Book or certified copy thereof any false entry of any birth death or marriage, or shall wilfully give any false certificate, or shall certify any writing to be a copy or extract of any Register Book knowing the same register to be false in any part thereof, or shall forge or counterfeit the signature or seal or stamp of the Registrar-General or of any District Registrar, or any impression thereof, shall be deemed guilty of felony, and be liable on conviction to penal servitude for any term not exceeding five years: Provided always that every person having the custody or care of any Register Books of births deaths and marriages, who shall wilfully permit or allow any such offence as aforesaid to be committed, shall be liable to the punishment herein-before provided in reference to persons actually committing the same.

Punishment for certain offences.

30. All fines forfeitures and penalties by this Act imposed shall be recovered before any two Justices of the Peace in a summary way upon the complaint of any person.

Recovery of penalties.

31. All fines and penalties recovered and all fees received under this Act shall be paid to Her Majesty for the public uses of the Colony, and in support of the Government thereof.

Application of fees and penalties.

32. Nothing herein contained shall apply to the registration of births or deaths of the aboriginal native race of New Zealand, or to marriages between persons both of that race, except in accordance with any provisions in that behalf contained in any law for regulating marriages in the Colony which may be in force for the time being: Provided that this Act shall come into operation in respect of the births deaths and marriages of persons of the said race, in such districts, and at such times, as the Governor shall by Proclamation from time to time appoint: Provided also that Half-castes and other persons

Aboriginal natives.

persons

Marriage.

persons of mixed race, living as members of any Native tribe, shall for the purposes of this Act be deemed to be persons of the Native race.

Commencement of Act.

33. So far as respects the appointments, the proclamation of new or altered districts, the supply of vacancies, the making of regulations, and the provision of books and forms, this Act shall take effect from the day of the passing thereof, and as to all other matters, on the first day of January next.

Short Title.

34. The Short Title of this Act shall be "*The Registration Act, 1858.*"

SCHEDULES.

SCHEDULE A.

18.—BIRTHS IN THE DISTRICT OF

No.	When Born, and where.	Name, if any.	Sex.	Name and Surname of Father.	Name and Maiden Surname of Mother.	Rank or profession of Father.	Signature, description, and residence of Informant.	When Registered.	Signature of Registrar.	Name if added after Registration of Birth.
20	17th January, Auckland	James.	Male.	William Greene.	Rebecca Green, formerly Jennings.	Carpenter.	William Green, Father,—carpenter, Shortland Crescent, Auckland.	20th Jan.	A. B., Registrar	...

SCHEDULE B.

18.—DEATHS IN THE DISTRICT OF

No.	When Died, and where.	Name and Surname.	Sex.	Age.	Rank or Profession.	Cause of Death.	Signature, description, and residence of Informant.	When Registered.	Signature of Registrar.
17	4th February, Auckland.	William Green.	Male.	43	Carpenter.	...	Rebecca Green, widow, 17, Shortland St.	5th Feb.	A. B., Registrar.

SCHEDULE C.

I, A. B., Registrar of Births and Deaths in the District of _____, do hereby certify that the death of [*Henry Hastings*] was duly registered by me on the _____ day of _____, eighteen

Witness my hand, this _____ day of _____, eighteen

A. B., Registrar.

SCHEDULE D.

I, C. D., Coroner for the District of _____ [*or Justice of the Peace*] do hereby order the burial of the body now shown to the Inquest Jury as the body of [*Thomas Jones*].

Witness my hand, this _____ day _____, eighteen

C. D., Coroner [*or Justice of the Peace.*]

No. XXIX.

MARRIAGE.

AN ACT to repeal certain sections of "*The Marriage Act, 1854,*" and to repeal "*The Marriage Act Amendment Act, 1856,*" and to make other provisions in lieu thereof. [*8th July, 1858.*]

Preamble.

WHEREAS it is expedient to make provision for the future prevention of inconveniences and difficulties which have been found to attend the operation of certain parts of "*The Marriage Act, 1854,*" and also to provide against questions being raised touching the legal

Marriage.

legal validity of marriages solemnized in fact under the said Act, but without due and complete observance of all the requirements thereof:

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. Sections two, three, ten, seventeen, twenty-five, twenty-seven, and twenty-nine, and Schedule C of "*The Marriage Act, 1854*," and the whole of "*The Marriage Act Amendment Act, 1856*," are hereby repealed.

Certain sections of "*The Marriage Act, 1854*," and "*The Marriage Act Amendment Act, 1856*," repealed. Districts to be proclaimed.

2. It shall be lawful for the Governor, at any time, by Proclamation in the *New Zealand Gazette*, to divide the Colony of New Zealand for the purposes of this Act into such and so many districts as he shall think fit, and every such district shall be called by a distinct name and shall be a Registrar's District: Provided always that the Governor may at any time revoke the whole or any part of such Proclamation, and issue a new Proclamation dividing the Colony or any portion of it anew into districts, or increasing the number or altering the boundaries of districts, as from time to time he may think requisite: Provided always that the districts already proclaimed under "*The Marriage Act, 1854*," shall be deemed to be districts constituted under this Act.

3. It shall be lawful for the Governor, by warrant under his hand, from time to time to appoint a fit person to be Registrar-General, and also fit persons to be Registrars of Marriages, who shall hold office during the Governor's pleasure: Provided always that the Registrar-General and Registrars of districts now acting shall be deemed to have been appointed under this Act.

Registrar-General and Registrars to be appointed.

4. It shall be lawful for the Governor at any time to appoint a fit person to be Deputy of any Registrar, to act in case of death illness or unavoidable absence; and every Deputy shall, during the time he shall so act, have all the powers and privileges and perform all the duties and be subject to all the responsibilities of the Registrar for whom he shall have been appointed Deputy.

Governor may appoint Deputy Registrars.

5. Whenever any Registrar shall die, the Deputy appointed as aforesaid shall act as Registrar from the day of such death, and in case of illness or absence shall act as such from such day as such Registrar (or in case of illness incapacitating him so to do, his medical attendant) shall certify under his hand to the Deputy appointed as aforesaid to act for him that he is ill and unable to perform his duties, or that he is about to be absent; and such Deputy shall cease to act as such from the day on which he shall receive from the Registrar whose Deputy he is a certificate under his hand to the effect that such Registrar has resumed his duties. No Registrar shall have power to act during such term as his Deputy is lawfully acting.

When Deputy to act.

6. It shall be lawful for the Registrar to whom notice shall have been given under the sixth section of "*The Marriage Act, 1854*," immediately upon receipt of such notice, and upon the making of the declaration required by the twelfth section of the said Act by one of the persons intending marriage, to issue a certificate in the form Schedule B to the said Act annexed, in the cases following, that is to say,—First, when it shall appear from the notice and declaration that both the persons intending marriage are of full age, or if a person be under age that such person is a widow or widower. Secondly, when the person being under age, and not a widow or widower, the consent in writing of the parent or guardian required to the marriage of such minor (if there be any parent or guardian of such minor within the Colony) shall appear upon the notice or be delivered to the Registrar in a separate writing, which consent shall be signed by the parent or guardian either before the Registrar at his office, or before a Justice of the Peace, or a Solicitor of the Supreme Court, or an Officiating

Immediate certificates for marriage may be issued in certain cases.

Minister

Marriage.

Minister within the meaning of this Act, and be attested by such Registrar, Justice, Solicitor, or Officiating Minister.

Provision in other cases.

7. When the consent is not given in the manner aforesaid, or when a declaration shall not be made in the presence of the Registrar by one of the persons intending marriage, that, to the best of declarant's knowledge and belief, there is no person within the Colony having authority by law to give consent to the marriage, the Registrar shall not issue a certificate for marriage in any case in which one of the parties is a minor until the expiration of fourteen days after the receipt by him of the notice.

Fees for marriage certificates.

8. For every certificate issued immediately there shall be paid to the Registrar a fee of twenty shillings; and for every certificate not issued until the expiration of fourteen days, a fee of five shillings.

In certain cases Judge of Supreme Court may consent to the marriage of minors.

9. In case any father, or mother, or guardian, whose consent is made necessary by "*The Marriage Act, 1854*," to the marriage of a person under age, shall be *non compos mentis*, or in case any such guardian shall unreasonably or from undue motives refuse or withhold his consent to a proper marriage, then it shall be lawful for any person desirous of marrying in any of the above-mentioned cases to apply by petition to a Judge of the Supreme Court, and in case the marriage proposed shall upon examination in a summary way appear to be proper, such Judge shall judicially declare the same to be so, and such judicial declaration shall be deemed and taken to be as good and effectual to all intents and purposes as if the father, or mother, or guardian of the persons so petitioning had consented to such marriage.

Marriages not to be invalid for certain reasons.

10. It shall not be necessary, in support of any marriage solemnized under this Act and "*The Marriage Act, 1854*," to give any proof of the actual dwelling of either of the persons so married previous to the marriage within the district wherein such marriage was solemnized for the time required, or of the consent of any person whose consent thereunto is required by law, nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage, neither shall any marriage be deemed to have been unduly solemnized by reason of any mere error or defect in the notice declaration or certificate required before solemnization, or in the registration of the marriage when solemnized, when the identity of the parties is not questioned, nor on account of any other infringement of the provisions of "*The Marriage Act, 1854*," or of this Act, except as provided in the thirtieth section of the said "*Marriage Act, 1854*": Provided always that nothing herein contained shall exempt any Officiating Minister or Registrar who shall do anything contrary to the provisions of this Act from any penalty to which he would have been liable for such offence but for this section.

Marriages to be registered.

11. Every Officiating Minister and every Registrar immediately after a marriage solemnized by him, or which may have taken place in his presence, shall register in a book to be kept for that purpose the several particulars relating to such marriage, according to the form in Schedule C to this Act annexed; and every such register shall be signed by such Officiating Minister or Registrar, as the case may be, present at such marriage, and by the persons married, and by two witnesses, and every entry shall be made from page to page in order from the beginning to the end of such book: Provided always that it shall be lawful to use the form prescribed by the Schedule C of "*The Marriage Act, 1854*," but it shall be only necessary to make the entries in the columns corresponding with the columns of Schedule C to this Act annexed: Provided also that in the column headed "Age" it shall be lawful to enter either "Full Age" or "Minor," as the case may be.

12. If

Marriage.

12. If any Officiating Minister shall be called upon to solemnize a marriage at a place distant from that at which his Register Book is usually kept, it shall be lawful for him to enter such marriage in a blank form instead of in the Register Book, and every such form shall be signed at the time of the solemnization of the marriage by such Officiating Minister, by the persons married, and by the witnesses, and on his return to the place at which his Register Book is kept, such Officiating Minister shall forthwith copy such entry accurately and in full into the said Register Book, with a note certifying under his hand that he has made a true copy of the original record, and such original record shall be carefully preserved by him for production if required.

Registration of marriages under certain circumstances.

13. The Marriage Register Books shall be safely kept by the Officiating Ministers and Registrars respectively; and every Officiating Minister or Registrar, as the case may be, before whom any marriage has been solemnized or has taken place, shall, in the months of July, October, January, and April, respectively, make and transmit to the Registrar-General, or other officer to be appointed by the Governor in that behalf, a true copy, certified by such Officiating Minister or Registrar under his hand, of all the entries of marriages in the Register Books kept by him since the last return, and if there shall be no marriage entered therein since the last return he shall certify the fact under his hand; and every Officiating Minister or Registrar who shall refuse or neglect to make and transmit such return or certificate within the several times herein specified, shall be liable for every such offence to forfeit a sum not exceeding ten pounds, to be recovered in a summary way: Provided always that when a Register Book of Marriages is kept at any church chapel or place at which different Officiating Ministers occasionally solemnize marriages, it shall be sufficient that the Officiating Minister in whose charge such book is usually kept shall transmit to the Registrar-General, quarterly, copies of all entries made in the book, such copies being certified under his hand to be correct; and he is required hereby under the aforesaid penalties to transmit such copies at the times and in the manner provided herein.

Copies of marriage register to be forwarded to Registrar-General quarterly.

14. Every marriage heretofore solemnized which was intended to be *bonâ fide* solemnized under "*The Marriage Act, 1854*," shall be deemed and taken to be and to have been from the date of such solemnization a good and valid marriage, notwithstanding that all the requirements of the said Act shall not have been complied with: Provided always that nothing herein contained shall legalize any marriage in respect to which a lawful impediment existed at the time of such marriage, nor any marriage when (the same having been at the time of its solemnization invalid) either of the parties thereto shall afterwards and before the passing of this Act have intermarried with some other person: Provided also that nothing herein contained shall exempt any person who may have offended against the provisions of "*The Marriage Act, 1854*," from any penalty or punishment which he may have incurred by any breach of the requirements of the said Act.

Marriages *bonâ fide* intended to be solemnized under "*The Marriage Act, 1854*," to be valid.

15. The entry of the name of any Officiating Minister heretofore made or hereafter to be made in the book called the "List of Officiating Ministers," and the publication in the *New Zealand Gazette* of the name of such minister, in pursuance of the provisions of the said "*Marriage Act, 1854*," shall be deemed and taken to be conclusive evidence of the right of such Officiating Minister to act as such from the date of the certificate sent in to the Registrar-General in respect of such Officiating Minister upon which such entry and publication have been or shall be made.

Evidence of the right of Officiating Ministers to act.

16. This

District Courts.

This Act to be deemed part of "The Marriage Act, 1854." Short Title.

16. This Act shall be deemed and taken to be part of "The Marriage Act, 1854," and shall be construed accordingly.

17. The Short Title of this Act shall be "The Marriage Act Amendment Act, 1858."

Schedule C.

SCHEDULE C.

1855.—MARRIAGES IN THE DISTRICT OF [AUCKLAND].

No.	When Married, and where.	Names and Surnames.	Age.	Rank or Profession.	Condition.	Name of Officiating Minister [or Registrar].	When Registered.
5	4th February, 1855, St. Paul's Church, Auckland.	John Cox. Mary Thompson.	Full. Minor.	Clerk. Dressmaker.	Bachelor. Spinster.	A. B., Officiating Minister [or Registrar].	4th Feb., 1855.

Married, after the delivery to me of the certificate required by the Act of the General Assembly of New Zealand, intituled "The Marriage Act, 1854," by A. B., [Officiating Minister or Registrar].

This Marriage was solemnized between us,

John Cox, } In the presence { John Hastings, [Place of abode and calling].
Mary Thompson, } of us, { Geoffry Mitchell, [Place of abode and calling].

No. XXX.

DISTRICT COURTS.

AN ACT to establish District Courts in the Colony of New Zealand. [16th July, 1858.]

Preamble.

WHEREAS it is expedient that the laws relating to Courts of inferior jurisdiction should be amended, and that further provision should be made for the administration of justice in civil and criminal cases :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Acts and Ordinances repealed.

1. The several Acts and Ordinances specified in the Schedule to this Act are hereby repealed, but all proceedings in execution of the said Acts and Ordinances taken before the commencement of this Act shall be as valid to all intents and purposes, and may be continued executed and enforced after this Act shall come into operation, in the same manner as if this Act had not been passed.

CREATION AND CONSTITUTION OF COURTS.

District Courts created.

2. There shall be within the Colony Courts of Record, possessing civil and criminal jurisdiction, to be called District Courts.

Districts to be constituted.

3. It shall be lawful for the Governor, from time to time as he shall think fit, by Proclamation in the *New Zealand Gazette*, to constitute throughout the Colony, or in any part thereof, districts within which such Courts shall be respectively held, and such districts to abolish and the boundaries thereof to define or alter, and also to declare by what local name each such Court shall be designated.

Appointment of Judges.

4. It shall also be lawful for the Governor, in the name and on behalf of Her Majesty, to appoint for every such District Court a fit and proper person, being a barrister or solicitor of the Supreme Court, to be the Judge thereof: Provided always that for any such district it shall be lawful for the Governor to appoint any fit and proper person to be the Judge thereof to exercise only the jurisdiction conferred by this

District Courts.

this Act over cases of a civil nature in which the claim or demand shall exceed twenty pounds and shall not exceed one hundred pounds, and the jurisdiction conferred by the twenty-eighth section of this Act as to the recovery of the possession of tenements, and no other jurisdiction under this Act.

5. Every such Judge shall be called a District Judge, and shall hold office during the pleasure of the Governor.

Name and tenure of office.

6. The same person may be appointed Judge of any two or more District Courts, and may hold such office in conjunction with any other office which the Governor shall not deem incompatible therewith.

Judge may hold other office not incompatible.

7. No District Judge shall practice as a solicitor or conveyancer under a penalty of one hundred pounds for each offence, to be recovered by action in the Supreme Court by any person who shall sue for the same; but any such Judge, if otherwise qualified, may practice as a barrister in the Supreme Court.

District Judges not to practice as solicitors.

8. It shall be lawful for the Governor at any time to appoint any fit and proper person to be the Deputy of any Judge, to act in case of his death illness or unavoidable absence; and such Deputy shall, during the time he shall so act, have all the powers and privileges and perform all the duties of the Judge for whom he shall have been appointed Deputy, and shall hold office during the Governor's pleasure; but he shall not be precluded from practising as a solicitor or conveyancer, except as a solicitor in the Court of which he is Deputy Judge, during such time as he is acting.

Governor may appoint Deputy Judge.

9. Whenever the Judge of any Court shall die, the Deputy Judge shall act as such from the day of such death, and in the case of illness or absence shall act as such from such day as the District Judge shall certify under his hand to the Deputy Judge that he is ill and unable to perform his duties, or that he is about to leave his district; and such Deputy Judge shall cease to act as such on the day on which he shall receive from the District Judge a certificate under his hand to the effect that he has resumed his duties. No District Judge shall have power to act during such term as his Deputy Judge shall be lawfully acting.

When Deputy Judge to act.

10. There shall be for every such Court a Clerk, who shall be appointed by and hold office during the pleasure of the Governor: Provided always that it shall be lawful for the Judge of the Court to appoint from time to time a Deputy to act for the Clerk of the Court at any time when he shall be prevented by illness or any other cause whatever from acting in his office; and in case of the death of the Clerk to appoint a Deputy till the Governor's pleasure shall be known, and any such Deputy to remove at his pleasure; and every Deputy while acting under any such appointment shall have the like powers and privileges, and shall perform the same duties and be subject to the like provisions and penalties, as if he were the Clerk of the said Court for the time being.

Clerk to be appointed by the Governor.

11. The Clerk of each Court shall issue all summonses warrants precepts and writs of execution, and register all orders and judgments of the said Court, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all Court fees and fines payable or paid into Court, and of all moneys paid into and out of Court, and shall enter an account of all such fees fines and moneys in a book belonging to the Court to be kept by him for that purpose, and shall do and perform all other acts and duties properly incident to the office of Clerk.

Duties of Clerks.

12. There shall also be a bailiff and such other ministerial officers of the said Court as may be necessary, who shall be appointed by and hold office during the pleasure of the Judge thereof.

Bailiffs and inferior officers to be appointed by Judge.

District Courts.

Duties of bailiffs.

13. The said bailiff shall attend every sitting of the Court for such time as shall be required by the Judge unless when his absence shall be allowed for reasonable cause by the Judge, and shall when required serve all the summonses and orders and execute all the warrants precepts and writs issued out of the Court; and the said bailiff shall in the execution of his duties conform to all such rules and regulations as shall from time to time be made as hereinafter provided, and, subject thereunto, to the order and direction of the Judge; and every such bailiff shall be responsible for all the acts and defaults of himself and those acting under him and by his authority, in like manner as any Sheriff in New Zealand is responsible for the acts and defaults of himself and his officers.

Seal.

14. Every District Court shall have a Seal, and all summonses and processes issuing out of the said Court shall be sealed or stamped with the Seal of the said Court.

JURISDICTION OF COURTS.

Civil.

Cases exceeding £20 and not exceeding £100 cognizable by District Courts.

15. Every District Court shall have jurisdiction over all cases of a civil nature, whether legal or equitable, in which the claim or demand shall exceed twenty pounds and not exceed one hundred pounds, whether on balance of account or otherwise, and where the cause of action arose either wholly or in some material point within the district in which the action is brought, or where the party sought to be charged shall reside or carry on business or be served with the process of the Court within such district.

Exceptions.

16. Provided always that no District Court shall have cognizance of any action in which the title to real estate or the validity of any devise or bequest shall be in question, or the limitations under any will or settlement shall be disputed, or of any action for a malicious prosecution, or for any libel or slander, or for criminal conversation, or for seduction, or for breach of promise of marriage.

Any action may be tried by consent.

17. Provided also that in respect of any action whatever in which both parties shall agree, by a memorandum signed by them, or by their respective solicitors, that any District Court named in such memorandum shall have power to try such action, such District Court shall have jurisdiction to try the same accordingly.

Title incidentally coming in question, Judge may determine claim by consent.

18. In any action in any District Court in which the title to any corporeal or incorporeal hereditaments shall incidentally come in question, the Judge shall have the power to decide the claim which it is the immediate object of the action to enforce if both parties at the hearing consent, in writing signed by them or their solicitors, to the Judge having such power; but the judgment of the Court shall not be evidence of title between the parties or their privies in any proceedings in that or any other Court, and such consent shall not prejudice or affect any right of appeal.

Division of causes of action not permitted.

19. It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more suits in any District Court; but any plaintiff having a cause of action for more than one hundred pounds, for which an action might be brought if not for more than one hundred pounds, may abandon the excess, and thereupon the said plaintiff shall on proving his case recover to an amount not exceeding one hundred pounds, and the judgment of the Court shall be in full discharge to the defendant of all demands in respect of such cause of action.

Minor may sue for wages.

20. It shall be lawful for any person under the age of twenty-one years to prosecute a suit for wages or piece work or for work as a servant, in any District Court in the same manner as if such person were of full age.

21. It

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- 21.** It shall be lawful for any executor or administrator to sue and be sued in any Court held under this Act in like manner as if he were a party in his own right, and judgment and execution shall be such as in the like case would be given or issued in the Supreme Court. Executors may sue and be sued.
- 22.** No privilege shall be allowed to any solicitor or other person to exempt him from the jurisdiction of any Court held under this Act. No privilege allowed.
- 23.** Where any plaintiff shall have any demand recoverable under this Act against two or more persons jointly answerable, it shall be sufficient if any of such persons be served with process; and judgment may be obtained and enforced against the person or persons so served notwithstanding that others jointly liable may not have been served or sued, or may not be within the district or within the Colony; and every such person against whom judgment shall have been obtained under this Act, and who shall have satisfied such judgment, shall have a right of action for contribution against the persons so jointly liable. One of several persons jointly liable may be sued.
- 24.** The Judge of the District Court, in all actions brought in the said Court, shall be sole Judge, and shall determine all questions as well of fact as of law unless a jury be summoned as hereinafter provided. Judge to determine all questions unless a jury summoned.
- 25.** Whenever a Judge of the Supreme Court shall not reside within any district constituted under this Act, or shall be absent therefrom, the Judge of such district shall have the same power as the Supreme Court to grant and dissolve any injunctions to prevent irreparable injury to property: Provided always that any injunction granted by a Judge of a District Court may at any time be dissolved by the Supreme Court or any Judge thereof as though such injunction had issued from the Supreme Court. Injunctions.
- 26.** Whenever a Judge of the Supreme Court shall not reside within any district constituted under this Act, or shall be absent therefrom, the Judge of such district shall have the same powers in all cases as the Supreme Court to grant a writ of arrest for the purpose of holding to bail a defendant who is about to quit the Colony, and also to order the person arrested to be discharged from custody, or the bail-bond to be given up that it may be cancelled, or the writ of arrest to be set aside: Provided always that it shall not be necessary, in cases where the debt or damages shall not exceed one hundred pounds, to issue a writ of summons in the Supreme Court before a writ of arrest may be granted by a Judge of a District Court in places where there is no Supreme Court Office out of which such writ can be issued: Provided always that any writ of arrest and all proceedings thereon may be dealt with by a Judge of the Supreme Court as though such writ had issued from that Court. Arrest.
- 27.** Whenever a Judge of the Supreme Court shall not reside within any district constituted under this Act, or shall be absent therefrom, the Judge of the Court of such district shall have the same power as the Supreme Court to grant probates of wills and letters of administration of the estates and effects of deceased persons, who shall have been at the time of their decease within such district; and such probate and letters of administration shall have the same force and effect throughout the Colony as if the same had been granted by the Supreme Court, and shall for all purposes be deemed to have been granted by that Court. Probates and administration.
- 28.** When the term and interest of the tenant of any corporeal hereditament, where neither the value of the hereditament nor the rent payable in respect thereof shall have exceeded fifty pounds by the year and upon which no fine or premium shall have been paid, shall have expired Recovery of possession of tenements.

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expired or shall have been determined either by the landlord or by the tenant by a legal notice to quit, and such tenant or any other person holding or claiming by through or under him shall neglect or refuse to deliver up possession accordingly, or when the landlord shall be entitled to possession on account of non-payment of rent, the Court of the district within which such hereditaments are situate shall have jurisdiction in any such case to entertain a suit for the recovery of the possession of the same.

Criminal.

Crimes and offences.

29. Every District Court shall have cognizance of all crimes and offences (except perjury) committed within the district over which its jurisdiction extends, and punishable by fine or imprisonment, or both, or by transportation not exceeding seven years, or by penal servitude not exceeding four years.

Appeals against summary convictions.

30. Every District Court shall have a concurrent jurisdiction with the Supreme Court to hear and determine appeals upon summary convictions for offences committed within the district, subject to such regulations and provisions as are prescribed in an Ordinance passed by the Governor and Legislative Council of New Zealand, No. 5, Session II., intituled "*An Ordinance to regulate Summary Proceedings before Justices of the Peace,*" and subject to such other regulations and provisions as may from time to time be in force for regulating appeals against summary convictions: Provided always that whenever any Judge of a District Court shall be also a Resident Magistrate or Justice of the Peace, the Supreme Court alone shall have jurisdiction to hear and determine appeals against convictions by such Resident Magistrate or Justice.

PROCEDURE AND PRACTICE OF THE COURT.

In Civil Cases.

Judge of Supreme Court may in certain cases depute powers under Supreme Court rules to Judge of District Court.

31. With a view to facilitate proceedings in the Supreme Court during the absence of the Judges thereof, it shall be lawful for any Judge of the Supreme Court from time to time, by writing under his hand, to give and depute generally or in any particular case to the Judge of any District Court the powers to do and perform any of the acts which such Judge of the Supreme Court is empowered to do or perform by any rules which now are or any time hereafter shall be in force for regulating the practice and procedure of the Supreme Court, and any such deputation at any time to annul vary or amend.

Minutes of proceedings to be kept.

32. The Clerk of every District Court shall cause a note of all complaints and summonses, and of all orders, and of all judgments and executions and returns thereto, and of all fines, and of all other proceedings of the Court, to be fairly entered from time to time in books belonging to the Court, which shall be kept at the office of the Court, and such entries in the said books, or copies thereof, bearing the Seal of the Court, and purporting to be signed and certified as true copies by the Clerk of the Court, shall at all times be admitted in all Courts and places whatever as evidence of such entries, and of the proceedings referred to by such entries, and of the regularity of such proceedings, without any further proof.

Party may appear personally or by solicitor of Supreme Court.

33. It shall be lawful for the party to any suit or proceeding to be commenced or taken under this Act to appear and act personally or by a barrister or solicitor of the Supreme Court, and not otherwise, except under special circumstances it shall be lawful for the Judge to permit any party to appear by an agent not being a barrister or solicitor.

Suits to be by plaintiff.

34. On the application of any person desirous of bringing a suit under

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under this Act, the Clerk shall enter, in the book to be kept for that purpose, a plaint in writing stating the names and the last known places of abode of the parties and the substance of the action intended to be brought, every one of which plaints shall be numbered in every year according to the order in which it shall be entered.

35. Whereupon a summons shall be issued according to such form, and be served on the defendant so many days before the day on which the Court shall be held at which the cause is to be tried, as shall be directed by the rules to be made as hereinafter provided for regulating the practice of the Court.

Summons to be issued.

36. Such summons may be issued against any defendant residing or being without the district within which the Court has jurisdiction but not out of the Colony, upon the application of any plaintiff who will depose on oath, which oath such Clerk is hereby authorized to administer, that his cause of action has arisen wholly or in some material point within the jurisdiction of the Court.

Summons may be issued against defendant out of district but in Colony.

37. Delivery of the summons to the defendant, or service of the same, in such manner as shall be specified in the said rules of practice, shall be deemed good service; and no misnomer or inaccurate description of any person or place in any such plaint or summons shall vitiate the same, provided that the person or place be therein described so as to be commonly known.

Summons how to be served.

38. Any summons under this Act may be served by the bailiff of the Court, or by the plaintiff, or by any person either the bailiff or the plaintiff may employ for that purpose; and service thereof may be proved on oath before the Judge of the Court, or by an affidavit of service sworn as hereinafter provided.

Proof of service.

39. Any person against whom a plaint shall be entered in any District Court may if he think fit, whether he be summoned upon such plaint or not, in the presence of the Clerk of the Court in which such plaint shall have been entered, or in the presence of a solicitor of the Supreme Court, sign a statement confessing and admitting the amount of the debt or demand, or a part of the amount of the debt or demand, for which such plaint shall have been entered, and thereupon it shall not be necessary for the said plaintiff to prove the debt or demand or the part thereof so confessed and admitted as aforesaid, but the Judge of such Court, at the next sitting thereof, whether the parties or either of them attend such Court or not, shall upon proof by affidavit of the signature of the party, if such statement were not signed in the presence of the Clerk, proceed to give judgment for the debt or demand or the part thereof so confessed and admitted in the same manner and subject to the same conditions as if he had tried the cause and given judgment thereupon.

Confession of debt or part of debt &c., and judgment thereupon.

40. If the person against whom a plaint shall be entered in any District Court can agree, with the person on whose behalf such plaint shall have been entered, upon the amount of the debt or demand in respect of which such plaint shall have been entered, and upon the terms and conditions upon which the same shall be paid or satisfied, it shall be lawful for such persons respectively, in the presence of the Clerk of the Court in which such plaint shall have been entered, or in the presence of a solicitor of the Supreme Court, to sign a statement of the amount of the debt or demand so agreed upon between them, and of the terms and conditions upon which the same shall be paid or satisfied; and such Clerk shall receive such statement, and shall thereupon, upon proof by affidavit of the signature of the party if such statement were not made in the presence of the Clerk, enter up judgment for the plaintiff for the amount of the debt or demand so agreed on upon the terms and conditions mentioned in such statement,

Agreement as to the amount of debt &c., and condition for payment.

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and such judgment shall to all intents and purposes be the same and have the same effect and shall be enforced and enforceable in the same manner as if it had been a judgment of the Judge of the said Court.

Payment into Court.

41. Any defendant may, within such time as shall be directed by the said rules, pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and the said sum of money and costs shall be paid to the plaintiff; but if he shall elect to proceed and shall recover no further sum in the action than shall have been so paid into Court, the plaintiff shall pay to such defendant the costs incurred by him in the said action after such payment, and the Court shall give judgment for the same accordingly.

Summons to witness.

42. Either party may obtain, at the office of the Clerk of the Court, summonses to witnesses to be served at the option of such party either by himself or his agent or by the bailiff of the Court, with or without a clause requiring the production of books deeds papers and writings in their possession or under their control.

Penalty for non-attendance.

43. Every person on whom such summons shall have been served personally or in such other manner as shall be directed by the rules of practice, and to whom at the same time payment or a tender of his expenses shall have been made on the scale to be fixed by such rules, and who shall refuse or neglect without sufficient cause to appear or to produce any books deeds papers or writings required by such summons to be produced, and also every person present in Court who shall be required to give evidence and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine not exceeding twenty pounds as the Judge shall set on him, but no such conviction shall exempt such person from any action for disobeying such summons.

Judge may issue warrant for bringing up a prisoner to give evidence.

44. The Judge of a District Court in any case where he shall see fit, upon application on affidavit by either party, may issue an order under his hand and the Seal of the Court for bringing up before such Court any prisoner or person confined in any gaol prison or place under any sentence or under commitment for trial or otherwise, except under process in any civil action suit or proceeding, to be examined as a witness in any cause or matter depending or to be inquired of or determined in or before such Court; and the person required by any such warrant or order to be brought before such Court shall be so brought under the same care and custody and to be dealt with in like manner in all respects as a prisoner required by any writ of *habeas corpus* awarded by Her Majesty's Supreme Court of New Zealand to be brought before such Court to be examined as a witness in any cause or matter depending before such Court is now by law required to be dealt with: Provided always that the person having the custody of such prisoner or person shall not be bound to obey such order unless a tender be made to him of a reasonable sum for the conveyance and maintenance of a proper officer or officers, and of the prisoner or person, in going to remaining at and returning from such District Court.

Judge may make order respecting production of documents.

45. Upon the application of either party, and upon an affidavit by such party of his belief that any documents to the production of which he is entitled for the purpose of discovery or otherwise are in the possession or power of the opposite party, it shall be lawful for the Judge to order that the party against whom such application is made (or if such party is a body corporate, that some officer to be named of such body corporate,) shall answer on affidavit stating what documents he has in his possession or power relating to the matters in dispute, or what he knows as to the custody they or any of them are in, and whether he objects (and if so on what grounds) to the production of such as are in his possession or power; and upon such

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such affidavit being made, the Judge may make such further rule or order thereon as shall be just.

46. If it is shown to the satisfaction of the Court by affidavit that parts of the books or documents to be produced do not relate to the matters in dispute, the party producing the same shall be allowed to seal up such parts.

Parts of documents not relating to matters in dispute may be sealed up.

47. If a Judge of a District Court shall be satisfied by either party to a cause pending in his Court that such cause can be more conveniently or fairly tried in some other District Court, he shall order that the venue be changed and that the same be sent for hearing to such other District Court; or if the Judge shall be interested in the matter of any cause pending in his Court, he shall order that the venue be changed and that the cause be sent for hearing to some convenient District Court of which he is not the Judge, at his discretion; and in either case the Clerk of the Court in which the plaint was entered shall forthwith transmit to the Clerk of the Court to which the same is to be sent, a certified copy of the plaint as entered in the Plaint Book, the duplicate copy of the summons and particulars served on the defendant, and a certified copy of the order for changing the venue; and the Judge of such last-mentioned Court shall appoint a day for the hearing, notice whereof shall be given, in such manner as such Judge shall direct, to both parties.

Power to Judge to change venue.

48. On the day named in the summons, if the plaintiff shall appear, the defendant shall be required to answer the plaint, and on an answer being made in Court the Judge shall proceed in a summary way to try the cause and give judgment without further pleading or formal joinder of issue.

Proceedings at hearing.

49. No evidence shall be given by the plaintiff on the trial of any cause of action except such cause of action as shall be stated in the summons.

No evidence to be given except as to cause of action mentioned in summons.

50. No defendant shall be allowed to set off any debt or demand claimed or recoverable by him from the plaintiff, or to set up by way of defence and to claim and have the benefit of infancy coverture or any statute of limitations, or of a discharge under any Act relating to bankruptcy or for the relief of insolvent debtors, without the consent of the plaintiff, unless such notice thereof as shall be directed by the rules made for regulating the practice of the Court shall have been given to the Clerk of the Court: Provided always that whenever any such notice shall have been given to the Clerk of the Court, he shall, on the same being required by the plaintiff, deliver to him a copy of such notice.

Special defence not admissible unless notice shall have been given.

51. If at the time and place of trial, or at any continuation or adjournment of the Court or cause, the plaintiff shall fail to appear, the cause shall (unless the Court shall otherwise order) be "struck out," and shall be thereupon ended and determined, and a memorandum to that effect shall be entered by the Clerk of the said Court in the register; but such entry shall not bar any future action for the same cause: Provided always that it shall be lawful for the Judge to order any such cause to be reinstated if he shall think fit.

Proceedings when the plaintiff does not appear.

52. If at the time and place of trial, or at any continuation or adjournment of the Court or cause, the plaintiff shall appear but not make proof of his demand to the satisfaction of the Court, it shall be lawful for the Judge to nonsuit the plaintiff or give judgment for the defendant, and if the defendant shall appear and shall not admit the demand, to adjudge to the defendant by way of costs such sum as the Judge in his discretion shall think fit: Provided always that if the plaintiff shall not appear when called upon, and the defendant or some one duly authorized on his behalf shall appear and admit the

Proceedings when plaintiff appears but does not prove his case.

cause

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cause of action to the full amount claimed, and pay the fees payable in the first instance by the plaintiff, the Court if it shall think fit may proceed to give judgment as if the plaintiff had appeared.

Proceedings when defendant does not appear.

53. If at the time and place of trial, or at any continuation or adjournment of the Court or cause, the defendant shall not appear or sufficiently excuse his absence, or shall neglect to answer when called in Court, the Judge upon due proof of service of the summons may proceed to the trial of the cause on the part of the plaintiff only, and the judgment thereupon shall be as valid as if both parties had attended: Provided always that the Judge in any such case at the same or any subsequent Court may set aside any judgment so given in the absence of the defendant and the execution thereupon, and may grant a new trial of the cause upon such terms (if any) as to the payment of costs, giving security for or paying into Court debt and costs or any part thereof, or upon such other terms as he may think fit, on sufficient cause shown to him for that purpose.

Costs in discretion of Judge.

54. All the costs of any action or proceeding in any Court holden under this Act shall be paid or apportioned between the parties in such manner as the Judge shall think fit, but in default of any special direction such costs shall abide the event of the action.

Costs to be allowed plaintiff's solicitor.

55. Every solicitor employed by or on behalf of the plaintiff shall in every case be entitled to have and recover in full for his costs and fees, in addition to the costs actually paid by him out of pocket, a sum after the rate of five per cent. on the amount for which the judgment shall be given and no more: Provided always that he shall in no case, whether judgment be given for the plaintiff or defendant, be entitled to a less sum than three guineas in addition to the costs actually paid out of pocket.

Costs to be allowed defendant's solicitor.

56. Every solicitor employed by or on behalf of the defendant shall, in every case in which judgment shall be given for the defendant, be entitled to have and recover in full for his costs and fees, in addition to the costs actually paid by him out of pocket, a sum after the rate of five per cent. on the amount for which the summons shall have been issued; and if judgment shall be given for the plaintiff, then a sum after the rate of five per cent. on the amount recovered by such judgment: Provided always that he shall in no case, whether judgment be given for the plaintiff or defendant, be entitled to a less sum than three guineas in addition to the costs actually paid out of pocket.

Court fees payable.

57. It shall be lawful for the Governor in Council from time to time to fix alter and abolish all fees payable in respect of proceedings which are by this Act or shall hereafter be authorized to be taken in any District Court; and all such fees, except such as may be payable in respect of keeping possession or appraising or selling goods seized, shall be paid in the first instance by the party on whose behalf any such proceeding shall be taken; and in default of the payment of any fees, payment thereof shall, by order of the Judge, be enforced by such means as might be employed to recover any debt adjudged by the Court to be paid; and a table of all fees shall be posted in some conspicuous place in every Clerk's office.

Fees to be prepaid.

58. It shall be lawful for the Judge or any officer of a District Court to refuse to do any act for which a fee shall be demandable unless such fee be first paid.

Interest when not otherwise agreed to be at rate of 8 per cent. per annum.

59. Where interest upon any sum shall be recovered or allowed in any suit, but the rate of such interest shall not have been previously agreed upon by the parties, the party entitled to such interest shall recover and be allowed the same after the rate of eight pounds per centum per annum.

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60. In order to abolish the expense occasioned by the taxation of the costs, the Judge shall, when the cause is called on, if the same be not tried, or during the trial thereof if the same be tried, ascertain the amount that each person (whether witness or party) is entitled to receive for costs and expenses; and in case there shall be a verdict for the plaintiff, the amount ascertained as aforesaid, and the fees payable to the Clerk of such Court, or so much thereof respectively as the plaintiff shall be entitled to recover, shall be added to such verdict, and shall therewith form the amount for which judgment shall be entered by the Clerk.

Plaintiff's costs how taxed and recovered.

61. In case there shall be judgment for the defendant, the amount so ascertained as aforesaid and the fees so payable as aforesaid, or so much thereof respectively as the defendant shall be entitled to recover, shall form and be the amount for which judgment shall be entered by the Clerk.

Defendant's costs how taxed and recovered.

62. In any action whatever it shall be lawful for either the plaintiff or the defendant to require a jury to be summoned to try the said action.

Cases may be tried by jury.

63. The party requiring the jury to be summoned shall, at least seven days before the day fixed for the hearing of the case, give written notice thereof to the Clerk of the Court either personally or by leaving the same at his office, and shall pay into Court the costs from time to time to be fixed for the summoning of the said jury, together with the sum of two pounds for the payment of the jury.

Party demanding jury to give notice.

64. Upon receiving such notice the Clerk of the Court shall summon or cause to be summoned twelve jurors residing within ten miles of the place where the sittings thereof shall be held, chosen from time to time in alphabetical order as their names shall appear on the Jury List: Provided always that it shall not be necessary to summon more than twelve jurors to attend any one sitting of the Court, and the jurors summoned for the trial of any one cause shall be deemed to have been summoned for the trial of all jury causes to be tried at the same sittings of the Court: Provided also that it shall be lawful for the Governor from time to time, by notification in the *New Zealand Gazette*, to appoint in respect of any District Court that jurors residing at a greater or less distance than ten miles from the place where the sittings of such Court shall be held may be summoned as jurors to attend the sittings of such Court, and any such appointment at any time to alter or revoke.

Clerk to summon twelve jurors.

65. Every such summons shall be served on each juror personally, or by leaving the same at his ordinary place of abode, at least three days before the sitting of the Court: And every person summoned as a jurymen under this act and failing to attend shall be liable to a penalty not exceeding ten pounds, to be imposed at the discretion of the Court, and in default of payment shall be imprisoned for a term not exceeding fourteen days.

Summons when to be served.

66. When the jurors shall be in attendance, if their number shall be odd the Clerk shall strike off one, and the number being even the plaintiff and defendant alternately shall each strike off one, until the number be reduced to four, and the four thus remaining shall be impanelled and sworn to give their verdict in the cause to be brought before them; and every such jurymen shall be entitled to receive from the Clerk of the Court the sum of ten shillings, and the expenses thereby incurred shall be the costs in cause: Provided always that if either party shall neglect or refuse to strike the jury as herein provided, or the defendant shall be absent, it shall be lawful for the Clerk of the Court to strike the jury instead of such neglecting refusing or absent party.

Jury to be reduced to four by challenge.

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Jury when they cannot agree to a verdict to be discharged.

67. In every trial the jury shall give a unanimous verdict and judgment shall be entered accordingly; but where the jury shall have remained six hours in deliberation, and shall be unable to agree upon a verdict, the Court shall order them to be discharged; and in every such case no judgment shall be given but the action may be again tried at such Court as the plaintiff may think fit on his giving ten days' notice thereof in writing to the defendant either personally or by leaving the same at his last known place of abode.

Judgment entered upon verdict to have same effect as judgment of Judge.

68. Every judgment entered up in pursuance of the verdict of a jury shall have the same force and effect and for all purposes thereafter be as though such judgment were entered in pursuance of the determination of the Judge of the Court alone as hereinbefore provided.

Judgments to be final.

69. Every order and judgment shall be final and conclusive between the parties, but the Judge shall have power to nonsuit the plaintiff in any case in which satisfactory proof shall not be given to him entitling either the plaintiff or defendant to the judgment of the Court; and shall also in every case whatever have the power, if he shall think fit, to order a new trial to be had upon such terms as he shall think reasonable, and in the meantime to stay the proceedings.

Judgment debt to carry interest.

70. Every judgment debt shall carry interest at the rate of eight per cent. per annum from the time of entering up judgment until the same shall be satisfied, and such interest may be levied by a warrant of distress.

Entry of judgment on register to be sufficient record.

71. Every judgment and the time (if any) limited for satisfying the same shall be entered in a register to be kept for that purpose, and no other record thereof shall be necessary.

When judgment obtained no second suit to be brought in another Court.

72. If any party shall sue another in any District Court for any debt or cause of action for which he has already sued him and obtained judgment in any other Court, the proof of such former suit having been brought and judgment obtained may be given, and the party so suing shall not be entitled to recover in such second suit, and shall be adjudged to pay besides the costs thereof any sum not exceeding twenty pounds as the Judge of the Court shall order.

Court may order payment by instalments.

73. It shall be lawful for the Judge to make such order as he may think fit concerning the times and by what instalments any debt or damages or costs for which judgment shall be obtained in the said Court shall be paid, and all such money shall be paid into Court unless the Judge shall otherwise direct.

Cross judgments to be set off.

74. If there shall be cross judgments between the parties, execution shall be taken out by that party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum; and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both judgments.

But not to prejudice solicitor's lien for costs.

75. No such set-off of one judgment against another shall be allowed to the prejudice of the solicitor's lien for costs due to him in the particular action against which the set-off is sought.

Judge may stay proceedings, grant time, or adjourn.

76. The Judge may in any case make orders for staying proceedings until security shall be given for costs, or for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the suit, and may also from time to time adjourn any Court or the hearing of any cause in such manner and on such terms as to payment of costs or otherwise as to the Judge may seem fit.

Execution against goods.

77. Whenever the Judge shall have given judgment or made an order for the payment of money, the amount shall be recoverable in case of default or failure of payment thereof forthwith, or at the time

or

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or times and in the manner thereby directed, by execution against the goods and chattels of the party against whom such judgment or order shall be given or made.

78. And the Clerk of the said Court, at the request of the party prosecuting such judgment or order, shall issue under the Seal of the Court a writ of *fiery facias* as a warrant of execution to the bailiff of the Court, who by such warrant shall be empowered to levy or cause to be levied such sum of money as shall be ordered or adjudged to be paid, and also the costs of the execution, by distress and sale of the goods and chattels of such party wherever the same may be found; and all constables and other peace officers within their several jurisdictions shall aid in the execution of every such warrant.

Clerk at request of party to issue *fiery facias*.

79. If the Judge shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue against the party until after default in payment of some instalment according to such order, and execution or successive executions may then be issued for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as the Judge shall order, either at the time of making the original order or at any subsequent time, under the Seal of the Court.

Execution not to issue till after default of payment of some instalment, and then it may issue for the whole sum due.

80. Every bailiff or officer executing any process of execution issuing out of a District Court against the goods and chattels of any person, may by virtue thereof seize and take any of the goods and chattels of such person, (excepting the wearing apparel and bedding of such person or his family, and the tools and implements of his trade to the value of five pounds, which shall to that extent be protected from such seizure,) and may also seize and take any money or bank notes, and any cheques bills of exchange promissory notes bonds specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

What goods may be taken in execution.

81. The bailiff shall deliver to the Clerk of the Court all cheques bills of exchange promissory notes bonds specialties or other securities for money which shall have been so seized or taken as aforesaid as security or securities for the amount directed to be levied by such execution, or so much thereof as shall not have been otherwise levied or raised for the benefit of the plaintiff; and the plaintiff may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum or sums secured or made payable thereby when the time of payment thereof shall have arrived.

Disposal of securities seized by bailiff.

82. The precise time when any application shall be made to a Clerk to issue a warrant against the goods of a party shall be entered by him in the Execution Book and on the warrant, and when more than one such warrant shall be issued they shall be executed in the order of the times so entered.

Priority of executions issuing out of District Court.

83. When a writ against the goods of a party has issued from the Supreme Court, and a warrant against the goods of the same party has issued from a District Court, the right to the goods seized shall be determined by the priority of the time of the delivery of the writ to the Sheriff to be executed, or of the application to the Clerk for the issue of the warrant to be executed, and the Sheriff on demand shall inform the bailiff in writing of the precise time of such delivery of the writ, and the bailiff on demand shall show his warrant to any Sheriff's officer, and such writing purporting to be so signed and the indorsement on the warrant shall respectively be sufficient justification to any Sheriff or bailiff acting thereon.

Priority of executions issuing out of Supreme and District Courts.

84. Where any claim shall be made to or in respect of any goods taken in execution under the process of a District Court, the claimant may

Claimant of goods taken in execution must deposit their

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value, pay costs of keeping possession, or give security, otherwise goods shall be sold.

may deposit with the bailiff either the amount of the value of the goods claimed (such value to be fixed by appraisement in case of dispute) to be by such bailiff paid into Court to abide the decision of the Judge upon such claim, and the sum which the bailiff shall be allowed to charge as costs for keeping possession of such goods until such decision can be obtained, or in lieu thereof may give such security for such an amount as may be satisfactory to the bailiff; and in default of the claimant so doing, the bailiff shall sell such goods as if no such claim had been made, and shall pay into Court the proceeds of such sale, to abide the decision of the Judge.

Regulating the sale of goods taken in execution.

85. No sale of any goods which shall be taken in execution as aforesaid shall be made until after the end of five days next following the day on which such goods shall have been so taken, unless such goods shall be of a perishable nature or upon the request in writing of the party whose goods shall have been taken; and until such sale the goods shall be deposited by the bailiff in some fit place, or they may remain in the custody of a fit person to be put in possession by the bailiff.

Claims as to goods taken in execution to be adjudicated on by Court.

86. If any claim shall be made to or in respect of any goods or chattels taken in execution under the process of any Court, or in respect of the proceeds or value thereof, by any landlord for rent or by any person not being the party against whom such process has issued, it shall be lawful for the Clerk of the Court, upon application of the officer charged with the execution of such process, as well before as after any action brought against such officer, to issue a summons calling before the said Court as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in Her Majesty's Supreme Court or in any local or inferior Court in respect of such claim shall be stayed, and the Court in which such action shall have been brought, or any Judge thereof, on proof of the issue of such summons and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons out of the District Court; and the Judge of the District Court shall adjudicate upon such claim, and make such order between the parties in respect thereof and of the proceedings as to him shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court.

Penalty for assaulting bailiff or rescuing goods taken in execution.

87. If any officer or bailiff of any Court shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any goods levied under process of the Court, the person so offending shall be liable to a fine not exceeding twenty pounds, to be recovered by order of the Court or before a Justice of the Peace; and it shall be lawful for such officer or bailiff of the Court, or for any peace officer, in any such case to take the offender into custody (with or without warrant) and bring him before such Court or Justice accordingly.

Execution to be superseded on payment of debt and costs.

88. In and upon every warrant of execution issued against the goods and chattels of any person whomsoever, the Clerk of the Court shall cause to be inserted or indorsed the sum of money and costs adjudged, with the sums allowed as increased costs for the execution of such warrant; and if the party against whom such execution shall be issued shall, before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the Clerk of the Court out of which such warrant of execution has issued, or to the bailiff holding the warrant of execution, such sum of money and costs as aforesaid, or such part thereof as the person entitled thereto shall agree to accept in full for his debt or damages and costs, together with the fees herein directed

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directed to be paid, the execution shall be superseded, and the goods and chattels of the said party shall be discharged and set at liberty.

89. The landlord of any tenement in which any goods shall be so taken in execution under this Act, or his agent, may claim the rent thereof at any time within five clear days from the date of such taking or before the removal of the goods, by delivering to the bailiff or officer making the levy any writing, signed by himself or his agent, which shall state the amount of rent claimed to be in arrear and the time for and in respect of which such rents is due; and if such claim be made, the bailiff or officer making the levy shall in addition thereto distrain for the rent so claimed and the cost of such distress, and shall not within five days next after such distress sell any part of the goods taken unless they be of a perishable nature, or upon the request in writing of the party, whose goods shall have been taken; and the bailiff shall afterwards sell such of the goods under the execution and distress as shall satisfy, first, the costs of and incident to the sale; next the claim of such landlord, not exceeding the rent of eight weeks where the tenement is let by the week, the rent of two terms of payment where the tenement is let for any other term less than a year, and the rent of one year in any other case; and lastly the amount for which the warrant issued.

When goods seized under process of District Court, landlord may claim certain rent in arrear.

90. If any replevin be made of the goods so taken, the bailiff shall notwithstanding sell such portion thereof as will satisfy the costs of and incident to the sale under the execution and the amount for which the warrant issued; and in any event the overplus of the sale (if any) and the residue of the goods shall be returned to the defendant; and the poundage of the bailiff for keeping possession and sale under each distress shall be the same as would have been payable if the distress had been an execution of the District Court, and no other fees shall be demanded or taken in respect thereof.

When such goods replevied.

91. If it shall appear upon the return of the warrant or writ of *feri facias* that no goods and chattels can be found, or not sufficient for payment of the sum to be levied, the Clerk of the Court shall, upon the request of the party in whose favour judgment shall have been given, issue a warrant of execution to the bailiff, who by virtue thereof shall be empowered to take in execution the body of the defendant named therein.

If goods insufficient, execution may issue against body.

92. Every warrant of commitment which shall issue from a District Court shall, on whatever day it may be issued, bear date on the day on which the order for commitment was made, and shall continue in force for one year from such date and no longer, but no order for commitment shall be drawn up or served.

Warrant of commitment.

93. In executing any process of the Court the bailiff shall have such powers and be subject to such liabilities as any Sheriff hath or is subject to in like cases in executing the process of the Supreme Court.

In executing process bailiff to have same power as Sheriff.

94. Every person who shall be taken in execution under any such warrant shall be committed to the common gaol of the district within which the Court shall be holden, and shall remain in custody for such time from the day of his commitment as shall be mentioned in such warrant, or until he be discharged by due course of law.

Persons taken in execution to be imprisoned in common gaol for limited time.

95. The time of imprisonment shall be as follows, that is to say,— Where the sum for which the person shall have been taken in execution shall not exceed fifty pounds, four months; and where such sum shall exceed fifty pounds, six months.

Scale of terms of imprisonment.

96. If any money goods or chattels be found and proved to be the property of any person imprisoned under process from a District Court, the same may be seized under warrant issued from the Court,

Goods of persons imprisoned may be seized and sold.

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and sold for the benefit of the party at whose suit he shall have been so imprisoned.

Writes of execution to run through Colony.

97. Every writ or warrant issued in execution of any judgment under this Act may be executed in any part of the Colony by the bailiff of the Court, or by the bailiff of any other District Court, or by any other person to whom the same may be specially directed.

Debtors to be discharged from custody on payment of debt and costs.

98. Any person imprisoned under this Act who shall have paid or satisfied the debt or demand or the instalments thereof payable and costs remaining due at the time of the order of imprisonment being made, together with the costs of obtaining such order and all subsequent costs, shall be discharged out of custody upon the certificate of such payment for satisfaction signed by the Clerk of the Court, by leave of the Judge of the Court in which the order of imprisonment was made.

Persons not to be imprisoned twice for the same debt.

99. Where any person shall have been imprisoned under the provisions of this Act, he shall not be liable at any time thereafter to be again taken in execution for the debt or sum of money with respect to which he shall have been so imprisoned: Provided always that, as against the estate and effects of such prisoner whatsoever and wheresoever, the judgment under which he shall have been so imprisoned as aforesaid shall be of as full force and effect as if the body of such prisoner had never been taken in execution by virtue thereof.

Bailiffs answerable for neglect to levy execution.

100. In case any bailiff of a District Court who shall be employed to levy any execution against goods and chattels shall, by neglect or connivance or omission, lose the opportunity of levying any such execution, then upon complaint of the party aggrieved by reason of such neglect connivance or omission (and the fact alleged being proved to the satisfaction of the Court on the oath of any credible witness) the Judge shall order such bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution issued, and the bailiff shall be liable thereto; and upon demand made thereof, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

Remedies against and penalties on bailiffs and other officers for misconduct.

101. If any Clerk, bailiff, or other officer of the Court, acting under colour or pretence of the process of the said Court, shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, it shall be lawful for the Judge to inquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and to make such order thereupon for the payment of any money extorted, or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs as he shall think just; and also, if he shall think fit, to impose such fine upon the Clerk, bailiff, or officer, not exceeding ten pounds for each offence, as he shall deem adequate; and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

Parties aggrieved may appeal.

102. If either party in any cause of the amount to which jurisdiction is given to the District Courts by this Act shall be dissatisfied with the determination or direction of the Court in point of law, or upon the admission or rejection of any evidence, such party may appeal from the same to the Supreme Court, provided that such party shall, within ten days after such determination or direction, give notice

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notice of such appeal to the other party or his solicitor, and also give security, to be approved by the Clerk of the Court, for the costs of the appeal whatever may be the event of the appeal, and for the amount of the judgment if he be defendant and the appeal be dismissed: Provided nevertheless that such security as far as regards the amount of the judgment shall not be required in any case where the Judge of the District Court shall have ordered the party appealing to pay the amount of such judgment into the hands of the Clerk of the District Court in which such action shall have been tried, and the same shall have been paid accordingly; and the said Court of Appeal may either order a new trial on such terms as it thinks fit, or order judgment to be entered for either party, as the case may be, and may make such order with respect to the costs of the said appeal as such Court shall think proper, and such orders shall be final.

103. Such appeal shall be in the form of a case agreed on by both parties, or their solicitors, and if they cannot agree, the Judge of the District Court, upon being appealed to by them or their solicitors, shall settle the case and sign it, and such case shall be transmitted by the Appellant to the Registrar of the Supreme Court.

Appeal to be in form of a case.

104. The Chief Justice of the Supreme Court shall from time to time make general rules or orders for regulating the proceedings on appeals, and the costs and fees to be paid in respect of the same.

Chief Justice to make general orders regulating proceedings and costs on appeal.

105. No appeal shall lie from the decision of a District Court if before such decision is pronounced both parties shall agree, in writing signed by themselves or their solicitors or agents, that the judgment of the District Court shall be final.

Parties may agree not to appeal.

106. In proceedings for the recovery of corporeal hereditaments the landlord may enter a plaint, at his option, either against the tenant or against the person neglecting or refusing to deliver up possession, in the Court of the district in which the premises lie, for the recovery of the same, and thereupon a summons shall issue to such tenant or such person so neglecting or refusing; and if the defendant shall not, at the time named in the summons, show good cause to the contrary, then on proof of his still neglecting or refusing to deliver up possession of the premises, and of the yearly value and rent of the premises, and of the holding and of the expiration or other determination of the tenancy, with the time and manner thereof, and of the title of the plaintiff, if such title has accrued since the letting of the premises, and of the service of the summons if the defendant shall not appear thereto, the Judge may order that possession of the premises mentioned in the plaint be given by the defendant to the plaintiff either forthwith or on or before such day as the Judge shall think fit to name; and if such order be not obeyed, the Clerk, whether such order can be proved to have been served or not, shall at the instance of the plaintiff issue a warrant authorizing and requiring the bailiff of the Court to give possession of such premises to the plaintiff.

Proceedings for the recovery of possession of corporeal hereditaments in certain cases.

107. In any such plaint against a tenant as in the last preceding section is specified, the plaintiff may add a claim for rent and mesne profits, or both, down to the day appointed for the hearing, or to any preceding day named in the plaint, so as the same shall not exceed fifty pounds, and any misdescription in the nature of such claim may be amended at the trial.

Plaintiff may claim rent and mesne profits.

108. When the rent of any corporeal hereditament, where neither the value of the premises nor the rent payable in respect thereof exceeds fifty pounds by the year, shall be in arrear for three months, and the landlord shall have a right by law to re-enter for the non-payment thereof, he may, without any formal demand or re-entry, enter a plaint in the Court of the district in which the premises lie for the recovery thereof,

Summons may issue for recovery of possession of small tenements by landlord for non-payment of rent.

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thereof, and thereupon a summons shall issue to the tenant the service whereof shall stand in lieu of a demand or re-entry.

Proceedings thereupon.

109. If the tenant shall five days before the return day of such summons pay into Court all the rent in arrear and the costs the said action shall cease, but if he shall not make such payment and shall not at the time named in the summons show good cause why the premises should not be recovered, then, on proof of the yearly value and rent of the premises, and of the fact that three months' rent was in arrear before the plaint was entered, and that no sufficient distress was then to be found on the premises to countervail such arrear, and of the landlord's power to re-enter, and of the rent being still in arrear, and of the title of the plaintiff if such title has accrued since the letting of the premises, and of the service of the summons if the defendant shall not appear thereto, the Judge may order that possession of the premises mentioned in the plaint be given by the defendant to the plaintiff on or before such day, not being less than four weeks from the day of hearing, as the Judge shall think fit to name, unless within that period all the rent in arrear and the costs be paid into Court; and if such order be not obeyed, and such rent and costs be not so paid, the Clerk shall, whether such order can be proved to have been served or not, at the instance of the plaintiff, issue a warrant authorizing and requiring the bailiff of the Court to give possession of such premises to the plaintiff, and the plaintiff shall, from the time of the execution of such warrant, hold the premises discharged of the tenancy, and the defendant and all persons claiming by through or under him shall, so long as the order of the Court remains unreversed, be barred from all relief in equity or otherwise.

On plaints to recover possession of premises how summonses may be served.

110. A summons for the recovery of a tenement may be served like other summonses to appear to plaints in District Courts, and if the defendant cannot be found, and his place of dwelling shall either not be known or admission thereto cannot be obtained for serving any such summons, a copy of the summons may be posted on some conspicuous part of the premises sought to be recovered, and such posting shall be deemed good service on the defendant.

Sub-tenant served with summons to recover possession must give notice to his immediate landlord, who may come in and defend.

111. Where any summons for the recovery of a tenement as is hereinbefore specified shall be served on or come to the knowledge of any sub-tenant of the plaintiff's immediate tenant, such sub-tenant, being an occupier of the whole or of a part of the premises sought to be recovered, shall forthwith give notice thereof to his immediate landlord, under penalty of forfeiting not exceeding three years' rack-rent of the premises held by such sub-tenant to such landlord, to be recovered by such landlord by action in the Court from which such summons shall be issued; and such landlord, on the receipt of such notice, if not originally a defendant, may be added or substituted as a defendant to defend possession of the premises in question.

Warrants to bailiffs sufficient to justify entering on premises.

112. Any warrant to a bailiff to give possession of a tenement shall justify him in entering upon the premises named therein, with such assistants as he shall deem necessary, and in giving possession accordingly; but no entry under any such warrant shall be made except between the hours of nine in the morning and four in the afternoon.

Such to be in force for three months from the day named for delivery of possession.

113. Every such warrant shall, on whatever day it may be issued, bear date on the day next after the last day named by the Judge in his order for the delivery of possession of the premises in question, and shall continue in force for three months from such date and no longer; but no order for delivery or possession need be drawn up and served.

Judges &c. not liable to actions on account of proceedings taken.

114. It shall not be lawful to bring any action or prosecution against the Judge or against the Clerk of the Court by whom any such warrant as aforesaid shall have been issued, or against any bailiff or other

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other person by whom such warrant may be executed or summons affixed, for issuing such warrant or executing the same or affixing such summons respectively, by reason that the person by whom the same shall be sued out had not lawful right to the possession of the premises.

115. Where the landlord at the time of applying for such warrant as aforesaid had lawful right to the possession of the premises, or of the part thereof so held over as aforesaid, neither the said landlord nor his agent nor any other person acting in his behalf shall be deemed to be a trespasser by reason merely of any irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act, but the party aggrieved may if he think fit bring an action and recover for special damage: Provided always if the special damage be not proved the defendant shall be entitled to a verdict, and if proved but assessed by the jury at a sum not exceeding forty shillings, the plaintiff shall recover no more costs than damages, unless the Judge before whom the trial shall have been held shall certify that in his opinion full costs ought to be allowed.

Where landlord has a lawful title he shall not be deemed a trespasser.

116. Any action commenced in a District Court may be removed by writ of *certiorari* into the Supreme Court if such Court or a Judge thereof shall deem it desirable that the cause shall be tried in such Court, and if the party applying for such writ shall give security, to be approved of by the Registrar of the Supreme Court, for the amount of the claim and the costs (not exceeding fifty pounds) of the trial, and shall further assent to such terms if any as the Supreme Court or Judge shall think fit to impose.

Certiorari may be granted in certain cases at discretion of Supreme Court.

117. The granting by the Supreme Court, or by a Judge thereof, of a rule or summons to show cause why a writ of *certiorari* or prohibition should not issue to a District Court shall, if the Supreme Court or a Judge thereof so direct, operate as a stay of proceedings in the cause to which the same shall relate until the determination of such rule or summons or until such Supreme Court or Judge shall otherwise order; and the Judge of the District Court shall from time to time adjourn the hearing of such cause to such day as he shall think fit, until such determination or until such order be made; but if a copy of such rule or summons shall not be served, by the party who obtained it, on the opposite party and on the Clerk of the District Court three days before the day fixed for the hearing of the cause, the Judge of the District Court may in his discretion order the party who obtained the rule or summons to pay all the costs of the day, or so much thereof as he shall think fit, unless the Supreme Court or a Judge thereof shall have made some order respecting such costs.

Rule or summons to show cause why a writ of *certiorari* or prohibition should not issue to be a stay of proceedings.

118. No judgment order or determination given or made by any Judge of a District Court, nor any cause or matter brought before him or pending in his Court, shall be removed by appeal motion writ of error *certiorari* or otherwise into any Court whatever save and except in the manner and according to the provisions hereinbefore mentioned.

No actions &c. to be removed into Supreme Court except as herein provided.

119. No judgment or execution shall be stayed delayed or reversed upon or by writ of error or *supersedeas* thereon to be sued out for the revising of any judgment given in any Court held under the provisions of this Act.

No judgment or execution to be stayed &c. by writ of error or *supersedeas*.

120. Where an application shall be made to the Supreme Court or a Judge thereof for a writ of prohibition to be addressed to a Judge of a District Court, the matter shall be finally disposed of by rule or order, and no declaration or further proceedings in prohibition shall be allowed.

Application for a writ of prohibition shall be finally disposed of by rule or order.

121. No writ of *mandamus* shall issue to a Judge or any officer of a District Court for refusing to do any act relating to the duties of

Rule or order substituted for writ of *mandamus* to a

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Judge or officer of a District Court.

his office, but any party requiring such act to be done may apply to the Supreme Court or to a Judge thereof, upon an affidavit of the facts, for a rule or summons calling upon the Judge or officer of the District Court, and also the party to be affected by such act, to show cause why such act should not be done; and if after the service of such rule or summons good cause shall not be shown, the Supreme Court or a Judge thereof may by rule or order direct the act to be done, and the Judge or officer of the District Court upon being served with such rule or order shall obey the same on pain of attachment; and in any event the Supreme Court or the Judge thereof may make such order with respect to costs as to such Court or Judge shall seem fit.

In certain cases Judge of Supreme Court may order cause to be heard in District Court.

122. Where in any action of contract brought in the Supreme Court the claim indorsed on the writ does not exceed one hundred pounds, or where such claim, though it originally exceeded one hundred pounds, is reduced by payment into Court, payment, an admitted set-off, or otherwise, to a sum not exceeding one hundred pounds, a Judge of the Supreme Court, on the application of either party, after issue joined, may in his discretion and on such terms as he shall think fit order that the cause be tried in any District Court which he shall appoint; and thereupon the plaintiff shall lodge with the Clerk of such Court such order and the issue, and the Judge of such Court shall appoint a day for the hearing of the cause, notice whereof shall be given in such manner as such Judge shall direct to both parties or to their solicitors.

Proceedings after the hearing of such cases.

123. After such hearing the Clerk shall certify the result to the Registrar of the Supreme Court, and judgment in accordance with such certificate may be signed in such Supreme Court.

Plaintiff recovering in Supreme Court a sum not exceeding £100, when District Courts have jurisdiction, to have no costs.

124. If in any action commenced in the Supreme Court for any cause of action which might have been tried in a District Court the plaintiff shall recover a sum not exceeding one hundred pounds, the plaintiff shall have judgment to recover such sum only and no costs, except in cases hereinafter provided and except in the case of judgment by default; and it shall not be necessary to enter any suggestion on the record to deprive such plaintiff of costs, nor shall any such plaintiff be entitled to costs by reason of any privilege as a solicitor or officer of such Court or otherwise.

Judge at trial may certify to entitle the plaintiff to costs.

125. Provided always that if the plaintiff shall in any such action recover a sum not exceeding one hundred pounds by verdict, and the Judge before whom such verdict shall be obtained shall certify on the back of the record that it appeared to him at the trial that the cause of action was one for which a plaint could not have been entered in any such District Court as aforesaid, or that it appeared to him at the trial that there was a sufficient reason for bringing the said action in the Supreme Court, the plaintiff in such case shall have the same judgment to recover his costs that he would have had if this Act had not been passed.

If the Court or a Judge at Chambers make an order, the plaintiff to have costs.

126. Provided also that if in any such action, whether there be a verdict in such action or not, the plaintiff shall make it appear to the satisfaction of the Supreme Court, or to the satisfaction of a Judge at Chambers, upon summons, that the said action was brought for a cause for which no plaint could have been entered in any District Court, or that the said cause was removed from a District Court by *certiorari*, or that there was apparent reason for bringing such action in the Supreme Court, then and in any of such cases the Supreme Court or the said Judge at Chambers may, by rule or order, direct that the plaintiff shall recover his costs, and thereupon the plaintiff shall have the same judgment to recover his costs that he would have had if this Act had not been passed.

127. If

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127. If an action be brought by an officer of a District Court in the Court of which he is an officer, the Judge shall, at the request of the defendant, order that the venue be changed and that the cause be sent for hearing to the Court of some convenient district of which he is not Judge, and the Clerk of the first-mentioned Court shall forthwith transmit to the Clerk of such last-mentioned Court a certified copy of the plaint, as entered in the Plaint Book, the duplicate copy of the summons and particulars served on the defendant, and a certified copy of the order for changing the same, as entered in the Minute Book; and the Judge of such last-mentioned Court shall appoint a day for the hearing, notice whereof shall be given to both parties in such manner as such Judge shall direct.

If officer of Court be plaintiff in his own Court, defendant may remove cause to an adjoining district.

128. The Judge of any District Court may in any case, with the consent of both parties to the suit, order the same, with or without other matters in the jurisdiction of the Court in dispute between the parties, to be referred to arbitration to such persons and in such manner and on such terms as he shall think reasonable and just; and such reference shall not be revocable by either party except by consent of the Judge; and the award of the arbitrators or umpire shall be entered as the judgment in the cause, and shall be as binding and effectual to all intents as if given by the Judge.

Suits may be settled by arbitration.

129. It shall be lawful for the Judge, if he think fit, on application to him at the first Court held after the expiration of one week after the entry of such award as a judgment of the Court, to set aside any such award and judgment so given and entered as aforesaid; or he may with the consent of both parties revoke the reference, or order another reference to be made in the manner aforesaid; and no execution shall issue without leave of the Judge until after such first Court shall have been held.

Award may be set aside by Judge.

130. A Judge proposing to sue any person dwelling or carrying on business in any district of which he is the Judge, may bring his action in the Court of any adjoining district of which he is not the Judge; and any person proposing to sue a Judge may bring his action in any Court of a district adjoining the district of which the defendant is Judge.

Where Judge of District Court can sue and be sued.

131. If an action be brought against an officer of a District Court, the summons may issue in the district of which he is an officer, or in any adjoining district, the Judge of which is not the Judge of a Court of which the defendant is an officer.

Where officer of District Court may be sued.

132. In order to secure uniformity in the practice of the several District Courts of the Colony, it shall be lawful for the Chief Justice of New Zealand to frame general rules and orders for regulating the practice of the Courts and the forms of proceedings therein, and from time to time to amend such rules orders and forms, and such original or amended rules orders and forms shall be in force in each of such Courts respectively from a day to be fixed by the Chief Justice.

Chief Justice to frame rules.

133. Where the time within which or where the mode in which any proceeding should be taken in the District Courts is not prescribed in this Act, such time and mode shall be appointed by the rules of practice orders and forms to be made as herein provided.

Time and mode of certain proceedings to be regulated by rules of practice.

134. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within three months after the fact committed, and not afterwards; and notice in writing of any such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action be brought, and if after action brought a sufficient sum of money shall

Limitation of actions for proceedings in execution of this Act.

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shall have been paid into Court with costs by or on behalf of the defendant.

Production of warrant of District Court sufficient proof of authority.

135. If any action or suit shall be brought against any person for anything done in pursuance of this Act, the warrant under the Seal of the District Court being produced in any such action or suit shall be deemed sufficient proof of the authority of the said District Court previous to the issuing of such warrant.

Proceedings not invalid for want of form.

136. No order verdict or judgment or other proceeding concerning any of the matters aforesaid shall be quashed or vacated for want of form.

As to amendments of defects and errors in proceedings.

137. The Judge of a District Court may at all times amend all defects and errors in any proceeding in such Court, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not; and all such amendments may be made with or without costs, and upon such terms as to the Judge may seem fit; and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made if duly applied for.

No officer or party shall be deemed a trespasser by reason of irregularity.

138. No officer of a District Court in executing any warrant of a District Court, and no person at whose instance any such warrant shall be executed, shall be deemed a trespasser by reason of any irregularity or informality in any proceeding on the validity of which such warrant depends, or in the form of such warrant, or in the mode of executing it; but the party aggrieved may bring an action for any special damage which he may have sustained by reason of such irregularity or informality, against the party guilty thereof, and in such action he shall recover no costs unless the damages awarded shall exceed forty shillings.

How securities under District Courts Act to be given and enforced.

139. Where by this Act a party is required to give security, such security shall be at the cost of the party giving it, and in the form of a bond, with sureties, to the other party or intended party in the action or proceeding: Provided always that the Court in which any action on the bond shall be brought may by rule or order give such relief to the obligors as may be just, and such rule or order shall have the effect of a defeasance of such bond.

Where security is required to be given, a deposit of money may be made in lieu thereof.

140. Where by this Act a party is required to give security, he may in lieu thereof deposit with the Clerk, if the security is required to be given in a District Court, or with the Registrar of the Supreme Court if the security is required to be given in such Court, a sum equal in amount to the sum for which he would be required to give security, together with a memorandum, to be approved of by such Clerk or Registrar, and to be signed by such party, his solicitor or agent, setting forth the conditions on which such money is deposited, and the Clerk or Registrar shall give to the party paying a written acknowledgment of such payment; and the Judge of the District Court when the money shall have been so deposited in such Court, or a Judge of the Supreme Court when the money shall have been deposited in the Supreme Court, may, on the same evidence as would be required to enforce or avoid such bond as in the last preceding section is mentioned, order such sum so deposited to be paid out to such party as to him shall seem just.

No action to be brought in District Court on judgment of Supreme Court.

141. No action shall be brought in a District Court on any judgment of the Supreme Court.

But action may be brought in Supreme Court on judgment of District Court.

142. An action may be brought in the Supreme Court on a Judgment of a District Court, but no costs shall be allowed in such action unless the Supreme Court or a Judge thereof shall certify that the action was necessary and proper for the enforcement of the judgment of the District Court against the person or property of the defendant.

143. The

District Courts.

143. The payment of any fine imposed by any Court under the authority of this Act may be enforced upon the order of a Judge in like manner as payment of any debt adjudged in the said Court.

Payment of fines how enforced.

144. The bankruptcy or insolvency of the plaintiff in any action in a District Court which the assignees might maintain for the benefit of the creditors, shall not cause the action to abate if the assignees elect to continue such action, and to give security for the costs thereof, within such reasonable time as the Judge shall order, but the hearing of the cause may be adjourned until such election is made; and in case the assignees do not elect to continue the action, and to give such security within the time limited by the order, the defendant may avail himself of the bankruptcy or insolvency as a defence to the action.

Bankruptcy and insolvency of plaintiff not to cause action to abate if assignees elect to continue.

PROCEDURE AND PRACTICE OF COURTS.

Criminal Cases.

145. For the purpose of bringing a criminal case under the cognizance of the Court, an indictment shall be signed by the Attorney-General of the Colony or by the Crown Prosecutor of the district, and such indictment so signed shall be as valid and effectual in all respects as if the same had been presented by a grand jury.

Indictment to be signed by Attorney-General or Crown Prosecutor instead of presented by grand jury.

146. Every man shall be tried for any felony misdemeanour or indictable offence by a jury of twelve men, to be summoned as hereinafter provided.

Jury to consist of twelve.

147. The Judge of the Court shall, ten days at least before the sitting of any such Court for the despatch of criminal business, issue a precept to the bailiff of the Court, requiring him to summon jurors to attend the sittings of the Court at such time and place as shall be therein mentioned.

Judge to issue precept to summon jury.

148. Such precept shall require not more than thirty-six nor less than twenty-four persons, duly qualified to serve as petit jurors, to attend at one sitting of the Court.

Not more than thirty-six or less than twenty-four to be summoned.

149. Every such precept and any subpoena commanding the attendance of witnesses in criminal cases shall be issued in the name of Her Majesty, tested in the name of the Judge, and sealed with the Seal of the Court.

Form of precept.

150. Upon receiving the precept, the bailiff shall summon the number of jurymen mentioned therein, to be taken from time to time in alphabetical order as their names shall appear on the Jury List, by personally serving a summons on each juror, or by leaving the same at his usual place of abode, five days before the sitting of the Court.

How jurors to be chosen and summoned.

151. For the purpose of enforcing the attendance of jurors witnesses and others, the production of books papers and writings, and for the summary punishment of contempt, any such Court, while sitting as a Court of Criminal Jurisdiction, shall have and may exercise such powers as the Supreme Court may exercise by any law for the time being in force: Provided always that the process for the recovery of any amount of any fine or recognizance forfeited at any sitting of the Court for the despatch of criminal business shall be signed by the Judge of the Court.

Power of Court to enforce attendance of jurors &c.

152. It shall be lawful for the Judge of any District Court, if he shall think fit, to reserve any point of law arising in any criminal case for the opinion of the Supreme Court, and to defer giving judgment thereon until such opinion shall have been given, when such judgment shall be in conformity with the opinion given.

Point of law may be reserved for opinion of Supreme Court.

153. If it shall appear to the Judge of any District Court that any felony misdemeanour or other offence which may at any time be brought

Power to leave cases to be tried by Supreme Court.

District Courts.

brought before it ought, from its nature or magnitude or any legal difficulty which it may present, to be tried by the Supreme Court, it shall be lawful for such Court to leave the case for trial before the Supreme Court, and to take recognizances, with or without sureties, for the appearance of the parties and witnesses thereat, which recognizances shall, as soon as may be, be returned to the Supreme Court.

Course of procedure and practice to be same as in Supreme Court.

154. In all respects except as herein provided the procedure of a District Court as a Court of Criminal Jurisdiction shall be the same as in the Supreme Court in like matters.

MISCELLANEOUS.

Civil and Criminal.

Sittings of Court.

155. It shall be lawful for the Governor from time to time, by notification in the *New Zealand Gazette*, to fix the times and places within the district at which every such Court shall be held, and in like manner such times and places to alter or abolish as he shall think fit.

If Court cannot be held, to be adjourned.

156. Where by reason of the death or absence of a Judge a District Court cannot be held, the Clerk, or in his absence the bailiff, shall adjourn the Court to such day as he shall deem convenient.

District Judges may make regulations.

157. It shall be lawful for the Judge of any District Court to prescribe such regulations as he may from time to time deem necessary for the orderly transaction of the business of his Court.

Affidavits how to be sworn.

158. All affidavits to be used in the Courts held under this Act shall and may be sworn before any Judge of the said Courts, or any person authorized to take affidavits in the Supreme Court, or before any Justice of the Peace having jurisdiction in the place where any such affidavit may be sworn.

Power of committal : for contempt.

159. If any person shall wilfully insult the Judge, or any Juror, or any bailiff, clerk, or officer of any District Court for the time being during his sitting or attendance in Court, or in going to or returning from the Court, or shall wilfully interrupt the proceedings of the Court, or otherwise misbehave in Court, it shall be lawful for any bailiff or officer of the Court, with or without the assistance of any other person, by order of the Judge, to take such offender into custody and detain him until the rising of the Court; and the Judge shall be empowered, if he shall think fit, by a warrant under his hand and sealed with the Seal of the Court, to commit any such offender to prison for any time not exceeding fifteen days, or to impose upon any such offender a fine not exceeding ten pounds, for every such offence, and in default of payment thereof to commit the offender to prison for any time not exceeding fifteen days, unless the said fine be sooner paid.

Sums received under this Act to be for use of Provinces.

160. All sums of money which shall be received under or by virtue of this Act by way of fees fines or penalties, shall be paid to the Colonial Treasurer for the public use of the Province in which the same shall arise.

Expenditure to be charged to Province within which incurred

161. All money which shall be expended in carrying out the provisions of this Act shall be charged by the Colonial Treasurer in account against the Province within which the same shall be expended, and may be deducted from any sums of money which shall from time to time be payable by the Colonial Treasurer to such Province.

Provision where district comprises parts of more Provinces than one.

162. Provided always that if any district to be constituted under the third section of this Act shall comprise portions of more than one Province, an equitable apportionment of such sums of money and such costs and expenses shall be made between such several Provinces as the Governor shall think fit to direct.

Interpretation.

163. In the construction of this Act, unless there be something in the subject or context repugnant to such construction, the words

“ District

Audit.

“District Court” or “the Court” shall be understood to mean a Court constituted by this Act; the term “Landlord” shall mean the person entitled to the immediate reversion of the lands, or, if the property be held in joint tenancy co-parcenary or tenancy in common, shall be understood to mean any one of the persons entitled to such reversion.

164. This Act shall come into operation on the first day of January, one thousand eight hundred and fifty-nine.

Commencement of Act.

165. The Short Title of this Act shall be “*The District Courts Act, 1858.*”

Short Title.

SCHEDULE.

ORDINANCES AND ACTS REPEALED BY THIS ACT.

Session and Number.	By what Legislature passed.	Title.
Session I., No. 4.	Governor and Legislative Council.	“An Ordinance for instituting and regulating Courts of General and Quarter Sessions in the Colony of New Zealand, and to authorize the holding of Petty Sessions within the same, and for defining their respective powers and determining places at which the same shall be holden, and for repealing within the Colony of New Zealand certain Acts of the Governor and Council of New South Wales, adopted and now in force within the said Colony.”
Session I., No. 6.	Governor and Legislative Council.	“An Ordinance for instituting Courts of Civil Jurisdiction, to be called Courts of Requests, in different parts of the Colony of New Zealand and its dependencies.”
Session II., No. 2.	Governor and Legislative Council.	“An Ordinance for establishing County Courts of Civil and Criminal Jurisdiction, and for repealing an Ordinance for establishing Courts of Requests, Session I., No. 6, and for repealing part of an Ordinance for establishing Courts of Quarter Sessions, Session I., No. 4.”
Session VII., No. 20.	Lieut.-Governor and Legislative Council.	“An Ordinance for establishing Courts of Sessions of the Peace.”
Session IV., No. 29.	General Assembly.	“An Act to extend the Jurisdiction of Resident Magistrates’ Courts in Civil Cases.”

No. XXXI.

AN ACT to provide for the Audit of the Public Accounts of the Colony of New Zealand. [21st July, 1858.]

AUDIT.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. Within one month after the passing of this Act, the Governor, in the name and on behalf of Her Majesty, shall by Commission under the Great Seal of the Colony appoint a fit and proper person to be the Auditor of the Public Accounts of the General Government of the Colony, and from time to time afterwards, in case of the death resignation or removal of any such Auditor, shall appoint some other fit and proper

Governor to appoint Auditor.

Audit.

proper person in his stead : Provided always that if at any time hereafter the office of Auditor shall be abolished, the person holding the office at that time shall have no claim for compensation on account of such abolition.

Auditor not to be
Member of Executive
Council &c.

2. No Auditor appointed under this Act shall during his continuance in office be capable of being a Member of the Executive Council of the Colony or of either House of the General Assembly, or a Superintendent of any Province, or a Member of any Provincial Council, or of holding any other place of profit or any political appointment whatever.

Tenure of office and
salary.

3. The Auditor shall hold office during good behaviour, and shall only be removable therefrom by the Governor, in the name and on behalf of Her Majesty, upon an address from both Houses of the General Assembly for such removal; and there shall be paid to the Auditor out of the general revenue of the Colony a clear annual salary of five hundred pounds.

Power to Governor
to suspend.

4. It shall be lawful for the Governor in Council, at any time when the General Assembly is not in Session, to suspend any Auditor, and such suspension, unless sooner revoked by the Governor in Council, shall continue in force until the end of the then next Session of the General Assembly : Provided always that such suspension shall not affect the Auditor's right to receive during the continuance thereof the salary hereinbefore provided.

Auditor to take oath
of office.

5. Every Auditor immediately on his appointment shall take and subscribe an oath before the Governor, to perform the duties of his office faithfully and to the best of his skill and ability.

Governor may
appoint Deputy in
certain cases.

6. In case of the illness suspension or absence of the Auditor, it shall be lawful for the Governor to appoint some person to act as the Deputy of the Auditor during such illness suspension or absence, and every such Deputy shall, during the time that he shall act as such Deputy, have all the powers and perform all the duties of the Auditor, and shall receive such remuneration not exceeding after the rate of five hundred pounds per annum as the Governor in Council shall determine. Every Deputy before acting as such shall take and subscribe before the Governor a similar oath to that hereinbefore prescribed to be taken by the Auditor.

Duties of Auditor.

7. The duties of the Auditor shall be those specified in the Schedule to this Act.

Periodical account to
be laid before House
of Representatives.

8. The Colonial Treasurer shall, on or before the expiration of six months from the termination of every financial period, cause to be made up an account of the receipts and disbursements of the revenue of the Colony, including the costs charges and expenses incidental to the collection and management thereof, so as to distinguish clearly the amounts expended under each head of service, and so that the receipts and disbursements of different financial periods shall be distinctly separated from each other; and shall forthwith forward the said account to the Auditor for examination, and the same shall be laid before the House of Representatives within ten days thereafter if the General Assembly shall be in Session, and if not, then within ten days after the commencement of the next Session.

Commencement of
first and subsequent
accounts.

9. The account to be laid before the House in the next Session of the General Assembly shall commence with the first day of July, one thousand eight hundred and fifty-seven, and every subsequent account shall be in continuation of the last preceding account.

Account to be referred
to a Select Committee
to be appointed by
the House.

10. Every such account shall be referred to a Select Committee of three, to be appointed by the House by ballot on a day to be fixed by the Speaker, of which not less than five days' notice shall be given.

Members of House

11. In the appointment of such Committee every Member of the House

Audit.

House shall be entitled to vote for one Member only of the Committee, and when the Committee is chosen the Speaker shall nominate one of the Members thereof to be the Chairman: Provided that if and so often as it shall happen that the full number of three shall not be appointed on any ballot to serve upon any such Select Committee, the appointment of the Member or Members chosen shall be void and a fresh appointment shall forthwith take place.

to vote only for one Member of Committee.

12. If any Member of any such Committee shall die resign or from any other cause whatever become incapable of acting, his place shall be supplied by another Member to be appointed by the House at the instance of the Speaker; and whenever the office of Chairman shall become vacant, the Speaker shall nominate one of the Members of the Committee to act as such.

Vacancies in Committee how to be filled up.

13. Every Audit Committee may sit notwithstanding any adjournment of the House.

Committee may sit during adjournments of House.

14. It shall be the duty of every Committee appointed under this Act to audit examine and report upon the account which shall be referred to it.

Committee to audit accounts and report.

15. Every Member of the Committee who shall be a Member thereof at the time the final report on the account is brought up, shall be entitled to the sum of fifty pounds for his services, to be paid by the Colonial Treasurer out of the general revenue of the Colony.

Members of Committee to be entitled to £50 each.

16. Every Member of the Committee who shall absent himself from any meeting of the Committee without the leave of the House shall (unless it be made to appear to the satisfaction of the House that such Member was by necessity prevented from attending) be punished by a fine of five pounds, and in default of immediate payment shall by warrant of the Speaker be committed to the custody of the Serjeant-at-Arms, or such other person or persons as the Speaker may appoint, for a period not exceeding five days; and it shall be lawful for the said Serjeant-at-Arms or such other person or persons to detain the said Member in his custody for the period so directed unless sooner discharged by order of the House or unless the amount of the fine imposed be sooner paid.

Members of Committee absents themselves to be fined.

17. Every such Committee is hereby empowered to call for all books papers and vouchers relating to the account referred to it, and also to examine witnesses touching the said account; and every person is hereby required to give such attendance, and procure such books papers and vouchers, as the said Committee shall order and direct, by a summons to be signed by the Chairman thereof, stating the object for which such person is required to attend, and specifying the books papers and vouchers to be produced.

Committee empowered to call for vouchers &c. and examine witnesses.

18. Every person who without reasonable cause shall fail to attend as required by any such summons, or to submit himself to examination, or to produce any such books papers or vouchers as aforesaid, or who shall prevaricate in his evidence before any Committee, shall forfeit and pay for every such offence such fine not exceeding one hundred pounds as the House of Representatives, after hearing the party if he so desire, shall by resolution think fit to impose; and in default of payment the offender may be committed, by warrant under the hand of the Speaker, to any common gaol for any term not exceeding three months as the House shall determine.

Penalty for refusing to attend &c.

19. It shall be lawful for every such Committee to examine upon oath any witnesses it may think fit, which oath the Chairman of the Committee is hereby authorized to administer; and every person who shall upon any such examination wilfully and corruptly give false evidence shall be deemed guilty of wilful and corrupt perjury, and be liable on conviction to be punished accordingly.

Committee may examine on oath; person giving false evidence guilty of perjury.

Disqualification.

Interpretation.

20. The word "Auditor" throughout this Act shall mean the Auditor of Public Accounts to be appointed under this Act.

Short Title.

21. The Short Title to this Act shall be "*The Audit Act, 1858.*"

SCHEDULE.

DUTIES OF AUDITOR.

1. To examine the accounts of all persons entrusted with the collection custody receipt and issue of public money and stores of the General Government of the Colony.
2. To call upon Accountants in the service of the General Government of the Colony for all necessary or proper explanations respecting their receipts and expenditure, and respecting all matters necessary to enable the Auditor to discharge his duties under the above Act.
3. To bring under the consideration of the Government every circumstance necessary to be known to insure the faithful discharge by such Accountants of their several duties, in conformity with the laws and regulations now or hereafter to be in force.
4. After proper inquiry and examination, to make out and forward to the Colonial Secretary certificates of the correctness of accounts furnished by such Accountants, to be countersigned by the Colonial Secretary and forwarded by him to the said Accountants.
5. To examine the statements of receipts and expenditure to be prepared by the Colonial Treasurer under the above Act, for the purpose of being laid before the House of Representatives, with a view to ascertain,—
 - (1.) That the statement is correct as an account and balance sheet of transactions for the period comprised therein.
 - (2.) That the expenditure shown therein has been properly classified, and that any part thereof which may have been incurred without authority of law is separately shown.
6. To address to the Colonial Treasurer all queries and observations in writing which may be found proper or necessary for the elucidation of such statements.
7. In the event of the Colonial Treasurer (on behalf of the Executive Government) dissenting from any alteration or correction proposed by the Auditor, to append to the Colonial Treasurer's statement, for the period to be laid before the House of Representatives, copies of the original query or observation, with the Colonial Treasurer's reply or explanation, and the Auditor's comments thereon.
8. To furnish from time to time to the Colonial Treasurer, in a form to be prescribed by the Speaker of the House of Representatives, a certificate to be countersigned by the Speaker, under the authority of a resolution of the House, of the correctness of the Treasurer's statements prepared under the above Act.

No. XXXII.

DISQUALIFICATION.

AN ACT to disqualify Persons holding certain Offices from being Members of the House of Representatives, Superintendents of Provinces, or Members of Provincial Councils. [21st July, 1858.]

Preamble.

WHEREAS it is expedient that persons holding certain offices and places of profit in departments of the Government of the Colony should be disqualified from holding seats in the House of Representatives or in Provincial Councils, or from being elected Superintendents of Provinces :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Certain officers to be incapable of being elected Members of the House of Representatives &c.

1. No person holding any office of emolument or place of profit in any department of the General Government specified in the Schedule to this Act, shall be capable of being elected a Member of the House of Representatives, or a Superintendent of any Province, or

Ordinary Revenue.

a Member of any Provincial Council within the Colony, and every election of any such person shall be null and void: Provided always that nothing in this Act shall apply to the Colonial Secretary, the Attorney-General, the Colonial Treasurer, the Minister for Native Affairs, the Commissioner of Customs, or the Postmaster-General.

2. Any person holding any such office of emolument or place of profit as aforesaid, who shall presume to sit or vote as a Member of the House of Representatives or of any Provincial Council, or shall act as Superintendent of any Province, shall forfeit and pay the sum of twenty pounds for every day he shall so sit or vote or act respectively, to be recovered by action in the Supreme Court, with full costs of suit, by any person who shall sue for the same: Provided always that the foregoing provision of this section shall not apply to any person who shall have been elected before this Act shall come into operation.

Every such officer sitting or voting liable to penalties.

3. If any Member of the House of Representatives, or the Superintendent of any Province, or any Member of a Provincial Council, shall hereafter accept any such office of emolument or place of profit during such time as he shall be a Member of the said House, or the Superintendent of a Province, or a Member of a Provincial Council, his seat as a Member or his office as Superintendent respectively shall thereby become vacant, and a writ shall issue for a new election in the same manner as though such Member or Superintendent had resigned his said seat or office.

Members of the House of Representatives &c. accepting office to vacate seat.

4. This Act shall come into operation on the first day of January, in the year one thousand eight hundred and fifty-nine.

Commencement of Act.

5. The Short Title of this Act shall be "*The Disqualification Act, 1858.*"

Short Title.

SCHEDULE.

- | | |
|---------------------------------|----------------------------------|
| 1. Colonial Secretary's. | 6. Post Office. |
| 2. Attorney-General's. | 7. Supreme Court. |
| 3. Colonial Treasurer's. | 8. District Courts. |
| 4. Minister for Native Affairs. | 9. Resident Magistrates' Courts. |
| 5. Customs. | 10. Sheriffs'. |

No. XXXIII.

AN ACT to declare what shall be deemed the Ordinary Revenue of the Colony, and to provide for the Regulation by the General Assembly of the Costs of Collecting the same. [4th August, 1858.]

ORDINARY REVENUE.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The revenue arising from all existing or future taxes duties rates imposts fees fines penalties and forfeitures payable to Her Majesty in respect of or collected by the several departments of the Government Courts and officers specified in the Schedule to this Act, shall be deemed and taken to be Her Majesty's ordinary revenue of the Colony of New Zealand, subject to be appropriated for the public uses thereof.

What shall be deemed general revenue.

2. So

Bankers' Returns.

Part of section 62 and section 63 of Constitution Act repealed.

2. So much of the sixty-second section of the Constitution Act as authorizes and requires the Governor to pay out of the revenue arising from taxes duties rates and imposts levied under any Act or Acts of the General Assembly all the costs charges and expenses incident to the collection management and receipt of such revenue, and also the sixty-third section of the same Act, are hereby repealed.

Costs of collection how regulated.

3. All costs charges and expenses of or incident to the collection management and receipt of the ordinary revenue of the Colony as defined by this Act, and of every part thereof, shall be provided for and regulated from time to time by laws to be passed by the General Assembly for that purpose.

Commencement of Act.

4. This Act shall be deemed to have come into operation on the first day of July, one thousand eight hundred and fifty-eight.

Short Title.

5. The Short Title of this Act shall be "*The Ordinary Revenue Act, 1858.*"

SCHEDULE.

1. Supreme Court.
2. Courts of Justice of Inferior Jurisdiction.
3. Resident Magistrates and other Justices of the Peace.
4. Customs Department.
5. Post Office.
6. Registrars of Marriages.
7. Registrars of Births, Deaths, and Marriages.
8. Sheriffs.
9. Crown Grant Office.

No. XXXIV.

BANKERS' RETURNS. AN ACT to provide for the Periodical Publication of the Liabilities and Assets of Banks in New Zealand. [4th August, 1858.]

Preamble.

WHEREAS for the information and better security of the public it is expedient that Bankers in the Colony of New Zealand should furnish, periodically, statements of their assets and liabilities, to be published as hereinafter provided:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Statements of assets and liabilities to be made out weekly.

1. Every Banker in the Colony of New Zealand shall, at the close of business on Monday in every week, prepare and make up, at each place where he shall carry on the business of Banker in the Colony, a full and correct account and statement, in writing, of the assets and liabilities of such Banker, at such place, in the form in the Schedule to this Act.

Quarterly abstracts to be made out and published.

2. From such weekly accounts and statements there shall be prepared on the last Monday of each quarter, ending on the last days of March June September and December respectively, by every such Banker, a general abstract in writing of the average amount during such quarter of the assets and liabilities of every such Banker, also in the form in the Schedule to this Act. A separate abstract shall be prepared for each place at which any Banker shall issue notes payable thereat in coin on demand.

3. To

Bankers' Returns.

3. To each of such quarterly abstracts there shall be subjoined a statement exhibiting the amount of capital of such Banker paid up at the close of the quarter for which such abstract shall be made up, the rate and amount of the last dividend that may have been declared to the shareholders or proprietors, and the amount of the reserved profit at the time of declaring such dividend: Provided that as regards Bankers in the Colony who shall also carry on business elsewhere, it shall be sufficient to state the same several particulars according to the latest advices received in the Colony.

Statement exhibiting capital &c. to be subjoined.

4. Such quarterly abstracts and statements shall be verified on the oath of the Manager, or, in his absence, on the oath of the Chief Cashier or Chief Clerk of the Bank at the place in respect of which the same shall be made, and shall be forthwith delivered or transmitted to the Colonial Treasurer: Provided always that it shall be lawful for the Governor from time to time, if he shall think fit, to appoint some other public officer than the Colonial Treasurer to whom the said quarterly abstracts and statements shall be transmitted.

Abstracts &c. to be verified and delivered to Colonial Treasurer.

5. Every such quarterly abstract and statement, or an abstract or statement compiled therefrom, including all the places of business in the Colony of any one Banker in one abstract, shall be published, as soon as conveniently may be, in the *Government Gazette* of the Colony.

Abstracts to be published.

6. If any Banker shall neglect to keep such weekly accounts and statements, or to make out and deliver or transmit, within ten days after the termination of the quarter, such quarterly abstracts and statements as herein provided, he shall forfeit and pay for every such offence the sum of five hundred pounds: Provided always that in any action for any penalty under this Act, the onus of proving that such weekly accounts and statements have been kept, and such quarterly abstracts and statements have been made out and delivered or transmitted, shall be on the Banker.

Penalty for neglecting to keep accounts and make returns.

7. If any Manager, Chief Cashier, or Clerk, verifying any such abstract or statement, shall deliver or transmit as aforesaid any statement or account or abstract knowing the same to be false in any particular, he shall forfeit for every such offence the sum of one hundred pounds.

Penalty for making false statement or return.

8. Every oath required to be taken under the provisions of this Act may be taken before any Justice of the Peace, who is hereby authorized to administer the same, and any person who shall wilfully take a false oath shall be deemed guilty of perjury and punishable accordingly.

Oaths to be taken before Justice of the Peace; penalty for false oath.

9. Every penalty imposed by this Act shall be recovered only by action in the Supreme Court by and in the name of Her Majesty's Attorney-General for the Colony, and no action shall lie against any person for any such penalty unless the same shall be commenced within two years from the time the offence shall be alleged to have been committed.

Recovery of penalties.

10. In the construction of this Act the term "Banker" shall apply to every corporation company firm and individual engaged in the ordinary business of banking.

Interpretation.

11. The Short Title of this Act shall be "*The Bankers' Returns Act, 1858.*"

Short Title.

Resident Magistrates' Courts.

SCHEDULE.

STATEMENT of the Average Amount of LIABILITIES and ASSETS of the BANK at
, during the ended .

LIABILITIES.		ASSETS.	
Notes in Circulation ...	£	Coined Gold and Silver, and other	£
Bills in Circulation ...	...	Coined Metal ...	...
Balances due to other Banks ...	...	Gold and Silver in Bullion or Bars	...
Government Deposits ...	...	Notes and Bills of other Banks ...	...
Other Deposits {		Balances due from other Banks ...	...
{ Not bearing Interest		Landed Property ...	...
{ Bearing Interest		Amount of all other Securities—	
		1. Notes and Bills discounted ...	...
		2. Colonial Government Securities ...	...
		3. Other Funded Securities ...	...
		4. Debts due to Bank (exclusive of debts abandoned as bad)	...
		5. Securities not included under the above heads ...	...
Total average Liabilities	£	Total average Assets	£

Amount of the Capital Stock paid up at the close of the Quarter ended , one thousand eight hundred and

Rate of the last Dividend declared to the Shareholders,

Amount of the last Dividend declared,

Amount of the Reserved Profits at the time of declaring such Dividend,

Dated at , this day of , one thousand eight hundred and .

I, A.B., swear that to the best of my knowledge and belief the foregoing abstract is a true and faithful account of the average amount of assets and liabilities at , the above-named Bank, during the period specified, and that the same was made up from the weekly accounts and statements thereof kept in pursuance of "The Bankers' Returns Act, 1858."

Sworn at this day of , one thousand eight hundred and ,
before me,

A.B.
C.D., Justice of the Peace.

No. XXXV.

RESIDENT MAGISTRATES' COURTS.

AN ACT to make further provision for the Administration of Justice in Resident Magistrates' Courts in the Colony of New Zealand. [4th August, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. After this Act shall come into operation, every Resident Magistrate in the Colony of New Zealand shall be appointed and may be removed by the Governor, acting in the name and on behalf of Her Majesty, and by no other person whomsoever: Provided always that every appointment of a Resident Magistrate heretofore made by the Superintendent of any Province shall be deemed and taken to have been valid from the time the same was made: Provided also that every Resident Magistrate now acting, whether appointed by the Governor or by the Superintendent of any Province, shall for all purposes

Resident Magistrate to be appointed by Governor.

Resident Magistrates' Courts.

purposes whatsoever be deemed and taken to have been appointed under this Act.

2. Every Resident Magistrate shall have all such powers, unless otherwise specially provided, as now are or hereafter may be exercised by any two Justices of the Peace.

Resident Magistrate to have power of two Justices.

3. It shall be lawful for any person under the age of twenty-one years to prosecute a suit in any Resident Magistrate's Court for wages or piece work or for works as a servant in the same manner as if such person were of full age.

Minors may sue.

4. The process of the Court may be served by the bailiff or his assistants, or by any other person the Resident Magistrate may think fit to direct.

Resident Magistrate may direct that process of Court may be served by other than bailiff.

5. It shall be lawful for any Resident Magistrate or any two or more Justices of the Peace before whom any civil case shall have been heard, in his or their discretion, to grant a rehearing of such case upon such terms as to him or them shall seem fit, and in the meantime to stay execution.

Resident Magistrate may grant a rehearing.

6. In every case of a civil nature, excepting where both parties are of the Native race, judgment may be enforced by distress and sale of the defendant's goods and chattels, or by imprisonment, in the same manner as an order for payment of money by any Justice of the Peace in a summary proceeding.

How judgment may be enforced.

7. It shall be lawful for any Resident Magistrate to delay, so long as he shall deem it expedient to do so, the enforcing of any judgment obtained in such Resident Magistrate's Court against an aboriginal native.

Resident Magistrate may delay enforcing judgment against an aboriginal native.

8. When any person shall have been imprisoned under civil process from any Resident Magistrate's Court, he shall not be liable at any time thereafter to be taken again in execution for any debt or sum of money in respect of which he has been so imprisoned: Provided that as against the effects of such person whatsoever and wheresoever, the judgment under which he shall have been so imprisoned as aforesaid shall be of as full force and effect as if the body of such person had never been taken in execution by virtue thereof.

A person cannot be imprisoned twice for same debt.

9. If any money goods or chattels be found and proved to be the property of any person imprisoned under process from any Resident Magistrate's Court or under the adjudication of two Justices of the Peace, the same may be seized and sold for the benefit of the party at whose suit he shall have been so imprisoned.

Goods of person imprisoned may be seized.

10. The fees to be taken in respect of any proceedings in any Resident Magistrate's Court may be varied abolished and fixed as the Governor in Council shall from time to time direct and appoint.

Fees to be taken.

11. If from any cause a Resident Magistrate's Court cannot be held on the day appointed for the same, the Clerk may adjourn the Court to such day as he may deem convenient.

If Resident Magistrate's Court cannot be held it may be adjourned by Clerk.

12. The Short Title of this Act shall be "*The Resident Magistrates' Courts Act, 1858.*"

Short Title.

Canterbury Association Land Orders.

No. XXXVI.

CANTERBURY
ASSOCIATION
LAND ORDERS.

AN ACT to give validity to Crown Grants made in fulfilment of certain Land Orders issued by the Canterbury Association. [4th August, 1858.]

Preamble.

WHEREAS by Letters Patent dated the thirteenth day of November, in the thirteenth year of the reign of Her present Majesty, certain persons therein named were constituted a Body Corporate, with perpetual succession and a common Seal, by the name of the "Canterbury Association," for founding a settlement in New Zealand, and were empowered to purchase hold and alienate lands in the said Colony and its dependencies: And whereas by an Act of the Imperial Parliament, passed in the Session held in the thirteenth and fourteenth years of the reign of Her present Majesty, chapter seventy, intituled "*An Act empowering the Canterbury Association to dispose of certain Lands in New Zealand,*" the said Association was empowered by instrument under its common Seal to dispose of and convey all or any of the lands described in the Schedule to the said Act; and it was also enacted by the said Act that if the said Association should omit or neglect to observe or perform any of certain conditions in the said Act mentioned, it should be lawful for one of Her Majesty's Principal Secretaries of State, by writing under his hand, to declare that the power of disposition given to the said Association over the lands in the said Schedule had determined: And whereas, in pursuance of the powers so vested in the said Association as aforesaid, land orders were issued to purchasers of certain portions of the said lands described in the said Schedule: And whereas one of Her Majesty's Principal Secretaries of State, by writing under his hand, dated the twenty-seventh day of December, one thousand eight hundred and fifty-two, did declare that the power of disposition of the said Association over the said lands had determined, and at the time the said power of disposition was so determined portions of the said lands had been sold and land orders issued for the same but no conveyance made to the purchasers thereof: And whereas Crown Grants have from time to time been issued by the Governor of New Zealand, under the Public Seal of the Colony, to the persons entitled under the said land orders, but doubts have been raised as to the validity of such grants, and it is expedient that the same should be set at rest, and that the Governor be empowered to give effect to any contracts of the said Association still remaining unfulfilled:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Crown Grants of land sold but not conveyed by Canterbury Association to be valid.

1. Every Crown Grant under the hand of the Governor, and sealed with the Public Seal of the Colony, heretofore or to be hereinafter made and issued in pursuance and fulfilment of any land order or other contract issued or made by the said Association for the sale of any of the said lands comprised in the Schedule to the said Act, shall be deemed and taken to be and to have been, from the date of such grant, a good valid and effectual conveyance of the land purported to be thereby conveyed.

Short Title.

2. The Short Title of this Act shall be "*The Canterbury Association Land Orders Act, 1858.*"

Definition of Districts.

No. XXXVII.

AN ACT to enable the Governor to define and designate Counties and certain other places in the Colony of New Zealand. [4th August, 1858.]

DEFINITION OF DISTRICTS.

WHEREAS it is expedient, both for geographical and civil purposes and to avoid confusion of names, that the several portions of the Colony should be more accurately defined and designated: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for the Governor from time to time, by Proclamation in the *New Zealand Gazette*, to divide the Colony into counties hundreds parishes or such other divisions as he may deem expedient, which shall have such limits and shall bear and be known by such names or designations as in and by the Proclamation constituting the same shall be prescribed; and also in like manner from time to time to alter and annul any such division, or the name or designation thereof, whether made or given under the authority of this Act or prior to the passing thereof. Governor may define and designate districts.

2. It shall also be lawful for the Governor to assign names to rivers harbours and mountains for which there may be no precise or intelligible name, or when two or more rivers harbours or mountains shall have the same name, and also to determine by what name any ports of entry shall be designated. Power to name districts.

3. Whenever any county or other division to be so defined shall be conterminous with any electoral division for the House of Representatives, the name of such county or other division may be used and cited in the writs for the election of Members for the said House of Representatives in lieu of the name or designation heretofore in use. Names of divisions may be cited in writs.

4. An Act passed by the General Assembly, intituled "*The Counties Act, 1856*," is hereby repealed. "Counties Act, 1856," repealed.

5. The Short Title of this Act shall be "*The Definition of Districts Act, 1858*." Short Title.

No. XXXVIII.

AN ACT to Incorporate the Governors of Nelson College. [4th August, 1858.]

NELSON COLLEGE.

WHEREAS from funds arising from the sales of land within the Settlement of Nelson, in the Colony of New Zealand, by the New Zealand Company, and from the accumulations thereof, the Trustees of the Nelson Trust Funds elected under and by virtue of an Act of the General Assembly of New Zealand, made and passed in the eighteenth and nineteenth years of the reign of Her present Majesty, intituled "*An Act to make further provision for the Administration of the Nelson Trust Funds*," in exercise of the power in them vested by the said Act, some time since set apart that portion of the said trust funds applicable to educational purposes amounting in the whole to twenty thousand pounds sterling: And whereas the said Trustees, Preamble.

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being desirous of promoting and establishing educational institutions within the Province of Nelson, have by a certain deed or instrument in writing bearing date the fourteenth date of November, in the year one thousand eight hundred and fifty-seven, a copy whereof is set forth in the Schedule to this Act annexed, founded a college by the name and style of "Nelson College," the management of which is vested in a Visitor and nine Governors, and the said Trustees have vested the whole of the real and personal property in which the said twenty thousand pounds has been invested in the names of the said Governors whose names are hereinafter mentioned: And whereas the said Governors are desirous of obtaining for the said college an Act of Incorporation, and it is expedient that the same should be granted accordingly:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

The Governors of Nelson College and their successors constituted a body politic and corporate.

1. John Danforth Greenwood, of Motueka, in the said Province of Nelson, esquire; Charles Elliott, of the Town of Nelson, in the said Province, printer; David Monro, of Bearcroft, in the District of Waimea West, in the said Province, esquire, doctor of medicine; John Waring Saxton, of the District of Waimea East, in the said Province, esquire; John Wallis Barnicoat, of the District of Waimea East aforesaid, esquire; Charles Bigg Wither, of the said District of Waimea East, esquire; William Wells, of Marybank, in the District of Suburban North, in the said Province, esquire; Alfred Domett, of the Town of Nelson aforesaid, esquire; and Henry Cooper Daniell, of the said Town of Nelson, gentleman, the Governors, and all such other persons as shall hereafter be elected or appointed Governors, and their successors, shall be and they are hereby constituted a body corporate and politic, in fact and in law, by the name or style of "Nelson College," and by that name they and their successors shall have perpetual succession and a common Seal, with full power and authority by the same name and style to sue and be sued plead and be impleaded answer and be answered defend and be defended, in all Courts and in all causes and suits at law whatsoever, and shall be able and capable in law to receive by donation, take purchase and hold to them and their successors, all goods chattels and personal property whatsoever, and shall also be able and capable in law to take purchase and hold to them and their successors not only such lands buildings hereditaments and possessions as may from time to time be exclusively used and occupied for the immediate requirements of the said college, but also any other lands buildings hereditaments and possessions whatsoever, situated in the said Colony of New Zealand or elsewhere, and that they and their successors shall be able and capable in law to grant demise and lease alien or otherwise dispose of all or any of the property, real or personal, belonging to the said college, and also to do all other matters and things incidental to or appertaining to a body politic, subject nevertheless to the restrictions and conditions in the said deed or instrument of foundation set forth and contained: Provided always that nothing in this Act contained shall be deemed to affect or to interfere with any right title or interest of Her Majesty, her heirs and successors, or in any way to limit the Royal prerogative.

Short Title.

2. The Short Title of this Act shall be "*The Nelson College Act, 1858.*"

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 SCHEDULE.

DEED OF FOUNDATION OF NELSON COLLEGE.

To all to whom these presents shall come: ALFRED FELL, of the Town of Nelson, in the Province of Nelson, in the Colony of New Zealand, merchant; DAVID SCLANDERS, of the Town of Nelson aforesaid, merchant; CHARLES ELLIOTT, of the Town of Nelson aforesaid, printer; DAVID MONRO, of Bearcroft, in the District of Waimea West, in the said Province of Nelson, esquire, doctor of medicine; WILLIAM WELLS, of Marybank, in the District of Suburban North, in the said Province of Nelson, gentleman; JOHN DANFORTH GREENWOOD, of Motueka, in the said Province, esquire, and JOHN WALLIS BARNICOAT, of the District of Waimea East, in the said Province, surveyor, send greeting:

WHEREAS by Royal Letters Patent under the Great Seal, bearing date the twelfth day of February, in the fourth year of Her present Majesty's reign, certain persons were incorporated by the name of "The New Zealand Company," for the purpose of purchasing and acquiring lands, and settling selling cultivating and dealing with such lands, within Her Majesty's Colony of New Zealand and its dependencies, and of laying out settlements and towns there, and for other purposes: And whereas by certain other Royal Letters Patent, dated the fourth day of August, in the seventh year of Her Majesty's reign, and by a certain Act of Parliament passed in the Session of Parliament held in the ninth and tenth years of Her Majesty's reign, further powers were granted to the said Company: And whereas under the authority of the provisions contained in the said Letters Patent and Act several settlements were established in New Zealand, one of which settlements and the lands attached thereto is called the Province of Nelson, and the chief town of such Province is called the Town of Nelson: And whereas the said New Zealand Company did from time to time issue certain published terms for the disposal of land within the Settlement of Nelson, by which (among other things) it was provided that the land of the said settlement should be sold for certain prices, and that the fund to be derived from such sale should be appropriated in certain proportions to the purposes of emigration and the supply of labour, of founding and maintaining the settlement, of religious and educational uses, and of steam navigation and other public objects, for the benefit of the said Town and Province of Nelson: And whereas many persons purchased land under the said terms in the said settlement, and certain portions of the funds and moneys which arose from the sale of such lands were from time to time applied by the said Company in and about certain public works, and otherwise applied and disposed of for the general benefit of the settlers, to the said Province and Town of Nelson, and other parts of such funds were accumulated which have not as yet been applied to the purposes aforesaid: And whereas the New Zealand Company, by its agents and officers, superintended and managed the said funds until the fourth day of July, which was in the year one thousand eight hundred and fifty, when the lands of the said Company in New Zealand reverted to the Crown, under the provisions contained in an Act of Parliament made and passed in the Session held in the tenth and eleventh years of the reign of Her present Majesty, intituled "*An Act to promote Colonization in New Zealand, and to authorize a Loan to the New Zealand Company,*" upon the condition (amongst others) as expressed in the said Act of satisfying any liabilities to which the Company might then be liable under their existing engagements with reference to the Settlement of Nelson: And whereas previously to the said fourth day of July, which was in the year one thousand eight hundred and fifty, a certain sum of twenty-five thousand pounds had been invested by the said Company in the names of Henry Aglionby Aglionby, Alexander Currie, James Robert Gowen, George Lyall, and Jeremiah Pilcher, Esquires, in the Three Per Cent. Consolidated Bank Annuities, in trust for the said Company, in order to satisfy the amount applicable by the said Company, under the said terms, to the purposes in question: And whereas by an Act of Parliament made and passed in the fourteenth and fifteenth years of the reign of Her present Majesty, intituled "*An Act to regulate the affairs of certain Settlements established by the New Zealand Company in New Zealand,*" after reciting in part (amongst other things) the facts hereinbefore recited, and reciting that it was expedient that provisions should be made to enable Her Majesty to ascertain the amount of the sum so applicable as aforesaid, and to entrust the administration of the fund, when so ascertained, to certain persons who had been nominated for that purpose by or on behalf of the said Company and the said purchasers of land at Nelson, it was thereby enacted that it should be lawful for the Commissioners of Her Majesty's Treasury and they were thereby directed to ascertain the sum (if any) which remained due and applicable by the New Zealand Company, and which the said Company were bound to apply to the purposes therein mentioned, on the fourth day of July, one thousand eight hundred and fifty aforesaid, and that the sum of twenty-five thousand pounds, with the interest which should have accrued on the same, should be vested in the Commissioners of the Treasury as a fund for the public purposes of the Settlement of Nelson; and that the said Henry Aglionby Aglionby, Alexander Currie, James Robert Gowen, George Lyall, and Jeremiah Pilcher, should transfer the said sum and interest into the names of the Commissioners of the Treasury, or such person or persons as the said Commissioners should nominate for that purpose, and that the same should be disposed of by the said Commissioners in the

manner

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manner thereafter provided; and that if the amount which might be found by the Commissioners of the Treasury to be due and applicable to the purposes aforesaid should exceed the said sum of twenty-five thousand pounds, the surplus necessary to complete such amount should remain a liability attaching to Her Majesty with reference to the said Settlement of Nelson: And it was further enacted that a board of seven Trustees should be thereby appointed for the administration of the said fund, including such surplus (if any) as aforesaid; and that it should be lawful for the Commissioners of the Treasury, in such manner as they should appoint, to pay over the said sum of twenty-five thousand pounds, with such interest as aforesaid or so much thereof as might be found due and applicable as aforesaid, to the Trustees, and that when such sum or sums should have been paid over as aforesaid, all further liability of Her Majesty or of the New Zealand Company in respect of such fund and of the amount applicable as aforesaid by the said Company should cease: And it was further enacted that the said Trustees should have power to dispose of the said fund for the benefit of the said Settlement of Nelson as therein is mentioned: And it was further enacted that the first meeting of the said Trustees should be fixed at a time and place to be appointed by Proclamation by the Governor of New Zealand, or by the Lieutenant-Governor of the Province in which Nelson should be situated, being authorized thereto by the Governor, and that such Trustees might from time to time pass resolutions for appointing a time and place for holding further meetings for the despatch of business, for making rules and regulations for the conduct of such business, and for other necessary purposes towards enabling them to dispose of and distribute the said fund according to the purposes of the Act now in recital: And it was further enacted that the parties therein named should be and the same were thereby appointed the first Trustees for the administration of the said fund; and that they should remain in office, subject to the provisions thereafter contained as to the filling up of vacancies, until the first day of January, one thousand eight hundred and fifty-five: And it was further enacted that it should be lawful for the Legislature of New Zealand, by laws to be made from time to time, to provide for the filling up of vacancies which might have occurred by the death or resignation of either of the Trustees named in the said Act, by election to be made by the owner or owners and occupiers of land in the said Settlement of Nelson, with such qualification or restriction as might in such laws be specified; and in case the said fund should not have been wholly disposed of before the first day of January, one thousand eight hundred and fifty-five, to provide in like manner for the election of seven new Trustees, to continue in office for three years, as therein is mentioned: And whereas in pursuance of the provisions and directions contained in the said last-mentioned Act, the sum of thirty-three thousand eight hundred and forty pounds five shillings and sevenpence Three Pounds Per Cent. Annuities was transferred by the said Henry Aglionby Aglionby, Alexander Currie, James Robert Gowen, George Lyall, and Jeremiah Pilcher, to or by the direction of the Commissioners of Her Majesty's Treasury, subject to the provisions and directions contained in the said last recited Act in that behalf: And whereas in or about the year one thousand eight hundred and fifty-two the sum of twenty thousand one hundred and ninety-nine pounds fifteen shillings was transmitted and paid by the Commissioners of Her Majesty's Treasury to the Trustees appointed by the said last recited Act of Parliament of the said Nelson Trust Fund, and being in part compensation and satisfaction of the moneys which then remained subject and liable to be applied by the said New Zealand Company for the benefit of the said Settlement of Nelson: And whereas the sum of fifteen thousand three hundred and eighty-six pounds seventeen shillings and sixpence Three Pounds Per Cent. Annuities remained at the control of the Commissioners of Her Majesty's Treasury, subject to the provisions and directions contained in the said last recited Act, being the balance or surplus of the trust funds and moneys which have come under the control of the said Commissioners, arising from the sale of land in the said Settlement of Nelson: And whereas by an Act of the General Assembly of New Zealand, made and passed in the eighteenth and nineteenth years of the reign of Her present Majesty, entitled "*An Act to make further provision for the Administration of the Nelson Trust Funds,*" passed in pursuance of the hereinbefore recited Act of the Imperial Parliament, provision hath been made for the election of Trustees of the said fund, and for the annual election of Auditors of the said fund, and for other purposes relative to the administration of the said trust: And whereas the said Alfred Fell, David Sclanders, Charles Elliott, David Monro, William Wells, John Danforth Greenwood, and John Wallis Barnicoat, are the present Trustees of the said fund, duly elected pursuant to the provisions of the hereinbefore recited Act of the General Assembly of New Zealand: And whereas application has been made from time to time, by the said late Trustees as well as by the present acting Trustees, to the Commissioners of Her Majesty's Treasury, for other part of the said sum of twenty-five thousand pounds, and also for further and other sums to satisfy the amount applicable by the said Company under the terms of purchase above referred to, and which the said late Trustees alleged should have been placed at their disposal; and negotiations have from time to time been carried on with the said Commissioners of Her Majesty's Treasury for the purpose of ascertaining the sum (if any) which remained due and applicable to the purposes of the said trust: And whereas negotiations have taken place between the said Trustees, through their agent, Mr. James Stuart Tytler, and the Commissioners of Her Majesty's Treasury (on behalf

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of Her Majesty) for the purpose of ascertaining the amount of moneys which ought to be paid by the Crown to the said Trustees on a final settlement and adjustment of the claims of the said Nelson Fund Trustees on the said New Zealand Company or the Crown in respect of the unexpended portion of the moneys which arose from the sale of lands in the said Settlement of Nelson: And whereas the consideration of such claims and the inspection of the various accounts (as to the amounts and modes of appropriation and expenditure by the said New Zealand Company of the said moneys) which have been furnished by the New Zealand Company on the one hand and by the said James Stuart Tytler (on behalf of the said Nelson Fund Trustees) on the other hand, having been referred to John George Shaw Lefevre, Esquire, Companion of the Bath, on behalf of the said Commissioners of Her Majesty's Treasury, he, the said John George Shaw Lefevre, hath made two reports thereon to the Commissioners of Her Majesty's Treasury: And whereas, conformably to the suggestions contained in the said reports, it was proposed by the Commissioners of Her Majesty's Treasury (on behalf of Her Majesty) and agreed to by the said James Stuart Tytler (for and on behalf of the said Trustees of the Nelson Trust Funds) that the further sum of twenty thousand five hundred and seventy-eight pounds and sixpence sterling should be paid by the said Commissioners, on behalf of Her Majesty, to the said Nelson Fund Trustees, as a full and final compensation and satisfaction of and for all claims and demands of or by the said Nelson Fund Trustees upon or against the Crown or the New Zealand Company in respect of the unexpended portion of the moneys which were received by the New Zealand Company from the sale of lands in the said Settlement of Nelson as aforesaid, and of all other rights claims and demands of or by the said Nelson Fund Trustees upon or against Her Majesty or the New Zealand Company: And whereas the said Nelson Fund Trustees, at a meeting held on the first day of January now last past, duly convened, agreed in all respects to confirm the said compromise, and to accept the said sum of twenty thousand five hundred and seventy-eight pounds and sixpence as a full and final compensation for all claims and demands of or by the said Nelson Fund Trustees upon or against the Crown or the New Zealand Company: And whereas the said Alfred Fell, David Sclanders, Charles Elliott, David Monro, William Wells, John Danforth Greenwood, and John Wallis Barnicoat have lately received from the Lords Commissioners of Her Majesty's Treasury the aforesaid sum of twenty thousand five hundred and seventy-eight pounds and sixpence: And whereas the land tenements and hereditaments and the several and respective sums of money specified in the First Schedule hereunder written form part of the investments of the said trust funds, and have been set apart by the said Trustees as applicable for educational uses, and the said Alfred Fell, David Sclanders, Charles Elliott, David Monro, William Wells, John Danforth Greenwood, and John Wallis Barnicoat, are desirous of disposing of the said land tenements and hereditaments, and the said several and respective sums specified in the said First Schedule, for the educational uses hereinafter specified or referred to: And whereas, at a meeting of the Board of the said Trustees, duly held on the sixth day of November instant, a draft of these presents was considered and approved of, and it was resolved that the common Seal of the said Board should be hereto affixed: Now these presents witness, That, for the considerations aforesaid, the said Alfred Fell, David Sclanders, Charles Elliott, David Monro, William Wells, John Danforth Greenwood, and John Wallis Barnicoat, in exercise of the power of disposition in them vested by the aforesaid in part recited Act of the Imperial Parliament, and of every other power enabling them in this behalf, do by this present deed under their respective hands, and also under the common Seal of the Board of Trustees of the Nelson Trust Funds, set apart and dispose of the said land tenements and hereditaments, and the several and respective sums specified in the said First Schedule to these presents, to and for the following use and purpose, that is to say,—For the foundation endowment and perpetual maintenance, within the Settlement of Nelson or in some portion of the Province of Nelson in which the said Settlement of Nelson is situated, of a college, to be henceforth established within the said Province of Nelson by the name or style of "Nelson College," for the education of youths and young men, according to the scheme set forth in the Second Schedule hereunto written, and to the provisions hereinafter contained: And these presents further witness, and the said Alfred Fell, David Sclanders, Charles Elliott, David Monro, William Wells, John Danforth Greenwood, and John Wallis Barnicoat, do hereby declare, that the said college is hereby founded for the advancement of religion and morality, and for the promotion of useful knowledge, creed not being admitted as a disqualification either as regards teachers or pupils; and the said Alfred Fell, David Sclanders, Charles Elliott, David Monro, William Wells, John Danforth Greenwood, and John Wallis Barnicoat, do hereby declare that the governing body of the said college shall consist of a Visitor (who shall be the Governor of the Colony of New Zealand and its dependencies for the time being, or some person appointed by him for that purpose, and the said Governor, or his delegate, shall be empowered to do all things and exercise all the powers which pertain to Visitors generally,) and of a Council of Governors, nine in number, and that John Danforth Greenwood, of Motueka, in the said Province of Nelson, esquire; Charles Elliott, of the said Town of Nelson, printer; David Monro, of Bearcroft, in the District of Waimea West, in the said Province, esquire, doctor of medicine; John Waring Saxton, of the District of Waimea East, in the said Province, esquire; John

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Wallis Barnicoat, of the District of Waimea East aforesaid, esquire; Charles Bigg Wither, of the said District of Waimea East, esquire; William Wells, of Marybank, in the District of Suburban North, in the said Province, esquire; Alfred Domett, of the Town of Nelson aforesaid, esquire; and Henry Cooper Daniell, of the said Town of Nelson, gentleman, shall be the first Council of Governors, each of whom shall hold office for four years, at the expiration of which time three of them shall retire but shall be eligible for re-election, the order in which they shall retire having been previously determined by lot; and thus, at succeeding intervals of three years, other three of the said Governors shall retire and a fresh election shall take place, the electoral body being that constituted under the provisions of the Nelson Trust Funds Act of the General Assembly of New Zealand, one thousand eight hundred and fifty-four. In the event of no electoral roll being in existence, owing to the complete disposal of the trust funds, or other causes, or in the event of no election being made by the constituency, the remaining Governors shall be empowered to fill up the vacancy or vacancies by a majority of the votes of their own body, subject to confirmation by the Visitor for the time being. Vacancies arising from death or resignation or other causes shall be filled up in a manner above described, but the Governor so elected shall be considered as holding office only for the time it would otherwise have been held by the Governor whose place he may have taken; the Council of Governors making such regulations as they may deem fit for taking the votes at all such elections. The Council of Governors shall also have the power of framing statutes and by-laws, subject to the approval of the Visitor, with power to repeal and alter the same as the interests of the said college may seem to them to demand; but such statutes and by-laws shall not be repugnant to the terms and intentions of this present deed of foundation. And it is hereby declared and agreed that the college shall be governed by the statutes set forth in the said Second Schedule hereunto annexed, together with such other statutes as shall from time to time be made in pursuance of the power vested in the said Council. And it is further declared that the said John Danforth Greenwood, Charles Elliott, David Monro, John Waring Saxton, John Wallis Barnicoat, Charles Bigg Wither, William Wells, Alfred Domett, and Henry Cooper Daniell, and their successors, shall stand possessed of the said lands tenements and hereditaments, and the several and respective sums of money, and of the securities in which the same are vested, upon trust that they, the said John Danforth Greenwood, Charles Elliott, David Monro, John Waring Saxton, John Wallis Barnicoat, Charles Bigg Wither, William Wells, Alfred Domett, and Henry Cooper Daniell, and their successors, shall apply the annual income arising therefrom in the support of the college hereby constituted, and shall either allow the same to remain in their present state of investment, or shall call in and lay out the same in Government or real security within the said Colony of New Zealand, or in the United Kingdom of Great Britain and Ireland, or any colony or dependency thereof, or on a mortgage or mortgages of any freehold estates in the said Colony, and shall also apply the annual income arising therefrom for the purposes of and in support of the said college: Provided always and it is hereby declared that it shall be lawful for the said John Danforth Greenwood, Charles Elliott, David Monro, John Waring Saxton, John Wallis Barnicoat, Charles Bigg Wither, William Wells, Alfred Domett, and Henry Cooper Daniell, and their successors, to invest the whole or any part of the said trust moneys in one or more purchases of freehold estates of inheritance, which hereditaments so to be purchased shall be conveyed to the said John Danforth Greenwood, Charles Elliott, David Monro, John Waring Saxton, John Wallis Barnicoat, Charles Bigg Wither, William Wells, Alfred Domett, and Henry Cooper Daniell, and their successors, upon trust at any time thereafter to sell or exchange for an equivalent in land all or any part of the said hereditaments; and in case of sale by public auction or private contract, with power to purchase in the same at any auction, and convey and assure the same when sold or exchanged as the purchaser or purchasers shall direct, discharged from all the trusts herein contained. And the said John Danforth Greenwood, Charles Elliott, David Monro, John Waring Saxton, John Wallis Barnicoat, Charles Bigg Wither, William Wells, Alfred Domett, and Henry Cooper Daniell, and their successors, shall stand possessed of the moneys to arise from such sale or sales, or of land taken in exchange, upon the same trusts as are hereby declared concerning the moneys with which the said hereditaments so sold shall have been purchased; but the person or persons paying the said purchase moneys shall not be bound to see to the application thereof; and that, until the sale of the said hereditaments, the rents and profits thereof shall be received by the said John Danforth Greenwood, Charles Elliott, David Monro, John Waring Saxton, John Wallis Barnicoat, Charles Bigg Wither, William Wells, Alfred Domett, and Henry Cooper Daniell, or their successors, and applied in the same manner as the trust moneys hereinbefore referred to in case no such purchase had been made: And further, that it shall be lawful for the said John Danforth Greenwood, Charles Elliott, David Monro, John Waring Saxton, John Wallis Barnicoat, Charles Bigg Wither, William Wells, Alfred Domett, and Henry Cooper Daniell, and their successors, to demise the aforesaid lands tenements and hereditaments or the said hereditaments so to be purchased, at any time before the sale thereof, for any term not exceeding twenty-one years, at rack-rent: Provided always nevertheless that the said John Danforth Greenwood, Charles Elliott, David Monro, John Waring Saxton, John Wallis Barnicoat, Charles Bigg Wither, William Wells, Alfred Domett, and Henry Cooper Daniell, and their successors, shall

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shall have full power and authority from time to time to lay out and expend any sum that may be required in the purchase of land for a site, and for erecting thereupon suitable college buildings, with dormitories and other necessary accommodation for the purposes of the said college, not exceeding in the whole the sum of eight thousand pounds, and for that purpose to sell and dispose of any portion of the property enumerated in the said First Schedule hereunto annexed. In witness whereof the said Alfred Fell, David Sclanders, Charles Elliott, David Monro, William Wells, John Danforth Greenwood, and John Wallis Barnicoat, have hereunto subscribed their respective names, and have also caused the common Seal of the said Board of Trustees to be hereunto affixed, this fourteenth day of November, in the year of our Lord one thousand eight hundred and fifty-seven.

SCHEDULES ABOVE REFERRED TO.

SCHEDULE I.

Land, residence, school buildings, and out-houses in Manuka Street, Town of Nelson:—			
Mortgages of lands and hereditaments in the Province of Nelson, conveyed to the Trustees of the Nelson Trust Funds for securing various sums of money advanced thereon, amounting to the sum of	£	s.	d.
...	18,290	0	0
Cash at the Union Bank of Australia in Nelson	1,710	0	0
Total	£20,000	0	0

SCHEDULE II.

1. The object of the deed of foundation is to establish an educational institution, to be called "Nelson College," for the advancement of religion and morality, and the promotion of useful knowledge, by offering to the youth of the Province general education of a superior character.

2. The funds of the institution having arisen from the contributions of persons of different religious persuasions, creed cannot be admitted as a disqualification either as regards teachers or pupils.

3. The governing body of the institution shall consist of a Council of Governors, nine in number, the first Council being appointed by the within written deed.

4. There shall also be a Visitor, who shall be the Governor for the time being of the Colony, or some person appointed by him for that purpose; and the Governor or his delegate shall be empowered to do all things and exercise all the powers which pertain to Visitors generally.

5. If any Governor shall for six months fail to give his attendance, without leave of absence, or shall become a bankrupt or an insolvent debtor within the meaning of any law which may hereafter be in force within the Colony of New Zealand relating to bankrupts, or shall become a public defaulter, or be attainted of treason, or convicted of felony or any infamous crime, or become of unsound mind, he shall *ipso facto* cease to hold the office of a Governor of the college.

6. The appointment and control of the tutorial body, and management of the institution generally, shall be in the hands of the Council of the college, who shall also determine from time to time the curriculum of study, and fix the amount of remuneration to be paid by the pupils or students.

7. The course of instruction shall always include the English language and literature, one or more modern languages, geography, mathematics, classics, history, drawing, music, and such branches of art or science as the Council shall at any time determine. Further, upon all school-days not being half-holidays, so soon as the necessary funds can be procured to defray the extra expenses consequent upon such an arrangement, classes shall be kept open for the purposes of instruction for such two hours in the evening, between the hours of six o'clock p.m. and ten o'clock p.m. as the Governors for the time being may direct.

8. No pupil shall be admitted under the age of nine years, nor unless he be able to read fluently, to write with tolerable accuracy from dictation, and be familiar with the first four rules of arithmetic.

9. It shall be lawful for the Governors to set apart the sum of at least three hundred pounds per annum out of the annual proceeds of the trust estate for the foundation of exhibitions or scholarships, or both, in such proportion and for such annual value and tenable for such periods respectively as the Council shall determine. The object of the exhibitions shall be to extend the benefits of the institution to those residing at a distance. They will accordingly be tenable only by lads whose parents and guardians reside more than four miles from the college, and will be distributed as equally and equitably over the Province as possible. The scholarships shall be awarded for merit, under such regulations as the Governors may from time to time appoint.

10. The Council of Governors shall meet at least once quarterly, any four of them being a quorum, and shall hold such further meetings as may seem to them necessary for the

Merchant Shipping.

the proper management of the affairs of the college, and for every meeting each Governor present shall be entitled to receive a fee of one pound: Provided however that the total sum to be distributed among them as a remuneration for attending such meetings shall not exceed one hundred pounds for any one year.

11. The Council of Governors shall prepare annually a report setting forth the condition of the college generally, exhibiting its financial state, detailing the number of pupils who have been educated in it during the past year, and the branches of learning taught, and communicating generally all such information as may be of interest to the public; and the statement of the receipts and expenditure of the college shall be submitted every year in the month of January to two Auditors, to be appointed by the Visitor, who, if they find the same to be correct, shall certify to its accuracy, or otherwise, as the case may be; and the report of the Council of Governors and the balance-sheet of the institution, with the finding of the Auditors thereon, shall be published in the month of February in each year in some newspaper generally circulated in the Province.

12. The Council of Governors shall not expend upon the necessary buildings of the college a sum exceeding eight thousand pounds out of the principal sum to be handed over to them; any further amount to be appropriated to this object as circumstances may require must be borne upon the annual income.

13. It shall be lawful for the Governors of the college, whenever the funds of the institution shall in their opinion be sufficient for such purpose, with the assent of the Visitor, to establish one or more grammar schools within the Province of Nelson, as branch schools, from which the more deserving pupils may be removed, to enjoy the advantages of a higher and more advanced education. But the Governors shall, upon each occasion of their exercising this power, give at least six months' public notice by advertisement, in at least one newspaper generally circulated in the Province, of their intention to do so.

No. XXXIX.

**MERCHANT
SHIPPING.**

AN ACT to bring into operation within the Colony of New Zealand certain provisions of "*The Merchant Shipping Act, 1854.*" [4th August, 1858.]

Preamble.

WHEREAS by an Act of the Imperial Parliament, intituled "*The Merchant Shipping Act, 1854,*" it is enacted that certain portions of the third part of the said Act shall only apply to ships registered in any part of Her Majesty's dominions abroad when such ships are out of the jurisdiction of their respective Governments: And whereas it is expedient that the said provisions should be extended as hereinafter provided:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Certain provisions of "*The Merchant Shipping Act, 1854,*" adopted.

1. So much of the third part of the said Act as relates to rights to wages and remedies for the recovery thereof, to the shipping and discharge of seamen in foreign parts, to leaving seamen abroad and to the relief of seamen in distress in foreign ports, to the provisions health and accommodation of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition, to discipline, to Naval Courts on the high seas and abroad, and to crimes committed abroad, shall, so far as the same is applicable, be applied to all British ships registered at trading with or being at any place within the jurisdiction of the said Colony of New Zealand, and to the owners masters and crews of the said ships.

Short Title.

2. The Short Title of this Act shall be "*The Merchant Shipping Act, 1854, Adoption Act.*"

Customs.

No. XL.

AN ACT to regulate the Collection and Management of
the Revenue of Customs. [4th August, 1858.]

CUSTOMS.

WHEREAS it is expedient that better provision be made for
the collection and management of the revenue of Customs,
and for all matters relating to such collection and management :

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New
Zealand in Parliament assembled, and by the authority of the same,
as follows :—

As to the appointment of officers of Customs, ports, &c. :

*Appointment of offi-
cers, their duties &c.
Commissioner and
subordinate officers
to be appointed by
Governor.*

1. It shall be lawful for the Governor, in the name and on behalf
of Her Majesty, from time to time to appoint and remove a Superior
Officer of Customs, who shall have the control and direction of all
other officers and persons employed in or about the collection and
management of the revenue of Customs, and shall be styled "Com-
missioner of Customs;" and also in like manner from time to time to
appoint and remove, or to depute to the Commissioner the power to
appoint and remove, officers and persons subordinate to the Com-
missioner to collect and manage the Customs revenue, and to perform
the several duties incident to and connected with the collection and
management thereof.

2. It shall be lawful for the Commissioner from time to time, by
writing under his hand, to delegate all or any of the powers and duties
(except this present power of delegation) exercisable or to be dis-
charged by him under this Act in relation to the collection and
management of the revenue of Customs of any district to be defined in
the instrument of delegation, or to any offence against this or any
other Act relating to the Customs committed or prosecuted, or to any
penalty or forfeiture incurred within such district, or otherwise relating
to the business of the Customs within such district, to any person or
persons whomsoever; and every such delegation may be either absolute
or conditional or restricted and for any period whatsoever, and shall be
revocable at the pleasure of the Commissioner; and every provision of
this Act relating to the Commissioner (except this present provision)
shall as regards the district comprised in any such instrument of dele-
gation, but so far only as may consist with the provisions of such
instrument, be deemed to apply to the deputy or deputies constituted
by such instrument.

*Commissioner may
delegate his powers
in any district.*

3. Every person employed on any duty or service relating to the
Customs or to trade or navigation by the orders or with the concurrence
of the Commissioner (whether previously or subsequently expressed),
shall be deemed to be the officer for that duty or service; and every
act required by law to be done by or with any particular officer nomi-
nated for such purpose, if done by or with any person appointed to act
for such particular officer, shall be deemed to be done by or with such
particular officer; and every act required by law to be done at any
particular place within any port, if done at any place within such port
appointed by the Commissioner for such purpose, shall be deemed to
be done at the particular place so required by law; and all commissions
deputations and appointments granted to any officer of the Customs,
and in force at the commencement of this Act, shall continue in force
as if the same had been granted under the authority of this Act; and
all bonds or other securities which shall have been given by or for any
such officers and their respective sureties, for good conduct or other-
wise, shall remain in full force.

*Persons actually em-
ployed on particular
services to be deemed
the proper officers for
such services.*

*Existing appoint-
ments and securities
to remain in force.*

Customs.

Officers taking unauthorized gratuities to be dismissed.

4. If any officer, clerk, or other person acting in any office or employment in or belonging to the Customs shall accept any fee perquisite gratuity or reward, whether pecuniary or otherwise, directly or indirectly, from any person (not being a person appointed to some office of the Customs), on account of anything done or omitted to be done by him in or in any way relating to his said office or employment, except such as he shall receive under permission of the Governor or of the Commissioner, such officer, clerk, or other person so offending shall, on proof thereof to the satisfaction of the Commissioner, be dismissed from his office.

Declaration on admission to office.

5. Every person who shall be appointed to any office or employment in the Customs under the control and direction of the Commissioner shall on his admission thereto make the following declaration :—

I, A.B., do declare that I will be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge and inspection in the service of Her Majesty's Customs, and that I will not require take or receive any fee perquisite gratuity or reward, whether pecuniary or of any sort or description whatever, either directly or indirectly, for any service act duty matter or thing done or performed or to be done or performed in the execution or discharge of any of the duties of my office or employment on any account whatever, other than my salary and what is or shall be allowed me by law or by any special order of the Governor or of the Commissioner of Customs.

Hours of attendance generally and for particular duties.

6. The Governor may from time to time appoint the hours of general attendance of the officers of Customs and of other persons in the Customs service at their proper offices and places of employment; and the Commissioner may appoint the times during such hours at which any particular parts of the duties of any such officers and other persons shall be performed, and at which all or any of the offices sheds and warehouses shall be opened and closed.

Holidays.

7. No day shall be kept as a public holiday by the Customs Department except every Christmas Day, New Year's Day, and Good Friday, and such other days as shall be appointed to be kept as public fast days or holidays by the Governor's Proclamation; and such days as shall have been or may be appointed for the celebration of the birthdays of Her Majesty and her successors; and in each port and sub-port such holiday (if any) as the Governor shall permit to be kept by the department at such port or sub-port as the anniversary of the foundation of the Colony or of any particular settlement.

Exemption from public offices.

8. No commissioner, officer, clerk, or other person acting in the management or collection of the Customs shall be compelled to serve in the Militia, or on any jury or inquest, or to assume the office of a mayor or constable, or to act in any municipal or other public office.

Orders of Commissioner.

9. All orders documents appointments or instruments required or authorized by law to be made or issued by the Commissioner, shall be in writing under the hand of such Commissioner.

Appointment of ports &c.

As to the appointment of ports quays warehouses sufferance-wharves landing and boarding stations :

Governor may appoint ports and quays.

10. The Governor may appoint any port or sub-port and declare the limits thereof, and appoint proper places within the same to be legal quays or wharves for the lading and unlading of goods, and declare the bounds and extent of any such quays or wharves, or annul the limits of any port sub-port or legal quay wharf or landing-place already appointed or to be hereafter set out and appointed, and declare the

Customs.

the same to be no longer a port or sub-port, or legal quay wharf or landing place, or alter or vary the names bounds and limits thereof; and all ports and the respective limits thereof, and all legal quays wharves or landing-places appointed set out or existing as such at the time of the commencement of this Act, shall continue to be such ports quays and landing-places until annulled varied or altered; and any port or quay or landing-place or the limits thereof now annulled or altered, shall continue so annulled or altered until otherwise varied or altered as aforesaid.

11. The Governor may from time to time appoint the ports which shall be warehousing ports for the purposes of this Act, and the Commissioner may by his order from time to time approve and appoint warehouses or places of security in such ports, and direct in what different parts or divisions of such warehouses or places, and in what manner, any goods and what sort of goods may and may only be warehoused kept and secured without payment of duty upon the first entry thereof; and may approve of any premises as bonded sugar-houses for the refining of sugar for exportation, and may direct in what cases and with what sureties and to what amount security by bond shall be required in respect of any warehouse so approved or appointed as aforesaid, or in respect of any goods deposited therein or for the security of the duties due thereon, or in respect of any bonded sugar-house so approved as aforesaid, or in respect of any sugar removed thereto, or the due refinement and return thereof to the warehouse, or the exportation thereof within such period as the Commissioner shall direct, or for security of the duties due on such sugar; and the Commissioner may also fix the amount of rent and charges for receiving and delivery which shall be payable in respect of any goods deposited or secured in any of the Queen's warehouses, and all such sums shall be paid received and appropriated as duties of Customs.

Governor may
appoint warehousing
ports and Commis-
sioner warehouses.

12. The proprietor or occupier of every warehouse, or some one on his behalf, shall give or procure to be given security by bond, with two sufficient sureties, or such other security as the Commissioner may approve, for the payment of the full duties of importation which may become payable on all such goods as shall at any time be warehoused therein; and no goods shall be warehoused in any such warehouse after the commencement of this Act until such security shall have been given.

Warehouse-keeper to
give general security.

13. All existing appointments and approvals of warehouses for the warehousing of goods, in respect of which security shall have been given by the proprietor or occupier thereof as aforesaid, shall continue in force as if the same had been made under the authority of this Act, unless and until the same shall be revoked as hereinafter provided. All existing bonds given in respect of any goods warehoused or entered to be warehoused in any warehouse prior to the commencement of this Act shall continue in force as if given under this Act: Provided that upon entry of any goods to be warehoused, the importer of such goods may, at the discretion of the Collector or other chief officer of Customs, be required to give bond, with two sufficient sureties, to be approved of by the Collector or other chief officer of Customs, in double the amount of duties payable on such goods, with condition for the safe depositing of such goods in the warehouse mentioned in such entry, and for the payment of all duties of importation which may become payable upon such goods, and with further condition that no part thereof shall be taken out of such warehouse until cleared thence upon due entry and payment of duty or upon due entry for exportation; and if after such bond shall have been given the goods or any part thereof shall be sold or disposed of so that the original bonder shall be no longer interested

Existing appoint-
ments and bonds to
continue in force.

Importers' bonds
dispensed with.

in

Customs.

in or have control over the same, it shall be lawful for the Collector or other chief officer of Customs to admit fresh security, to be given by the bond of the new proprietor or other person having control over such goods, with two sufficient sureties, and to cancel the bond given by the original bonder of such goods, or to exonerate him to the extent of the fresh security so given.

Commissioner may
appoint boarding
stations and
sufferance wharves.

14. The Commissioner may from time to time, by order, appoint stations or places for ships arriving at or departing from any port or place to bring to for the boarding or landing of officers of the Customs; and may also appoint places to be sufferance wharves for the lading and unloading of goods by sufferance in such cases, under such restrictions and in such manner as he shall see fit; and may also direct at what particular part or parts of any harbour dock quay or other place in any port ships laden with any particular cargo shall moor and discharge such cargo; and the Commissioner, or the Collector of any port under the directions of such Commissioner, may station officers on board any ship while within the limits of any port.

Power to revoke
orders.

15. The Governor or the Commissioner, as the case may be, by order, may from time to time revoke any former order, or make any alteration in or addition to any former order made as aforesaid by them respectively.

Licensing agents.

As to the licensing of agents for the transaction of business relating to the entry and clearance of ships goods and baggage, and of lightermen for the carriage of goods to and from importing and exporting ships:

Commissioner may
appoint ports at
which agents must
be licensed.

16. The Commissioner may appoint and declare in what ports or places persons acting as agents in the entrance or clearance of any ships or of any goods or baggage or any business relating thereto, shall be required to be duly licensed for that purpose, and may from time to time revoke such appointments and make others in lieu thereof when and as he may see fit, and every such appointment shall be published in the *Government Gazette*; and the Commissioner may and he is hereby authorized to grant licenses in such form and manner and to such persons as he shall think fit, to act as agents for transacting business which shall relate to the entry or clearance of any ship or of any goods or of any baggage in any of the ports or places in respect of which such appointments as aforesaid shall be made, so long as such appointments as aforesaid shall remain in force, and by an order may cancel or revoke any such license already or hereafter to be granted to any such person for fraud or misconduct, and a copy of such order stating the cause of dismissal shall be delivered to such person or to his clerk or at his usual place of abode or business; and the Commissioner on granting any such license is hereby empowered to require a bond to be given by every person to whom such license shall be granted, with two sufficient sureties in the sum of two hundred pounds, for the faithful and incorrupt conduct of such person and of his clerks acting for him, both as regards the Customs and his employers; and all licenses heretofore duly and legally granted to any persons to act as agents shall be valid until revoked, and all bonds taken for the faithful and incorrupt conduct of such persons shall remain in full force: Provided always that any person or any persons in co-partnership may, with the approval of the Commissioner, appoint a clerk or servant to transact such business on his or their behalf, and the name residence and date of appointment of such clerk or servant shall thereupon be indorsed on the license of such person or persons, and shall be signed by him or them in the presence of and attested by the Collector at the port for which such license is granted; and all such appointments shall

Commissioner may
license agents.

Customs.

shall be recorded in a register to be kept at the Custom House for that purpose; and no person shall act as such clerk or servant unless so appointed and his appointment indorsed and recorded as aforesaid, nor act for or on behalf of any other than the person or persons so appointing him; and every such appointment may be revoked by the Commissioner at any time by an order.

17. The Commissioner may order and direct in what ports or places goods cleared for drawback or from the warehouse shall be carried or water-borne to be put on board any ship for exportation, or goods carried or water-borne from any importing ship to or to be landed at any wharf quay or other place shall be so carried or water-borne only by persons authorized for that purpose by license of the Commissioner, and may revoke any such orders or directions or make others in lieu thereof when and as he may deem expedient; and the Commissioner may grant such licenses in such form and manner and to such persons as he may deem proper, and may revoke the same when and as he shall think fit; and before granting any such license the Commissioner may require such security by bond for the faithful and incorrupt conduct of such person as he shall deem necessary.

Commissioner may appoint ports at which lightermen must be licensed, and may grant such licenses.

As to the collection and management of duties of Customs drawbacks and allowances:

Collection of duties &c.

18. All duties of Customs or other duties under the management collection or control of the Commissioner, drawbacks and allowances now imposed and allowed or which may hereafter be imposed or allowed by law, shall be under the management of the Commissioner, and shall be ascertained raised levied collected paid recovered allowed and applied or appropriated under the provisions of the laws for the time being in force relating thereto; and all duties and drawbacks imposed and allowed according to any specific quantity or any specified value shall be deemed to apply in the same proportion to any greater or less quantity or value, and shall be paid and received in currency and according to standard weights and measures.

Duties &c. to be under management of the Commissioner, and paid in currency and according to standard weights and measures.

19. In all cases where any new duties of Customs or other duties under the management collection or control of the Commissioner are or may be imposed by any Act or Acts in lieu of any former duties payable at the time of the commencement of such Act or Acts, such former duties shall be and continue payable until such new duties imposed in lieu thereof shall become chargeable, save and except in cases where the Act or Acts imposing such new duties shall otherwise provide; and all moneys arising from any duties of Customs or any arrears thereof on account of any goods whatever imported into or exported from the Colony under any former Act, although computed under such former Act, and whether secured by bond or otherwise, shall be levied and appropriated in the same manner as if the same had been made payable by this Act or any other Act in force for the time being; and all drawbacks or allowances payable under any former Act shall be paid or allowed under this or such other Acts as may be in force for the time being.

On changes of tariff, former duties to continue until new duties become chargeable.

20. All goods whatsoever which now are or may be deposited in any warehouse without payment of duty upon the first importation thereof, or which may be imported and on board any ship, shall upon being entered for home consumption be subject to such and the like duties as may at the time of passing such entry be due and payable on the like sort of goods under any Act or Acts passed for imposing any duty or duties of Customs which shall or may be in force at the time of passing such entry, save and except in cases where special provision shall be made in any such Act or Acts to the contrary.

Goods in warehouse to be subject to duties chargeable at time of entry for home consumption.

Customs.

Disputes between importers and officers.

In case of dispute importer to deposit full amount of duty demanded, and bring action to try the question within three months.

If no action brought, deposit to be retained as duty. Provision where question determined against the revenue and as to costs.

As to disputes and controversies between the importer of goods and the officers of Customs as to the duty due on such goods :

21. If any dispute shall arise as to any duty payable in respect of any goods imported into the Colony and admissible for home consumption, the importer or consignee or his agent shall deposit in the hands of the Collector at the port of importation the amount of duty demanded by such Collector, and such deposit shall be deemed and taken to be the proper duty payable in respect of such goods unless an action or suit shall be brought or commenced by the importer of such goods, within three months from the time of making such deposit, in the Supreme Court against such Collector for the purpose of ascertaining whether any and what amount of duty is due and payable upon such goods ; and upon payment of such deposit, and passing a proper entry for such goods by the importer, consignee, or agent, such Collector shall thereupon cause the said goods to be delivered in virtue of such entry.

22. In case no such action shall be brought within the time hereinbefore limited for that purpose, such deposit shall be applied to the use of Her Majesty in the same manner as if the same had been originally paid and received as the duty due and payable on such goods ; and in case such action shall be so brought, and it shall thereupon be determined by due course of law that the duty so demanded and deposited was not the proper duty due and payable upon such goods, but that a less duty was payable thereon, then the difference between the sum so deposited and the duty so found to be due, or the whole sum so deposited, as the case may require, shall forthwith be returned to such importer, with interest thereon after the rate of eight pounds per centum per annum for the period during which the sum so paid or returned shall have been so deposited ; and such payment shall be accepted by such importer in satisfaction of all claims in respect of the importation of such goods and the duty payable thereon, and of all or any damages and expenses incident thereto, except costs of suit as next hereinafter provided, that is to say,—Provided always that the party to such action or suit in whose favour a verdict shall be given shall be entitled to his costs of suit, as between party and party, against the other party to such action or suit, such costs to be taxed in the usual way ; and if such verdict shall be given against the plaintiff in such action or suit, the costs so taxed as aforesaid shall be recoverable and recovered against the plaintiff in the same manner as costs in an ordinary action or suit in such Court are recoverable by law ; but if such verdict shall be given against the Collector as defendant in such suit, the costs so taxed as aforesaid shall be paid by the Commissioner out of the revenue of Customs.

Investigation of complaints and disputes.

Governor empowered to issue Commissions of Inquiry.

As to the conduct of inquiries touching matters relating to the Customs :

23. It shall be lawful for the Governor from time to time, whenever he shall see occasion so to do, by Commission under the Great Seal of the Colony, to appoint any person or persons to make inquiry into the conduct of any officer of Customs, or into any dispute or question, or alleged offence or irregularity, withdrawal of agent's license, or other matter whatsoever relative to the business of the Customs, and every such Commission at pleasure to revoke ; and every such Commission may either be limited to some specified subject or may give cognizance of all such matters as may from time to time be referred by the Governor for investigation thereunder, and may be subject to any restrictions whatever.

Customs.

24. In every case the Commissioner or Commissioners so appointed, or such minimum number of them as shall be specified in the Commission of Appointment, shall constitute a Court of Inquiry, which shall summon to appear before it all officers of Customs and other persons concerned in the matter to be investigated, and may summon witnesses to give evidence touching the same matter, and may examine witnesses upon oath, and may require the production of all books papers deeds and documents of which any Court of Law might compel the production; and if any person shall wilfully insult the Court whilst sitting, or any member of it whilst present at or coming to or returning from a sitting thereof, or shall wilfully interrupt the proceedings of the Court, or otherwise misbehave during its sitting, it shall be lawful for the Court, by warrant under the hand of any one or more of the Commissioners, to commit the person so offending to any common gaol for any term not exceeding one calendar month.

Commission of Inquiry to constitute a Court which shall summon parties, and may summon witnesses and take evidence on oath.

25. The sittings of all such Commissioners of Inquiry shall be public, and their practice and proceedings in conformity as nearly as the case may admit with the practice and proceedings of Justices of the Peace on examinations had before them; and, subject as aforesaid, all such Commissioners shall conform, in the conduct of inquiries committed to them, to such special instructions as may be conveyed or referred to by their respective Commissions, and to such general regulations, if any, as may be made from time to time by the Governor for the conduct of such inquiries.

Procedure on Commission of Inquiry.

26. Every person summoned to attend as a witness upon any such Commission of Inquiry, who shall refuse or neglect without sufficient cause to appear according to the exigency of the summons, or duly to produce any books papers writings or documents in his possession or power required by such summons to be produced, and also every person present at any sitting of such Commissioner or Commissioners of Inquiry who, being required to give evidence, shall refuse to be sworn or to give evidence, shall for every such default forfeit the sum of twenty pounds.

Penalty for refusal to attend and give evidence or produce documents before Commission of Inquiry.

27. Every person wilfully and corruptly giving false evidence upon oath before any such Commissioner or Commissioners of Inquiry shall be deemed guilty of perjury, and shall be kept in penal servitude for a term not exceeding four years.

Persons giving false evidence on Commission of Inquiry guilty of perjury.

28. Every person summoned as a witness to appear before any such Commissioner or Commissioners of Inquiry shall receive an allowance for expenses and loss of time according to the scale for the time being of allowances to witnesses attending the Supreme Court in criminal cases; such allowances to be paid out of the revenue of Customs.

Allowances to witnesses.

29. All such Commissioners shall with all convenient speed report to the Governor their proceedings, and the evidence and arguments, if any, adduced before them, together with their opinion or respective opinions on the matter investigated; and it shall be lawful for the Governor to remit any matter or question to any such Commissioners for further investigation.

Commissioners to report to Governor.

As to the importation of prohibition entry examination landing and warehousing of goods:

Importation and warehousing.

30. It shall be lawful to import any goods which are not by this Act or any law in force at the time of importation thereof prohibited to be imported, and to warehouse under the laws in force for the warehousing of goods, except as hereinafter provided, in warehouses duly approved for the warehousing of goods without payment of duty on the first entry thereof, any goods subject to duties of Customs the importation

Importation and prohibition.

Customs.

ation and warehousing whereof is not prohibited by any law in force at the time of such importation.

Time of importation and arrival defined.

31. If upon the first levying or repealing of any duty, or the first permitting or prohibiting of any importation, or at any other time or for any of the purposes of this or any Act relating to the Customs, it shall become necessary to determine the precise time at which an importation of any goods shall be deemed to have had effect, such time shall be deemed to be the time at which the ship importing such goods had actually come within the limits of the port at which such ship shall in due course be reported and such goods be discharged; and if any question shall arise, upon the arrival of any ship, in respect of any charge or allowance upon such ship, exclusive of cargo, the time of such arrival shall be deemed to be the time at which the report of such ship shall have been or ought to have been made.

Prohibition and restrictions.

32. If any goods enumerated or described in the following table of prohibitions shall be imported or brought into New Zealand, then and in every such case such goods shall be forfeited, and shall be destroyed or otherwise disposed of as the Commissioner may direct:—

A TABLE OF PROHIBITIONS INWARDS.

Goods absolutely Prohibited to be Imported.

Books wherein the copyright shall be first subsisting first composed or written or printed in the United Kingdom or in New Zealand, and printed or reprinted in any other part of the world, as to which the proprietor of such copyright or his agent shall have given to the Commissioner a notice in writing that such copyright subsists, such notice also stating when such copyright will expire.

Coin, viz., false money or counterfeit sterling.

Coin of the realm, or of any British possession, or any money purporting to be such, not being of the established standard in weight or fineness.

Indecent or obscene prints paintings books cards lithographic or other engravings or other indecent or obscene articles.

All such infected cattle sheep or other animals, and hides skins horns hoofs or any other part of cattle or other animals as the Governor in Council shall at any time prohibit in order to prevent any infectious or contagious distemper or disease.

Spirits (not being perfumed or medicinal spirits), unless in ships of forty tons burden at least, and in casks or other vessels capable of containing liquids, each of such casks or other vessels being of the size or content of fourteen gallons at the least, and duly reported, or in glass bottles or stone bottles not exceeding the size of three pint bottles, and being really part of the cargo of the importing ship and duly reported.

Snuff or tobacco, unless in ships of forty tons burden at least, and in whole and complete packages, each containing not less than sixty pounds net weight, and not containing any other goods, and unless into such ports as are or may be approved by the Governor for the importation of tobacco.

Cigars, unless in ships of forty tons burden at least, and in packages containing not less than sixty pounds net weight or not less than ten thousand in number each, and not containing any other goods, and unless into such ports as are or may be approved, as last aforesaid.

Opium, unless in ships of forty tons burden at least, and in whole

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whole and complete packages, each containing not less than forty-five pounds net weight, and not containing any other goods, and unless into such ports as are or may be approved by the Governor for the importation and warehousing of opium.

33. The importation of arms ammunition gunpowder or any other goods may be prohibited by Proclamation of the Governor in Council, and if any goods so prohibited be imported they shall be forfeited.

Arms &c may be prohibited.

34. There shall be publicly exposed at the several ports in the Colony lists of all books wherein the copyright shall be subsisting and as to which the proprietor of such copyright or his agent shall have given notice in writing that such copyright exists, stating in such notice when such copyright expires.

Lists of prohibited books to be exposed.

35. If any ship coming into the Colony shall not come as quickly up to the proper place of mooring or unloading as the nature of the port will admit, without touching at any other place, and in proceeding to such proper place shall not bring to at the stations appointed by the Commissioner for the boarding of ships by the officers of the Customs, or if after arrival at such place such ship shall remove from such place except directly to some other proper place of mooring or unloading and with the knowledge of the proper officer of the Customs, or if the master of any ship on board of which any officer is stationed neglect or refuse to provide every such officer sufficient room under the deck in some part of the cabin or steerage or passenger deck for his bed or hammock, the master of such vessel shall forfeit the sum of twenty pounds.

Ship to come quickly to place of unloading, bring to at boarding stations, and receive officers on board.

Accommodation for officer.

36. The proper officers of the Customs may board any ship arriving at any port in the Colony, and freely stay on board until all the goods laden therein shall be duly delivered from the same, and shall have free access to every part of the ship, with power to fasten down hatchways or entrances to the hold, and to mark any goods before landing, and to lock up seal mark or otherwise secure any goods on board such ship; and if any place or any box or chest be locked and the keys be withheld, such officers, if they be of a degree superior to that of tidewaiter, may open any such place box or chest in the best manner in their power, and if they be tidewaiters or only of that degree they shall send for their superior officer, who may open or cause to be opened any such place box or chest in the best manner in his power; and if any goods be found concealed on board any such ship they shall be forfeited; and if the officers shall place any lock mark or seal upon any goods on board, and such lock mark or seal be wilfully opened altered or broken before due delivery of such goods, or if any of such goods be secretly conveyed away, or if the hatchways or entrances to the hold, after having been fastened down by the officer, be opened, the master of such ship shall forfeit the sum of one hundred pounds; and if the proper officer of the Customs shall place any lock mark or seal upon any stores on board any ship or vessel arriving in the Colony, or upon any package whatever at any time, and such lock mark or seal be wilfully opened altered or broken, or if any such stores be secretly conveyed away, either while the ship remains in the port at which she shall have so arrived, or before she shall have arrived at any other port in the Colony to which she may then be about to proceed, the master of such ship shall forfeit the sum of twenty pounds.

Officer to have access to cargo, with power to secure hatches and open mark and seal packages.

37. No goods except live animals and fresh fish (which may be landed before report or entry) shall be unshipped from any ship arriving from any parts beyond the seas or be landed or put on shore

Goods to be landed only at legal times and places.

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on Sundays or holidays, nor shall they be so unshipped landed or put on shore on any day except during such hours as may for the several ports and landing-places be from time to time appointed by the Commissioner, nor shall any goods be unshipped or landed except in the presence or with the authority of the proper officer of the Customs, nor shall they be so landed except at some legal quay wharf or other place duly appointed for the landing of goods, nor shall any such goods, after having been unshipped or put into any boat or craft to be landed, be transhipped or removed into any other boat or craft previously to their being landed, without the permission of the proper officer of the Customs; and if any such goods shall be unshipped landed transhipped or removed contrary hereto the same shall be forfeited; and if any goods shall be unshipped or removed from any importing ship for the purpose of being landed after due entry thereof, such goods shall be forthwith removed to and landed at the wharf quay or other place at which the same are intended to be landed; and if such goods are not so removed and landed the same shall be forfeited, together with the barge lighter boat or other vessel employed in removing the same: Provided that in default of any general or special appointment by the Commissioner to the contrary, the times for unshipping and landing goods on days other than Sundays and holidays shall be from eight o'clock in the morning until four o'clock in the afternoon on and from the first day of October until the first day of April, and from nine o'clock in the morning until four o'clock in the afternoon on and from the first day of April until the first day of October, and on Saturday no goods shall be landed after twelve o'clock at noon without the permission of the Collector.

Manifest, report &c.

As to the manifest and report of the cargo of merchant ships and of ships in commission bringing merchandise from parts beyond the seas :

Master to produce manifest or other clearance.

38. If there be not on board any ship bringing merchandise to the Colony from any port or place within the British dominions such full proper and authentic manifest of the cargo or other proper clearance outwards of such ship as may be required by the laws in force at such port or place, or if any goods appearing on such manifest or clearance be not on board or duly accounted for, the master of such ship shall forfeit any sum not exceeding one hundred pounds.

Master to produce manifest.

39. The master of every such ship shall produce such manifest or other clearance as last aforesaid to any officer of Customs who may board such ship after her arrival within one league of the coast of the Colony, or within the limits of any port thereof, and who may demand the same for inspection; and any such master, being thereunto required by any such officer, shall also deliver to him a true copy of such manifest or clearance signed by the master; and if such master shall not produce such manifest or clearance, or shall not deliver such copy, being thereunto duly required, he shall forfeit and pay for every such offence any sum not exceeding fifty pounds.

Master to report within twenty-four hours after arrival.

40. The master of every ship, whether laden or in ballast, shall, within twenty-four hours after arrival from parts beyond the seas at any port in the Colony and before bulk be broken, make due report of such ship in the form contained in the First Schedule to this Act or to the same effect, and containing the several particulars indicated or required thereby, and if the cargo of such ship shall have been laden at several places, shall state the particulars of the goods laden at each of those places in the order of time in which the same were laden, and shall set opposite to such particulars in the proper column the name of the place of lading. And with respect to any ship arriving coastwise at

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at any port in the Colony with any goods therein laden at any place beyond the seas, the like report shall, within twenty-four hours after arrival of such ship, be made of such ship and goods by the master of such ship as would be required if such ship had arrived direct from parts beyond the seas.

41. If such master shall wilfully fail to make such report according to the particulars hereinbefore required, so far as the same are applicable to such ship cargo and voyage, or if the particulars or any of them contained in such report be false, such master shall forfeit the sum of one hundred pounds.

Penalty for not reporting.

42. Goods not duly reported may be detained by any officer of Customs until the same shall be so reported and the cause of the omission explained to the satisfaction of the Commissioner, who may thereupon order the said goods to be restored on such terms as he may think proper; and such goods may in the meantime, should the Commissioner deem necessary, be taken to the Queen's warehouse.

Goods not reported may be detained.

43. The captain, master, purser, or other person in charge of any ship having commission from Her Majesty or from any Foreign State, having on board any goods laden in parts beyond the seas, shall on arrival at any port in the Colony, and before any part of such goods be taken out of such ship, or when called upon so to do by any officer of the Customs, deliver an account in writing under his hand to the best of his knowledge of the quality and quantity of every package or parcel of such goods, and of the marks and numbers thereon, and of the names of the respective shippers and consignees of the same, and shall make and subscribe a declaration at the foot of such account declaring to the truth thereof, and shall also truly answer to the Collector such questions concerning such goods as shall be required of him, and on failure thereof such captain, master, purser, or other person shall forfeit the sum of one hundred pounds; and all such ships shall be liable to such searches as merchant ships are liable to, and the officers of the Customs may freely enter and go on board all such ships, and bring from thence on shore into the Queen's warehouse any goods found on board such ships as aforesaid, subject nevertheless to such regulations in respect of ships of war belonging to Her Majesty as shall from time to time be directed in that respect by the Governor.

Captain of commissioned ship to report goods.

44. The master of every ship arriving from parts beyond the seas shall at the time of making such report deliver to the Collector the manifest of the cargo of such ship (where a manifest is requisite), and also, if thereunto required, the bill of lading, or a copy thereof, for every part of the cargo laden on board, and shall answer all such questions relating to the ship cargo crew and voyage as shall be put to him by such Collector, and in case of failure or refusal to answer such questions, or to answer truly, or to produce any such manifest bill of lading or copy, or if any such manifest bill of lading or copy shall be false, or if any manifest or bill of lading be uttered or produced by any master and the goods expressed therein respectively shall not have been *bonâ fide* shipped on board such ship, or if any manifest or bill of lading uttered or produced by any master shall not have been signed by him or any such copy shall not have been received or made by him previously to his leaving the place where the goods expressed in such manifest bill of lading or copy were shipped, or if after the arrival of any ship within one league of the coast of the Colony bulk shall be broken or any alteration made in the stowage of the cargo of such ship so as to facilitate the unloading of any part of such cargo, or if any part be staved destroyed or thrown overboard, or any package be opened, unless accounted for to the satisfaction of the Commissioner, in every such case such master shall forfeit the sum of one hundred pounds.

Master to deliver manifest and bills of lading and answer questions.

45. If

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Packages reported
"contents unknown"
for re-exportation
may be opened.

45. If the contents of any package intended for exportation in the same ship, or for transshipment, shall be reported by the master as being unknown to him, the officers of the Customs may open and examine such package on board, or bring the same to the Queen's warehouse for that purpose, and if there be found in such package any goods which are prohibited to be imported, such goods shall be forfeited unless the Commissioner shall permit them to be exported.

*Entry for home
consumption.*

As to the entry of dutiable goods to be delivered for home consumption on the landing thereof from the importing ship :

Form and particulars
of entry.

46. The importer of any goods liable to duties of Customs and intended to be delivered for home use on the landing thereof from the importing ship, or his agent, shall before unshipment thereof make perfect entry of such goods by delivering to the Collector a bill of entry thereof in the form contained in the Second Schedule to this Act, or to the same effect, and containing the several particulars indicated in or required thereby ; and the particulars in such entry shall correspond with the particulars given of the same goods and packages in the report of the ship, and shall state the value of such goods, and the importer or his agent shall subscribe a declaration of the truth of such value in the form set forth at the foot of such entry.

Duties to be paid
upon entry.

47. The importer or his agent shall, immediately upon the entry of any goods entered by him to be delivered for home use, pay down any duties which may be payable upon the goods mentioned in such bill of entry to the Collector or other person authorized to receive the same, and such bill of entry, when signed by the Collector or other person, shall be transmitted to the landing-waiter, and be his warrant for the landing and delivery of such goods.

*Entry for the
warehouse.*

As to the entry of goods intended to be warehoused without payment of duty on first entry thereof :

Form and particulars
of entry.

48. The importer of any goods intended to be warehoused without payment of duty on the first entry thereof, or his agent, shall deliver to the Collector a bill of entry of such goods in the same manner and form and containing the same particulars as are hereinbefore required on the entry of goods to be delivered for home use on the landing thereof so far as the same shall be applicable, and the name and description of the warehouse in which such goods are intended to be warehoused, and the name of person in whose name they are to be so warehoused ; and such bill of entry, when signed by the Collector, shall be transmitted to the proper officer of Customs, and be the warrant for the due warehousing of such goods.

Goods entered for
but not deposited in
warehouse may be
further entered for
home consumption.

49. If after any goods shall have been duly entered and landed to be warehoused, though not actually deposited in the warehouse, the importer shall further duly enter the same or any part thereof for home use or exportation, the same may be delivered and taken for home use or exportation as the case may be.

Entry of free goods.

As to the entry of goods free of duty :

Form and particulars
of entry.

50. The importer of any goods not subject to duties of Customs, or his agent, shall deliver to the Collector a bill of entry of such goods in the same manner and form and containing the same particulars as hereinbefore required on the entry of dutiable goods so far as the same is applicable, and such bill of entry, when signed by the Collector, shall be transmitted to the proper officer, and be his warrant for the delivery of the goods mentioned therein.

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As to the entry of goods landed for examination by bill of sight, and perfecting entry thereof: *Entry by bill of sight.*

51. The importer of any goods, or his agent, if unable for want of full information to make a perfect entry of such goods, on making and subscribing a declaration to that effect before the Collector, may make an entry by bill of sight for the packages or parcels of such goods in the form contained in the Third Schedule to this Act, or to the same effect, and containing the several particulars indicated or required thereby. *Form and particular of entry.*

52. Such entry, being delivered to the Collector and signed by him, shall be the warrant for provisionally landing such goods to be examined by such importer in the presence of the proper officers; and the importer shall, within three days after the landing thereof and before the same shall be delivered, make full and perfect entry thereof by indorsing upon such bill of sight such particulars of such goods as are hereinbefore required on making perfect entry of goods, whether for payment of duty or for warehousing or for delivery free of duty, as the case may be, and to such indorsement he shall affix the date thereof, together with his signature and place of abode, and such indorsement, when signed by the Collector, shall be taken as the perfect entry for such goods. *Entry to be perfected within three days after landing.*

53. Where an entry for the landing and examination of goods for delivery on payment of duty shall be made by bill of sight, such goods shall not be delivered until perfect entry thereof shall have been made and the duties thereon paid, unless the importer or his agent shall have deposited with the proper officer of the Customs a sum of money sufficient in amount to cover the duties payable thereon, and if the sum deposited on a bill of sight shall not be equal in amount to the duties payable upon all the goods contained in any single package landed or examined thereby, no part shall be delivered until a perfect entry is made and the duties paid or deposited for the whole of the goods contained in such package. *Goods not to be delivered until duty is paid or deposit made to cover same.*

54. If full and perfect entry of any goods landed by bill of sight as aforesaid be not made within three days after the landing thereof, such goods may be taken to the Queen's warehouse by the officers of the Customs; and if the importer shall not, within one month after such landing or within such further period as the Commissioner shall in his discretion allow, make perfect entry of such goods and pay the duties thereon or on such parts as can be entered for home use, together with the charges of removal and of warehouse rent, such goods shall be sold for the payment of such duties and charges (or for exportation if they be such as cannot be entered for home use or shall not be worth the duties), and the overplus, if any, after payment of such duties and charges, or the charges if sold for exportation, shall be paid to the importer or proprietor thereof: Provided always that when entry be at any time made as and for a full and perfect entry for any goods provisionally landed by bill of sight or deposited in the Queen's warehouse as aforesaid, if such entry shall not be made in manner herein required for the due landing of the goods, the same shall be deemed to be goods landed without entry, and shall be forfeited. *If entry be not perfected within three days goods to be removed to Queen's warehouse, and if entry not perfected in a month may be sold.*

As to the entry of re-imported goods:

55. It shall be lawful to re-import into the Colony any goods which shall have been legally exported from the same, and to enter such goods by bill of store referring to the entry outwards and exportation thereof: Provided the property in such goods be proved to the satisfaction of the Commissioner to continue in the same person *Entry of re-imported goods. Particulars of entry by bill of store.*

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by whom or on whose account the same were exported. And if the goods so returned be foreign goods which had before been legally imported into the Colony, the same duties shall be payable thereon as would at the time of such reimportation be payable on the like goods under the same circumstances of importation as those under which the goods had been originally imported, or such goods may be warehoused as the like goods may be warehoused upon a first importation thereof.

Entries generally.

As to entries of goods in any of the foregoing cases :

Bills of entry to be in triplicate.

56. Every bill of entry shall be made out signed and delivered in triplicate or, if required by the Collector or other proper officer, in any greater number of parts or copies; but any sum or number required to be expressed in words at length need be so expressed in one part or copy only, and in the others may be expressed in figures.

Penalty for not duly entering goods.

57. Every importer, agent, or other person entering any goods, who shall wilfully fail to comply with the foregoing regulations so far as they are respectively applicable to the goods so entered by him, shall forfeit and pay the sum of twenty pounds.

Description to be according to tariff.

58. No entry or warrant for the landing of any goods shall be deemed valid unless the goods shall have been properly described in such entry by the denominations and with the characters and circumstances according to which such goods are charged with duty or may be imported.

Goods concealed or conveyed from ship or warehouse without due entry to be forfeited.

59. If any package or parcel shall have been landed by or in pursuance of any entry, and any goods or other things shall be found in such package or parcel concealed in any way or packed to deceive the officers, such package or parcel and the contents thereof shall be forfeited, and if any goods be taken or delivered out of any ship or out of any warehouse not having been duly entered, the same shall be forfeited: Provided always that no entry shall be required in respect of the baggage of passengers which may be examined landed and delivered under such regulations as the Commissioner may direct; but if any prohibited or uncustomed goods shall be found concealed therein, either before or after landing, the same shall be forfeited, together with the other contents of the package containing the same.

Passengers' baggage exempt.

Surplus stores may be entered as merchandise.

60. The proper officer may permit any surplus stores, not being merchandise nor by him deemed excessive in quantity, to be entered for private use under and subject to the same duties rules and regulations as the like sort of goods would be subject to on importation as merchandise, or permit the master, owner, purser, or other officer of any ship, or any passenger of such ship, to whom any surplus stores belong, to enter and warehouse such surplus stores for future use as ship's stores although the same could not be legally imported by way of merchandise.

Penalty for making entries without authority.

61. If at any port where persons acting as agents for transacting any business relating to the clearance of any ship or goods or baggage shall be required to be licensed, any person not so licensed or not being the duly appointed clerk to any person so licensed shall act as such agent or clerk, or if any person, whether so licensed or appointed or not, shall make or cause to be made entry of any goods without being duly authorized for that purpose by the proprietor or consignee of such goods, every such person shall for every such offence forfeit a sum not exceeding fifty pounds; but no such penalty shall extend to any person authorized by law to pass entries, nor to any merchant, importer, or consignee of any goods acting himself in respect thereof, nor to any clerk or servant exclusively employed by him, or by any such persons in co-partnership.

62. Whenever

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62. Whenever any person shall make application to any officer of the Customs to transact any business on behalf of any other person, such officer may require of the person so applying to produce a written authority from the person on whose behalf such application shall be made, and in default of the production of such authority refuse to transact such business.

Authority to enter goods may be demanded by officers.

63. The officer of Customs may on the entry of any goods, or at any time afterwards, take samples of such goods for examination, or for ascertaining the duties payable on such goods, or for such other purpose as the Commissioner may deem necessary, and such samples shall be disposed of and accounted for in such manner as the Commissioner may direct.

Samples may be taken.

64. The Commissioner may permit the entry of goods in such form and manner and on such conditions as he may direct to meet the exigency of any case to which the general laws and regulations may not be applicable.

Commissioner may permit special entries.

As to the time within which goods shall be entered and landed after the arrival of the importing ship :

Time for entry.

65. If the importer of any goods shall not within twenty-one days (exclusive of Sundays and holidays) after the arrival of the ship importing the same, if such ship be above two hundred tons burden, and within fourteen days exclusive as aforesaid if such ship be of or under two hundred tons burden, or in each of the said cases within such further period as the Commissioner shall direct, make perfect entry or entry by bill of sight of such goods, or if having made such entry he shall not land such goods within the said respective periods according to the burden of the importing ship, or within such further period as the Commissioner shall direct, the officers of the Customs may convey such goods to the Queen's warehouse. And whenever the cargo of any ships shall have been discharged within the limited time, with the exception only of a small quantity of goods, the officers of the Customs may forthwith convey such remaining goods to the Queen's warehouse; and also at any time after the arrival of such ship may convey any small packages or parcels of goods therein to the Queen's warehouse, there to remain for due entry during the remainder of such limited time. And if the duties due upon any goods so conveyed to the Queen's warehouse shall not be paid within three months afterwards, or within such further period as the Commissioner may direct, together with all charges of removal and warehouse rent, such goods may be sold and the produce thereof applied, first, to the payment of charges and duties, next, of freight, and the overplus, if any, shall be paid to the proprietor of the goods on his application for the same; but if such goods or any of them shall be of a perishable nature, the Commissioner may forthwith direct the sale thereof and apply the proceeds in like manner: Provided always that for this purpose, if the importing ship and goods be liable to the performance of quarantine, the time for entry and landing of such goods shall be computed from the time at which such ship and goods shall have been released from quarantine: Provided also that if any period after the arrival or report of any ship is specified in the bills of lading for the discharge of her cargo or any part thereof, and the importer, owner, or consignee of such goods, or his agent, shall neglect to enter and land the same within such period at any port or place approved by the Commissioner, the master or owner of such ship may immediately on the expiration of such period enter and land such goods.

Goods to be entered and landed within a limited time.

Master may enter goods unclaimed by consignees.

66. Whenever any goods shall remain on board any importing ship beyond the period hereinbefore limited for the discharge of such vessel,

Ship may be detained for expenses of guarding unentered goods.

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vessel, or beyond such further period as the Commissioner may allow, such ship may be detained by the proper officer of Customs until all expenses of watching or guarding such goods beyond such period or extended period, if any, allowed as aforesaid, not exceeding ten shillings per diem, and of removing the goods or any of them to the Queen's warehouse, in case the officers shall so remove them, be paid.

Abatement for damage.

As to goods upon which any abatement or remission of duty may be claimed :

Claim to be made on first examination.

67. No claim for an abatement of duty in respect of any goods imported into the Colony shall be allowed on account of damage on the voyage or by wreck unless such claim shall be made on the first examination thereof, and in such manner and form as the Commissioner shall direct, nor unless it shall be proved to the satisfaction of the Commissioner or Collector that such damage was sustained after such goods had been shipped in the importing ship and before the landing thereof in the Colony ; and all goods derelict jetsam flotsam and wreck brought or coming into the Colony, and all droits of Admiralty sold therein, shall at all times be subject to the same duties as goods of the like kind on importation into the Colony are subject to.

Wrecked goods.

Tobacco for sheepwash.

68. At such time and place and under such regulations conditions and restrictions as the Commissioner shall from time to time require and direct, it shall be lawful for the importer or proprietor of any tobacco to soak the same on landing thereof from the importing ship, or on the delivery thereof from the warehouse, in turpentine oil of tar or other fluid, in the presence of some officer of Customs, so that the same shall and may, to the satisfaction of the Commissioner or of such officer, be effectually rendered unfit and useless for human consumption, and for every other purpose except that of sheep-dressing.

Unshipping landing and examination.

As to the unshipping landing examination warehousing and custody of goods :

Unshipping &c. to be at expense of importer.

69. The unshipping carrying and landing of all goods and bringing them to the proper place for examination, the weighing putting into the scales opening unpacking repacking bulking sorting lotting marking and numbering the same, the piling or placing the same in such manner as the Collector may deem necessary to enable the officers to measure and take account of the same, and the soaking of tobacco as aforesaid where such operations respectively are necessary or permitted, and also the removing goods to and placing the same in the proper place of deposit until duly delivered, shall be performed by or at the expense of the importer or proprietor.

Goods removed without authority to be forfeited.

70. If any goods shall be removed from any ship quay wharf or other place previously to the examination thereof by the proper officer of Customs, unless under the care and authority of such officer, or if any goods entered to be warehoused or to be re-warehoused shall be carried into the warehouse unless with the authority or under the care of the proper officer of Customs, and in such manner by such persons within such time and by such roads or ways as such officer shall direct, such goods shall be forfeited.

Landing-waiter to take account of goods landed.

71. Upon the entry and landing of any goods to be warehoused, or within such period as the Commissioner shall direct with respect to the same or any of them, the landing-waiter or other officer of Customs shall take a particular account of such goods at the quay or wharf at which they shall be so landed, or in the warehouse if they be goods of which the account is permitted to be taken in the warehouse, and shall enter in a book prepared for that purpose, containing the name of the import ship and of the person in whose name they are entered, the

marks

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marks numbers and contents of each such package, the description of the goods, and the warehouse or place in the warehouse in which the same shall be deposited; and when the same shall have been so deposited with the authority of such officer he shall certify that the entry and warehousing of such goods is complete, and such goods shall from that time be considered goods warehoused; and if any such goods shall be delivered withheld or removed from the proper place of examination before the same shall have been duly examined and certified by such officer, such goods shall be deemed to be goods not duly entered or warehoused and shall be forfeited.

72. The account of the goods so taken as aforesaid shall be the account upon which the duties payable upon such goods shall be ascertained when the same shall ultimately come to be delivered upon due entry for that purpose; and the same shall be entered and the full duties due thereon be paid according to the quantity taken in such account without any abatement for any deficiency except as hereinafter provided.

Duty to be paid according to such account.

73. All goods warehoused shall be deposited in the packages in which the same shall have been imported, except as to such goods as are permitted to be skipped on the quay or bulked sorted lotted packed or re-packed in the warehouse after the landing thereof, in which case they shall be deposited in the packages in which the same shall be when the account thereof is taken by the proper officer; and if such goods are not so deposited, or if any alteration shall afterwards be made in the goods so deposited or in the packing thereof in the warehouse, or if the same shall be removed from the room in the warehouse in which the same are deposited, without the presence or sanction of the proper officers, except for delivery under the proper warrant order or authority for that purpose, they shall be forfeited.

Warehoused goods to be deposited in original packages.

74. The Commissioner may direct what goods may be skipped on the quay, or bulked sorted lotted packed or re-packed, and may determine in respect of what goods the account may be taken in any warehouse approved by him for that purpose, and within what time after the landing thereof, and under what regulations.

Commissioner may direct what goods may be bulked &c.

75. If the occupier of any warehouse shall neglect to stow the goods warehoused therein so that easy access may be had to every package and parcel thereof, he shall for every such neglect forfeit the sum of five pounds.

Penalty on warehouse-keeper for neglect to stow goods properly.

76. If the occupier of any warehouse shall not produce to any officer of the Customs, on his request, any goods deposited in such warehouse which have not been duly cleared and delivered therefrom, such occupier shall for every such neglect forfeit the sum of five pounds in respect of every package or parcel not so produced, besides the duties due thereon.

Penalty on warehouse-keeper for neglect to produce goods.

77. If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, they shall be forfeited.

Goods improperly warehoused or concealed to be forfeited.

78. If the importer or proprietor of any goods warehoused, or any person in his employ, shall clandestinely open the warehouse, or, except in the presence of the proper officer of Customs acting in the execution of his duty, gain access to the goods, such importer or proprietor shall for every such offence forfeit the sum of five hundred pounds.

Penalty for clandestine access to goods.

79. If any goods shall be taken out of any warehouse without due entry of the same with the proper officer of Customs, the pro-

Warehouse-keeper liable for goods in his warehouse.

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prietor or occupier of such warehouse shall forthwith pay the duties due upon such goods ; and every person so taking out such goods without payment of duty, or who shall aid or assist or be concerned therein, and every person who shall wilfully destroy or embezzle any goods duly warehoused, shall be guilty of a misdemeanour, and shall upon conviction suffer the punishment by law inflicted in case of misdemeanour ; but if such person shall be an officer of Customs not acting in the due execution of his duty, and shall be prosecuted to conviction by the importer, consignee, or proprietor of such goods, no duty shall be payable for or in respect of such goods, and the damage occasioned by such waste spoil or embezzlement shall, with the sanction of the Commissioner, be repaid or made good to such importer, consignee, or proprietor, out of the revenue of Customs.

Revenue not liable for losses by accident.

80. No compensation out of the revenue of the Colony shall be made to any importer, proprietor, or consignee of any goods by reason of any damage or loss happening thereto in the warehouse or in any examining shed.

But duties may be remitted.

81. If any goods warehoused or entered to be warehoused, or entered to be delivered from the warehouse, shall be lost or destroyed by unavoidable accident either on shipboard or in landing or in receiving or delivering into or out of the warehouse or in the warehouse, the Commissioner may remit or return the duties due thereon.

Goods not worth the duty in the Queen's warehouse may be destroyed.

82. All goods of a perishable nature deposited in the Queen's warehouse and not duly cleared therefrom forthwith, and all other goods of a perishable nature so deposited and not so cleared within six months, may, if the same cannot be sold for a sum sufficient to pay the duties and charges thereon if offered for sale for home consumption, or the charges thereon if offered for sale for exportation, be destroyed by the direction of the Commissioner.

Combustibles not to be deposited in Queen's warehouse.

83. No goods of a combustible or inflammable nature shall be brought into or deposited in the Queen's warehouse unless with the sanction of the Commissioner, and if any such goods shall be landed by the officers of Customs the same may be deposited in any place that such officers may deem fit, and while so deposited the same shall be deemed to be in the Queen's warehouse, and be liable to be dealt with, at the expiration of fourteen days, in the same manner as goods of a perishable nature actually deposited in the Queen's warehouse unless duly cleared or warehoused in some approved warehouse in the meantime ; and such goods shall be chargeable with such expenses for securing watching and guarding the same until sold cleared or warehoused as aforesaid as the Commissioner shall see fit, and no compensation shall be made for any damage which such goods may sustain by reason or during the time of their being so deposited and dealt with as aforesaid.

Removal.

Goods may be removed from one port or warehouse to another.

As to the removal of warehoused goods :

84. Any goods warehoused at any port in the Colony may be removed by sea or by inland carriage to any other port in which the like kind of goods may be warehoused on importation, to be re-warehoused at such other port, and again as often as may be required at any other such port, to be there re-warehoused, or with the permission of the proper officers from any warehouse in any port to any other warehouse in the same port, under such regulations and with such security as the Commissioner may direct, on the delivery to the proper officer by the person requiring such removal of a request note stating the particulars of the goods required to be removed, the name of the port or of the warehouse, if in the same port, to which the same are intended to be removed, and with such other information and in such

manner

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manner and form as the Commissioner or the proper officer may direct or require.

85. On the delivery of any goods for removal, an account containing the particulars thereof shall be transmitted by the proper officers of the port of removal to the proper officers of the port or place of destination, and the person requiring the removal thereof shall enter into bond, with one or more sufficient surety or sureties, in a sum equal at least to the duty chargeable on such goods, for the due arrival and re-warehousing thereof at the port or place of destination within such time to be named in the bond as the Commissioner may direct, such bond to be taken by the Collector either of the port or place of removal or the port or place of destination, as shall best suit the residence or convenience of the parties interested in such removal; and if such bond shall have been given at the intended port or place of destination, a certificate thereof under the hand of the Collector of such port shall, at the time of the entering of such goods, be produced to the Collector of the port of removal, and such bond shall not be discharged unless such goods shall have been produced to the proper officer and duly re-warehoused at the port of destination within the time allowed for such removal, or shall have been otherwise accounted for to the satisfaction of the Commissioner, nor until the full duties due upon any deficiency of such goods not so accounted for shall have been paid; but any remover may enter into general bond with such sureties, in such amount and under such conditions as the Commissioner may approve, for the removal from time to time of any goods from one warehouse to another, and for the due arrival and re-warehousing of the same at the place of destination within such time or times as the Commissioner may direct.

Officers at port of removal to transmit account of goods removed to officers at port of destination. Remover to give bond.

86. Upon the arrival of such goods at the port or place of destination, the same shall be entered and warehoused in the same manner and under and subject to the same laws rules and regulations, so far as the same are or can be made applicable, as are required on the entry and warehousing of goods on the first importation thereof.

Goods removed to be subject on arrival to same regulations as on importation.

87. If upon arrival of goods so removed as aforesaid at the port of destination, the importer or proprietor shall be desirous forthwith to export the same, or to pay duty thereon for home use, without actually lodging the same in the warehouse for which they have been entered and examined to be re-warehoused, the officers of Customs at such port may, after all the formalities of entering and examining such goods for re-warehousing have been duly performed, permit the same to be entered and shipped for exportation, or to be entered and delivered for home use, upon payment of the duties due thereon, as if such goods had been actually lodged in such warehouse; and all goods so exported or for which the duties have been so paid shall be deemed to have been duly cleared from the warehouse.

Goods removed may be exported or delivered for home use on payment of duties without actual re-warehousing.

88. All warehoused goods shall be cleared either for home use or exportation before the expiration of three years from the day on which the same were so warehoused, or within such further period and in such cases as the Commissioner shall direct, unless the owner or proprietor of such goods shall be desirous of re-warehousing the same, in which case the same shall be examined by the proper officers, and the duties due upon any deficiency or difference between the quantity ascertained on landing and the quantity found to exist on such examination, together with the necessary expense attendant thereon, shall, subject to such allowances as are hereinafter permitted in respect thereof, be paid down, and the quantity so found shall be re-warehoused in the name of the then owner or proprietor thereof in the manner as on first importation.

Warehoused goods to be cleared in three years or re-warehoused.

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Goods not cleared or re-warehoused in three years to be sold.

89. If any warehoused goods shall not be duly cleared exported or re-warehoused, and the duties ascertained to be due on the deficiencies as aforesaid shall not be paid down at the expiration of three years from the previous entry and warehousing thereof, or within such further period as shall be directed as aforesaid, the same, if worth the duty due thereon, shall, after one month's notice to the warehouse-keeper, with all convenient speed be sold either for home use or exportation, with or without the consent of the proprietor or occupier of the warehouse, and the proceeds thereof shall be applied to the payment of the duties warehouse rent and charges, and the surplus, if any, shall be paid to the owner of such goods, if known, but if such owner cannot be found, such surplus shall be paid into the Treasury to abide the claim of such owner on his appearing and making good his claim thereto; and if such goods shall not be worth the duty, then the same, after such one month's notice as aforesaid, may be exported or destroyed, with or without the concurrence of the owner thereof or the proprietor or occupier of the warehouse in which the same were so warehoused, as the Commissioner shall see fit, and the duties due upon any deficiency thereof not allowed shall be forthwith paid by the proprietor or occupier of the warehouse.

Examination may be dispensed with on re-warehousing.

90. On the re-warehousing of goods under the provisions hereinbefore contained, the Commissioner (if satisfied that the same are in the warehouse, that the packages are entire, and that there is no ground to suspect any undue deficiency therein,) may, notwithstanding anything hereinbefore contained, dispense with the strict examination thereof in the cases following, that is to say,—If such goods be goods the duties whereon are chargeable upon the quantity taken by the landing-waiter or other proper officer on the first entry and landing thereof, or if such goods, being goods the duties whereon are chargeable upon the quantity ascertained at the time of actual delivery thereof, may be liable to injury by such strict examination; but in either of the cases aforesaid the proprietor or occupier of the warehouse shall be liable at the time of delivery of such goods to pay the duties due on any deficiency therein not allowed by law which may then be found to exist, instead of any deficiency which might have been found to exist had such examination as aforesaid been made at the time of such re-warehousing.

Goods may be re-sorted re-packed Wines and spirits &c. bottled &c.

91. With the sanction of the Collector, and after such notice given by the respective importers or proprietors, and at such times and under such regulations conditions and restrictions as the Commissioner shall from time to time require and direct, it shall be lawful in the warehouse to sort separate pack and re-pack any goods and to make such alterations therein as may be necessary for the preservation sale shipment or disposal thereof, provided that such goods be re-packed in the packages in which they were imported, or in such other packages as the Commissioner shall permit, not being less in any case, if the goods be to be exported or to be removed to another warehouse, than is required by law on the importation of such goods, and also to take samples of goods as may be allowed by the Commissioner, with or without entry, and with or without payment of duty except as the same may eventually become payable as on a deficiency of the original quantity, and the duty on the surplus if any of such goods as may be delivered for home use shall be immediately paid, and such surplus shall thereupon be delivered for home use accordingly, and after such goods have been so separated and re-packed in proper or approved packages, the Commissioner may, at the request of the importer or proprietor of such goods, cause or permit any refuse damage or surplus goods occasioned by such separation or re-packing, or at the like request

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request any goods which may not be worth the duty, to be destroyed, and may remit the duty payable thereon.

As to bonded sugar-houses :

92. The officers of Customs of any port where any premises shall be approved as a bonded sugar-house may deliver any quantity of sugar on the application of the proprietor or occupier of such bonded sugar-house, and on entry of such sugar with the proper officer of Customs, for the purpose of being there refined, under the locks of the Crown, for exportation ; and all sugars so delivered shall be lodged and secured in such premises under such conditions regulations and restrictions as the Commissioner shall from time to time direct.

93. Upon the entry of any sugar to be refined in any premises approved under this Act, the proprietor or occupier shall give bond, to the satisfaction of the officers of the Customs, in a sum equal to double the amount of the duty payable upon a like quantity of sugar, with a condition that the whole of such sugar shall be subjected to the process of refinement upon the said premises, and that within four months from the date of such bond the whole of the refined sugar and treacle produced by such process shall be either exported from the premises or delivered into an approved bonded warehouse, under the locks of the Crown, for the purpose of being eventually so exported.

As to the entry of warehoused goods for home consumption and exportation, and the delivery thereof :

94. No warehoused goods shall be taken or delivered from the warehouse except upon due entry and under the care of the proper officers for exportation, or upon due entry and payment of the full duties payable thereon for home use, except goods delivered into the charge of the proper officers to be shipped as stores in such quantities as the Collector shall allow, subject to the directions of the Commissioner, and under such regulations as he may see fit to make.

95. Upon the entry of any goods to be cleared from the warehouse for home use, the person entering such goods shall deliver a bill of entry, and duplicates thereof, in like manner and form, containing the same particulars, as are hereinbefore required on the entry of goods to be delivered for home use on the landing thereof, as far as the same may be applicable, and shall at the same time pay down to the proper officer of Customs the full duties payable thereon, not being less in amount than according to the account of the quantity taken by the landing-waiter or other proper officer on the first entry and landing thereof, except as to the following goods, that is to say, tobacco wine spirits sugar and opium, the duties whereon, when cleared from the warehouse for home use, shall be charged upon the quantity of such goods to be ascertained (if required by the person so entering the same) by weight measure or strength at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of the deficiency or difference between the weight measure or strength ascertained on landing and first examination of any such last-mentioned goods, and that ascertained at the time of actual delivery, has been caused by illegal or improper means, or through the carelessness of the owner or occupier of the warehouse, or his servants, in which case the proper officer of Customs shall make such allowance only for loss as he may consider fairly to have arisen from natural evaporation or other legitimate cause.

96. No duty shall be charged in respect of any deficiency in goods entered and cleared from the warehouse for exportation unless the officers of Customs have reasonable ground to suppose that such

Bonded sugar-houses.

Delivery of sugar for refining.

Refiner to give bond.

Entry for home consumption and exportation.

No goods to be delivered from warehouse except on entry for exportation or home use.

Persons entering goods for home consumption to deliver bill of entry and pay down duties according to landing account or as to specified articles according to quantity when cleared.

No duty to be charged on deficiencies of goods entered and cleared for export.

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deficiency, or any part thereof, has arisen from illegal abstraction or such carelessness as aforesaid.

Exportation.

As to the exportation and entry of goods and the clearance of ships from the Colony to parts beyond the seas :

Warehoused goods
not to be exported in
ships under forty tons.

97. No person shall export any warehoused goods nor enter any such goods for exportation from the Colony to parts beyond the seas in any ship of less burden than forty tons.

Master to enter
outwards.

98. The master of every ship in which any goods are to be exported from the Colony to parts beyond the seas, or his agent, shall, before any goods be taken on board and twenty-four hours at the least before applying for the clearance outwards of such ship, deliver to the Collector a certificate from the proper officer of the due clearance inwards or coastwise of such ship on her last voyage, and shall also deliver therewith an entry outwards of such ship, verified by such master's signature, in the form contained in the Fourth Schedule to this Act, or to the same effect, and containing the several particulars indicated or required thereby ; and if such ship shall have commenced her lading at some other port, the master shall deliver to the Collector the clearance of such goods from such other port ; and if any goods be taken on board any ship at any port before she shall have been entered outwards at such port (unless a stiffening order when necessary shall be issued by the proper officer to lade any heavy goods for exportation on board such ship), the master shall forfeit the sum of one hundred pounds.

Goods to be shipped
only on legal days
and at legal places.

99. No goods shall be shipped or water-borne to be shipped for exportation from any port or place in the Colony on any Sunday or holiday, or, without the permission of the Collector, after the hour of twelve o'clock at noon on any Saturday, nor from any place except some legal quay or wharf or other place duly appointed for such purpose, nor without the presence or authority of the proper officer of Customs, nor before due entry outwards of such ship and due entry of such goods, nor before such goods shall have been duly cleared for shipment ; and any goods shipped put off or water-borne to be shipped contrary hereto shall be forfeited ; and it shall be lawful for the proper officer to open all packages and fully to examine, at the expense of the exporter, all goods shipped or brought for shipment at any place in the Colony.

Entry and clearance.

As to the entry and clearance of goods for exportation :

On entry outwards of
warehoused goods,
bond for due exportation
to be given.

100. Before any warehoused goods or goods entitled to any drawback of Customs on exportation shall be permitted to be exported, the exporter or his agent shall deliver to the Collector a bond note or account of such goods, and give security by bond in double the amount of duty payable by law upon the importation of such goods, with one or more sufficient surety or sureties that such goods shall be duly shipped and exported and shall be landed at the place for which they are entered outwards, or otherwise accounted for to the satisfaction of the Commissioner, and such bond note when certified by the proper officer shall be the export entry for such goods.

Exporter to deliver
shipping bill.

101. Before any such goods shall be shipped or water-borne to be shipped for exportation, the exporter or his agent shall deliver to the proper officer a shipping bill of such goods in the form contained in the Fifth Schedule to this Act or to that effect, and containing the particulars indicated or required thereby ; and any exporter who, or whose agent, shall fail so to do, shall forfeit the sum of twenty pounds for every such default.

Drawbacks.

102. There shall be allowed upon the exportation of all goods imported

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imported into the Colony a drawback of the duty paid thereon: Provided that proof be made to the satisfaction of the Collector of Custom that the full duties due on the importation had been paid, and that such goods had been duly landed at the port for which the same were cleared.

103. No drawback shall be allowed upon the exportation of any goods entered for drawback or as stores which shall be of less value than the amount of the drawback claimed or on which the duty shall not amount to ten pounds, and all such goods so entered shall be forfeited, and the person who caused such goods to be entered shall forfeit the sum of two hundred pounds, or treble the amount of drawback claimed in such case, at the election of the Commissioner.

Drawbacks not allowed on goods not worth duty, or of duty under £10.

104. Before any goods in respect of which no bond is required shall be shipped or water-borne to be shipped for exportation, the exporter or his agent shall deliver to the Collector a bill of entry thereof, with such duplicates as may be required by him, in the form in the Sixth Schedule to this Act or to that effect, and containing the several particulars indicated in or required thereby; and any exporter who or whose agent shall fail so to do shall forfeit the sum of twenty pounds for every such default; and the shipping bill or bills of entry, when filled up and signed by the exporter or his agent and countersigned by the proper officer, shall be the clearance for all the goods enumerated therein.

Shipping bill for free goods to be delivered.

105. If any goods cleared for drawback or from the warehouse shall be carried or water-borne to be shipped for exportation by any person not at the time duly licensed and authorized to act as a licensed lighterman or carrier in any port at which lightermen are required to be so licensed, or by any person not being in the employ of such lighterman or carrier at the time duly authorized to act as such, every such person shall for every offence forfeit the sum of twenty pounds.

Goods cleared for drawback or from the warehouse to be shipped by licensed lighterman in ports where license requisite.

106. The Governor may from time to time, by Proclamation, require that exporters of gold other than gold coin, or their agents, shall notify, in such manner and form as shall in that behalf be prescribed, their intention to export the same; and the Governor may also in like manner from time to time make provision for the examination of exported gold not being gold coin, and respecting the mode of packing and securing the same, and may prohibit the exportation thereof except from specified ports, and generally may regulate and restrict, as may seem meet, the export of gold other than gold coin; and every person who shall knowingly contravene any provision of any such Proclamation shall for every such offence forfeit a sum not exceeding the sum of one hundred pounds in addition to any other punishment or penalty to which he may become liable by reason of such contravention.

Governor may regulate exportation of gold.

107. No goods shall be stated or described in the clearance of any ship to be the produce of New Zealand unless such goods shall have been particularized and stated so to be in the entry outwards of the same.

Goods not to be cleared as produce of the Colony unless so entered.

108. If any goods taken from the warehouse for removal or for exportation shall be removed or shipped except with the authority or under the care of the proper officer of Customs, and in such manner by such persons within such time and by such roads or ways as such officer shall permit or direct, such goods shall be forfeited.

Warehoused goods illegally removed to be forfeited.

109. If any goods duly entered for delivery from the warehouse for removal or exportation shall be damaged lost or destroyed by unavoidable accident, either in the delivery from the warehouse or the shipping thereof, the Commissioner may abate or remit the duties due thereon.

Duty on goods destroyed in removal may be remitted.

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Payment of drawback.

As to the issue of debentures for the payment of drawback on goods exported :

Debenture to be passed.

110. For the purpose of computing and paying any drawback claimed and payable upon any goods duly entered shipped and exported, a debenture shall in due time after such entry be prepared by the Collector, certifying the entry outwards of such goods, and so soon as the same shall have been duly exported, the debenture shall thereupon be computed and passed with all convenient despatch.

Declaration of due exportation.

111. The person entitled to any drawback on any goods duly exported, or his agent duly authorized by him for that purpose, shall make and subscribe a declaration upon the debenture that the goods mentioned therein have been actually exported and have not been re-landed and are not intended to be re-landed in any part of the Colony, and if exported to any Australasian Colony shall verify the certificate next hereinafter mentioned, and that such person at the time of entry and shipping was and continued to be entitled to the drawback thereon, and the name of such person shall be stated in the debenture, which shall then be delivered to such person, or his agent, and the receipt of such person on the debenture, countersigned by the holder of such debenture if the same shall have been transferred in the meantime, shall be the discharge for such drawback when paid.

Drawbacks to be paid within two years.

112. No. debenture for any drawback allowed upon the exportation of any goods shall be paid after the expiration of two years from the date of the shipment of such goods, nor, in case of exportation for any Australasian Colony, until a certificate under the hand of the principal officer of Customs of the port at which the goods were landed, that the goods have been so landed, shall have been received and verified as aforesaid.

Certificate of landing in Australia.

Penalties for not duly exporting goods cleared for drawback.

113. If any goods which have been cleared to be exported for any drawback shall not be duly exported to parts beyond the seas (such goods not having been duly re-landed or discharged as short shipped under the care of the proper officers), the same shall be forfeited, together with any ship boat or craft which may have been used in so unshipping re-landing landing or carrying such goods from the ship in which the same were shipped for exportation, and the master of such ship, and any person by whom or by whose orders or means such goods shall have been so unshipped re-landed landed or carried, or who shall aid assist or be concerned therein, shall forfeit a sum equal to treble the value of such goods, or a penalty of one hundred pounds, at the election of the Commissioner.

Stores.

As to the shipping of stores for the use of foreign-bound vessels :

Stores may be allowed for foreign-bound vessels.

114. The master of every ship of the burden of forty tons or upwards, departing from any port in the Colony upon a voyage to parts beyond the seas, shall, upon due application made by him and upon such terms and conditions as the Commissioner may direct, receive from the proper officer an order for the shipment of such stores as may be required and allowed by the Collector for the use of such ships, with reference to the number of the crew and passengers on board and the probable duration of the voyage on which she is about to depart, and all demands for such stores shall be made in such form and manner as such Collector shall require, and shall be signed by the master or owner of the vessel, and after such stores are duly shipped, the master or his agent shall make out an account of the stores so shipped, together with any other stores then already on board, and the same, when presented to the proper officer, signed by him, and countersigned by the Collector, shall be the victualling bill, and no stores shall be

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be shipped for the use of any ship, nor any articles taken on board any ship be deemed to be stores, except such as shall be borne upon such victualling bill.

As to the clearance of ships outwards :

115. If there be on board any ship any goods being part of the inward cargo reported for exportation in the same ship, the master shall, before clearance outwards of such ship from any port in the Colony, deliver to the proper officer a copy of the report inwards of such goods, certified by the Collector, and if such copy be found to correspond with the goods so remaining on board, such officer shall sign the same, to be filed with the documents or papers of the ship.

Clearance outwards.

Inward cargo
exported to be
certified.

116. Before any ship shall be cleared outwards from the Colony, the master shall deliver to the Collector a content or manifest of such ship, in the form contained in the Seventh Schedule to this Act or to that effect and containing the several particulars therein required as far as the same can be known by him, and with the declaration at the foot thereof made by him in the presence of the Collector, and, if required, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer such questions concerning the ship the cargo and the intended voyage as shall be demanded of him by such Collector.

Before clearance
master to deliver
content.

117. The Collector shall not be compellable to grant a clearance outwards of any ship unless all the documents or papers of such ship, duly completed and certified where necessary, shall have been deposited at the Custom House of the port at or before the hour of one o'clock in the afternoon on the day of clearance, but nothing herein contained shall prevent the Collector from granting, if he shall think fit, such clearance on any day, although such documents or papers shall not have been deposited before the hour aforesaid ; and if any ship shall depart without such clearance, the master thereof shall forfeit any sum not exceeding one hundred pounds nor less than twenty pounds.

Time of clearance.

118. If any goods liable to duty on importation, or taken from the warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the content of any ship, shall not be duly shipped before the departure of such ship, or shall not be duly certified by the proper officer as short shipped, such goods shall be forfeited ; or if any such goods shall be taken on board such ship, not being enumerated in such content, the master of the ship shall forfeit the sum of five pounds in respect of every package of such goods ; and if any goods duly shipped on board such ship shall be landed at any other place than that for which they shall have been cleared, unless otherwise accounted for to the satisfaction of the Commissioner, the master of such ship shall forfeit a sum equal to treble the value of the goods so landed ; and if any goods shall be shipped or water-borne to be shipped without being duly cleared or otherwise, contrary to this Act, the same shall be forfeited.

Forfeiture of goods
on non-shipment or
illegal shipment.

As to the boarding of ships after clearance outwards :

119. Any proper officer of Customs may go on board any ship, after clearance outwards, within the limits of any port in the Colony or within four leagues of the coast thereof, and may demand the ship's clearance, and if there be any goods on board in respect of which certificates are required not contained in such certificates, or any stores not indorsed on the victualling bill, such goods or stores shall be forfeited, and if any goods contained in such certificates be not on board, the master shall forfeit the sum of twenty pounds for every package or parcel of goods contained in such certificates and not on board.

Boarding of ships.

Ships may be boarded
after clearance.
Penalties for irregular
clearance.

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Penalty for breaking before departure seals placed on goods.

120. If any officer of Customs shall place any lock mark or seal upon any goods, and such lock mark or seal be wilfully opened altered or broken, or if any stores be secretly conveyed away, either while the ship or vessel remains at her first port of departure, or at any other port or place in the Colony, or on her passage from one such port or place to another, before the final departure of such ship or vessel on her foreign voyage, the master shall forfeit the sum of one hundred pounds.

Ships to bring to at proper stations.

121. If any ship departing from any port in the Colony shall not bring to at such stations as shall be appointed by the Commissioner for the landing of officers from such ships, or for further examination previous to such departure, the master of such ship shall forfeit the sum of one hundred pounds.

Time of exportation and departure defined.

122. The time at which any goods shall be shipped on board any export ship shall be deemed to be the time of exportation of such goods, and the time of the last clearance of any ship shall be deemed to be the time of departure of such ship.

Exportation of goods may be prohibited.

123. Any goods whatever may, by Proclamation or Order of the Governor in Council, revocable from time to time, be prohibited to be exported or to be carried coastwise, and any such prohibition may apply to the whole Colony or to any part thereof; and if any goods shall be exported from the Colony or carried coastwise contrary to any such prohibition, or be water-borne to be so exported or carried, they shall be forfeited. And any person offending against the provisions of this section, or of any Proclamation or Order issued in pursuance thereof, shall for every such offence forfeit and pay the sum of five hundred pounds.

Coasting trade.

As to the coasting trade and transhipment :

Definition.

124. All trade by sea from any one part of the Colony to any other part thereof shall be deemed to be a coasting trade, and all ships while employed therein shall be deemed to be coasting ships, within the meaning of this and every other Act relating to the Customs; and if any doubt should at any time arise as to what or to or from what parts of the Colony shall be deemed a passage by sea, the Governor may determine in what cases the trade by water from one port or place in the Colony to another of the same shall or shall not be deemed a trade by sea within the meaning of this or any other Act relating to the Customs.

Coasting ship confined to coasting voyage.

125. No goods shall be carried in any coasting ship except such as shall be laden to be so carried at some port or place in the Colony, and, unless with the permission of the Commissioner, no goods shall be laden on board any ship to be carried coastwise until all goods brought in such ship from parts beyond the seas shall have been unladen; and if any goods shall be taken into or put out of any coasting ship at sea, or if any coasting ship shall deviate from her voyage unless forced by unavoidable circumstances, the master of such ship shall forfeit the sum of one hundred pounds.

Goods to be landed and shipped at legal times and places.

126. If any goods shall without the permission of the Collector be unshipped from any ship arriving coastwise, or be shipped or water-borne to be shipped to be carried coastwise, on Sundays, or holidays, or on any Saturday after the hour of twelve o'clock at noon, or except in the presence or with the authority of the proper officer of the Customs, or except at such times and places as shall be duly appointed or approved for that purpose, the same shall be forfeited, and the master of the ship shall forfeit the sum of fifty pounds.

Master to keep cargo book.

127. The master of every coasting ship shall keep or cause to be kept a cargo book, stating the names of the ships the master and the port

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port to which she is bound on each voyage, and shall at every port of lading enter in such book the name of such port and an account of all goods there taken on board such ship, stating the descriptions of the packages and the quantities and descriptions of the goods therein, and the quantities and descriptions of the goods stowed loose, and the names of the respective shippers and consignees, so far as such particulars are known to him, and shall at every port of discharge of such goods note the respective days on which the same or any of them are delivered out of such ship, and the respective times of departure from every port of lading, and of arrival at every port of discharge, and such master shall on demand produce such book for the inspection of any officer of Customs who shall be at liberty to make notes or remarks therein; and if upon examination any package entered in the cargo book as containing dutiable goods shall be found not to contain such goods, such package with its contents shall be forfeited; or if any package should be found to contain dutiable goods not entered in such book, such goods shall be forfeited; and if such master shall fail correctly to keep such cargo book, or to produce the same, or if at any time there be found on board such ship any goods not entered in such book as laden or any goods noted as delivered, or if any goods entered as laden or any goods not noted as delivered be not on board, the master of such ship shall forfeit the sum of twenty pounds.

128. Before any coasting ship shall depart from the port of lading, an account, with a duplicate thereof, in the form contained in the Eighth Schedule to this Act or to that effect, and signed by the master, shall be delivered to the Collector, who shall retain the duplicate and return the original account dated and signed by him, and such account shall be the clearance of the ship for the voyage and the transire or pass for the goods expressed therein; and if any such account shall be false, the master shall forfeit the sum of twenty pounds: Provided always that the Commissioner may, whenever it shall appear to him expedient, grant general transires upon such conditions as he may prescribe for the lading and clearance and for the entry and unloading of any coasting ship and goods, and the same may be revoked by notice in writing under the hand of the Commissioner, delivered to the master or owner of any ship or any of the crew on board.

129. Within twenty-four hours after the arrival of any coasting ship at the port of discharge, and before any goods be unladen, the transire, with the name of the place or wharf where the lading is to be discharged noted thereon, shall be delivered to the Collector, who shall note thereon the date of delivery, and if any goods shall be unladen contrary hereto, the master shall forfeit the sum of twenty pounds; and if any goods shall be laden on board any ship in any port or place in the Colony, and carried coastwise, or having been brought coastwise shall be unladen in any such port or place contrary to this or any other Act relating to the Customs, such goods shall be forfeited.

130. Any officer of the Customs may go on board any coasting ship in any port or place in the Colony or at any period of her voyage search such ship and examine all goods on board and all goods then lading or unloading, and demand all documents or papers which ought to be on board such ship, and the Collector may require that all or any such documents or papers shall be brought to him for inspection, and the master of any ship refusing to produce such documents or papers on demand, or to bring the same to the Collector when required, shall forfeit the sum of twenty pounds.

131. The Governor may from time to time regulate and restrict the carriage of gold, other than gold coin, coastwise, from one port of the Colony to another; and every person who shall knowingly offend against

Transires.

General transires.

Transire to be delivered within twenty-four hours after arrival and before unloading.

Officers may board coasting ships.

Governor empowered to regulate carriage of gold coastwise.

Customs.

against any such regulation shall for every such offence forfeit the sum of twenty pounds.

Commissioner may require account of goods carried coastwise.

132. For the purpose of taking an accurate account of the produce and manufactures of the Colony and other goods carried coastwise, it shall be lawful for the Commissioner, if he think fit, to order that the particulars of all produce and manufactures of the Colony and other goods laden on board any coasting vessel be delivered by the master to the Collector at the port at which the same shall be laden or unladen, in such form as the Commissioner may prescribe; and such master shall, for non-compliance with any such regulation or order, forfeit a sum not exceeding twenty pounds.

Transshipment.

As to transshipments:

Commissioner empowered to make rules for transshipment.

133. It shall be lawful for the Commissioner to make such rules and orders as he may deem fit for the transshipment of goods to be carried coastwise or exported, and any goods transhipped contrary to such rules or orders, or which having been entered to be transhipped shall not be transhipped, unless by the permission of the proper officer, shall be forfeited, and the person or persons concerned therein shall forfeit and pay the sum of one hundred pounds.

Bonds and other securities.
All bonds entered into valid.

As to bonds and other securities relating to the Customs:

134. All bonds and other securities entered into by any person or persons for the performance of any condition order or matter relative to the Customs or incident thereto shall be valid in law, and upon breach of any of the conditions thereof may be sued and proceeded upon in the same manner as any bond expressly directed or given by or under the provisions of any Act relating to the Customs; and all bonds relating to the Customs, or for the performance of any condition or matter incident thereto, shall be taken to or for the use of Her Majesty; and all such bonds, except such as are given for securing the due exportation of or payment of duty upon warehoused goods, may, after the expiration of three years from the date thereof, or from the time if any limited therein for the performance of the condition thereof, be cancelled by or by the order of the Commissioner; and all bonds given under the provisions of this or any Act relating to the Customs by persons under twenty-one years of age shall be valid.

Bonds of minors valid.

False declarations.

As to making and signing false declarations relating to the Customs, falsely answering questions, and counterfeiting documents:

Penalties.

135. If any person shall, in any matter relating to the Customs, make and subscribe any false declaration, or make or sign any declaration certificate or other instrument required by this Act to be verified by signature only, the same being false in any particular, or if any person shall make or sign any declaration made for the consideration of the Commissioner on application presented to him, the same being untrue in any particular, or if any person required by this or any other Act relating to the Customs to answer questions put to him by the officers of Customs, shall not truly answer such questions, or if any person shall counterfeit falsify or wilfully use when counterfeited or falsified any document required by this or any Act relating to the Customs, or by or under the directions of the Commissioner, or any instrument used in the transaction of any business or matter relating to the Customs, or shall fraudulently alter any document or instrument, or counterfeit the seal signature initials or other mark of or used by the officers of the Customs for the verification of any such document or instrument, or for the security of goods, or any other purpose in the conduct of business relating to the Customs, or under the control or management

Customs.

management of the Commissioner or any officer of Customs, every person so offending shall for every such offence forfeit the penalty of one hundred pounds.

As to the restrictions on small craft and lighters, and the regulations for the prevention of smuggling :

136. The Commissioner may from time to time, by order, make such general regulations as he shall deem expedient in respect of vessels and boats not exceeding one hundred tons burden, for the purpose of prescribing, with reference to the tonnage build or description of such vessels or boats, the limits within which the same may be employed, the mode of navigation, the manner in which such vessels or boats shall be so employed, and, if armed, the number and description of arms and the quantity of ammunition, or for the purpose of prescribing the mode in which such vessels and boats shall be distinguished by numbers marks or otherwise, the mode of conducting the business of discharging ships, the nature and amount of security, if any, to be required for the due observance of any such regulations, and such other terms particulars conditions and restrictions as the Commissioner may think fit; and also from time to time may revoke alter or vary such regulations.

137. Every such vessel or boat which shall be used or employed in any manner contrary to the regulations made by the Commissioner as last aforesaid, shall be liable to forfeiture unless the same shall have been specially licensed to be so used or employed as next hereinafter provided.

138. The Commissioner may, if he shall so think fit, grant or authorize the Collectors to grant licenses in respect of any vessel or boat not exceeding one hundred tons burden, upon such terms and conditions and subject to such restrictions and stipulations as in such licenses mentioned, notwithstanding any general regulations made in pursuance of this Act and whether the said regulations shall be revoked or not; and if any vessel or boat so licensed shall not comply with the conditions imposed by or expressed in any such license, or if such vessel or boat shall be found without having such license on board, or if such license shall not when required be produced and delivered for examination to any officer of Customs, or other person duly employed for the prevention of smuggling, demanding the same, then and in every such case such vessel or boat and the goods laden on board thereof shall be forfeited.

139. The Commissioner may revoke alter or vary any license or licenses granted under any former Act, or which may hereafter be granted under this or any other Act relating to the Customs.

140. If any such vessel or boat shall be used in the exportation or importation or the shipping unshipping landing removal carriage or conveyance of any uncustomed or prohibited goods, the same shall be forfeited, and the owner and master of every such vessel or boat shall each forfeit and pay a penalty equal to the value of such vessel or boat, not in any case exceeding five hundred pounds.

141. The owner of every ship belonging wholly or in part to any of Her Majesty's subjects shall paint or cause to be painted, upon the outside of the stern of every boat belonging to such ship, the name of such ship, and the port or place to which she belongs, and the master's name withinside the transom in white or yellow Roman letters, not less than two inches in length, on a black ground, on pain of the forfeiture of every such boat not so marked wherever the same shall be found: Provided that as regards the boats of vessels arriving from parts beyond the seas, no such forfeiture shall be incurred until the

Smuggling.

Commissioner empowered to make regulations as to small craft.

Vessels and boats used contrary to regulations forfeited.

Commissioner may allow special licenses to be granted to small craft.

Revocation of license.

Vessels made use of in removing uncustomed or prohibited goods forfeited.

Ships' boats to have thereon the name of the ship port and master.

Customs.

expiration of forty-eight hours after the arrival of such vessels respectively.

Other boats to have thereon name of owner and port.

142. The owner of every boat not belonging to any ship shall paint or cause to be painted upon the stern of such boat, in white or yellow Roman letters of two inches in length, on a black ground, the name of the owner of the boat and the port or place to which she belongs, on pain of the forfeiture of such boat not so marked wherever the same shall be found.

British ships having places for concealing or devices for running goods and foreign ships having goods secreted, forfeited.

143. All ships and boats belonging wholly or in part to Her Majesty's subjects, having false bulkheads false bows double sides or bottoms or any secret or disguised place whatsoever adapted for the purpose of concealing goods constructed in such ships or boats, or having any hole pipe or device in or about such ships or boats adapted for the purpose of running goods, shall be forfeited; and all foreign ships or boats coming into any port of the Colony, having on board any goods, liable to the payment of duties or prohibited to be imported into the Colony, concealed in false bulkheads false bows double sides or bottoms or in any secret or disguised place whatsoever constructed in such ship or boats, shall be forfeited.

Goods shipped or unshipped without payment of duty, and prohibited goods, forfeited.

144. If any goods liable to the payment of duties shall be unshipped from any ship or boat in the Colony (Customs or other duties not being first paid or secured), or if any prohibited goods whatsoever shall be imported or brought into the Colony, or if any goods whatever which shall have been warehoused or otherwise secured in the Colony either for home use or exportation shall be clandestinely or illegally removed from or out of any warehouse or place of security, or if any goods which are prohibited to be exported shall be put on board any ship or boat with the intent to be laden or shipped for exportation, or shall be brought to any quay wharf or other place in the Colony in order to be put on board any ship or boat for the purpose of being exported, or if any goods which shall be prohibited to be exported or carried coastwise shall be found in any package produced to any officer of Customs as containing goods not so prohibited, or if any goods subject to any duty or restriction in respect of importation or which are prohibited to be imported into the Colony, shall be found or discovered to have been concealed in any manner on board any ship or boat within the limits of any port of the Colony, or shall be found, before or after landing, to have been concealed in any manner on board any such ship or boat within such limits as aforesaid, then and in every of the foregoing cases all such goods shall be forfeited, together with any goods which shall be found packed with or used in concealing them.

Restricted goods be deemed run.

145. All goods the importation of which is in any way restricted, which are of a description admissible to duty, and which shall be found or seized in the Colony under any law relating to the Customs, shall, for the purpose of proceeding for the forfeiture of them or for any penalty incurred in respect of them be in any information exhibited on account of such forfeiture or penalty described as and on the trial of hearing thereof, be deemed and taken to be goods liable to and unshipped without payment of duties, unless the contrary be proved.

Gold shipped before entry or contrary to any regulations in force forfeited.

146. All gold, other than gold coin, which shall be shipped or water-borne to be shipped before due entry thereof, and all such gold found in any vessel boat or carriage, or upon any horse or other animal, or about the person of any one in charge of any such vessel boat carriage horse or other animal, or in the possession of any person, being conveyed towards the coast of the Colony or towards any port thereof or towards any quay for the purpose of exportation
contrary

Customs.

contrary to any law or regulation for the time being in force relating to the export of gold, shall be forfeited, and such gold so found in any vessel boat or carriage, or upon any horse or other animal, or about the person of any one in charge thereof respectively, or in the possession of any person, being conveyed as aforesaid, shall be deemed to be conveyed for the purpose of exportation, unless the contrary be proved.

147. If any ship or boat shall be found or discovered to have been within one league of the coast of the Colony, any such ship or boat so found or discovered, having on board or in any manner attached thereto, or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner, any spirits not being in a cask or other vessel capable of containing liquids of the size or content of fourteen gallons at the least, or in glass bottles or stone bottles not exceeding the size of three pint bottles and being really part of the cargo, or any opium not being in a cask or package containing forty-five pounds weight of opium at the least, or being separated or divided in any manner within any cask or package, or any tobacco or snuff not being in a cask or package containing sixty pounds weight of tobacco or snuff at the least, or being separated or divided in any manner within any cask or package, or any cigars not being in a cask or package containing sixty pounds weight or ten thousand in number of cigars at the least, or any cordage or other articles adapted and prepared for slinging or sinking small casks or any casks or other vessels whatsoever of less size or content than fourteen gallons, of the description used for the smuggling of spirits, then and in every such case the said spirits opium tobacco snuff and cigars, together with the casks or packages containing the same, and the cordage or other articles casks and other vessels of the description aforesaid, and also the ship or boat, shall be forfeited.

Vessels found within certain distances of the coast with spirits tobacco &c. in casks or packages of less than legal size, or with contrivances for sinking kegs, forfeited with the goods.

148. If any ship or boat shall be found or discovered to have been within any port bay harbour river or creek of the Colony, having on board or in any manner attached thereto, or having had on board or attached thereto or conveying or having conveyed in any manner, any spirits not being in a cask or other vessel capable of containing liquids of the size or content of fourteen gallons at the least, or in glass bottles or stone bottles not exceeding the size of three pint bottles, and being really part of the cargo, or any opium not being in a cask or package containing forty-five pounds weight of such opium at the least, or being separated or divided in any manner within any cask or package, or any tobacco or snuff not being in a cask or package containing sixty pounds weight of such tobacco or snuff at the least, or being separated or divided in any manner within any cask or package, or any cigars not being in a cask or package containing sixty pounds weight or ten thousand in number of cigars at the least, every such ship or boat, and such spirits opium tobacco snuff and cigars, shall be forfeited; but if it shall be made to appear to the satisfaction of the Commissioner that such spirits opium tobacco snuff and cigars were on board without the knowledge or privity of the owner or master of such ship or boat, and without any wilful neglect or want of reasonable care on their parts, then and in such case the Commissioner shall deliver up the said ship or boat to the owner or master of the same.

Vessels arriving within any port with spirits tobacco &c. in casks or packages of less than legal size, forfeited with the goods.

149. If any ship or boat whatever shall be found within the limits of any port of the Colony with a cargo or passengers on board, and such ship or boat shall afterwards be found light or in ballast, and the master is unable to give a due account of the port or place within the Colony where such ship or boat shall have legally discharged her cargo or passengers, such ship or boat shall be forfeited.

Ships in port with a cargo and afterwards found in ballast forfeited.

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Certain vessels within one league of the coast from which goods are thrown overboard to prevent seizure forfeited.

150. Every ship or boat belonging wholly or in part to Her Majesty's subjects, or having on board one or more of Her Majesty's subjects, which shall be found or discovered to have been within one league of the coast of the Colony from which any part of the lading of such ship or boat shall have been thrown overboard, or on board which any of the goods shall be staved or destroyed to prevent seizure, shall be forfeited.

Certain vessels within one league of the coast throwing overboard goods during chase forfeited.

151. When any ship or boat belonging wholly or in part to Her Majesty's subjects, or having one-half of the persons on board subjects of Her Majesty, shall be found within one league of the coast of the Colony, and shall not bring to upon signal made by any vessel or boat in Her Majesty's service or in the service of the revenue hoisting the proper pendant and ensign in order to bring such ship or boat to, and thereupon chase shall be given, if any person or persons on board such ship or boat so chased shall, during the chase or before such ship or boat shall bring to, throw overboard any part of her lading, or shall stave or destroy any part of such lading to prevent seizure thereof, then and in any such case such ship or boat shall be forfeited; and all persons escaping from any such ship or boat, or from any foreign ship or boat, during any chase made thereof by any vessel or boat in Her Majesty's service or in the service of the revenue, shall be deemed subjects of Her Majesty unless the contrary be proved.

Ships not bringing to on chase may be fired into.

152. If any ship or boat liable to seizure or examination under this or any Act for the prevention of smuggling or for the regulation of passenger ships shall not bring to when required so to do on being chased by any vessel or boat in Her Majesty's Navy having the proper pendant and ensign of Her Majesty's ships hoisted, or by any vessel or boat duly employed for the prevention of smuggling having a proper pendant and ensign hoisted, it shall be lawful for the captain, master, or other person having the charge or command of such vessel or boat in Her Majesty's Navy or employed as aforesaid (first causing a gun to be fired as a signal) to fire at or into such ship or boat, and such captain, master, or other person acting in his aid or by his direction, shall be and is hereby indemnified and discharged from any indictment information penalty action or other proceeding for so doing.

Ships may be searched.

153. Any officer of Customs or other person duly employed for the prevention of smuggling, producing his warrant or deputation (if required), may go on board any ship which shall be within the limits of any port of the Colony, and rummage and search the cabin and all other parts of such ship for prohibited or uncustomed goods, and remain on board such ship so long as she shall continue within the limits of such port.

Officers of Customs may upon reasonable suspicion stop carts and search for goods.

154. Any officer of Customs or other person acting in his aid or duly employed for the prevention of smuggling may, upon reasonable suspicion, stop and examine any cart waggon or other means of conveyance, for the purpose of ascertaining whether any smuggled goods are contained therein; and if no such goods shall be found, the officer or other person so stopping and examining such cart waggon or other conveyance, having had probable cause to suspect that such cart waggon or other conveyance had smuggled goods contained therein, shall not, on account of such stoppage and search, be liable to any prosecution or action at law on account thereof; and all persons driving or conducting such cart waggon or other conveyance, refusing to stop or allow any such examination when required in the Queen's name, shall forfeit the sum of one hundred pounds.

Officers authorized by writ of assistance may enter and search houses.

155. Any officer of Customs or person acting under the direction of the Commissioner, having a writ of assistance issued from the Supreme Court, may in the day time enter into and search any house shop

Customs.

shop cellar warehouse room or other place, and, in case of resistance, break open doors chests trunks and other packages, and seize and bring away uncustomed or prohibited goods, and put and secure the same in the Queen's warehouse, and may take with him any constable police or other public officer, duly sworn as such, who may act as well without the limits of the district or place (if any) for which he shall be so sworn as within such limits; and all writs of assistance so issued shall continue in force during the reign for which they were granted, and for six months afterwards.

156. All ships boats carriages or other means of conveyance, together with all horses and other animals made use of in the removal carriage or conveyance of any goods liable to forfeiture under this or any other Act relating to the Customs, shall be forfeited.

Ships and carts used in removal of run goods forfeited.

157. All ships and boats and all goods whatsoever liable to forfeiture, and all persons liable to be detained for any offence under this or any other Act relating to the Customs, may be seized or detained in any place either upon land or water by any officer or officers of Customs or by any person having authority from the Commissioner to seize or duly employed for the prevention of smuggling, and all ships boats and goods so seized shall, as soon as conveniently may be, be delivered into the care of the proper officer appointed to receive the same, and the forfeiture of any ship or boat shall be deemed to include her tackle apparel and furniture, and the forfeiture of any goods shall be deemed to include the package in which the same are found, and all the contents thereof.

Ships and goods may be seized and persons detained.

158. If any goods liable to forfeiture under this or any other Act relating to the Customs shall be stopped or taken by any police officer or other person acting by virtue of any law or ordinance or otherwise duly authorized, such goods shall, as soon as conveniently may be, be carried to the Customs warehouse next to the place where the goods were stopped or taken, and there delivered to the proper officer appointed to receive the same.

Officers seizing goods to carry them to the Customs.

159. If any such goods shall be stopped or taken by any police officer on suspicion that the same have been feloniously stolen, the said officer may carry the same to the gaol to which the person charged with stealing the same is taken, there to remain until and in order to be produced at the trial of such person; and in such case the officer is required to give notice in writing to the nearest Collector or chief officer of Customs of his having so detained the said goods, with the particulars of the same; and immediately after the trial of the person charged as aforesaid, all such goods shall be conveyed to and deposited in the Customs warehouse as aforesaid to be proceeded against according to law; and in case any police officer making detention of any such goods shall neglect to convey the same to such warehouse, or to give the notice of having stopped the same as before prescribed, such officer shall forfeit the sum of twenty pounds.

Goods stopped by police officers may be retained until trial of persons charged with stealing.

160. Whenever any ship boat or goods shall be seized as forfeited under this or any Act relating to the Customs, the Collector or seizing officer shall forthwith give notice in writing of such seizure and of the grounds thereof to the master or owner of such ship boat or goods, if known (unless such master or owner be present at the seizure), either by delivering such notice to him personally or by delivering the same at his usual or last known place of abode or business, or by letter addressed to him at such place of abode or business and transmitted by post; and any ship boat or goods so seized under any law relating to the Customs shall be deemed and taken to be condemned and may be sold in the manner directed by law in respect to ships boats and goods seized and condemned for breach of any law relating to the Customs,

Notice to be given to owner of ships or goods seized. Seizures to be deemed condemned unless claimed within one month, and action brought to try right within two months.

Customs.

unless the person from whom the same shall have been seized, or the owner thereof, or his agent, shall within one month from the day of seizure give notice in writing to the person seizing the same, or to the Collector or other chief officer of the Customs at the nearest port, that the liability to forfeiture of such ship boat or goods is disputed, and unless an action shall within two months from the day of seizure be brought by such person or owner in the Supreme Court against the Commissioner for the purpose of determining the liability to forfeiture of such ship boat or goods.

Condemned seizures
to be sold.

161. All ships and boats and all goods whatsoever which shall have been seized and condemned for breach of any law relating to the Customs, shall be disposed of as soon as conveniently may be after the condemnation thereof, in such manner as the Commissioner may direct.

Offences.

As to offences committed by and penalties attaching to persons :

Persons may be
searched if reason to
suspect smuggled
goods are upon them.

162. Any proper officer of Customs or other person duly employed for the prevention of smuggling may search any person on board or proceeding on board any ship or boat within the limits of any port in the Colony, or any person who shall have landed from any ship or boat, provided there be good reason to suppose that such person has any uncustomed or prohibited goods secreted about his person; and if any person shall obstruct any such officer or other person duly employed as aforesaid in going remaining or returning from on board, or in searching such ship boat or person, every person so offending shall forfeit the sum of one hundred pounds; and if any passenger or other person on board or proceeding on board any such ship or boat or who may have landed from any such ship or boat, shall, upon being questioned by any such officer or other person duly employed as aforesaid whether he has any smuggled goods upon his person or in his possession, deny the same, and such goods shall after such denial be discovered to be or to have been upon his person or in his possession, such goods shall be forfeited and the person offending shall forfeit treble the value of such goods.

Persons importing or
exporting prohibited
or restricted goods,
and persons shipping
unshipping harbouring
or having custody
of such goods, to
forfeit treble the
value or £100.

163. Every person who shall be concerned in importing or bringing into the Colony or exporting therefrom any prohibited goods or any goods the exportation or importation of which is restricted, contrary to such prohibition or restriction, and whether the same be shipped or unshipped or not, and every person who shall ship or unship or assist or be otherwise concerned in the shipping or unshipping of any goods which are prohibited or of any goods which are restricted and exported or imported contrary to such restriction, or of any goods liable to duty the duties for which have not been paid or secured, or who shall knowingly harbour keep or conceal, or who shall knowingly permit or suffer or cause or procure to be harboured kept or concealed, any such goods or any goods which shall have been illegally removed without payment of duty from any warehouse or place whatsoever, or to whose hands and possession any such goods shall knowingly come, or who shall assist or be concerned in the illegal removal of any goods from any such warehouse or place, or who shall be in any way knowingly concerned in conveying removing depositing concealing or in any manner dealing with any goods liable to duties of Customs, with intent to defraud Her Majesty of such duties or any part thereof, or who shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof, shall in each and every of the foregoing cases forfeit either treble the value of the goods or the penalty of one hundred pounds, at the election of the Commissioner.

164. Every

Customs.

164. Every person who shall remove any goods imported into the Colony from any ship quay wharf or other place previously to the examination thereof by the proper officer, unless under the care or authority of such officer, or who shall remove or withdraw from any quay or wharf or other place any goods entered to be warehoused after the landing thereof, so that no sufficient account is taken thereof by the proper officer or so that the same are not duly warehoused, or who shall assist or be otherwise concerned in such removal or withdrawal, or who shall knowingly harbour keep or conceal, or knowingly suffer or procure to be harboured kept or concealed, any such goods, or to whose possession any such goods shall knowingly come, shall forfeit either treble the value thereof or the penalty of one hundred pounds, at the election of the Commissioner.

If goods removed prior to examination, penalty upon parties concerned.

165. Every person who shall ship or unship or be aiding or concerned in the shipping or unshipping of any goods liable to forfeiture under this or any other Act relating to the Customs, or who shall carry or conceal or be aiding or concerned in the carrying or concealing of any such goods, shall forfeit for every such offence treble the value of such goods or the sum of one hundred pounds, at the election of the Commissioner, and every such person may be detained to be dealt with as hereinafter directed.

Persons shipping unshipping or concealing dutiable goods to forfeit £100 and may be detained.

166. Every person who shall be on board any ship or boat liable to forfeiture under this or any Act relating to the Customs for being found or discovered to have been within one league of the coast of the Colony, having on board or in any manner attached thereto, or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner, such goods or things as subject such ship or boat to forfeiture, or who shall be within any such distance as aforesaid on board any ship or boat from which any part of the cargo or lading shall have been thrown overboard or staved or destroyed to prevent seizure, shall, upon being duly convicted of any of the said offences before any Justice, be adjudged by such Justice for the first offence to be imprisoned in any gaol and there kept to hard labour for any term not less than six nor more than nine months, and for the second offence for any term not less than nine nor more than twelve months, and for the third or any subsequent offence for eighteen months; and every such person may be detained to be dealt with as hereinafter directed.

Persons on board smuggling vessels found within certain distances of the coast may be sentenced to imprisonment.

167. Every person who shall be on board any ship or boat liable to forfeiture under this or any other Act relating to the Customs for being found or discovered to have been within any port bay harbour river or creek of the Colony, having on board or in any manner attached thereto, or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner, such goods or things as subject such ship or boat to forfeiture, or who shall be on board any of Her Majesty's ships or vessels, or on board any ship or vessel in Her Majesty's employment or service, or on board any foreign Post Office packet, being a national vessel, employed in carrying the mails between any foreign country and the Colony, such last-mentioned ships vessels or packets being found or discovered to have been within any port bay harbour river or creek of the Colony, having on board or in any manner attached thereto, or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner any spirits not being in a cask or other vessel capable of containing liquids of the size or content of fourteen gallons at the least, or in glass bottles or stone bottles not exceeding the size of three pint bottles and being really part of the cargo, or any opium not being in a cask or package containing forty-five pounds weight of such opium at the least, or being separated or divided in any manner within a
cask

Persons on board smuggling vessels within ports subject to penalty of £100 and detention.

Customs.

cask or package, or any tobacco or snuff not being in a cask or package containing sixty pounds weight of such tobacco or snuff at least, or being separated or divided in any manner within any cask or package, or any cigars not being in a cask or package containing sixty pounds weight or ten thousand in number of cigars at the least, shall forfeit the sum of one hundred pounds, and every such person may be detained to be dealt with as hereinafter directed.

Persons in Her Majesty's naval service detained to be placed in security by their commanding officers until warrant procured.

168. Where any person or persons, being part of the crew of any of Her Majesty's ships or vessels, or of any ship or vessel in Her Majesty's employment or service, and liable to detention, shall have been detained under any law relating to the Customs, such person or persons, upon notice thereof by the detaining officer to the commanding officer of the ship or vessel, shall be placed in security by such commanding officer on board such ship or vessel until such detaining officer shall have obtained a warrant from a Justice for bringing such person before him or any other Justice to be dealt with according to law, which warrant such Justice is required to grant upon complaint made to him by such officer of Customs stating the offence for which such person is liable to detention.

Persons may be detained at any time after offence.

169. If any person liable to be detained under this or any other Act relating to the Customs shall not be detained at the time of committing the offence for which he is so liable, or shall after detention make his escape, such person may at any time afterwards be detained to be dealt with as if detained at the time of committing such offence.

Magistrates to convict smugglers in certain cases without an order of Customs.

170. Whenever any person shall have been detained and taken before any Justice for being on board any ship or boat within any port bay harbour river or creek of the Colony, such ship or boat having on board or having had on board spirits opium tobacco or cigars in such casks or packages as would under this or any other Act relating to the Customs subject the same to forfeiture, or for unshipping or for aiding or being concerned in the unshipping of any spirits opium or tobacco, or for shipping or for aiding or being concerned in the shipping of any gold respectively liable to forfeiture under this or any other Act relating to the Customs or under any regulation for the time being in force, or for carrying or concealing or for aiding or being concerned in the carrying or concealing of any such spirits opium tobacco cigars or gold, and it shall appear to such Justice that the quantity of spirits in respect of which such person has been so detained does not exceed two gallons, or that the quantity of opium in respect of which such person has been detained does not exceed five pounds weight, or that the quantity of tobacco in respect of which such person has been so detained does not exceed ten pounds weight, or that the quantity of gold in respect of which such person has been so detained does not exceed eight ounces weight, such Justice may proceed summarily upon the case, without any information and although no direction shall have been given by the Commissioner, and convict such person of such offence, and adjudge that such person shall, in lieu of any other penalty, forfeit any sum not less than the single value nor more than treble the value of such goods, including the duties of importation or exportation due thereon, and in default of payment of such sum of money commit such person to any gaol for any time not exceeding one month.

Persons liable to detention may be detained until proceedings complete, or may be admitted to bail.

171. When any person shall have been detained for any offence against this or any other Act relating to the Customs, and taken before any Justice, such Justice may, if he see reasonable cause, order such person to be detained in gaol or in the custody of the police a reasonable time, to obtain the order of the Commissioner and to prepare the necessary informations convictions and warrants of commitment, and at the expiration of such time, to be brought before him or any other

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other Justice or Justices, who may then finally hear and determine the matter; but any person so detained or apprehended may, at the discretion of such Justice, be liberated on giving by recognizance security to the satisfaction of such Justice in the sum of one hundred pounds, or in the amount of the penalty sought to be recovered, to appear at such time and place as shall be appointed by such Justice for hearing the case.

172. If any person shall offer for sale any goods under pretence that the same are prohibited or have been unshipped and run on shore without payment of duties, all such goods (although not liable to any duties or prohibited) shall be forfeited, and every person so selling or offering for sale such goods shall forfeit treble the value thereof.

Offence of offering goods for sale pretending them to have been run.

173. No subject of Her Majesty other than officers of the Navy or Customs shall intermeddle with or take up any spirits being in casks of less content than fourteen gallons which may be found floating upon or sunk in the sea within one league of the Colony; and if any spirits shall be so intermeddled with or taken up, the same shall be forfeited, together with any ship or boat in which they are found.

None but officers to take up spirits in kegs sunk in or floating on the sea.

174. No person shall, after sunset and before sunrise, between the first day of April and the first day of October, or after the hour of seven in the evening and before the hour of six in the morning at any other time of the year, make or aid or assist in making any signal in or on board or from any ship or boat, or on or from any part of the coast or shore of the Colony, or within one league of any part of such coast or shore, for the purpose of giving notice to any person on board any smuggling ship or boat, whether any person so on board of such ship or boat be or be not within distance to notice any such signal; and if any person contrary to this Act shall make or cause to be made or aid or assist in making any such signal, such person so offending shall be guilty of a misdemeanour, and any person may stop arrest and detain the person so offending, and convey him before any Justice, who, if he see cause, shall commit the offender to the next gaol, there to remain until delivered by due course of law; and it shall not be necessary to prove on any indictment or information in such case that any ship or boat was actually on the coast; and the offender being duly convicted shall by order of the Court before whom he shall be convicted either forfeit the penalty of one hundred pounds or at the discretion of such Court be committed to the common gaol or house of correction, there to be kept to hard labour for any term not exceeding one year.

Offence of signalling smuggling vessels.

175. If any person be charged with informed against or indicted for having made or caused to be made or for aiding or assisting in making such signal as aforesaid, the burden of proof that such signal so charged as having been made with intent and for the purpose of giving such notice as aforesaid was not made with such intent and for such purpose shall be upon the defendant against whom such charge is made or such information or indictment is filed or found.

Proof of a signal not being intended on defendant.

176. Any person whatsoever may prevent any signal being made as aforesaid, and may go upon any lands for that purpose, without being liable to any indictment information suit or action for the same.

Any person may prevent signals.

177. All persons assembled to the number of three or more for the purpose of unshipping carrying or concealing any spirits opium tobacco or cigars respectively, liable to forfeiture under this or any other Act relating to the Customs, and every person who shall by any means procure or hire or shall depute or authorize any other person to procure or hire any person or persons to assemble for the purpose of

Offence of assembling to run spirits opium &c., or obstructing officers.

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being concerned in unshipping carrying or concealing any goods which are prohibited to be imported, or the duties for which respectively have not been paid or secured, and every person who shall obstruct any officer of Customs or any person acting in his aid or assistance or duly employed for the prevention of smuggling, in the execution of his duty or in the due seizing of any goods liable to forfeiture by this or any other Act relating to the Customs, or who shall rescue or attempt to rescue or cause to be rescued any goods which have been duly seized, or who shall before or at or after any seizure throw away stave break or otherwise destroy any goods to prevent the seizure thereof or the securing of the same, shall, upon being duly convicted of any of the said offences before any Justice of the Peace, be adjudged by such Justice for the first offence to be imprisoned in any gaol or house of correction and there kept to hard labour for any term not less than six or more than nine months, and for the second offence for any term not less than nine or more than twelve months, and for the third or any subsequent offence for eighteen months.

Offence of assembling
armed to smuggle
goods, felony.

178. If any persons to the number of three or more, armed with firearms or other offensive weapons, shall within the Colony or within the limits of any port bay harbour river or creek thereof be assembled in order to be aiding and assisting in illegally landing running or carrying away prohibited goods or any goods liable to duties which have not been paid or secured, or in rescuing or taking away any such goods after seizure, from the officer of the Customs or other officer or person authorized to seize the same, or from any person employed by or assisting them, or from the place where the same shall have been lodged by them, or in rescuing any person who shall have been apprehended for any offence made felony by this or any other Act relating to the Customs, or in preventing the apprehension of any person who shall have been guilty of such offence, or be so aiding or assisting every person so offending, shall be guilty of felony, and shall be liable, at the discretion of the Court before which he shall be convicted, to be kept in penal servitude for life or for any term not less than six years.

Offence of shooting
at boats belonging to
Navy or Customs,
felony.

179. If any person shall maliciously shoot at any vessel or boat belonging to Her Majesty's Navy or in the service of the revenue within one league of any part of the Colony, or shall maliciously shoot at maim or wound any officer of Customs, or any person acting in his aid or assistance, or duly employed for the prevention of smuggling, in the execution of his office or duty, every person so offending, and every person aiding abetting or assisting therein, shall be guilty of felony, and shall be liable, at the discretion of the Court before which he shall be convicted, to be kept in penal servitude for life or for any term not less than six years.

Penalty for damaging
boats buoys &c.

180. Every person who shall wilfully cut away cast adrift remove alter deface sink or destroy or in any other way injure or conceal any boat buoy rope or mark in the charge of or used by any person for the prevention of smuggling, or in or for the use or service of the Customs, shall for every such offence forfeit the sum of twenty pounds.

Offence of being in
company with others
having smuggled
goods, armed or dis-
guised, felony.

181. If any person in company with more than four others be found with any goods liable to forfeiture under this or any other Act relating to the Customs, or if any person in company with one other person be found with any such goods within five miles of the sea coast or of any tidal river carrying firearms or other offensive weapons or disguised in any way, every such person shall be guilty of felony, and shall be liable, at the discretion of the Court before which he shall be convicted, to be kept in penal servitude for any term not exceeding
four years.

182. If

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182. If any person shall assault or by force or violence resist or obstruct any officer of Customs or other person duly employed for the prevention of smuggling in the due execution of his duty, or any person acting in his aid or assistance, every person so offending shall be guilty of a misdemeanour, and shall be liable, at the discretion of the Court before which he shall be convicted, to be kept in penal servitude for any term not exceeding four years.

Offence of assaulting or resisting officers, misdemeanour.

183. The commanding officer for the time being of any vessel or boat employed for the prevention of smuggling may haul any such vessel or boat upon any part of the coasts of the Colony, or the shores banks or beaches of any port bay harbour river or creek of the same, (not being a garden orchard or pleasure ground, or place ordinarily used for any bathing machine,) which shall be deemed most convenient for that purpose, and may moor any such vessel or boat on such part of the aforesaid coasts shores banks and beaches, below high water-mark, and over which the tide flows on ordinary occasions, and may continue such vessel or boat so moored as aforesaid for such time as he shall deem necessary and proper, and such commanding officer and any person acting under his direction shall not be liable to any indictment information action or suit for so doing.

Officers may haul their vessels on shore where convenient.

184. Any officer of Customs or any other person acting in his aid or assistance or duly employed for the prevention of smuggling, when on duty may patrol upon and pass freely along and over any part of the coasts of the Colony, or any railway, or the shores or banks of any port bay harbour river or creek of the same (not being a garden orchard or pleasure ground), and any such officer or person so patrolling shall not be liable to any indictment information action or suit for so doing.

Officers may patrol coasts.

As to rewards for convictions and seizures :

185. The Governor may, upon conviction of any person of an offence against this or any other Act relating to the Customs, order to be paid or distributed out of the revenue of Customs, to or amongst any officer or officers or other person or persons who shall have lawfully apprehended or detained the person so convicted or shall otherwise have been active in procuring such conviction, such reward as the Governor may see fit, not exceeding upon the conviction of any one person the sum of fifty pounds. And the Governor may also order to be paid or distributed out of the said revenue, to or amongst any officer or officers or other person or persons by whom or through whose means or information any seizure shall have been made or penalty recovered or adjudged to be paid under this or any other Act relating to the Customs, such reward as the Governor may see fit, not exceeding, as the case may be, the amount of the proceeds or the value as determined by the Governor of such seizure or the amount of such penalty.

Rewards.

Rewards for convictions and seizures.

As to collusive seizures :

186. If any officer of Customs or other person whosoever duly employed for the prevention of smuggling shall make any collusive seizure, or shall deliver up or make any agreement to deliver up or not to seize any vessel or boat or any carriage or animal or any goods liable to forfeiture, or shall take any bribe gratuity recompense or reward for the neglect or non-performance of his duty, or shall conspire or connive with any person to import or export into or from the Colony or shall be in any way concerned in the importation or exportation into or from the Colony of any goods prohibited to be imported or exported or liable to duties of Customs, for the purpose of seizing any ship vessel boat

Collusive seizures.

Penalty for collusive seizures, and for taking or offering bribes.

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boat carriage animal or goods and obtaining any reward for such seizure or otherwise, every such officer or other person shall forfeit for every such offence any sum not exceeding five hundred pounds, and be rendered incapable of serving Her Majesty in any office whatever, either civil or military; and every person who shall give or offer or promise to give or procure to be given any bribe recompense or reward to or shall make any collusive agreement with any such officer or person as aforesaid to induce him in any way to neglect his duty, or to do conceal or connive at any Act whereby any of the provisions of this or any other Act relating to the Customs may be violated or evaded, shall forfeit any sum not exceeding two hundred pounds.

Legal proceedings generally.

As to the course of procedure for recovering duties and penalties and enforcing forfeitures under this or any other Act relating to the Customs :

Duties penalties and forfeitures to be sued for in Supreme Court.

187. All duties penalties and forfeitures incurred under or imposed by this or any other Act relating to the Customs, and the liability to forfeiture of any goods seized under the authority thereof, shall and may, except as hereinafter provided, be sued for prosecuted determined and recovered by action in the Supreme Court in which the Commissioner on behalf of the Crown shall be the nominal plaintiff or defendant as the case may require; and in every such action the practice shall be the same as nearly as conveniently may be as in proceedings between subject and subject; and any costs to which any subject shall be entitled in any such proceeding may be paid by the Commissioner out of the revenue of Customs.

Duties and penalties under £100 to be sued for before a Justice or in inferior Court, subject to Governor's discretion to order trial in Supreme Court.

188. Where the amount of any duties or penalties claimed by the Crown shall not exceed the sum of one hundred pounds, such duties or penalties shall not be sued for or enforced in the Supreme Court, but by information before any Justice, or by information suit or other appropriate proceeding in any inferior Court of civil jurisdiction, in the name of the Commissioner or some officer of Customs, for which purposes any such Court shall have jurisdiction in such cases with the like power to enforce or mitigate any penalty sought to be recovered as is hereinafter conferred upon Justices: Provided that if upon consideration of the facts and circumstances of or the questions of law involved in any case so excepted from the jurisdiction of the Supreme Court it shall appear to the Commissioner desirable that such case should be tried in such last-mentioned Court, he shall certify such his opinion to the Governor, who may thereupon make and issue an order to the Commissioner, authorizing him to bring such case in such Court, and the purport of such order shall be indorsed on any process to be issued out of such Court in such case at the suit or prosecution of the Crown in the words following, that is to say,—“By order of the Governor this case appearing to be a fit case to be tried in the Supreme Court,” and the same shall confer jurisdiction on such Court to try the same.

Defendant to have option of trial in Supreme Court, though Crown's demand be under £100.

189. It shall be optional for the defendant in any case, except as hereinafter provided, where the amount of duties or penalties claimed by the Crown shall not exceed the sum of one hundred pounds, to require that instead of proceeding against him on account thereof by information before any Justice or any inferior Court as aforesaid, the proceedings shall be brought in the Supreme Court, and upon the request in writing of such defendant, delivered to the Commissioner or Collector, such proceedings may be instituted in the Supreme Court; for which purpose on notice in writing by the defendant to the Justice or inferior Court, if proceedings have been already commenced, such Justice or Court shall adjourn the case for two days to afford the

defendant

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defendant an opportunity of delivering such request; and in order to confer jurisdiction on the Supreme Court, it shall be sufficient to state such request on the back of any process to be issued in such case in the words following, that is to say,—“On the requisition of the defendant, who prefers a trial by the Supreme Court;” and such indorsement on the process, signed by the Commissioner, shall be evidence to the Court of the same, notwithstanding the provisions hereinbefore contained: Provided that in any case where proceedings shall have been already commenced before such Justice or inferior Court, and the defendant shall be under bail or recognizance to appear, or in custody for default of such bail, or where the hearing of such case shall have been commenced, such proceedings shall not be removed, but such inferior Court or Justice shall hear and determine the case.

190. If any suit or prosecution for the recovery or enforcement of any duty or penalty, in which the amount shall exceed the sum of one hundred pounds, shall have been commenced in the Supreme Court, the Commissioner at his discretion may, on the defendant's request in writing to him, order such suit or prosecution to be brought by information before any Justice or before any inferior Court of civil jurisdiction whereupon such suit or prosecution in the Supreme Court shall cease; and on the production of an order of the Commissioner directing the bringing such proceeding before a Justice or inferior Court, such Justice or Court shall receive such information and in due course proceed to hear and determine the same.

Inferior jurisdiction may be resorted to, by consent, though demand be above £100.

191. In every action in the Supreme Court, at the suit or on behalf of the Crown, for the recovery or enforcement of any duty penalty or forfeiture incurred under or imposed by this or any other Act relating to the Customs, a writ of arrest shall issue as of course on the application of the Commissioner at the time of taking out the writ of summons whereby such action shall be commenced, or at any time thereafter for the purpose of holding the defendant to bail, in like manner as a defendant who is about to quit the Colony may be held to bail.

Defendant in proceedings in Supreme Court may, on application of Commissioner, be arrested on mesne process.

192. Whenever the Commissioner or the proper officer of Customs shall in any case proceed against any person or persons for any offence under this or any other Act relating to the Customs, before a Justice or any inferior Court, any such Justice or inferior Court shall and may, on sufficient information on oath being given before such Justice or Court that the offence charged has been committed and that there is probable cause for believing that the defendant is about to quit the Colony or abscond, issue a warrant to apprehend and bring such offender or offenders before such Justice or Court, or before any other Justice, and on such offender or offenders being so brought, to require him or them to give by recognizance security to the satisfaction of any such Justice or Court, in such amount as may by such Justice or Court be deemed sufficient, to appear before such Justice or Court or before any other Justice at a time and place appointed for the hearing of the case, and in the meantime in default of such security to commit such offender or offenders to gaol or the custody of the police or other constabulary force.

On prosecution before Justice or inferior Court, absconding defendant may be arrested.

193. When by this or any other Act relating to the Customs a penalty is jointly and severally incurred by any number of persons, such persons may be proceeded against jointly or severally, and in case of a joint proceeding against such several persons for recovery of the penalty so severally incurred, the penalty shall be recoverable against each, notwithstanding that any one or more of such persons so jointly proceeded against may have allowed judgment to go by

Penalties joint and several may be sued for by joint and several informations.

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confession or default, or that the penalty adjudged to be paid by any one or more of the defendants so jointly proceeded against may be of a different amount from that of the penalty recovered against any other or others of such defendants, or that judgment be given for one or more of such defendants; and no judgment shall be reversed or avoided or error in law alleged therein on the ground that the same has been obtained by confession or default of any of the defendants, nor on account of any difference in the amount of the penalties recovered against any two or more of them, nor on account of judgment being given for any of such defendants; but every such judgment shall be valid and effectual against all and every the defendants so jointly proceeded against for the full amount of the penalty or penalties which they shall have been respectively adjudged to pay.

Persons previously convicted may on second offence be imprisoned.

194. When any verdict shall pass against any person in the Supreme Court in any case in which a pecuniary penalty is imposed by this or any other Act relating to the Customs, and it shall appear that such person had been previously adjudged to pay the penalty in a like case, the presiding Judge may order that such person shall, in lieu of payment of any penalty, be imprisoned in any gaol for a period not less than six nor more than twelve months, and the keeper of such gaol is hereby required to receive any person committed under such order.

Where penalty depends on value of goods, how value to be estimated.

195. In all cases where any penalty, the amount of which is to be determined by the value of any goods, is directed to be sued for under any Act relating to the Customs, such value shall, for the purpose of all proceedings in any Court or before Justices of the Peace, be estimated and taken according to the rate and price for which goods of a like kind and of the best quality, upon which the duties of importation shall have been paid, were or might have been sold about the time of the offence.

Proceedings before Justices.

As to proceedings before Justices for recovery of penalties and forfeitures and the prosecution of offences :

Informations and convictions may be in the form given in the Schedule.

196. All informations exhibited before any Justice for any offence committed against this or any other Act relating to the Customs, and all summonses convictions and condemnations for such offences, and all warrants of any Justice founded upon such convictions, may be in the form or to the effect in the Ninth Schedule to this Act; and the form of information given in the said Schedule, and the counts therein contained with reference to any offences created by or punishable under the several sections of this Act to which the same or any of them relate, shall be applicable to and sufficient for all purposes in the prosecution of such offences; and where two or more counts are given upon the same section, those counts may be used which apply most nearly to the circumstances of the case, and any one or more of the said counts may be included in the same information, together with any other count or counts, and in any case or for any offence for which no count is given in the said Schedule, such count or counts may be substituted or added as circumstances may require; and every such information and every conviction and warrant of commitment for any offence committed against this or any other Act relating to the Customs shall be deemed valid and sufficient in which the offence is set forth, either in the words of the Act by which the penalty for such offence has been inflicted or in the words of the information by this Act prescribed; and the like counts shall be applicable to and sufficient for the like purposes and be used in like manner in any proceedings in any Court having jurisdiction in such cases

under

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under this or any other Act relating to the Customs; and no conviction or warrant of commitment, shall be held void by reason of any defect therein, and no party shall be entitled to be discharged out of custody on account of such defect, provided it be alleged in such warrant that the said party has been convicted of such offence, and that it shall appear to the Court or Judge before whom such warrant is returned that such conviction proceeded upon good and valid grounds; and every such warrant may be executed by any officer of Customs or police, and in any part of the Colony, without further indorsement or sanction than that of the Justice issuing the same; and no objection shall be taken or allowed to any information or summons for any alleged defect therein, in substance or in form, or for any variance between such information or summons and the evidence adduced at the hearing in support thereof.

197. Upon the exhibiting of any information before any Justice for any offence against this or any other Act relating to the Customs, for which offence the party charged is not liable to be detained, or by which information any penalty or forfeiture shall be sought to be recovered or any punishment of hard labour sought to be inflicted, and where such information shall have been exhibited before such Justice within three years next after the date of the offence committed, such Justice or any other Justice having jurisdiction in that behalf from time to time and at any time afterwards may issue his summons directed to such party, stating shortly the matter of such information, and requiring him personally to appear at a certain time and place before the same or any other Justice to answer the said information and to be further dealt with according to law; and every such summons shall be served by any officer of Customs or police, or by any person to whom the same shall be delivered for that purpose, upon the party to whom it is so directed, by delivering the same to the party personally or by leaving the same at his usual or last known place of abode or business, or on board any ship or vessel to which such party may belong or may have lately belonged; and every such summons so served shall be deemed sufficiently served.

Justice may summon offender.

What shall be sufficient service of summons.

198. Where any offence shall be committed in any place upon the water not being within any port bay or harbour of the Colony, or where the officers have any doubt whether such place is within the boundaries or limits of such port bay or harbour, such offence shall for the purposes of this Act be deemed and taken to be an offence committed on the high seas.

Offences on the waters and jurisdiction.

199. In case of the non-payment of any penalty incurred for any offence in respect of which the offender is not liable to detention, the convicting or any other Justice may, by warrant under his hand, commit such party to any gaol within his jurisdiction, there to remain until the penalty shall be paid; and such Justice is hereby also authorized and required, when such party is convicted of any offence for which the punishment of hard labour is inflicted, to commit such party by such warrant to any gaol, there to be kept to hard labour for such time as may be authorized by this or any other Act relating to the Customs, and such warrants may be executed in any part of the Colony by any officer of Customs or police.

Justices may commit in default of payment of penalty, until payment.

200. When any person is convicted before any Justice and adjudged to pay a pecuniary penalty for any offence against this or any Act relating to the Customs, such Justice shall state in the conviction and also in the commitment of such person, if committed in default of payment, the amount of costs awarded to be paid by such person as well as the penalty so adjudged, and shall commit such person until payment of such penalty and costs.

Justices may award costs as well as penalty and commit until payment.

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Remission mitigation or increase of fines forfeitures and punishments.

Governor may remit fines forfeitures and punishments.

As to the remission mitigation or increase of fines forfeitures and punishments :

201. The Governor may mitigate commute or remit, upon such terms and conditions as he may think fit, any penalty fine forfeiture or punishment incurred or awarded under any law or regulation relating to the Customs, and may direct restoration as well after as before condemnation of any ship goods or property whatsoever seized under any such law or regulation. And in case the Governor's order for any such mitigation commutation remission or restoration shall prescribe as a condition that no action or other civil proceeding shall be brought or instituted by the person in whose favour such order is made, or by his representatives, on account of any matter or thing referred to in such order, and such order or a copy thereof shall be delivered to such person or left at his usual or last known place of abode or business or on board any ship or vessel to which such person may belong, and the same shall subsequently be assented to or taken advantage of by him or his representatives, then and in such case any such action or civil proceeding brought or instituted contrary to such condition shall, on satisfactory proof of the facts by affidavit or otherwise, be stayed by the Court in which the same shall have been so brought or instituted or by any Judge thereof.

Justices may mitigate penalties in certain cases to one-fourth.

202. Where any person shall or may be convicted before any Justice in any penalty incurred as aforesaid, and except as is herein-after provided, the said Justice may in cases where, upon consideration of the circumstances, he shall deem it expedient so to do and for a first offence only, mitigate the payment of the said penalty so as the sum to be paid by such person be not less than one-fourth part of the amount of the penalty in which such person shall have been or may be convicted.

Persons guilty of offences subjecting them to detention, must on conviction pay the full penalty or be committed.

203. Any Justice before whom any person liable to be detained for any offence against this or any other Act relating to the Customs shall be brought may, either on the confession of such person of such offence or on proof thereof upon oath, convict such person of any such offence, and every person so convicted shall, immediately upon such conviction, pay without any mitigation into the hands of such Justice, for the use of Her Majesty, the penalty imposed for such offence, or in default thereof the said Justice shall by warrant under his hand commit such person so convicted as aforesaid and making such default as aforesaid to any gaol there to remain until such penalty shall be paid; and such Justice may also, when any such person is convicted of any offence for which the punishment of hard labour is inflicted, commit such person to any gaol there to be kept to hard labour for such time as he shall be authorized to commit by this or any other Act relating to the Customs; subject nevertheless, in every case mentioned in this present section, to the Governor's power to mitigate commute or remit such penalty or punishment.

Persons committed by Justice to be discharged at the end of six months.

204. Where any person shall have been committed by any Justice to any gaol for non-payment of any penalty incurred under this or any other Act relating to the Customs, the keeper of such gaol is hereby authorized and commanded (if such person shall cite this enactment to such keeper) to discharge such person at the end of six months from the commencement of his imprisonment but not sooner.

Persons previously convicted may in lieu of penalty be imprisoned.

205. If it shall appear that any person convicted before a Justice in any penalty for an offence against this or any other Act relating to the Customs has been before convicted of any similar offence or of any other offence against this or any other Act relating to the Customs, it shall and may be lawful for the said Justice, if he shall

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shall think fit, to order and adjudge that such person shall in lieu of such penalty be imprisoned in any gaol and there kept to hard labour for any period not less than six nor more than twelve months.

206. Where any person shall have been convicted of any offence against this or any other Act relating to the Customs for which such person would be liable to be committed to hard labour, it shall and may be lawful for the Justice before whom such person is so convicted, if such person be a female, or be, if a male, from physical infirmity incapable of hard labour, to order and adjudge that such person shall, in lieu of being subjected to hard labour, be imprisoned in any gaol within his jurisdiction for the period during which such person would have been liable to be kept to hard labour, but in all such cases the cause of mitigation shall be stated in the warrant of commitment, and such person may be employed in any suitable labour.

Justices may commute hard labour where offender is a female or infirm.

207. Where any person shall have been convicted before any Justice of any offence against this or any other Act relating to the Customs for which such person is liable to be committed to hard labour, and it shall at any time during the imprisonment of such person be made to appear to the said or any Justice that such person had before been convicted of a similar offence or of any other offence against this or any other Act relating to the Customs, it shall be lawful for such Justice, and he is hereby required, to commit such offender to some gaol, to be kept to hard labour for any period not less than nine nor more than twelve months in the whole from the date of the first commitment, and to amend the warrant of commitment accordingly, and without including in such amendment any reference to the former conviction; and any gaoler in whose custody such person shall be is hereby required, upon a written order signed by any Justice, to produce such person before such last-mentioned Justice.

If prisoner be found to have been previously convicted, imprisonment may be extended.

208. Where any married woman shall be convicted before any Justice for any offence against this or any other Act relating to the Customs, she shall, in default of paying any penalty she may have incurred, be liable to be committed to prison in the same manner as if she were sole and unmarried.

Married women may be committed.

As to proceedings upon writs of *habeas corpus* :

209. No writ of *habeas corpus* shall issue to bring up the body of any person who shall have been convicted before any Justice under this or any other Act relating to the Customs unless the party who shall have been so convicted, or his attorney or agent, shall state by affidavit in writing duly sworn the ground of objection to such conviction, and upon the return to such writ no objection shall be entertained by the Court other than such as shall have been stated in such affidavit.

Proceedings on *habeas corpus*.
Writs of *habeas corpus* not to issue except on affidavit.

210. No such writ shall issue without notice in writing to the solicitor acting for the Crown, and no return to any such writ shall be considered by the Supreme Court or any Judge thereof, unless there shall be produced to such Court or Judge an affidavit in writing duly sworn, stating that notice of the issuing of such writ was given to such solicitor or left at his office four clear days before the return of such writ, and with respect to all such writs there shall be an interval of seven clear days at least between the day of issue and the day of the return thereof, and any such writ issuing without notice, or not in conformity with the directions herein contained, shall be void to all intents and purposes.

No such writ shall issue without notice to solicitor acting for the Crown.

As to prosecution by indictment or information for offences :

211. No indictment or information shall be preferred for any offence against this or any other Act relating to the Customs, nor shall

Prosecutions &c.

All proceedings to be by direction of Commissioner.

Customs.

Suits to be in name of Commissioner or of some officer of Customs.

shall any suit be commenced for the recovery of any penalty or forfeiture for any such offence, except in the cases of persons detained and carried before Justices in pursuance of this or any other such Act, unless such indictment or information shall be preferred under the direction of the Commissioner, or unless such suit be commenced in the name of the Commissioner or of some officer of Customs.

Limitation of suits or informations.

212. All actions suits indictments or informations brought or exhibited for or in respect of any offence against this or any other Act relating to the Customs in any Court or before any Justice, may be brought or exhibited within three years next after the date of the offence committed and not afterwards.

Proofs in proceedings.

As to proofs in proceedings under the Customs' laws in any Court or before Justices :

Onus of proof in smuggling cases.

213. If in any suit or prosecution in respect of any goods seized for non-payment of duties or any other cause of forfeiture, or for the recovering any penalty or penalties under this or any other Act relating to the Customs, any question shall arise whether the duties of Customs have been paid in respect of such goods, or the same have been lawfully imported or unshipped or lawfully shipped or water-borne to be shipped, then and in every such case the burden of proof shall be on the party alleging that such goods are duty paid lawfully imported or unshipped or lawfully shipped or water-borne to be shipped, as the case may be.

Averments in smuggling cases.

214. The averment that the Commissioner has directed or elected that any information or proceedings under this or any other Act relating to the Customs shall be instituted, or that any ship or boat is foreign or belonging wholly or in part to Her Majesty's subjects, or that any person detained or found on board any ship vessel or boat liable to seizure is or is not a subject of Her Majesty, or that any goods conveyed towards the coast of the Colony or any port thereof or towards any quay were conveyed for the purpose of exportation contrary to this or any Act or regulation relating to the Customs, or that any goods thrown overboard staved or destroyed were so thrown overboard staved or destroyed to prevent seizure, or that any goods thrown overboard staved or destroyed when chased by any ship or boat in Her Majesty's service, or in the service of the revenue were so thrown overboard staved or destroyed to avoid seizure, or that any person was employed for the prevention of smuggling, or that the offence was committed within the limits of any port, shall be deemed to be sufficient without proof of any such fact unless the defendant in any such case shall prove to the contrary.

Proof of holding office in the Customs, and of orders of Governor or Commissioner.

215. If upon any trial a question shall arise whether any person is an officer of Customs or duly employed for the prevention of smuggling, his own evidence thereof, or other evidence of his having acted as such, shall be deemed sufficient, and such person shall not be required to produce his Commission or deputation unless sufficient proof shall be given to the contrary; and upon the trial of any issue, or upon any judicial hearing or investigation touching any seizure penalty or forfeiture or other proceeding under any law relating to the Customs or incident thereto, where it may be necessary to give proof of any order issued by the Governor in Council, or by the Governor, or by the Commissioner, the order or any letter or instructions referring thereto, which shall have been officially received by any officer of Customs, for his guidance, and under which he shall have acted as such officer, or a copy of the Government *Gazette* in which such order may have been published, shall be admitted and taken as sufficient evidence and proof of such order.

In Customs cases the

216. The several Acts in force within the Colony which make the parties

Customs.

parties to suits and proceedings competent and compellable to give evidence therein shall not be deemed to extend or apply to persons being parties on their own behalf in any suit or proceeding instituted under this or any other Act relating to the Customs, but only to the Commissioner and other officers of Customs suing or being sued on behalf of the Crown.

evidence of a party not receivable against the Crown.

As to actions against officers of Customs :

217. No action (other than such actions as it is hereinbefore provided may be brought against the Commissioner or Collector as nominal defendants) shall be commenced against the Commissioner or any officer of the Customs, or against any person duly employed for the prevention of smuggling, or acting under the direction of the Commissioner, for anything done in the execution of or by reason of his office, until one month next after notice in writing shall have been delivered to him, or left at his usual place of abode by the plaintiff, his attorney or agent, in which notice shall be clearly stated the cause of action and the Court in which the same is intended to be brought, the name and place of abode of the plaintiff, and the name and place of business of such attorney or agent; and if any action shall be commenced against any such officer or person and no such notice shall have been given, such officer or person may call upon the plaintiff to establish to the satisfaction of the Court or a Judge thereof, on affidavit, that such action is brought for some act matter or thing not done in the execution of or by reason of his office, and if the plaintiff shall fail so to satisfy the Court or Judge such action shall be stayed: Provided always that if the plaintiff shall so satisfy the Court or Judge, he shall not be allowed on the trial of such action to give evidence of any cause of action other than such as shall have been disclosed in such affidavit.

Actions against officers.
One month's notice of action to be given.

218. Upon the trial of any action brought in pursuance of such notice, the plaintiff shall not be entitled to a verdict without proving on the trial that such notice had been duly served, and in default of such proof the defendant in such action shall receive a verdict, nor shall any such plaintiff be at liberty to produce any evidence of any cause of action except such as has been distinctly stated in such notice.

Evidence limited to subject in notice.

219. It shall be lawful for any officer or person to whom such notice shall be given, at any time within one month after service of such notice as aforesaid, to tender amends to the plaintiff, his attorney or agent, and in case such amends be not accepted, to plead such tender in bar of the action together with any other lawful pleas, and if upon the trial of such action the jury shall find the amends so tendered sufficient, they shall give a verdict for the defendant.

Officer may tender amends.

220. Every such action against any such officer or person as aforesaid shall be commenced within three months after the cause of action shall have arisen, and if such action be brought in respect of any seizure made by such officer or person, such cause of action shall not be deemed to have arisen until the day after the trial of any action brought for determining the validity of the seizure.

Limitation of actions.

221. In the event of any party so complaining as aforesaid resorting for redress to any inferior Court of civil jurisdiction, the proceedings and conduct of the suit shall be regulated, as nearly as the circumstances of the case shall allow, in conformity with the ordinary procedure of such Court: Provided always that no such action shall be brought in any inferior Court if, before being served with a summons in any such action, the person on whom such notice shall have been served, or his attorney or agent, shall give a written notice to the party so complaining as aforesaid that he objects to being sued in such

Defendant to have the option of being sued in Supreme Court.

Court

Customs.

Court for such cause of action, and if any such action shall be so brought in such Court after such notice all proceedings in such action shall be stayed.

In actions on seizure Judge may certify probable cause in bar of action against seisor.

222. Where on any action brought for determining the liability to forfeiture of any ship boat or goods, a verdict shall be found for the claimant, and it shall nevertheless appear to the Judge before whom such trial was had that there was a probable cause of seizure, such Judge shall certify on the back of the record that there was such probable cause, and such certificate shall be a bar and may be pleaded as such to any action indictment information or other proceeding against the party making such seizure; and where on any action indictment information or other proceeding brought to trial against any person whomsoever on account of any seizure (whether any action shall have been or shall be brought to trial for determining the validity of such seizure or not) a verdict shall be given for the plaintiff, the Court or Judge before whom such action indictment information or other proceeding shall be tried may certify on the back of the record or other proceedings that there was probable cause for such seizure, whereupon the plaintiff shall not be entitled to more than twopence damages, nor to any costs, nor shall the defendant in any such prosecution be fined more than one shilling; and the production of such certificate, or a copy thereof verified by the signature of the officer of the Court having charge thereof, shall be sufficient evidence of such certificate.

Interpretation.

Interpretation of words &c.

As to the interpretation of terms used in this Act :

223. In the construction of this Act the words and expressions following shall have the meanings hereinafter assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say,—

“British Possession” shall include colony plantation island territory or settlement belonging to Her Majesty.

“Collector” shall include Sub-Collector or other principal acting officer of Customs at any port or place.

“Commissioner” shall denote the Commissioner of Customs.

“Foreign” shall mean any place other than New Zealand.

“Landing-waiter” shall include any officer duly authorized to superintend the landing and examination or lading of goods on their importation or exportation.

“Master” shall mean the person having or taking the charge or command of any ship.

“Parts beyond the seas” shall mean any place out of the Colony.

“Proper officer” shall mean the person appointed by the Governor or by the Commissioner for the particular duty service or purpose in connection with which such expression is used.

“Queen’s warehouse” shall mean any place provided by the Crown for lodging goods therein for security of the Customs.

“Seaman” shall include mate mariner sailor or landsman being one of the crew of any ship.

“Ship” shall mean ship or vessel of any description, unless used to distinguish a ship from some other description of vessel.

“Warehouse” shall mean any place in which goods entered to be warehoused may be lodged kept and secured.

Repeal of Ordinances.

As to the repeal of existing Ordinances and commencement of this Act :

Ordinances repealed.

224. The several Ordinances set forth in the Tenth Schedule to this

Customs.

this Act shall be and the same are hereby repealed except as to anything done before the commencement of this Act, and except so far as relates to any arrears of duty or to any drawback which shall have become due or payable, and except so far as may be necessary for the purpose of supporting or continuing any proceeding taken before the commencement of this Act, and except as to the recovery or application of any penalty for any offence which shall have been committed or any forfeiture which shall have been incurred before the commencement of this Act.

225. This Act shall commence and come into operation on the first day of January, one thousand eight hundred and fifty-nine: Provided that it shall be lawful for the Governor in Council, by Order in Council published in the *New Zealand Gazette*, from time to time to suspend, during such time as may appear expedient, the operation of any provisions of this Act either throughout the Colony or in or at any particular district or port to be defined or specified for the purpose, and also to continue in force during such time as may appear expedient any provisions of any Ordinance hereby expressed to be repealed; and any such order in like manner from time to time to revoke: Provided further that every such Order in Council shall expire and cease to be in force at latest at the expiration of one month after the commencement of the Session of the General Assembly next ensuing this present Session.

Commencement of Act.

226. The Short Title of this Act shall be "*The Customs Regulation Act, 1858.*"

Short Title.

SCHEDULES.

FIRST SCHEDULE.

REPORT.

Port of [*Name of port of arrival*].

On sec. 40.

Ship's Name.	Tonnage.	British or Foreign. If British, state the Port of Registry; if Foreign, state the Country.	Number of Crew.		Name of Master, and whether a British or Foreign Subject.	Port or place from whence Arrived.
			British Seamen.	Foreign Seamen.		
[<i>Here state the particulars according to the above headings.</i>]						
			Total			

CARGO.

1.	2.	3.	4.	5.	6.	7.
Name or Names of Places where Laden in order of time.	Marks.	Numbers.	Packages and Descriptions of Goods, particulars of Goods Stowed Loose, and general denomination of Contents of each Package of Spirits, Opium, Tobacco, Cigars, or Snuff intended to be Imported at this Port.	Name of Consignee.	Particulars of Packages and Goods (if any) for any other Port in the Colony.	Goods (if any) to be Transhipped or to remain on Board for Exportation.
[<i>Here state the particulars according to the above headings, or if in ballast state "In ballast only."</i>]						

Customs.

STORES.

Surplus stores remaining on board, viz. }

Agents name and address

I declare that the entry above written is a just report of my ship and of her lading, and that the particulars therein inserted are true to the best of my knowledge, and that bulk has not been broken nor any goods delivered out of my said ship since her departure from [London], the last foreign place of lading except at [Stating where, if anywhere].

Signed and declared this day of , in the presence of Master. Collector.

SECOND SCHEDULE.

ENTRY.

Port of [Name of port of importation].
Whether "Prime" or "Post," and if Post, date of Prime Entry
Importer's name

On sec. 46.

Wharf, Dock, or Station.	Ship's Name.	Whether British or Foreign ship; if Foreign, the Country.	Master's Name.	Port or Place from whence Imported.
[Here state the particulars according to the above headings.]				

Marks and Numbers.	Number and Description of Packages.	Description of Goods.	Declared Value.	Particulars for Duty.	Rate of Duty.	Amount of Duty.
[Here state the particulars according to the above headings. In column 5 state, in words at length, the quantity, cubic measurement, weight, or other particulars by which the amount of duty is determined.]						

£ s. d.

Total amount of duty payable on this entry

Dated this day of , one thousand eight hundred and Importer or Agent.

I, [Name of importer or agent] of [Place of abode], do hereby declare that I am the importer [or agent duly authorized by A.B., the importer] of the goods contained in this bill of entry, and that I enter the same goods as of the value of [Money in words at length].

Witness my hand, the day of , one thousand eight hundred and Importer [or Agent].

THIRD SCHEDULE.

BILL OF SIGHT.

Port of [Name of port of importation].
Importer [Name of Importer].

On sec. 51.

Wharf, Dock, or Station.	Ship's Name.	Whether British or Foreign Ship; if Foreign, the Country.	Master's Name.	Port or Place from whence Imported.	Name of Importer, or of his Agent.
[Here state the particulars according to the above headings.]					

Marks.

Customs.

Marks.	Numbers.	Number of Packages, with the best description of the Goods the Importer is able to give.
[Here state the particulars according to the above headings]		

I, _____, the importer [or agent to _____, the importer] of the goods above mentioned, do hereby declare that I have not [if importer] or that to the best of my knowledge he has not [if agent] received sufficient invoice, bill of lading, or other advice from whence the particulars for duty can be ascertained.

Dated this _____ day of _____, one thousand eight hundred and _____
 Importer [or Agent].
 Collector.

FOURTH SCHEDULE.

ENTRY OUTWARDS.

Port of [Name of port of exportation].

On sec. 98.

Ship's Name.	If British, state the Port of Registry ; if Foreign, the Country.	Tonnage.	Master's Name.	Destination.

Master [or Agent].

Date of Entry

[If ship shall have commenced her lading at any other port, name of such port.]

FIFTH SCHEDULE.

[SHIPPING BILL FOR WAREHOUSED GOODS [or FOR DRAWBACK GOODS, as the case may be].

Port of [Name of port of exportation].

On sec. 101.

Ship's Name.	Whether British or Foreign ; if Foreign, the Country.	Master's Name.	Destination.
[Here state the particulars according to the above headings.]			

Marks.	Numbers.	Description of Packages.	Quantity, Quality, and Description of Goods.
[Here state the particulars according to the above headings.]			
Total number of packages. ...			

I claim drawback on [In shipping bill for drawback goods, here state the quantity and description, in words at length, of the goods in respect of which drawback is claimed].

Exporter [or Agent].
 Officer of Customs.

Dated this _____ day of _____

SIXTH

Customs.

SIXTH SCHEDULE.

SHIPPING BILL FOR GOODS FREE OF DUTY.

On sec. 104.

Port of [*Name port of exportation*].

Ship's Name.	Whether British or Foreign ; if Foreign, the Country.	Master's Name.	Destination.

Marks.	Numbers.	Description of Packages.	Quantity, Quality, and Description of Goods.	The Value of Goods the Produce or Manufactures of New Zealand, and of Foreign (comprising all other) Goods.

Total number of packages

Total value £

I declare the value of the goods produce or manufactures of New Zealand above described to be

Exporter [*or Agent*].
Officer of Customs.

Dated this day of , one thousand eight hundred and .

SEVENTH SCHEDULE.

CONTENT.

On sec. 116.

Port of

Ship's Name.	Tonnage.	Number of Guns.	If British, state Port of Registry ; if Foreign, the Country.	Number of Crew.	Name of Master.	Number of Passengers or Troops.
<i>[Here state the particulars according to the above headings.]</i>						

Warehoused Goods.	Drawback and Restricted Goods.	British Goods and Foreign Goods Free of Duty and not for Drawback, and Goods the Produce or Manufactures of New Zealand.
<i>[If any, state marks and numbers of packages.]</i>	<i>[If any, state description of packages.]</i>	<i>[If any, state "sundry packages containing" either class as the case may be.]</i>

[If any goods shall have been reported inwards for exportation in such ship they must be so stated.]

Cleared
Dated

Examined

Officer of Customs.

I do declare that the above content is a true account of all goods shipped or intended to be shipped on board the above-mentioned ship and correct in all other particulars.

Master.

Signed and declared this day of , before me,

Collector.

Customs.

EIGHTH SCHEDULE.

TRANSIRE.

Port of .

On sec. 128.

Ship's Name.	Tonnage.	Port of Registry.	Master's Name.	Destination.
[Here state the particulars according to the above headings.]				

Foreign Goods, distinguishing Warehoused Goods removed under Bond.	Quantities.	[Here state "sundry other goods" or "no other goods," as the case may be.]
[Here state the particulars according to the above headings.]		

Cleared the day of , one thousand eight hundred and .
Master.
Collector.

NINTH SCHEDULE.

FORM OF INFORMATION BEFORE JUSTICES OF THE PEACE.

to wit. } BE it remembered that A.B., an officer of Customs under the direction of the Commissioner of Customs, informs me, the undersigned, one of Her Majesty's Justices of the Peace in and for, &c. On sec. 196.

Count I.

That C.D. did unship [or was aiding or concerned in unshipping] certain goods, to wit [Here mention the goods generally], contrary to section of "The Customs Regulation Act, 1858," whereby the said C.D. has forfeited the sum of , being treble the value of the said goods [or the penalty of one hundred pounds, as the case may be], for which the Commissioner of Customs has elected to sue. On sec. 165.

Count II.

That C.D., being [or not being, as the case may be,] a subject of Her Majesty, was on board a ship or boat, part of the cargo of which was thrown overboard [or staved or destroyed] to prevent seizure, contrary to section of "The Customs Regulation Act, 1858," whereby the said C.D. has become liable to be imprisoned as is therein directed. On sec. 166.

Count III.

That C.D., being [or not being, as the case may be,] a subject of Her Majesty, was found or discovered to have been on board a ship or boat contrary to section of "The Customs Regulation Act, 1858," whereby the said C.D. has become liable to be imprisoned as is therein directed. On sec. 166.

Count IV.

That C.D. was on board a ship or boat within a port [bay, harbour, river, or creek,] of the Colony, contrary to section of "The Customs Regulation Act, 1858," whereby the said C.D. has forfeited the sum of one hundred pounds. On sec. 167.

Count V.

That C.D. did make and subscribe a false declaration [or document] purporting to be [Here state the nature of the document generally], the same being false and untrue, contrary to section of "The Customs Regulation Act, 1858," whereby the said C.D. has forfeited the sum of one hundred pounds. On sec. 135.

Count VI.

That C.D. did untruly answer a certain question put to him by , an officer of Customs, contrary to section of "The Customs Regulation Act, 1858," whereby the said C.D. has forfeited the sum of one hundred pounds. On sec. 135.

Count VII.

That C.D. did counterfeit or falsify [or wilfully use when counterfeited or falsified, as the case may be,] a certain document purporting to be [Here state the nature of the document generally], contrary to section of "The Customs Regulation Act, 1858," whereby the said C.D. has forfeited the sum of one hundred pounds. On sec. 135.

Customs.

Count VIII.

On sec. 135. That C.D. did fraudulently alter [*or counterfeit, as the case may be,*] the seal signature initials or mark of [*or used by*] an officer of Customs, contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of one hundred pounds.

Count IX.

On sec. 140. That a certain vessel [*or boat*] called the , whereof C.D. was owner [*or master, as the case may be,*] was unlawfully used in exporting [*importing, shipping, unshipping, landing, removing, carrying, or conveying,*] certain uncustomed [*or prohibited*] goods, to wit [*Here mention generally the goods*], contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of , which the Commissioner of Customs has directed to be sued for in this case.

Count X.

On sec. 154. That C.D. was driving or conducting a cart waggon or other conveyance, and refused to stop or to allow the examination thereof when required in the Queen's name, contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of one hundred pounds.

Count XI.

On sec. 159. That C.D., an officer of police, having detained certain goods, to wit [*Here mention generally the goods*], on suspicion of their being stolen, neglected to convey the same to the proper warehouse [*or neglected to give notice thereof to the Commissioner of Customs, as the case may be,*] contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of twenty pounds.

Count XII.

On sec. 162. That C.D. obstructed a person duly employed for the prevention of smuggling, contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of one hundred pounds.

Count XIII.

On sec. 162. That C.D. denied the possession of certain foreign goods, to wit [*Here mention generally the goods*], which were afterwards found to be [*or to have been, as the case may be,*] in his possession, contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of , being treble the value of the said goods.

Count XIV.

On sec. 163. That C.D. was concerned in importing certain prohibited [*or restricted*] goods, to wit [*Here mention generally the goods*], contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of , being treble the value of the said goods [*or the penalty of one hundred pounds, as the case may be,*] for which the Commissioner of Customs has elected to sue.

Count XV.

On sec. 163. That C.D. was concerned in unshipping [*shipping, harbouring, or having possession of,*] certain prohibited [*restricted or uncustomed*] goods, to wit [*Here mention generally the goods*], contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of , being treble the value of the said goods [*or the penalty of one hundred pounds, as the case may be,*] for which the Commissioner of Customs has elected to sue.

Count XVI.

On sec. 163. That C.D. was concerned in the illegal removal of certain goods, to wit [*Here mention generally the goods*], from a warehouse, or otherwise illegally dealing with the same after they had been so removed, contrary to the provisions of section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of , being treble the value of the said goods [*or the penalty of one hundred pounds, as the case may be,*] for which the Commissioner of Customs has elected to sue.

Count XVII.

On sec. 163. That C.D. was knowingly concerned in evading duties of Customs upon or in dealing with certain goods, to wit [*Here mention generally the goods*], with intent to defraud Her Majesty of the duties of Customs in respect thereof, contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of , being treble the value of the goods [*or the penalty of one hundred pounds, as the case may be,*] for which the Commissioner of Customs has elected to sue.

Count XVIII.

On sec. 164. That C.D. was concerned in the removal of certain goods, to wit [*Here mention generally the goods*], or otherwise dealing with the same, contrary to section of "*The Customs Regulation Act, 1858,*" whereby the said C.D. has forfeited the sum of , being treble the value of the said goods [*or the penalty of one hundred pounds, as the case may be,*] for which the Commissioner of Customs has elected to sue.

Count

*Customs.**Count XIX.*

That C.D. offered for sale certain goods, to wit [*Here mention generally the goods*], On sec. 172.
 contrary to section of "*The Customs Regulation Act, 1858*," whereby the said C.D.
 has forfeited the sum of , being treble the value of the said goods.

Count XX.

That C.D. was concerned in the assembling of persons contrary to section of On sec. 177.
 "*The Customs Regulation Act, 1858*," whereby the said C.D. has become liable to be
 imprisoned as therein directed.

Count XXI.

That C.D. obstructed persons employed for the prevention of smuggling [*or was* On sec. 177.
 concerned in the rescue or attempt at rescue of seized goods, *or* in the destruction or
 attempt at destruction of seized goods] contrary to section of "*The Customs*
Regulation Act, 1858," whereby the said C.D. has become liable to be imprisoned as is
 therein directed.

FORM OF SUMMONS ON INFORMATION.

To C.D.

to wit. } WHEREAS an information has been exhibited by A.B., an officer of Customs,
 under the direction of the Commissioner of Customs, before me the
 undersigned, one of her Majesty's Justices of the Peace in and for the, &c., for that, &c.
 These are therefore to require you personally to appear before me or such other
 Justice or Justices of the Peace as may be present at on the day of
 instant [*or next*], at the hour of o'clock in the forenoon of the said day, to answer
 the said information.

Given under my hand, this day of , in the year of our Lord one
 thousand eight hundred and .

FORM OF SUMMONS FOR WITNESSES.

To

to wit. } You are hereby required personally to be and appear, on the day of
 , at the hour of o'clock in the forenoon, at , before me
 or such other of Her Majesty's Justices of the Peace as may be then and there present,
 to give evidence and testify the truth, according to your knowledge, concerning the facts
 alleged in a certain information exhibited against C.D. under "*The Customs Regulation*
Act, 1858," and herein fail not under the penalty therein provided.

Given under my hand, this day of , in the year of our Lord one thousand
 eight hundred and .

FORM OF CONVICTION.

to wit. } BE it remembered that on this day of , in the year of our
 Lord, , at , C.D. is convicted before me [*or us, as the case*
may be,] the undersigned, one [*or two*] of Her Majesty's Justices of the Peace in and
 for the of , for that he the said C.D. [*Here state the offence as in the infor-*
mation] and [*Where the party has been convicted of an offence punishable by pecuniary*
penalty and imprisonment in default of payment] I [*or we*] adjudge the said C.D. for his
 said offence to forfeit and pay the sum of , which [*If such be the case*] I [*or we*]
 mitigate to the sum of , and if the said sum of be not forthwith paid, I [*or*
we] adjudge the said C.D. to be imprisoned in Her Majesty's gaol until the same
 be paid [*or where it shall have been so adjudicated add instead of the words until the same*
be paid, the words for the period of six calendar months unless he shall sooner pay the
said sum of] or [*Where the party has been convicted of an offence punishable by*
imprisonment with hard labour] I [*or we*] adjudge the said C.D. for his said offence [*and*
where the party has been previously convicted insert here, he having been previously
convicted] to be imprisoned in Her Majesty's gaol at , and there be kept to hard
 labour for the period of months.

Given under hand, this day of , in the year of our Lord one
 thousand eight hundred and .

FORM OF COMMITMENT FOR NON-PAYMENT OF A PECUNIARY PENALTY.

To A.B., and to the Keeper of the Gaol at .

to wit. } C.D. having been this day convicted before me [*or us, as the case may be,*] the
 undersigned, one [*or two*] of Her Majesty's Justices of the Peace in and
 for the of , upon the information of A.B., an officer of Customs and
 the direction of the Commissioner of Customs, of having [*Here state the offence generally*
and the date thereof] I [*or we, as the case may be,*] did adjudge that the said C.D. had
 forfeited for his said offence the sum of [*adding if mitigated*] which I [*or we, as the*
case may be,] mitigated to the sum of , which has not been paid.

These are therefore to command you forthwith to convey the said C.D. to the said
 gaol at , and to deliver him to the said keeper thereof.

And

Native Districts Regulation.

And I [or we], the said Justice [or Justices, *as the case may be,*] do hereby authorize and require you, the said keeper, to receive the said C.D. into your custody, and him safely to keep in your said gaol until he shall duly pay the said sum of _____ or be discharged according to law [or if it be so adjudicated insert, instead of what follows the word gaol, the words for the period of six months, unless he shall sooner pay the said sum of _____].

Given under _____ hand this _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

FORM OF COMMITMENT TO HARD LABOUR.

To A.B., and to the Keeper of the Gaol at _____
 } C.D. having been this day duly convicted before me [or us, *as the case may*
 to wit. } *be,*] the undersigned, one [or two] of Her Majesty's Justices of the Peace
 in and for the _____ of _____, upon the information of A.B., an officer of Customs
 under the direction of the Commissioner of Customs, of having [*Here state the offence*
generally and date thereof] I [or we, *as the case may be,*] did adjudge that the said C.D.
 should, for his said offence [*if previously convicted say he having been previously*
 convicted] be imprisoned in the gaol at _____, and be there kept to hard labour for the
 period of _____ months.

These are to command you forthwith to convey the said C.D. to the said gaol at _____, and to deliver him to the said keeper thereof, and I [or we] the said Justice [or Justices, *as the case may be,*] do hereby authorize and require you the said keeper to receive and take the said C.D. into your custody, and him safely to keep to hard labour in your said gaol for the period of _____ months.

Given under _____ hand, at _____ of _____, this _____ day of _____, in the year of our Lord _____.

Sess. I., No. 3.

TENTH SCHEDULE.

An Ordinance to repeal within the said Colony of New Zealand an Act of the Governor and Council of New South Wales, passed in the third year of Her present Majesty's reign, intituled "*An Act to repeal an Act relating to the Revenue of Customs in New South Wales, and to provide for the general regulation thereof;*" and also a certain other Act of the said Governor and Council of New South Wales, passed in the fourth year of the reign of Her said present Majesty Queen Victoria, intituled "*An Act for increasing the Duties on Spirits, Wine, and other Goods and Merchandise imported in the Colony of New South Wales and its dependencies,*" and which said Acts of the Governor and Council of New South Wales were adopted and are now in force within the said Colony of New Zealand and its dependencies, and to make provision for the Collection of certain Duties on Goods Imported into and for the General Regulation of the Revenue of Customs in the Colony of New Zealand and its dependencies.

Sess. III., No. 6.

An Ordinance to amend an Ordinance enacted by the Governor and Council of New Zealand, Session I., No. 3, to repeal certain Acts of the Governor and Council of New South Wales, to make provision for the Collection of certain Duties on Goods Imported into and for the General Regulation of the Revenue of Customs in the Colony of New Zealand and its dependencies.

Sess. VII., No. 6.

An Ordinance to authorize the importation of Wine Duty Free for Military and Naval Officers serving in the Colony of New Zealand.

Sess. VII., No. 8.

An Ordinance to amend "*The Customs Ordinance,*" Session I., No. 3, and "*The Customs Amendment Ordinance,*" Session III., No. 6.

No. XLI.

NATIVE DISTRICTS
REGULATION.

AN ACT to regulate the Local Affairs of Native Districts. [4th August, 1858.]

Preamble.

WHEREAS it is expedient, in order to promote the civilization of the Native race, that the Governor in Council be enabled to make and put in force, within districts over which the Native title has not been extinguished, such regulations on matters of local concernment or relating to the social economy of the Native race as may appear adapted to the special wants of the inhabitants, all such regulations being made, as far as possible, with the general assent of the persons affected thereby :

Be

Native Districts Regulation.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows :—

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <p>1. It shall be lawful for the Governor in Council from time to time to appoint districts for the purposes of this Act, being districts over which the Native title shall not for the time being have been extinguished, and any such appointment to vary or revoke.</p> | <p>Governor in Council may appoint districts for the purposes of this Act.</p> |
| <p>2. It shall be lawful for the Governor in Council from time to time to make and put in force within any such district, regulations respecting all or any of the matters following, that is to say,—</p> | <p>Governor in Council may make regulations in Native districts for the following purposes :—</p> |
| <p>(1.) For the prevention of cattle trespass and of the wandering of cattle at large, and for defining and describing the rights duties and liabilities in relation to damage done by cattle trespass, and otherwise in relation thereto, of all owners and occupiers of land, persons owning or having charge of cattle, and other persons.</p> | <p>Cattle trespass.</p> |
| <p>(2.) For the erection maintenance and regulation of public pounds, and for regulating the impounding of cattle and the levying of pound fees and of other fees and charges in connection with the impounding of cattle.</p> | <p>Public pounds.</p> |
| <p>(3.) For the erection and maintenance of party and other boundary fences (including fences between lands over which the Native title has and adjacent lands over which it has not been extinguished), and for defining and prescribing the rights duties and liabilities of all owners and occupiers of land and other persons, in relation to such erection and maintenance, and to the cost thereof, and otherwise in relation thereto.</p> | <p>Boundary fences.</p> |
| <p>(4.) For the branding or marking of cattle in order to the proof of the ownership thereof, and for the prevention of fraud in relation to the branding or marking of cattle, and for the prevention of larceny of cattle, or of the flesh hides or skins thereof.</p> | <p>Cattle branding.</p> |
| <p>(5.) For the prevention of contagious and infectious diseases amongst cattle, and for prohibiting or restricting the introduction or removal from place to place of infected cattle, and enforcing the cure cleansing or destruction of infected cattle.</p> | <p>Prevention of scab &c.</p> |
| <p>(6.) For preventing the growth and spread of thistles and other noxious weeds.</p> | <p>Against spread of thistles.</p> |
| <p>(7.) For ascertaining prescribing and providing for the observance and enforcement of the rights duties and liabilities, amongst themselves, of tribes communities or individuals of the Native race, in relation to the use occupation and receipt of the profits of lands and hereditaments.</p> | <p>Enforcement of Native rights.</p> |
| <p>(8.) For the prevention of bush and other fires and the restraint of persons firing bush scrub grass rubbish or other material to the danger of life or property.</p> | <p>Prevention of fires.</p> |
| <p>(9.) For the suppression of the nuisance of dogs wandering at large, and for defining and prescribing the rights duties and liabilities of the owners of dogs, and of all other persons in relation to dogs wandering at large.</p> | <p>Dogs.</p> |
| <p>(10.) For enforcing the cleansing of houses and other buildings in a dirty and unwholesome state.</p> | <p>Cleansing houses.</p> |
| <p>(11.) For the suppression of common nuisances.</p> | <p>Nuisances</p> |
| <p>(12.) For providing for the health and personal convenience of the inhabitants of any Native village pa or assemblage of houses.</p> | <p>Health.</p> |

Native Districts Regulation.

- Public property. (13.) For the protection of public property and the common property of tribes or communities.
- Drunkenness. (14.) For the prevention of drunkenness.
- Sale &c. of spirituous and other liquors. (15.) For the sale removal and disposal of spirituous and fermented liquors, and for the restriction or prohibition of such sale removal and disposal.
- Native customs. (16.) For the suppression of injurious Native customs, and for the substitution of remedies and punishments for injuries in cases in which compensation is now sought by means of such customs.

And all such regulations shall have the force of law within such districts, and may be varied or revoked from time to time by the Governor in Council; and, as respects the erection and maintenance of fences between lands over which the Native title has and adjacent lands over which it has not been extinguished, all such regulations shall be binding upon all owners and occupiers of such adjoining lands.

Penalties for breach of regulations. **3.** It shall be lawful by any such regulation to impose penalties, not exceeding fifty pounds, for the breach or non-observance of any such regulation.

Penalties may be enforced under Summary Proceedings Ordinance. **4.** Payment of all penalties imposed by or by virtue of any such regulation may be recovered and enforced by Justices of the Peace specially authorized by the Governor in that behalf, in a summary way, either within or without the limits of the districts within which such penalties may have been incurred, in the mode prescribed by the laws for the time being in force for regulating summary proceedings before Justices of the Peace.

Regulations to supersede laws of Provincial Councils. **5.** All such regulations shall control and supersede or preclude the operation of all laws or ordinances in any wise repugnant thereto or inconsistent therewith, which, before or after the date thereof, may have been or may be made or ordained by any Legislative Body within the Colony, other than the General Assembly, or by any Superintendent and Provincial Council.

Regulations to be with general assent of Native population of districts affected. **6.** All such regulations shall be made as far as possible with the general assent of the Native population affected thereby, to be ascertained in such manner as the Governor may deem fitting: Provided that the issue of any Order in Council under this Act shall be conclusive proof of such general assent to any regulation thereby made.

Time when Orders in Council shall come into operation. **7.** No Order in Council for any of the purposes aforesaid shall come into operation until at least fourteen days after the same shall have been published in the *Maori Messenger* in English and Maori.

Copies of Orders in Council to be laid before General Assembly. **8.** A copy of every Order in Council made under this Act shall be laid before both Houses of the General Assembly immediately upon the issue thereof, if the General Assembly be then in Session, otherwise, within ten days from the commencement of the Session next following the issue thereof.

Regulations to cease over lands when Native title extinguished. **9.** On the notification in the *New Zealand Gazette* of the extinction of Native title over lands within any such district, all regulations made under this Act shall thereupon cease to be in force within the boundary of such lands, nevertheless without prejudice to the enforcement of any penalty incurred or to the completion of any proceeding commenced under any such regulation prior to such notification.

Certain lands granted by the Crown to be deemed Native for the purposes of this Act. **10.** Lands granted by the Crown to any person of the Native race, or to any person or body politic in trust for religious educational or charitable purposes, or in respect of any purchase made prior to the proclamation of the Queen's sovereignty, or specially granted as homesteads

Native Circuit Courts.

homesteads to persons of European race domiciled in Native districts, shall, where the same respectively abut upon lands over which the Native title has not been extinguished, be deemed for the purposes of this Act to be lands over which the Native title has not been extinguished, and may accordingly be included within any such district as aforesaid.

11. Half-castes and other persons of mixed race living as members of any Native tribe, and all aboriginal natives of any of the islands of the Pacific Ocean, shall for the purposes of this Act be deemed to be persons of the Native race. Half-castes.

12. In the interpretation of this Act the term "Cattle" shall include horses sheep asses mules goats and swine as well as neat cattle, together with the young of the said several kinds. Interpretation.

13. The Short Title of this Act shall be "*The Native Districts Regulation Act, 1858.*" Short Title.

No. XLII.

AN ACT to make better provision for the Administration of Justice in Native Districts. NATIVE CIRCUIT COURTS. [4th August, 1858.]

WHEREAS it is expedient that more effectual provision be made for the keeping of the Queen's peace and for the administration of Justice within districts over which the Native title has not been extinguished: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

I.—INSTITUTION OF NATIVE CIRCUIT COURTS.

1. It shall be lawful for the Governor in Council from time to time to appoint districts for the purposes of this Act, being districts over which the Native title shall not for the time being have been extinguished, and any such appointment to vary or revoke. Governor in Council may appoint districts.

2. Within every such district a Resident Magistrate to be specially appointed for the purpose by the Governor, assisted by at least one Native Assessor, shall hold periodically at convenient times and places a Court to be styled "The Native Circuit Court" of such district. Circuit Courts to be held.

3. On the notification in the *New Zealand Gazette* of the extinction of Native title over lands within any such district, such lands shall cease to be part of such district; nevertheless without prejudice to the enforcement of any penalty incurred or to the completion of any proceeding commenced prior to such notification. Lands over which Native title extinguished to cease to be part of districts.

4. Provided that lands granted by the Crown to any person of the Native race, or to any person or body politic in trust for religious educational or charitable purposes, or in respect of any purchase made prior to the proclamation of the Queen's sovereignty, or specially granted as homesteads to persons of European race domiciled in Native districts, shall, where the same respectively abut upon lands over which the Native title has not been extinguished, be deemed for the purposes of this Act to be lands over which the Native title has not been extinguished, and may accordingly be included within any such district as aforesaid. What lands to be deemed subject to Native title.

II.—CRIMINAL

Native Circuit Courts.

II.—CRIMINAL JURISDICTION AND PROCEDURE.

Jurisdiction.

5. The Court shall have power and jurisdiction, subject to the provisions of this Act, to hear determine and punish, according to law, all crimes misdemeanours and other offences whatever cognizable in a summary way by Justices of the Peace or by a Resident Magistrate, and also all offences against any regulation made under "*The Native Districts Regulation Act, 1858*;" and shall have the same powers to make inquiry concerning alleged crimes misdemeanours and other offences, and for that purpose to summon to appear before the Court, or cause to be apprehended and brought before it for examination, persons reasonably suspected of offences, to take evidence on oath, to commit for trial or hold to bail suspected offenders, to bind over in recognizances to appear and prosecute or give evidence on the trial of suspected offenders, to take sureties of the peace or for good behaviour, and all such other powers and jurisdiction in relation to the investigation and punishment of offences and the conservation of the peace as Justices of the Peace have or may exercise in New Zealand; and shall further have power and jurisdiction to cause to be abated any common nuisance.

Formation of jury.

6. Juries for the purposes of the criminal jurisdiction of the Court shall be formed as follows:—The Assessor or Assessors shall, from persons resident within twenty-five miles of the place at which the Court shall be sitting, form a list of thirty-six men, from whom the Resident Magistrate shall select twelve, who, or such of them as may attend and be willing to serve, shall be impanelled as a jury to act during the then sitting of the Court and at all adjournments thereof: Provided that if less than eight out of the persons so selected shall attend and be willing to serve, or if any juror shall absent himself and the number of the jury be thereby, or by challenge or otherwise, reduced to less than eight, the Resident Magistrate may from time to time as occasion may be postpone the trial or complete the number of eight jurymen from the bystanders.

Challenges.

7. Every person tried for or charged with any offence before such Court shall be entitled to challenge peremptorily six persons selected as jurors.

Jurors' declaration and verdict.

8. Every jury impanelled as aforesaid shall make a declaration before the Resident Magistrate, according to the Form No. I. set forth in the Schedule of this Act, or according to a translation thereof into the Maori tongue; and every such jury shall be required to give an unanimous verdict.

Functions of jury.

9. The duties of such juries shall be,—First, the trial of all offences cognizable by the Court for which a fine exceeding five pounds may be inflicted. Secondly, the presentment of persons who may have committed or be reasonably suspected of having committed, within the district or its neighbourhood, any crime misdemeanour or other offence, to be inquired of but not cognizable by the Court. Thirdly, the presentment of all common nuisances within the district. Lastly, the presentment of any other matter of fact which may by the Court be referred to the jury, or which the jury may think fit to present.

Functions of Court in jury cases.

10. It shall be in the discretion of the Court to convict discharge commit for trial or remand, or otherwise, as the case may require, take order concerning any person against whom a verdict of guilty shall have been found or presentment made; but no penalty or punishment for any offence triable by a jury under this Act shall be awarded or inflicted by the Court except on a verdict of guilty, nor shall any person be committed by the Court to take his trial for any offence before the Supreme Court or any other Court, nor be held to bail

Native Circuit Courts.

bail so to take his trial, except on the presentment of a jury that there is reasonable ground for such committal; nor shall any warrant be issued by the Court for the abatement of a common nuisance except on the presentment thereof by a jury: Provided that where upon the trial of any offence the jury shall be unable to agree upon a verdict within four hours, the Court may convict or discharge the defendant without a verdict.

11. Except as hereinbefore provided, the Court shall determine all questions of fact as well as of law.

12. No appeal shall lie against any conviction by the Native Circuit Court, nor shall any proceeding of such Court in its criminal jurisdiction be removed into any Superior Court by *certiorari* or otherwise, nor shall any such proceedings be quashed or set aside or be adjudged void or insufficient for want of form.

Questions of fact,
when determinable
by Court.
Appeals.

III.—CIVIL JURISDICTION AND PROCEDURE.

13. The Court shall have jurisdiction to hear and determine all complaints of a civil nature, where both parties are of the Native race and the party sought to be charged resides or carries on business or is served with the process of the Court within the district in which the action is brought, or where both parties are of the Native race and the cause of action has arisen either wholly or in some material point within such district: Provided that the Governor in Council may from time to time limit the civil jurisdiction under this Act of any such Court to cases in which the debt or damage claimed, or other matter in dispute, does not exceed in amount or value such sum as may be in that behalf fixed by the Governor in Council, and may vary or revoke any such limitation.

Jurisdiction.

14. In any civil action brought under this Act, it shall be in the discretion of the Court, on the request of either party, made at any time before the commencement of the hearing, to order that the cause shall be tried by a jury; and the cause shall, if necessary, be adjourned until a jury can be formed.

Trial by jury may be
granted.

15. Juries for the trial of civil actions under this Act shall be formed as follows:—The Assessor or Assessors shall, from the bystanders or from persons residing within ten miles of the place at which the Court shall be sitting, form a list of eighteen men, from which six persons shall be selected by lot; and the persons so selected, or so many of them as may attend and be willing to serve, shall be impanelled as a jury to try the cause: Provided that if less than four out of the persons so selected shall attend and be willing to serve, or if any juror shall absent himself and the number of the jury be thereby, or by challenge or otherwise, reduced to less than four, the Resident Magistrate shall complete the number of four jurymen from the bystanders: Provided also that, by consent of the parties, a jury of any greater or less number than six, (to be selected as aforesaid) may be impanelled for the trial of a civil action under this Act.

Formation of jury.

16. Each party shall be entitled to challenge peremptorily three persons selected as jurors.

Challenges.

17. Every jury impanelled as aforesaid shall make a declaration before the Resident Magistrate according to the Form numbered II. set forth in the Schedule to this Act, or according to a translation thereof into the Maori tongue, and shall be required to give an unanimous verdict: Provided that if the jury shall be unable to agree upon a verdict within four hours, the jurors shall be discharged and the cause shall stand over until the next sittings of the Court.

Jurors' declaration
and verdict.

18. All questions whether for the Court or the jury shall be determined according to equity and good conscience; and the Court

Judgment to be
according to real
equity.

Native Circuit Courts.

may prescribe such terms and conditions as to the time and mode of satisfying its judgments as it may deem just and reasonable, and shall be at liberty to receive or require any such evidence as to it shall appear fit, whether the same be strictly legal evidence or not.

Judgment to be final subject to the grant of a new trial or rehearing.

19. The judgment of the said Court in civil actions shall be final and conclusive between the parties without power of appeal, and no such cause shall be removable into any superior Court: Provided that it shall be in the discretion of the Native Circuit Court to order a new trial or a rehearing, to be had upon such terms as may seem fit.

Execution against chattels.

20. Whenever in any civil action the Court shall have given judgment or made an order for the payment of money, the Resident Magistrate shall, at the request of the party prosecuting such judgment or order, issue his warrant to any constable, to be appointed for the purposes of this Act, requiring him to levy, and such constable shall accordingly levy or cause to be levied, by distress and sale of the goods and chattels of the party against whom such judgment or order shall be made, the money so adjudged or ordered to be paid, with the costs of execution, and the surplus if any of the money raised by such sale shall be paid to the Resident Magistrate, and returned on demand of the party distrained upon; and all constables and peace officers within their several districts shall aid in the execution of every such warrant: Provided that it shall be in the discretion of the Resident Magistrate to delay the issue of a distress warrant during such time as he shall think fit.

Execution against person of defendant.

21. If upon the return of such warrant it shall appear that no goods and chattels can be found, or not sufficient for payment of the sum to be levied, or it shall be made to appear to the satisfaction of the Resident Magistrate that if a warrant were issued no sufficient distress could be had, it shall in either of the said cases be lawful for but not obligatory upon the Resident Magistrate, by warrant under his hand, to commit the party against whom such judgment or order shall be made, to some common gaol, there to remain for any time not exceeding one month for every five pounds or fractional part of five pounds so to be paid: Provided that the time of imprisonment shall in no case exceed four months, and that the party at any time may be discharged upon application to the Resident Magistrate, and upon payment of the sum of money adjudged or ordered to be paid, together with such costs as the Resident Magistrate shall deem reasonable.

Court may summon witnesses and compel production of documents.

22. In any civil action it shall be lawful for the said Court to summon witnesses and take evidence upon oath, and to require the production of all books writings and documents of which any Court of Law might compel the production; and every person so summoned to attend as a witness, who shall refuse or neglect without sufficient cause to appear according to the exigency of the summons, or duly to produce any books writings or documents in his possession or power duly required by such summons to be produced, and also every person present at any sitting of such Court who, being required to give evidence, shall refuse to be sworn or to give evidence, shall for every such default forfeit any sum not exceeding twenty pounds, to be recovered in the said Court, or in a summary way, by any Resident Magistrate specially authorized by the Governor to hear the case.

Special jurisdiction in European cases arising under "The Native Districts Regulation Act, 1858."

23. The said Court shall have cognizance, according to the course of procedure prescribed by this Act, of all claims and demands of a civil nature arising under any regulation made by virtue of "The Native Districts Regulation Act, 1858," between parties who are not or one of whom is not of the Native race as well as between parties both of whom are of the Native race, but subject to such limit of jurisdiction

Native Circuit Courts.

jurisdiction as may be fixed by the Governor in Council by virtue of the power in that behalf conferred by this Act.

IV.—JURISDICTION AND PROCEDURE GENERALLY.

24. All questions not triable by a jury shall be determined according to the opinion of the presiding Resident Magistrate, concurred in by the Assessor or Assessors sitting with him, or concurred in by a majority of such Assessors, and not otherwise.

What members of Court must concur in judgment.

25. The presiding Resident Magistrate and the Assessors or any of them may, with the consent of the jury, in any action or proceeding, whether civil or criminal, be present at and take part in the deliberations of the jury.

Court may deliberate with jurors.

26. Every person wilfully and corruptly giving false evidence upon oath before any such Court shall be deemed guilty of perjury, and may on conviction be sentenced to penal servitude for a term not exceeding four years.

False evidence perjury.

27. Distress warrants issued by any such Court may be executed in any district appointed for the purposes of this Act, or in any part of the Colony over which the Native title shall have been extinguished, but not elsewhere; and no such warrant shall be executed in any district appointed for the purposes of this Act other than that in which it shall have been issued, unless the same shall have been indorsed by at least one Native Assessor resident within the district in which the same is to be executed.

Distress warrants where to run.

28. All warrants of apprehension and commitment all convictions and all distress warrants shall be signed by the Resident Magistrate, with or without the signature of an Assessor or Assessors; and every summons to parties or witnesses, or to persons charged with an offence, shall be signed in like manner or by two or more Assessors.

Warrants convictions and summonses, by whom to be signed.

29. If any person shall wilfully insult the presiding Resident Magistrate, or any Native Assessor, juror, or officer of any such Court, during his sitting or attendance in Court, or in going to or returning from the Court, or shall wilfully interrupt the proceedings of the Court or otherwise misbehave in Court, it shall be lawful for any constable, with or without the assistance of any other person, by order of the Court, to take such offender into custody and detain him until the rising of the Court, and the Court may by warrant commit such offender to prison for any time not exceeding seven days, or impose upon any such offender a fine not exceeding five pounds for every such offence, and in default of payment thereof commit such offender to prison for any time not exceeding seven days unless the fine be sooner paid.

Contempt of Court.

30. Subject to the provisions of this Act, the Governor in Council from time to time may make general rules for regulating the practice of the said Courts, whether civil or criminal, and may prescribe forms for all proceedings therein, which forms may be either in the English or in the Maori tongue or in both, and may fix the fees to be demanded and taken upon any such proceeding; and, subject to any such general rules, the practice of the said Court in its criminal jurisdiction shall be the same (as nearly as may be) as that of Justices of the Peace in similar cases.

Governor in Council may regulate practice of Court.

V.—APPOINTMENT AND JURISDICTION OF NATIVE ASSESSORS.

31. It shall be lawful for the Governor from time to time to appoint aboriginal natives of the greatest authority and best repute in their respective tribes to be Assessors of the Resident Magistrate for the purposes of this Act and of an Ordinance of the Lieutenant-Governor and Legislative Council of New Zealand, intituled "*An Ordinance*

Appointment of Assessors.

Native Circuit Courts.

Ordinance to provide for the Establishment of Resident Magistrates' Courts, and to make special provision for the Administration of Justice in certain cases," and such Assessors from time to time to remove; and every such appointment may either confer a general or a local jurisdiction.

Assessors' Court.

32. It shall be lawful for the Governor to select certain Assessors to hold a Court, to be styled "The Assessors' Court," and such Assessors shall hold Assessors' Courts within such districts appointed under this Act, as the Governor may assign to them respectively for that purpose.

Power of Assessors' Court.

33. Within every district appointed for the purposes of this Act, any two or more of the Assessors so selected for the district shall, under the style of the Assessors' Court, have and exercise all the powers and functions hereby vested in the Native Circuit Court or in the presiding Resident Magistrate thereof, and such Assessors' Court shall be subject to the like rules of practice and shall use the like forms and take the like fees as the Native Circuit Court, subject to any modifications which the Governor in Council may from time to time direct: Provided that such Assessors' Court shall have no power to award or inflict any other or greater punishment than a fine of not exceeding twenty shillings, and shall have no jurisdiction in civil cases where the debt or damage claimed or other matter in dispute exceeds in amount or value the sum of five pounds, and shall have no jurisdiction either civil or criminal except over persons of the Native race: Provided also that an appeal shall lie from every conviction order or judgment of the Assessors' Court to the Native Circuit Court of the district.

Distress warrants where to run.

34. No distress warrant issued by the Assessors' Court shall be executed elsewhere than within the district in which it shall have been issued, unless the same shall be indorsed by a Resident Magistrate.

VI.—CONSTABULARY.

Governor may appoint constables.

35. The Governor may from time to time appoint constables who, within any district appointed for the purposes of this Act, shall have all the powers privileges duties and liabilities which a constable hath or is subject to in New Zealand and elsewhere within the Colony shall have the like powers privileges duties and liabilities so far as may be necessary for the carrying into effect the provisions of this Act, and who shall be removable at the Governor's pleasure.

Governor may appoint lock-up houses.

36. The Governor may from time to time appoint lock-up houses within any district appointed for the purposes of this Act, with proper accommodation for the temporary confinement of persons taken into custody by any constable or committed for trial, and may from time to time abolish any such lock-up house.

Confinement at a lock-up house may be ordered in lieu of committal to gaol.

37. Where the said Native Circuit Court or any Resident Magistrate might commit any person to a common gaol, such Court or Magistrate may in lieu thereof direct such person to be confined at any such lock-up house: Provided that the term of such confinement do not exceed one week.

Governor may appoint keepers of lock-up houses.

38. The Governor may from time to time appoint keepers to take charge of such lock-up houses, and of the persons there detained or confined, and such keepers shall be removable at the Governor's pleasure.

Governor in Council may regulate lock-up houses.

39. The Governor in Council may from time to time make and revoke regulations prescribing the duties of such keepers, and the treatment of persons detained or confined at any such lock-up house, and otherwise respecting the management of such houses, and by any such regulations may impose penalties not exceeding five pounds for any

Civil Service Superannuation.

any breach thereof, all which penalties shall be recoverable in any Native Circuit Court, or in a summary way by any Resident Magistrate specially authorized by the Governor to hear the case.

VII.—APPROPRIATION OF FEES AND FINES.

40. All fees and fines received or levied upon any proceeding in any Native Circuit Court or Assessors' Court held within a district appointed under this Act, shall be accounted for quarterly to the Colonial Treasurer by the persons duly charged with the receipt and custody thereof under the authority of the Governor, and shall be appropriated and disposed of from time to time by the Governor in Council, for or towards any of the purposes of Government, within such district or otherwise for the common benefit of the inhabitants thereof.

Governor in Council may appropriate fees and fines for benefit of district.

VIII.—CONSTRUCTION OF TERMS AND SHORT TITLE.

41. For the purposes of this Act, Half-castes and other persons of mixed race living as members of any Native tribe, and all aboriginal natives of any of the Islands of the Pacific Ocean, shall be deemed to be persons of the Native race.

Half-castes defined.

42. The Short Title of this Act shall be "*The Native Circuit Courts Act, 1858.*"

Short Title.

SCHEDULES.

SCHEDULE No. I.

I, A.B., do solemnly declare that I will well and truly try all issues joined upon such informations as have been or shall be laid or taken before the Native Circuit Court of the district of _____ at this present sitting of the said Court, or at any adjournment thereof; and further that I will truly inquire and true presentment make of all matters to be referred to me; I will present no man for envy, hatred, or malice, nor spare any man for fear, favour, or affection, or any hope of reward; but according to the best of my knowledge and the information I shall receive, will present the truth and nothing but the truth.

SCHEDULE No. II.

I, A.B., do solemnly declare that I will well and truly try the issue joined between the parties, and a true verdict give, according to the evidence, without fear, favour, or affection.

No. XLIII.

AN ACT to provide for the retirement of Officers of the Civil Service of the General Government of New Zealand. [10th August, 1858.]

CIVIL SERVICE
SUPERANNUATION.

WHEREAS it is expedient to provide for the retirement of officers, clerks, and others employed in the Civil Service of the Colony of New Zealand, and for the relief in certain cases of their widows and orphan children:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. Any officer, clerk, or other person as aforesaid, desiring to avail himself of the retiring allowance hereinafter provided, shall notify such desire in writing addressed to the Colonial Secretary,

Officers how placed on retired list.

Civil Service Superannuation.

accompanied by a certificate signed by two medical practitioners, that by reason of age bad health or other infirmity he is no longer capable of performing his duties: Provided always that any person who shall have served thirty years and upwards shall be entitled to avail himself of such retiring allowance without such certificate: Provided also that no such retiring allowance shall be granted to any such officer, clerk, or other person unless he shall have discharged his duties with diligence and fidelity to the satisfaction of the head officer of his department, which shall be certified by such head officer; and in case the person claiming such superannuation allowance shall himself be the head officer, then such superannuation allowance shall not be granted unless he shall have discharged the duties of his situation with diligence and fidelity to the satisfaction of the Colonial Secretary; and the Governor in Council, if satisfied as to the allegations contained in such certificate, shall thereupon direct such officer, clerk, or other person to be placed on the Retired List: Provided always that no extra clerks or other persons holding any acting or temporary appointments shall be deemed to be within the provisions of this Act.

Retirement when to be paid.

2. The Colonial Treasurer shall periodically, at such times as the Governor may appoint for that purpose, pay to every officer, clerk, or other person whose name shall appear on such Retired List, such sums as they may be entitled to receive under the provisions of this Act.

Amount of allowance.

3. It shall be lawful for the Governor in Council to grant to the officers, clerks, and other persons so placed on such Retired List, superannuation or retiring allowances according to the following proportions, with reference to the amount of their salaries and the periods of their services respectively, *videlicet*:—

To any officer, clerk, or person who shall have served ten years and upwards and under seventeen years, an annual allowance equivalent to three-twelfths of the average salary of office or offices held by him during the last three years previously to retirement.

For a period of service of or exceeding seventeen years and under forty-five years, an annual allowance equivalent to four-twelfths of such salary, together with the addition of one eighty-fourth part of such salary for every complete year of such service over and above seventeen years.

And for forty-five years and upwards, an annual allowance equivalent to eight-twelfths of such salary.

No allowance to be drawn in addition to salary of any other office.

4. In case any person enjoying any superannuation or retiring allowance under this Act shall be appointed to fill any office in any public department, every such allowance shall cease to be paid for any period subsequent to such appointment if the annual amount of the profits of the office to which he shall be appointed shall be equal to those of the office formerly held by him, and in case they shall not be equal to those of his former office, then no more of such superannuation allowance shall be paid to him than what with his salary of his new appointment shall be equal to that of his former office.

If health be re-established and offer of other office refused, allowance may be stopped.

5. If, in the case of any person to whom an allowance has been granted under this Act on the ground of infirmity, the health of such officer be re-established and the Governor offer to him any suitable office with salary equal to that formerly held by him, and if such person shall refuse to accept such office, the allowance so granted as aforesaid shall thereupon cease.

Retiring allowances how to be computed.

6. For the purpose of computing the amount of retiring allowance to which any such officer, clerk, or other person may become entitled under this Act, the period during which he shall have held any

any

Martin's Annuity.

any appointment on the establishment of the said service shall alone be taken into consideration, the number of days (if any in excess of six weeks in each respective year) which such officer, clerk, or other person may have been absent from duty shall be deducted from the period during which he may have held any such appointment, and the proportionate amount payable to such officer, clerk, or other person by way of retiring or superannuation allowance shall be computed upon the average of the salaries which such officer, clerk, or other person shall have received during the period of three years next preceding the date of his retirement: Provided always that officers, clerks, and other persons belonging to departments which have been transferred to the Provincial Government of a Province, but which have been replaced on the establishment of the General Government, shall be entitled to reckon the period during which they served in those departments under a Provincial Government.

7. Whenever any claim shall be made, within two years after his death, by the widow, or on behalf of the children if their mother be dead, of any officer, clerk, or other person employed by the General Government, if such death shall take place while in the service of the General Government, it shall be lawful for the Colonial Treasurer, under the warrant of the Governor, to pay to such widow or children, or to such persons as the Governor may direct in trust on her or their behalf, such sum as the Governor in Council may fix: Provided always that the sum so paid to one family shall not altogether exceed the salary for one year drawn, to which such officer, clerk, or other person was entitled immediately before his death.

Relief may be given to families of deceased Government officers.

8. Nothing in this Act contained shall be construed to extend to give any person an absolute right to allowances under this Act, or to deprive the Governor or the heads or principal officers of the respective departments of the power and authority which they may lawfully possess to dismiss any person from the public service without compensation.

Act not to give absolute right to allowances, or to prevent dismissal of persons for misconduct.

9. This Act shall not apply to offices whose holders have seats in the Executive Council, or from which such holders are removable on merely political grounds, or to offices in respect of which retiring allowances may be granted under any other Act.

Certain officers not to be affected by this Act.

10. The Short Title of this Act shall be "*The Civil Service Superannuation Act, 1858.*"

Short Title.

No. XLIV.

AN ACT to grant a Retiring Allowance to William Martin, Esquire, late Chief Justice of New Zealand.

MARTIN'S ANNUITY.

[10th August, 1858.]

WHEREAS William Martin, Esq., late Chief Justice of the Colony, on the twelfth day of June, one thousand eight hundred and fifty-seven, resigned his office on the ground of inability to perform the duties thereof on account of ill health: And whereas by an Act of the General Assembly of New Zealand, intituled "*The Supreme Court Judges Act, 1858,*" provision is made for granting superannuation allowances to the Judges of the Supreme Court in certain cases: And whereas the length of service of the said William Martin as Chief Justice,

Preamble.

Justice,

Province of Taranaki. Crown Grants Correction.

Justice, would have entitled him to an annual allowance of three hundred and thirty-three pounds six shillings and eightpence, if he had been enabled to retire under the provisions of the said Act :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Annuity to be given to William Martin, Esq.

1. There shall be paid to the said William Martin, Esquire, out of the general revenue of the Colony of New Zealand, an annuity after the rate of three hundred and thirty-three pounds six shillings and eightpence for the term of his natural life.

When to commence.

2. The said annuity shall be deemed to have commenced on the twelfth day of June, one thousand eight hundred and fifty-seven, and to have been and to be payable quarterly on the first days of January April July and October in every year.

Short Title.

3. The Short Title of this Act shall be "*Martin's Annuity Act, 1858.*"

No. XLV.

PROVINCE OF TARANAKI.

AN ACT to alter the name of the Province of New Plymouth. [10th August, 1858.]

Preamble.

WHEREAS it is expedient to alter the name of the Province of New Plymouth :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Province of New Plymouth to be called Province of Taranaki.

1. From and after the first day of January, one thousand eight hundred and fifty-nine, the Province of New Plymouth shall be called the Province of Taranaki.

Short Title.

2. The Short Title of this Act shall be "*The Province of Taranaki Act, 1858.*"

No. XLVI.

CROWN GRANTS CORRECTION.

AN ACT to enable the Governor to cause certain Errors in Crown Grants to be amended.

[10th August, 1858.]

Preamble.

WHEREAS certain errors have been found to exist in the description of the lands in certain Crown Grants, and it is expedient that the Governor should be empowered to authorize the correction of the same :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Governor may cause correct description to be indorsed &c. on Crown Grants containing erroneous description.

1. Whenever it shall be made to appear to the satisfaction of the Governor that any error exists in the description of the land intended to be conveyed by any Crown Grant, it shall be lawful for the Governor to cause a correct description of the said land to be indorsed on the said grant or inserted in the margin thereof, and such correct description shall be signed by the Governor.

2. Every

Native Reserves Amendment.

2. Every grant on or in which any such description shall have been indorsed or inserted and signed as aforesaid, and every deed and instrument in writing containing the erroneous description founded on and executed subsequently to the date of the said grant, shall have the same force and effect as though such correct description instead of an erroneous description had been inserted in such grant deed or instrument before the issuing or execution thereof respectively.

Grants and deeds &c. to be construed as though correct description originally inserted.

3. The Short Title of this Act shall be "*The Crown Grants Correction Act, 1858.*"

Short Title.

No. XLVII.

AN ACT to enable Commissioners of Native Reserves to Sue and be Sued. [10th August, 1858.]

NATIVE RESERVES
AMENDMENT.

WHEREAS by an Act of the General Assembly of New Zealand, intituled "*The New Zealand Native Reserves Act, 1856,*" the Governor is empowered to appoint Commissioners to manage certain lands reserved or set apart for the benefit of the aboriginal inhabitants of the Colony, and powers of management of such reserved lands are by the said Act vested in such Commissioners accordingly: And whereas it is expedient that the said Commissioners be enabled to sue and be sued:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. All lands and hereditaments, moneys goods chattels and effects whatever, the management whereof shall have been lawfully vested in any such Commissioners appointed as aforesaid, shall for all purposes of proceedings in any Court, as well criminal as civil, in law or in equity in anywise touching or concerning the same, be deemed and taken to be and may in every such proceeding (where necessary) be stated to be the property of the Commissioners for the time being in their proper names without further description; and such Commissioners shall and they are hereby authorized to bring and defend or cause to be brought or defended any action suit prosecution or other proceeding, criminal as well as civil, in law or equity, touching or concerning the land or property aforesaid; and such Commissioners shall and may in all cases concerning the said property sue and be sued plead and be impleaded in any Court of Law or Equity in their proper names as such Commissioners without other description; and no such suit action prosecution or other proceeding shall be discontinued or abate by the death of any such Commissioners or their removal from office, but the same shall and may be proceeded with by the succeeding Commissioners in the proper names of the Commissioners commencing the same; and such succeeding Commissioners shall pay or receive the same costs as if the action suit or other proceeding had been commenced in their names for the benefit of or to be reimbursed from the funds in the hands of the said Commissioners in respect of the said Commission.

Power to Commissioners to sue and be sued.

2. No Commissioner shall be personally liable except for his own act and deed, nor for anything done by him in the execution of his office as Commissioner except in cases where he shall be guilty of wilful neglect or default.

Liability of Commissioners.

3. The Short Title of this Act shall be "*The New Zealand Native Reserves Amendment Act, 1858.*"

Short Title.

*Naturalization.***No. XLVIII.****NATURALIZATION.**

AN ACT for the Naturalization of certain Persons in the Colony of New Zealand. [18th August, 1858.]

Preamble.

WHEREAS by an Act made and passed by the General Assembly of New Zealand, intituled "*The Naturalization Act, 1856*," it was amongst other things enacted that all and singular the persons who should be declared to come within the operation of the said Act, by any Proclamation to be issued by the Governor, should, until the termination of the next Session of the General Assembly, be deemed and taken, within the Islands of New Zealand, to be natural born subjects of Her Majesty: And whereas the persons particularly described in the Schedule marked A hereunto annexed have from time to time been so declared to come within the operation of the said recited Act, and it is expedient that there should be removed from them, within the Colony of New Zealand, the disabilities to which aliens are by law subjected:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Persons named in Schedule A to be naturalized.

1. The persons who are particularly described in the Schedule A to this Act annexed shall, to all intents and purposes whatever within the Colony of New Zealand, be deemed and taken to be, and to have been from the dates set opposite their respective names, natural born subjects of Her Majesty, as if they had been respectively born within the realm of England.

Also persons named in Schedule B.

2. And whereas the persons next hereinafter mentioned have settled in this Colony, and it is expedient that there should be removed from them the disabilities to which aliens are by law subject: Be it therefore further enacted that the persons particularly described in the Schedule marked B to this Act annexed shall, to all intents and purposes whatever within the Colony of New Zealand, be deemed and taken to be, and to have been from the dates set opposite their respective names, natural born subjects of Her Majesty, as if they had been respectively born within the realm of England.

Persons may be naturalized by Proclamation.

3. And whereas there may from time to time be other persons resident within the Colony of New Zealand whom it may be expedient to relieve, before the next Session of the General Assembly, from the disabilities to which aliens are by law subject: Be it therefore further enacted that every person who shall be declared to come within the operation of this Act by any Proclamation to be issued in that behalf by His Excellency the Governor shall, from the time in such Proclamation specified, be deemed and taken, until the termination of the next Session of the General Assembly, to be and to have been, from such specified time, a natural born subject of Her Majesty within the Colony of New Zealand, as fully to all intents and purposes as if his name had been inserted in the Schedule hereunto annexed: Provided always that every such Proclamation shall contain the description occupation or calling of every person therein named, and his place of residence at the date of such Proclamation.

Short Title.

4. This Act shall be intituled and may be cited as "*The Naturalization Act, 1858*."

Naturalization.

SCHEDULES.

SCHEDULE A.

Date of Proclamation.	Name.	Native of	Occupation.	Residence.	Date from which Naturalization is to take effect.
1856. Oct. 2 ...	Hans Freidrich Franz Hammerich Elizabeth Sophia Cathrina Hammerich, wife Heinrich Christian Friedrich Hammerich, child Maria Elizabeth Dorothea Hammerich, child Carl Peter Christian Hammerich, child	Germany	Farmer	Moutere	October, 1855.
Oct. 2 ...	Hans Peter Asmus Stelly ... Magdalena Maria Henrietta Stelly, wife Maria Cathrina Dorothea Stelly, child	Germany	Shoemaker	Moutere	October, 1855.
Oct. 2 ...	Johann Dietrich Bensemann ... Maria Margretha Bensemann, wife Cathrina Margretha Bensemann, child Albert Heinrich Bensemann, child Margretha Dorothea Adelheil Bensemann, child Anna Margretha Bensemann, child Sophia Maria Bensemann, child Anna Eleanora Bensemann, child Johann Dietrich Heinrich Bensemann, child	Germany	Farmer	Moutere	May, 1856.
Oct. 2 ...	Johann Freidrich Christian Borkmann Sophia Maria Margretha Borkmann, wife	Germany	Labourer	Waimea East	
Oct. 2 ...	Joachim Heinrich Evers ... Christian Maria Wilhelmina Evers, wife Henrietta Johanna Maria Evers, child	Germany	Labourer	Waimea East	October, 1855.
Oct. 2 ...	Heinrich Johann Lange...	Germany	Blacksmith	Waimea East	October, 1855.
Oct. 2 ...	Johann Friedrich Christian Rose Elise Sophia Maria Rose, wife	Germany	Labourer	Waimea East	October, 1855.
Oct. 2 ...	Johann Ernst Joachim Jordan ... Dorothea Jordan, wife Heinrich Friedrich Johann Jordan, child Christian Friedrich Ernst Jordan, child Carl Friedrich Jordan, child Louise Sophia Dorothea Jordan, child Christopher Friedrich Jordan, child	Germany	Labourer	Waimea East	October, 1855.
Oct. 2 ...	Maria Liemsen ...	Germany	Servant	Waimea East	
Oct. 2 ...	Ludwig Carl Johann Tietjen ... Bernhard Alexander Albert Tietjen	Germany	Tailor Labourer	Nelson Waimea East	October, 1855.
Oct. 2 ...	Paul Spanjir ...	Germany	Brickmaker	Waimea East	
Oct. 2 ...	Lauritz Chrissensen Borek ...	Germany	Labourer	Waimea East	
Oct. 2 ...	John Christian Charles Sixtus ... Henrietta Dorothea Louise Sixtus, wife Christiana Friedricka Sophia Sixtus, child Johann Wilhelmina Augustus Sixtus, child Caroline Louise Wilhelmina Sixtus, child	Germany	Farmer	Moutere	June, 1856.
Oct. 2 ...	Johann Heinrich Wilhelm Sixtus Johanne Christianne Wilhelmine Sixtus, wife	Germany	Farmer	Moutere	June, 1856.
Oct. 2 ...	August Weyergang ...	Germany	Schoolmaster	Waimea East	Dec., 1855.
Nov. 22 ...	Samuel Meyer ...	Prussia	Publican	Wellington	June 12, 1856.
1857. Jan. 27 ...	William Stewart ...	United States	Settler	New Plymouth	Nov. 2, 1848.

SCHEDULE

*Auckland Reserves.*SCHEDULE A.—*continued.*

Date of Proclamation.	Name.	Native of	Occupation.	Residence.	Date from which Naturalization is to take effect.
1857. Jan. 27 ...	Ange François Rivallan ...	France	Master Mariner	Auckland	Jan. 16, 1857.
Apr. 28...	Frederick Martello ...	Messina	Cabinetmaker	Waitohi, Nelson	Jan. 31, 1855.
Apr. 28...	John Charles ...	Sweden	Mariner	Nelson	Mar. 18, 1857.
June 5 ...	John Andrew Zoloteravsky, commonly called John Anderson ...	Smolensko	Sawyer	Akaroa, Canterbury	Dec. 7, 1845.
July 23...	Frederich Albert Wachsmann ...	Prussia	Tailor	Nelson	Aug. 31, 1855.
Sep. 16 ...	Joseph Pagitt ...	United States	Farmer	Coromandel	Sept. 16, 1857.
Oct. 27 ...	Carl Sylvius Völkner ...	Germany	Catechist	Turanga, Province of Auckland	Oct. 17, 1857.
Nov. 13...	James Ansenne ...	Belgium	Carpenter	Auckland	July 8, 1856.

SCHEDULE B.

Name.	Native of	Occupation, &c.	Residence.	Date from which Naturalization to take effect.
Jacob Samuel ...	Prussia	Settler	New Plymouth	Sept. 20, 1853.
Daniel Valentine ...	United States	Boatbuilder	Coromandel	Dec. 30, 1857.
Helène Leopoldine Françoise Isabelle O'Brien ...	Belgium	Wife of Loughlin O'Brien, gentleman	Auckland	April 14, 1858.
Joseph Phillipe Viard ...	France	R. C. Bishop of Wellington	Wellington	Jan., 1, 1850.
Luiz Antonio ...	Fayal, Azores	Boat Carpenter	Auckland	Jan. 1, 1846.
Charles Christian Schäfer ...	Rhenish Prussia	Baker	Auckland	April 1, 1858.
William Henry West ...	United States of America	Hair-dresser	Nelson	April 13, 1858.

No. XLIX.

AN ACT to enable the Governor to Sell and Exchange certain Allotments of Land in and near the City of Auckland, and apply the Proceeds of such Sales in Public Improvements.

[18th August, 1858.]

Preamble.

WHEREAS the allotments or parcels of land described in the Schedules A and B herunto annexed were heretofore set apart as public reserves: And whereas the said lands are not required for any public purpose, and it is expedient that the same should be sold and the proceeds thereof expended in improvements for the benefit of the public domain and other property in the vicinity of the land hereby authorized to be sold, and still reserved by the General Government for public purposes:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. It

Auckland Reserves.

1. It shall be lawful for the Governor, whenever he shall think fit, to sell and dispose of by public auction, either altogether or in lots, all or any part of the said allotments or parcels of land more particularly mentioned or described in the said Schedule A to this Act. Governor may sell by auction lands described in Schedule A.
2. It shall also be lawful for the Governor to sell and dispose of all or any part of the allotment or parcel of land more particularly mentioned or described in Schedule B to this Act, to the several persons whose lands respectively abut thereon, by private contract, at a price to be fixed by an arbitration, to be conducted in such manner as the Governor shall think fit to direct. And lands in Schedule B at arbitration.
3. It shall also be lawful for the Governor, in the name and on behalf of Her Majesty, to make and execute, under the Public Seal of the Colony, Crown Grants in the usual form to the purchasers of any of the lands sold under this Act, and every such grant shall be deemed to convey an estate in fee simple free from incumbrances and without liability on the part of the purchaser or purchasers to see to the application of the purchase money. Grants to convey estate in fee simple.
4. The money to arise from every such sale shall be applied, first, in payment of the expenses attending the same, and, secondly, except the purchase money of allotments Nos. 1, 2, 3, 4, of section 15 of the City of Auckland, in the improvement of the Government domain or park at Auckland, and in payment of the cost already or to be hereafter incurred in making roads to and in the vicinity of the said domain, and as to the purchase money of allotments Nos. 1, 2, 3, 4, in or towards the erection of a Court of Justice in the City of Auckland. Application of proceeds.
5. And whereas it has been proposed that the several allotments or parcels of land described in the Schedule C hereunto annexed, together with the buildings thereon erected, shall be transferred by the Government of the Colony to the Provincial Government of Auckland in consideration of the expense incurred by the Province of Auckland in the erection of the house now occupied by the Governor: Be it therefore further enacted that it shall be lawful for the Governor, whenever he shall think fit, in the name and on behalf of Her Majesty, to make and execute, under the Public Seal of the Colony, Crown Grants or a Crown Grant to the Superintendent of the said Province and his successors of all or any of the several allotments of land described in the said Schedule C to this Act; and it shall be lawful for the Superintendent of the said Province, for and on behalf of the said Province, by writing under his hand and under the Seal of the said Province, to release to Her Majesty all rights and claims whatsoever in respect or on account of the expense incurred on behalf of the said Province in the erection of the said house now occupied as the residence of His Excellency the Governor. Governor may grant lands described in Schedule C to Superintendent in exchange for Government House.
6. Any land granted to the Superintendent of the said Province of Auckland and his successors by virtue of this Act shall for all purposes be deemed and taken to have been granted under "*The Public Reserves Act, 1854*," for such purposes of public utility as shall be hereafter declared in respect of the same by any Act to be passed by the Superintendent of the Province of Auckland, with the advice and consent of the Provincial Council thereof. Land granted to Superintendent to be deemed to have been granted under Public Reserves Act.
7. The Short Title of this Act shall be "*The Auckland Reserves Act, 1858*." Short Title.

SCHEDULES.

SCHEDULE A.

1. All that allotment or parcel of land, containing six acres three roods and twenty-six perches (more or less), being part of Section No. 10 of the City of Auckland, in the **Parish**

Auckland Reserves.

Parish of Waitemata, in the County of Eden, and being bounded as follows:—On the North-east for a length of seven hundred and fifty links (750) by allotment No. 1 of the aforesaid Section No. 10; on the South-east for a length of one thousand and eighty-five links (1,085) by Stanley Street; on the South-west for a length of two hundred and eighty-seven links (287) by a road connecting Stanley Street and the Grafton Road; on the West-north-west and West for lengths respectively of one hundred and three links (103) and seven hundred and thirty-five links (735) by the Grafton Road; and on the North-west for a length of four hundred and fifty-five links (455) by Wynyard Street.

2. All that allotment or parcel of land, containing four acres one rood and twenty-eight perches (more or less), being part of Section No. 34 of the City of Auckland aforesaid, and being bounded as follows:—On the East and East-south-east for lengths respectively of five hundred and forty links (540) and eight hundred and eighty-seven links (887) by the Grafton Road aforesaid; on the West-south-west and South-west for lengths respectively of three hundred and fifty links (350) and three hundred links (300) by a fence which separates it from property belonging to Andrew Sinclair, Esq.; and on the North-west for a length of eleven hundred links (1,100) by a road, fifty feet in width, running north-east from the property aforesaid of Andrew Sinclair, Esq., to the Grafton Road aforesaid.

3. All that allotment or parcel of land, containing one acre one rood and nineteen perches (more or less), situated in the Suburbs of Auckland, and being bounded as follows:—On the North-east for a length of three hundred and four links (304) by Section No. 11 of the City of Auckland aforesaid; on the South-east for a length of one hundred links (100) by land granted for a rope-walk; on the South-south-east by an irregular undefined line, the several parts of which are in length respectively twenty-three links (23), one hundred links (100), two hundred and ninety links (290), one hundred and eighty-five links (185), and two hundred and twelve links (212), which said irregular line separates it from Section No. 98 of the Suburbs of Auckland—(being an hospital endowment, and at this part a narrow belt of land by the side of a mill-race,)—and on the North-west for a length of eight hundred and thirty-links (830) by Stanley Street aforesaid.

4. All that allotment or parcel of land, containing ten acres one rood and twenty-nine perches (more or less), being part of the Government Domain, otherwise called Auckland Park, and being bounded as follows:—On the West-north-west for lengths of two thousand two hundred and twenty links (2,220) and one thousand three hundred and forty-five links (1,345) by the Grafton Road aforesaid; on the South for a length of five hundred and seventy-five links (575) by a road leading towards the Provincial Hospital; on the Eastward by the hospital stream, which for a length of about one thousand six hundred and fifty links (1,650) separates it from the hospital endowment in which the Provincial Hospital is situated, and for a further length of about nine hundred and fifty links (950) separates it from the Government Domain, the hospital stream then losing itself in a swamp at a Puriri tree; on the East-south-east by a bent undefined line the two parts of which are in length respectively six hundred and eighty-five links (685) and four hundred and twenty links (420), and which bent line reaches from the Puriri tree aforesaid to the southernmost post of the gate entering the Government Domain from Stanley Street aforesaid; and on the North-east for a length of three hundred and eighty-five links (385) by a road as aforesaid connecting Stanley Street and the Grafton Road.

5. All those allotments or parcels of land on which stand the buildings occupied by the Supreme Court, the Resident Magistrate's Court, and the Gaol, containing one acre and twenty perches (more or less), being Nos. 1, 2, 3, and 4 of Section No. 15 of the City of Auckland aforesaid.

6. All that allotment or parcel of land, containing fifteen acres and ten perches (more or less), being No. 35 of Section No. 6 of the Suburbs of Auckland.

7. All that allotment or parcel of land, containing one hundred and forty-two acres (more or less), situated near St. John's College, and being bounded as follows:—On the North for a length of about three thousand nine hundred and fifty links (3,950), by a road commonly called the "Point England Road"; on the West, South-west, and South, for lengths respectively of about one thousand two hundred links (1,200), two thousand eight hundred links (2,800), and three thousand one hundred and eighty links (3,180), by the road from St. John's College to Pammure; and on the East for a length of about three thousand six hundred and fifty links (3,650) by a road running between the said "Point England Road" and the said road from St. John's College to Pammure.

SCHEDULE B.

1. All that allotment or parcel of land, containing thirteen acres three roods and seventeen perches (more or less), situated in Section No. 11 of the Suburbs of Auckland, and being bounded as follows:—On the West for a length of about four thousand five hundred links (4,500) by the road from Auckland to Onehunga, commonly called the "Epsom Road"; and on the Eastward for lengths respectively of two thousand three hundred and fifteen links (2,315), two hundred and sixty-two links (262), five hundred and

Nelson Trust Funds Act Amendment.

and eighty-nine links (589), fifty links (50), five hundred and fifty links (550), and nine hundred and twenty-four links (924), by allotments Nos. 10 and 11, and part of allotment No. 12 of the aforesaid Section No. 11, by the end of a road fifty links (50) wide by another part of allotment No. 12, and by allotment No. 16 of the aforesaid Section No. 11 of the Suburbs of Auckland.

SCHEDULE C.

1. All that allotment or parcel of land, containing one acre and one perch (more or less), being No. 1 of Section No. 12 of the City of Auckland aforesaid.

2. All that other allotment or parcel of land situate in Princes Street, in the City of Auckland aforesaid, and being the eastern half of allotment No. 17A of Section No. 4 of the said town, containing thirteen perches (more or less).

3. All that other allotment or parcel of land in the City of Auckland aforesaid, having a frontage to High Street of fifty-seven feet (57ft.), and a frontage to Chancery Street of sixty-seven feet six inches (67ft. 6in.), and being part of allotment No. 4 of Section No. 4 of the said city, and which said parcel of land, with the buildings thereon, was purchased for and on behalf of the Government of New Zealand, for public offices of certain departments of the Government.

4. All that other allotment or parcel of land in the City of Auckland aforesaid, containing eight perches (more or less), being part of allotment No. 16 of Section No. 14 of the said city, which was conveyed to Her Majesty Queen Victoria by George Wilson, on the sixteenth day of October, one thousand eight hundred and forty-nine, and which is bounded as follows:—On the North by allotment No. 17 of the Section aforesaid, one hundred and thirteen feet (113ft.); on the East by a portion of the aforesaid allotment No. 16, twenty feet six inches (20ft. 6in.); on the South by a portion of the aforesaid allotment No. 16, one hundred and thirteen feet (113ft.); and on the West by Lower Queen Street, twenty feet six inches (20ft. 6in.).

No. L.

AN ACT to further amend "*The Nelson Trust Funds Act, 1854.*" [18th August, 1858.]

NELSON TRUST FUNDS
ACT AMENDMENT.

WHEREAS by an Act of the General Assembly of New Zealand, intituled "*The Nelson Trust Funds Act, 1854,*" it was among other things provided that seven of the electors duly qualified under the provisions of the above recited Act should, on the first of January, one thousand eight hundred and fifty-five, be elected Trustees in manner and for the purposes set forth in the aforesaid Act, but no provision was made for any subsequent election of Trustees: And whereas it is expedient that provision should be made for the election of Trustees from time to time:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. On the first day of January, one thousand eight hundred and fifty-five, and thenceforward on the same day in every third year (unless such day shall fall upon a Sunday, in which case the election shall take place on the Monday next following), seven of the electors, duly qualified and registered under the provisions of the recited Act, shall be elected Trustees of the Nelson Trust Funds for the purposes of the recited Act, to continue in office for the period of three years next ensuing such election, and the present or any other retiring Trustees (or any one of them) who shall be duly qualified and registered shall respectively be eligible for re-election.

Trustees to be elected on 1st January, 1859, and at succeeding intervals of three years.

2. The Trustees elected in January, one thousand eight hundred and fifty-five, shall be deemed and taken for all purposes whatsoever to have been duly elected Trustees of the said trust funds for the term of four years instead of three years (as provided by the said recited Act), and shall continue to hold office accordingly until their successors

Trustees elected in January, 1855, to hold office till the 1st January, 1859.

cessors

Nelson College Trust.

cessors are elected under the provisions of this Act, and all acts done or to be done by them as such Trustees shall be as valid and effectual as if done within the term of three years for which they were elected.

At any time when Trustees not duly elected, retiring Trustees to continue in office.

3. In the event of no valid election of Trustees being made on any of the days hereby appointed, the Trustees who would otherwise retire shall continue to administer the affairs of the trust, and to exercise all the powers and discretions vested in the Trustees of the Nelson Trust Funds until their successors are duly elected on the next or some subsequent triennial day of election, and in the meantime all acts done by them in such administration or in exercise of such powers and discretions shall be valid and effectual.

To be construed as part of the recited Act.

4. This Act shall be read and construed as part of "The Nelson Trust Funds Act, 1854," and "The Nelson Trust Funds Amendment Act, 1856."

Short Title.

5. The Short Title of this Act shall be "The Nelson Trust Funds Amendment Act, 1858."

No. LI.

NELSON COLLEGE
TRUST.

AN ACT to vest certain Trust Property within the Province of Nelson in the Governors of Nelson College. [19th August, 1858.]

Preamble.

WHEREAS by a certain grant from the Crown bearing date the twenty-second day of July, one thousand eight hundred and fifty-three, under the hand of Sir George Grey, a Knight Commander of the most Honorable Order of the Bath, Governor and Commander-in-Chief in and over the Colony of New Zealand, and sealed with the Seal of the Islands of New Zealand, after reciting that the allotments or parcels of land thereafter described and intended to be thereby granted and conveyed had been marked out and distinguished on the charts of the New Zealand Islands as college and grammar school reserve lands, as an endowment for or towards the maintenance and support of a college and grammar school or schools in the Province of Nelson if the funds suffice, or otherwise as an endowment for or towards the maintenance and support of such grammar school or schools alone, which college or schools were to be always conducted on the principles set forth and described in the said recited deed of grant, and that it was expedient that the lands granted by the said grant now in recital should be vested in such Trustees on the trusts thereafter expressed and declared, there were by the said grant now in recital granted unto Doctor David Monro, William Oldfield Cautley, Francis Dillon Bell, Francis Jollie, Alfred Fell, and John Waring Saxton, Esquires, being the Trustees appointed under the Act 14 & 15 Vict. chap. 84 aforesaid, and to their successors, Trustees for the administration of the said fund for the public purposes of the Settlement of Nelson, all that piece or parcel of land marked A on the plan thereto annexed, situated in the Town of Nelson, in the Province of Nelson, in the Islands of New Zealand, containing seven (7) acres or thereabouts; and also all that piece or parcel of land marked B on the said plan, situated in the Town of Nelson aforesaid, containing seventeen (17) acres or thereabouts; also all that piece or parcel of land marked C on the said plan, situate in the Town of Nelson aforesaid, containing one (1) acre one (1) rood or thereabouts; also all that piece

Nelson College Trust.

piece or parcel of land marked D on the said plan, situate in the Town of Nelson aforesaid, containing six (6) acres or thereabouts; also all that piece or parcel of land marked E on the said plan, situate at Motueka, in the Province of Nelson, containing three hundred and thirty-one (331) acres or thereabouts; also all that piece or parcel of land marked F on the said plan, situate at Opawa, in the Province of Nelson aforesaid, containing eight hundred (800) acres or thereabouts; also all that piece or parcel of land marked G on the said plan, situate at Massacre Bay, in the Province of Nelson aforesaid, containing four hundred and fifteen (415) acres or thereabouts; and also all that piece or parcel of land marked H on the said plan, situate at Massacre Bay, in the Province of Nelson aforesaid, containing one hundred and fifty-eight (158) acres or thereabouts; to hold the same unto the said Doctor David Monro, William Oldfield Cautley, Francis Dillon Bell, Francis Jollie, Alfred Fell, and John Waring Saxton, and their successors, Trustees for the administration of the fund aforesaid to be appointed under the provisions of the said Act of the Imperial Parliament, in trust as an endowment for the maintenance of the said college or grammar schools to be conducted on the principles aforesaid: And whereas the Trustees for the time being appointed under and by virtue of the aforesaid Act of the Imperial Parliament, and subsequently by an Act of the General Assembly of New Zealand made and passed in the eighteenth and nineteenth years of the reign of Her present Majesty, intituled "*An Act to make further provision for the Administration of the Nelson Trust Funds*," have, in exercise of the powers in them vested by the said aforesaid Acts, disposed of a portion of the trust funds referred to in the said Acts for the purpose of founding a college within the Province of Nelson by the name and style of "Nelson College:" And whereas by an Act of the General Assembly of New Zealand made and passed in the present Session, certain persons therein described, being the Governors of the said College and their successors, have been constituted a body politic and corporate by the name or style of Nelson College: And whereas the funds applicable to educational purposes having become vested in the said Governors of Nelson College it is desirable that the said Governors should have the control and management of the lands, tenements, and hereditaments comprised in the before recited Crown Grant in the place and stead of the said Trustees of the Nelson Trust Funds: And whereas the piece or parcel of land marked B on the plan drawn in the margin of the aforesaid recited Crown Grant, consisting of seventeen acres, and particularly described in the before recited Crown Grant, was set apart by the said Trustees as a site for college buildings, but, owing to its not being adapted for that purpose, the Governors of Nelson College have lately purchased lands more suitable for building upon, and have expended in the purchase thereof the sum of two thousand two hundred and eighty-five pounds, and to complete the block of land adjoining to the said purchased land the said Governors will have to expend a further sum of one thousand seven hundred and fifteen pounds or thereabouts:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. From and after the passing of this Act the Governors of Nelson College for the time being, and their successors, shall be and become Trustees of the lands tenements and hereditaments comprised in the before recited Crown Grant in the place and stead of the Trustees of the Nelson Trust Funds, upon the like trusts intents and purposes, and with under and subject to such and the same powers, as are expressed

Governors of Nelson
College appointed
Trustees of the Nelson
Trusts.

Savings Banks.

and contained respecting the said trust estate in the above recited Crown Grant, save and except as hereinafter expressed.

Power to said Trustees to sell dispose of &c. certain trust lands.

2. The said Governors for the time being and their successors, for the purpose of reimbursing themselves for the outlay aforesaid and for any further outlay in land for the purposes aforesaid not exceeding in the whole the sum of four thousand pounds, may exchange absolutely sell or otherwise dispose of and convey and assure, by deed under their common Seal, the piece or parcel of land marked B, consisting of seventeen acres, hereinbefore particularly referred to, together with the piece or parcel of land marked A on the plan drawn in the margin of the said recited Crown Grant, consisting of seven acres, and more particularly described in the before recited Crown Grant, and no purchaser or other person paying money to such Governors for the time being or their successors shall be afterwards answerable for such money or be bound to see to the application thereof: Provided always that in case any of the lands tenements or hereditaments hereinbefore authorized to be exchanged sold or otherwise disposed of should produce a larger amount than will be necessary to reimburse the said Governors for the outlay above referred to, any surplus arising from such sale shall be invested by the said Governors in the purchase of other lands to be held by them upon the same trusts as the other lands tenements and hereditaments comprised in the before recited Crown Grant shall be subject or liable.

Short Title.

3. The Short Title of this Act shall be "*The Nelson College Trust Act, 1858.*"

No. LII.

SAVINGS BANKS.

AN ACT to provide for the Management of Savings Banks. [19th August, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

I.—OFFICERS OF THE BANK, THEIR APPOINTMENT AND DUTIES.

Governor to be President.

1. The Governor of New Zealand for the time being shall be the President of every Savings Bank within the Colony proclaimed by him to come within the operation of this Act.

Trustees to be nominated by the Governor, and Vice-President to be elected by them.

2. The management of the affairs of every such Bank shall be vested in not less than five or more than thirty-six Trustees, who shall be nominated by the Governor, of whom one shall be styled "Vice-President," to be elected by the said Trustees.

And Trustees to be removable by Governor.

3. Any Trustees appointed under this Act may from time to time be removed from office and be re-appointed, or others may be appointed in their place in case of any such removal or of any vacancy, as the Governor shall think fit; and every such nomination re-appointment or fresh nomination of any Trustee shall be made by the publication of an order to that effect in the *Government Gazette*.

Acts to be done at meetings of Trustees. Four to form a quorum.

4. All acts matters and things (save as hereinafter excepted) which the Trustees, by any of the provisions of this Act, are authorized or required to do, shall and may be done by a majority of the Trustees assembled at a meeting to be called for the purpose in the manner hereinafter provided; and such majority may from time to time adjourn any meeting as they shall think fit: Provided always that in order to constitute a meeting four Trustees at the least shall be present.

5. At

Savings Banks.

5. At all meetings of the said Trustees the Vice-President, and in his absence the senior Trustee in the order of appointment present, shall preside as Chairman, and shall not only vote as a Trustee but shall also, in case of equality of votes, have a casting vote.

6. It shall be lawful for the Trustees of any such Savings Bank, subject to the approval of the Governor, to appoint fit persons to be Managers, Accountants, Clerks, or other subordinate officers of any such Bank, or of any branch thereof, and from time to time to remove from office any such Manager, Accountant, Clerk, or subordinate officer, and to re-appoint him or them, or to appoint others in his or their place, as such Trustees shall think fit; and any such appointment re-appointment or fresh appointment of any such Manager, Accountant, Clerk, or subordinate officer shall be signified by the publication thereof by a notice to that effect in the *Government Gazette*.

7. It shall also be lawful for the Trustees (subject to such approval as aforesaid) to determine the amount of salaries to be paid to such Managers, Accountants, Clerks, or other subordinate officers.

8. Every such Manager and Accountant shall give security for the due and faithful discharge of the duties of his office, by bond, with two or more sureties to be approved of by the Trustees, which sureties shall join with the said Manager or Accountant in such bond, and they and he shall bind themselves jointly and severally to the Vice-President of the Savings Bank in such penal sum as shall be named by the Trustees and be approved of by the Governor.

9. It shall also be lawful for the Trustees, out of the interest received by them on moneys lent out as hereinafter directed, to pay the salaries so appointed to be paid to the Manager, Accountants, Clerks, or other subordinate officers of any such Banks, as the said Trustees, with the consent and approbation of the Governor, shall think fit and allow, and all other incidental charges and expenses as shall be necessarily incurred in conducting the business and keeping of the accounts of any such Savings Bank shall be paid by the Trustees out of the same source and no other: Provided always that if at any time the interest arising from money so lent out as aforesaid be insufficient for the purposes hereby appointed, all such salaries and other charges shall be reduced rateably, and if no interest at all be received, the business of any such Bank shall at once cease and determine.

10. It shall also be lawful for the Trustees of any such Bank to make such rules and regulations for the conduct and management of such Bank as to them shall seem meet, and from time to time to revoke alter and modify such rules and regulations: Provided always that no such rules or regulations, or any revocation alteration or modification thereof, shall be deemed valid or be acted upon until the same shall have been submitted to the Governor for his approval, and shall have been confirmed and allowed by him under his hand.

11. All such rules and regulations which shall be so confirmed and allowed as aforesaid shall be forthwith transcribed on parchment and deposited with the Registrar of the Supreme Court for the district in which such Bank shall be situated, and the said transcript shall be filed by such Registrar and preserved amongst the records of the said Court without any fee or reward in respect thereof, and a copy of the same shall be kept in the said Bank, open to the inspection of the depositors during the hours of business.

12. The rules and regulations so deposited shall be binding on the several members and officers of such Bank, and upon all depositors therein, and their representatives, all of whom shall be deemed to have full notice thereof; and the transcript thereof so deposited as aforesaid,

OR

Savings Banks.

or a true copy thereof examined with the original and proved to be a true copy, shall be received as evidence of such rules and regulations as aforesaid; and every copy of such transcript so deposited as aforesaid shall be made without fee or reward, except the actual expense of such copy.

Liability of Trustees
how limited.

13. No Trustee of any such Bank shall be answerable or accountable for the other or others of them, but each and every of them only for his and their own acts receipts neglects or defaults, respectively; and the said Trustees or any of them shall not be amenable or accountable for any banker, broker, or other person with whom or in whose hands or custody any part of the moneys of such Bank shall or may be deposited or lodged for safe custody or otherwise in the execution of the trusts hereby in them reposed, or for the insufficiency or deficiency of any security or securities in or upon which any moneys shall be placed out or invested, or for the defect of title or value of any lands nor for any other misfortune loss or damage which may happen in the execution of the aforesaid trusts or in relation thereunto, except the same shall happen by or through their own wilful neglect or default respectively.

No Trustee &c. to be
depositor &c.

14. No person being a Trustee or District Trustee of any such Bank, or being in any wise concerned in the management thereof, shall be allowed to deposit any sum of money therein, nor to borrow any money therefrom, nor to derive any benefit from any deposit made in such Bank, nor shall act in the capacity of Manager, Accountant, or Clerk, or District Manager, Accountant, or Clerk, of such Bank, nor receive directly or indirectly any salary allowance profit or benefit whatsoever from the funds of the said Bank.

Penalty.

15. If any person being a Trustee or District Trustee of any such Bank shall offend in any one of the particulars mentioned in section fourteen of this Act, he shall forfeit and pay for every such offence the sum of one hundred pounds, to be sued for in the Supreme Court by any person having money deposited in the said Bank to the amount of thirty pounds, and such penalty shall be paid, one-half to Her Majesty for the public uses of the Colony and the support of the Government thereof, and one-half to the informer.

Bank to have prior
claim on assets of
officers.

16. If any person holding any office in such Bank or any branch thereof, and having in his hands or possession any moneys or effects belonging to the said Bank, or any deeds or securities relating to the same, shall become bankrupt or insolvent, or shall make any conveyance or assignment of his lands goods chattels or effects for the benefit of his creditors, or against whose lands goods chattels or effects any execution attachment or other process shall have issued, or if any such officer shall die, then and in any such case it shall be lawful for any two or more of the Trustees of any such Bank respectively to apply to such officer or to his assignees, or to his executors, or administrators, or to the Sheriff, or other person executing such process, or to any other person or persons having legal right, as the case may require, and to demand that such moneys or effects belonging to the said Bank, and all deeds securities or papers relating to the same, shall be paid over or delivered up to the said Trustees or to such persons as they shall appoint, and the party or parties so applied to and having the same shall, within forty days after such demand as aforesaid, deliver over to such Trustees, or to any person or persons whom they may appoint to receive the same, all effects or other things belonging to such Bank, and all deeds securities or papers relating to the same, and shall pay out of the assets or effects of such person all sums of money belonging or due by such officer to the said Bank before any other of the debts of the said officer shall be paid or satisfied, or before the
money

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money directed to be levied by such process as aforesaid be paid over to the party issuing such process, as the case may be, and all assets goods chattels and effects shall be bound to the payment and discharge thereof accordingly.

17. The Trustees of every such Bank shall, within one calendar month after the close of every year, cause a balance sheet to be prepared, containing a true statement of the receipts and payments on account of such Bank during the past year, and of the balance of money deposited as hereinafter provided, and of all sums of money which may in any manner be due to the Trustees of such Bank as such Trustees as aforesaid, and shall certify that they have counted the cash in hand, and have to the best of their belief ascertained the correctness of the said account or balance sheet, to which they shall subscribe their names, and shall within ten days after such subscription cause the same to be laid before or transmitted to the Governor for the time being for his approval, and the same after being approved by him shall be published in the Government *Gazette*.

Trustees to prepare balance sheet.

II.—DEPOSITS, INTEREST, ETC.

18. It shall be lawful for any one or more of such Trustees, together with the Manager or Accountant, or in his absence for any two or more of such Trustees, at such time and place as shall be fixed by such rules and regulations as aforesaid and at no other time or place whatsoever, to receive from any person or persons in the way of deposits any sum of money not being of less value than one shilling: Provided always that no interest shall be allowed or payable upon any greater sum than one hundred pounds, and all sums deposited in excess of one hundred pounds shall be as deposits without interest, but subject to the same rules for withdrawal as is hereinafter provided; and the amount of the money so received shall be entered in a book (to be provided for that purpose) to the credit of the party making such deposit, or to the credit of such other person as he may appoint: Provided always that no sum of money shall be paid by way of deposit into any Bank which shall be established under this Act by any person whatsoever without disclosing his name, together with his profession occupation calling and residence, to the persons receiving the same, and such name profession occupation calling and residence shall forthwith be entered by the persons receiving such deposit in the books wherein the entry of the said deposit is hereinbefore directed to be made.

Deposits how to be received. Limitation of amount for interest.

19. The amount of such deposits and all other sums of money received into any such Bank shall, with all convenient speed, be deposited in any Joint Stock or Incorporated Bank, and in places where no such Banks are established then in some convenient place of security as shall be approved of by the Trustees, and the same shall then be placed to the credit of such Savings Bank in an account to be called "The Account of the Trustees of Savings Bank," and no money so paid into any such account shall be withdrawn without the written order of the Manager and Accountant and one Trustee, or of two or more Trustees countersigned by the Manager or Accountant, or one of the persons for the time being acting in that capacity, being first had and obtained.

Deposits how to be first disposed of.

20. It shall be lawful for the depositor of any sum of money in any such Bank, or for any person duly authorized by such depositor, or for his executor or other lawful representative, 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,—

Notice of withdrawal of deposits.

If the sum so required to be repaid shall not exceed five pounds,

Savings Banks.

pounds, the claimant thereof shall, on some day appointed for the receiving of deposits, deliver or cause to be delivered to the Manager or Accountant a notice, signed with his name, declaring his intention to withdraw such sum from the Bank at the expiration of seven days from the date of the said notice.

If the sum to be withdrawn shall exceed five pounds but be not more than twenty pounds, then fourteen days' notice shall be given in like manner.

If the sum to be withdrawn shall exceed twenty pounds but be not more than fifty pounds, then twenty-one days' notice shall be given in like manner.

And if the sum to be withdrawn shall exceed fifty pounds then twenty-eight day's notice shall be given in like manner.

Provided always that all interest shall cease from the date of such notice on the sum so notified to be withdrawn, and shall not be thereafter payable thereon.

Rate of interest.

21. Any person on whose account any deposit by one or more payments of not less than twenty shillings or more than one hundred pounds may have been paid, and to whose credit it is placed in the books of any such Bank, shall be entitled to receive interest upon the same at the rate of five per cent. by the year for every one hundred pounds, and in the same proportion for any shorter time: Provided always that no interest shall be allowed on any sum less than one pound or on odd shillings and pence, and that the interest shall be calculated by months, omitting odd days, but that any sum deposited within the first seven days of a month shall be entitled to bear interest for the whole of that month.

From what source to be paid.

22. The said Trustees may and shall pay such interest as aforesaid out of the interest received by them on sums lent out as herein provided: Provided always that if the moneys so received by the said Trustees, after paying therefrom the salaries charges and expenses of any such Bank, shall be insufficient to pay interest on deposits at the rate which is or may be fixed, the sum required to make up such deficiency shall be payable, by warrant under the hand of the Governor for the time being, out of the general revenue of the Colony, and shall be placed by the Colonial Treasurer to the debit of the Province in which such Bank may be situated.

Rate of interest may be reduced.

23. It shall be lawful for the Trustees of any such Bank, at a general meeting to be held in the month of January in every year, to reduce, with the consent of the Governor, the rate of interest hereinbefore prescribed: Provided always that no such reduction in the rate of interest shall be made until after three calendar months' notice be given by advertisement to be published in the *Government Gazette*.

Interest when to be added to credit of depositor.

24. Interest, subject to the rules and regulations aforesaid, shall be added to and incorporated with the sum which may be then standing in the books of the said Bank to the credit of each party, and shall bear interest, subject to the rules aforesaid, from the first day of the said month of January, and interest shall be allowed to him upon the total sum so long as the same shall remain deposited in the Bank: Provided always that nothing in this Act contained shall entitle any person to receive interest upon any greater sum than one hundred pounds.

Surplus funds.

25. Provided always that whenever the surplus profits of any such Bank, after paying all salaries charges and expenses in the management thereof, together with all interest due to the depositors of any such Bank, shall be sufficient to build proper offices for the purpose of carrying on the business of such Bank, the same may be
and

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and the Trustees are hereby empowered to select and purchase a suitable site and erect thereon such offices, but should such surplus profits admit only of the purchase of a site for the same, then the Trustees are hereby authorized and empowered to mortgage the same for the purpose of erecting a suitable building upon the site so purchased, or for completing any building thereon: Provided also that all land so to be purchased shall be conveyed and vested in the Vice-President for the time being, upon trust for the benefit of the said Bank for which the same shall have been so purchased.

26. And whereas by reason of the funds of any such Bank being invested in manner herein provided, the Trustees of the said Bank may, without the assistance of the Government, be unable to meet the demands made upon them from time to time by depositors desirous of withdrawing their deposits: Be it therefore further enacted that it shall be lawful for the Governor to guarantee the repayment of any loan which it may be necessary for the Trustees to negotiate in order to meet the demands of such depositors: Provided that no loans outstanding at any time and so guaranteed shall exceed the sum of one thousand pounds in respect of any one Bank.

Governor may guarantee loans.

III.—DEPOSITORS.

27. In case the Trustees of any such Bank shall receive any deposit of money from or for the use and benefit of any person under the age of twenty-one years, it shall be lawful for the said Trustees to pay such person his share and interest in the funds of the said Bank in the manner and upon the conditions herein appointed in the case of other depositors, and the receipt of such person shall be a sufficient discharge for any money paid to him as aforesaid, notwithstanding his incapacity or inability in law to act for himself.

Infants may be depositors.

28. In case any deposit shall have been made in any such Bank by any married woman without notice of her marriage, or in case any deposit shall have been made by any woman who shall marry subsequently to making such deposit, it shall be lawful for the Trustees of such Bank to pay any sum of money in respect of any such deposit to any such woman.

Deposits made by a married woman, or a woman who shall subsequently marry, may be paid upon the receipt of such woman.

29. In case any depositor in any such Bank shall die leaving a sum of money in such Bank, which, with the interest thereon, shall not exceed in the whole twenty pounds, it shall be lawful for the said Trustees, and they are hereby authorized, in case they shall be satisfied that no will was made and left by such deceased depositor, and that no letters of administration will be taken out of the goods and chattels of such depositor, to pay the same at any time after the decease of such depositor, according to the rules and regulations of such Bank: and in the event of there being no rules and regulations made in that behalf, then the said Trustees are hereby authorized to pay out of such sum of money all just debts due or owing by such deceased depositor, and to defray the expenses of his funeral, so far as the said sum of money shall extend, and to pay and divide the surplus (if any) to and amongst the persons entitled to the effects of the deceased intestate, according to the Statute of Distributions.

On death of depositor, deposit not exceeding £20 how to be disposed of.

30. In case any depositor shall die leaving any sum of money in any such Bank, or there shall be any dividends or interest due thereon belonging to him at the time of his death, which said several sums shall exceed in the whole the sum of twenty pounds, the same shall not be paid to any person claiming to be the representatives, next of kin, or creditor of such depositor, unless such person deliver or cause to be delivered to the said Trustees or to the Manager or Accountant of such Bank a notice in writing, signed with his name in the presence of

If deposit exceed £20.

two

Savings Banks.

two credible witnesses, setting forth the grounds upon which he claims to be entitled to receive the said sum of money belonging to such depositor at the time of his death, or any part thereof: Provided always that the said notice shall have been previously published thrice or oftener in the *Government Gazette* and in some one or more newspapers of the Colony, at the discretion of the said Trustees, and three calendar months at least shall have elapsed subsequently to the last publication before payment be made in satisfaction of any such claim or demand: Provided also that if any creditor of the deceased, whose debt shall not exceed the sum of ten pounds, shall put in his claim to be paid, it shall be lawful for the said Trustees to pay the same without such public notice as aforesaid: Provided also that the above regulations shall not be taken to interfere with the legal title and claim of any representative of such depositor deceased, who shall procure probate of his will or letters of administration of his effects, or with the action of the official administrator.

Such disposal valid
against person
lawfully entitled.

31. If any payment shall be made from the funds of any such Bank by the Trustees thereof, as hereinbefore directed, and the party claiming and receiving the same shall afterwards be proved not to be the lawful representative of the depositor so deceased as aforesaid, or otherwise not entitled to the same, such payment shall be valid against any demand of any person as representative of the said deceased depositor or any other person whomsoever; nevertheless such lawful representative or other person shall have a remedy for such moneys so paid as aforesaid against the person who shall have so wrongfully received the same.

Bills may be
discounted.

32. It shall be lawful for the Governor in Council, on receiving a petition to that effect signed by not less than two-thirds of the Trustees of any Savings Bank, by writing under his hand directed to the Vice-President of such Bank, and published in the *Government Gazette*, to empower the Trustees of the said Bank, not being less than four, attending at any meeting or meetings appointed for that purpose, to discount at a rate of interest not less than eight per centum per annum any bill of exchange or promissory note for any amount not exceeding one hundred pounds, provided the same shall bear the names of not less than two persons, not being Trustees of the said Bank, to be approved by such Trustees so attending as aforesaid, or the major part of them, and be payable at a period not exceeding three calendar months from the time when the same shall be discounted: Provided that the total amount of funds invested in such promissory notes or bills of exchange shall at no time exceed one-half of the whole deposits.

IV.—INVESTMENT OF DEPOSITS.

Deposits may be
invested on mortgage.

33. It shall be lawful for the Trustees of any such Bank to lend any sum of money upon security by mortgage of any lands and hereditaments held for an estate of inheritance in fee simple in the Colony of New Zealand: Provided that such lands and hereditaments be free from all incumbrances, and be within such distance of the Bank as shall in that behalf be appointed by the rules of the Bank.

Or in Government
Securities or in banks
on interest.

34. It shall also be lawful for the said Trustees to cause any proportion of the funds of any such Bank, with the approval of the Governor, to be invested in Government Securities in the Colony of New Zealand, or to be deposited in any Bank in the Colony at such rate of interest as may be agreed upon between the Directors of any such Bank and such Trustees as aforesaid: Provided always that the total amount of funds lent out at interest, or in the aggregate invested in mortgage or Government Securities, or deposited in any Bank on interest, shall at no time exceed nine-tenths of the total deposits.

V.—SECURITIES

Savings Banks.

V.—SECURITIES AND REMEDIES.

35. All lands and hereditaments so mortgaged to any such Bank as aforesaid shall be conveyed to the Vice-President thereof for the time being in fee simple, subject to redemption on payment of all principal money and interest, and to a power of sale in default of payment of principal money or interest; and all other securities shall be taken in the name of the Vice-President.

Real estate &c. to be vested in Vice-President.

36. All bonds mortgages warrants of attorney and other securities which shall be taken in the name of any person as Vice-President of any such Bank for and on account of the same, shall and may be put in suit and be sued and prosecuted at law or in equity in the name of the Vice-President in whose name the same may have been taken, or in the name of any person who shall have succeeded to that office at the time of such proceedings being instituted, notwithstanding that the name of any such succeeding Vice-President be not inserted in such bond mortgage warrant of attorney or other such security as an obligee, mortgagee, assignee, or payee.

Bonds &c. may be put in suit in name of Vice-President.

37. The death resignation removal or other act of any such Vice-President in whose name any such security as aforesaid shall be put in suit shall not abate any action suit or other proceeding had thereon, but the same may be continued where it left off, and be prosecuted and carried on in the name of any person who may have succeeded to that office, or may be or become the Vice-President of the said Bank for the time being.

Death of Vice-President not to abate action.

38. The legal estate in all lands and tenements belonging to or mortgaged to any such Bank shall become vested in every new Vice-President thereof, to all intents and purposes, immediately upon the recording of the memorial of the name of such new Vice-President in the Supreme Court, as herein directed, and so on *toties quoties* whenever any new appointment of Vice-President of any such Bank shall take place, and such new memorial shall have been enrolled and recorded in the Supreme Court as herein directed.

Legal estate &c. to be vested in name of Vice-President without conveyance.

39. All moneys goods chattels and effects whatsoever, and all securities for money and obligatory instruments, and evidences or muniments and other effects whatever, and all rights and claims belonging to any such Bank, shall be vested in the Vice-President for the time being for the use and benefit of the respective depositors therein, according to the provisions of this Act; and after the death resignation or removal of any such Vice-President, shall vest in the succeeding Vice-President for the same estate and interest as the former Vice-President had therein, and subject to the same trusts, without any assignment or conveyance whatever: Provided always that all sums of money paid on the redemption of any lands and hereditaments may be received by any one Trustee, together with the Manager or Accountant for the time being of any such Bank, and all receipts and other acquittances for the same may be signed by any one Trustee, together with the said Manager or Accountant, in the name of and for and on behalf of the said Vice-President, and such receipts and acquittances so signed as aforesaid shall be deemed and taken to be as valid at law and in equity as if the same had been signed by the Vice-President of the said Bank.

All moneys securities &c. to be vested in Vice-President.

40. The Vice-President of every such Bank may institute any action suit prosecution and other proceedings at law and in equity, by and on behalf of such Bank, or wherein such Bank may be concerned, against any person or persons, body politic or corporate, and whether such person or persons shall be a Trustee or officer of the said Bank or otherwise.

Vice-President to bring actions &c.

Savings Banks.

Actions &c. to be carried on in name of Manager or Accountant.

41. Every such action suit prosecution and proceeding shall be commenced or instituted and carried on in the name of the Manager or Accountant of such Bank for the time being as the nominal plaintiff, complainer, or petitioner for and on behalf of the said Bank; and all actions suits and proceedings as aforesaid to be commenced instituted or prosecuted against any such Bank shall be defended by the said Vice-President, but the same shall be commenced instituted and prosecuted against the said Manager or Accountant for the time being of such Bank as the nominal defendant for and on behalf of the said Bank.

In case of prosecution for fraud &c. name of Manager or Accountant to be used.

42. All prosecutions for fraud upon or against any such Bank, or for embezzlement robbery or stealing the bills notes bonds moneys goods chattels effects or property of the said Bank, or for any other offence against the said Bank, shall be commenced or instituted and carried on in the name of the said Manager or Accountant for the time being of the said Bank. And in all indictments and informations it shall be lawful to state the property of any such Bank to be the property of the said Manager or Accountant for the time being; and any offence committed with intent to injure or defraud the said Bank shall and lawfully may, in any prosecution on account of the same, be stated or laid to have been committed with intent to injure and defraud such Manager or Accountant, and any offender or offenders may thereupon be lawfully convicted of any such offence.

Action &c. not to abate on death of Manager or Accountant.

43. No such such suit action or prosecution shall be discontinued or abated by the death of such Manager or Accountant, or by his resignation or removal from the office which he held at the time when such action suit or prosecution was commenced, but the same shall and may be proceeded with in the name of any person who may be or become Manager or Accountant of such Bank for the time being, and such person shall pay or receive like costs as if such action or suit had been commenced in his name for the benefit of or to be reimbursed from the funds of the said Bank.

Memorial of names of Vice-President, Manager, and Accountant to be recorded.

44. A memorial of the name of the Vice-President, Manager, and Accountant for the time being of every such Bank, in the form and to the effect for that purpose set forth in the Schedule hereunto annexed, signed by at least four of the Trustees of such Bank, shall respectively be recorded upon oath in the Supreme Court within thirty days after such Bank shall have been proclaimed to come within the operation of this Act as aforesaid; and when and as often as any Vice-President shall be elected as hereinbefore directed, or any Manager or Accountant of such Bank shall be appointed Manager or Accountant thereof, a memorial of the name of such newly elected Vice-President or such newly appointed Manager or Accountant in the same form or to the same effect as the above-mentioned memorial, signed by such newly elected Vice-President or such newly appointed Manager or Accountant, as the case may be, and by four of the said Trustees of such Bank, at the time of the election of such Vice-President or appointment of such Manager or Accountant, shall in like manner be recorded upon oath in the said Court within thirty days next after such Vice-President shall be elected or Manager or Accountant appointed as aforesaid.

Until so recorded name of Vice-President &c. not to be used.

45. Until a memorial of the name of the Vice-President or of the Manager or Accountant for the time being be recorded in the manner herein directed, no action suit or other proceeding shall be brought by any such Bank in the name of the Vice-President or of the Manager or Accountant of the said Bank as aforesaid under the authority of this Act.

Proof of memorial being recorded unnecessary.

46. Provided always that in any action to be brought in the names of the said Vice-President, Manager, or Accountant of the said Bank

Savings Banks.

Bank by virtue of this Act, the plaintiff therein shall not be non-suit nor shall a verdict be given against him for want of proof of the record of any such memorial as hereinbefore mentioned; but in case the defendant in any such action shall make it appear on such trial that no such memorial has been recorded, then a non-suit shall be entered in such action.

47. If any dispute shall arise between any such bank, or any person acting on behalf thereof, and any individual depositor therein, or any executor, administrator, next of kin, or creditor of any deceased depositor, or any person claiming to be such executor, administrator, next of kin, or creditor, then and in every such case the matter so in dispute shall be referred to the arbitration of two indifferent persons, one to be chosen and appointed by the Trustees of the said Bank, and the other by the party with whom the dispute arose; and in case the arbitrators so appointed shall not agree, then such matter in dispute shall be referred in writing to an umpire, having no interest in such matter or in the said Bank, to be elected by the said arbitrators previously to entering upon the consideration of the matter referred to them; and whatever award order or determination shall be made by the said arbitrators or by the said umpire shall be binding and conclusive on all parties, and shall be final to all intents and purposes without any appeal.

Disputes to be referred to arbitration.

VI.—DISTRICT TRUSTEES.

48. And whereas it may be expedient to extend to country districts the operations of this Act: Be it therefore enacted that it shall be lawful for the Governor from time to time, as occasion may require, to appoint proper persons to act as Trustees in connection with any such Bank for such districts as to the said Governor shall seem meet, to be signified by the publication of an order to that effect in the *Government Gazette*.

Governor may appoint District Trustees.

49. Such Trustees shall be appointed for the receipt respectively of deposits in such Bank in order that the same may be transmitted to and be invested by the Trustees of the said Bank for the benefit of country depositors in like manner and subject to the same regulations as hereinbefore provided concerning other depositors.

To receive deposits from country depositors.

50. It shall be lawful for the Trustees of such Bank to appoint a Manager, Accountant, or Clerk for any such district as aforesaid, who shall give reasonable security, to the satisfaction of such Trustees, that he will duly account for such moneys of depositors as shall come to his hands.

District Manager, Accountant, or Clerk to be appointed.

51. Such Manager, Accountant, or Clerk shall in the presence of, and not otherwise, of one or more of such District Trustees, receive deposits from persons residing within his district, at such times and places as the District Trustees shall appoint, and give proper vouchers to the parties depositing the sums, signed by him and by any one of the Trustees who may be present at the receipt thereof.

To receive deposits.

52. It shall be the duty of such District Manager, Accountant, or Clerk, and he is hereby required, at such times and in such manner as the Trustees of such Bank may direct, to remit all sums of money so deposited to the Manager or Accountant of such Bank, together with an account, verified by one or more of the District Trustees respectively, of the names residences and descriptions of the depositors, and of the sums received by such District Manager, Accountant, or Clerk as aforesaid, in order that such depositors may be entitled to the benefit of this Act.

And to remit the same to Bank.

53. It shall be lawful for any such district depositors or for any person duly authorized by him, or for his executor or other lawful representative,

Withdrawal, notice of.

Savings Banks.

representative, to claim and receive back the money so deposited by him as aforesaid, or any part thereof, in manner following, that is to say,—

If the sum so required to be repaid shall not exceed five pounds, the claimant thereof shall, on one of the days to be appointed for the purpose by the District Trustee or Trustees respectively, deliver or cause to be delivered to the District Manager, Accountant, or Clerk, a notice, signed with his name, declaring his intention to withdraw such sums from the Bank at the expiration of fourteen days from the date of such notice. If the sum to be withdrawn shall exceed five pounds but be not more than twenty pounds, then twenty-one days' notice shall in like manner be given; and thirty days' notice shall be given when the sum to be withdrawn shall exceed twenty pounds: Provided always that all interest shall cease from the date of such notice on any sum so notified to be withdrawn, and shall not thereafter be payable thereon.

Notice to be forwarded to Bank.

54. Upon the receipt of such notice, the District Manager, Accountant, or Clerk shall forthwith transmit the same, verified under the hand or hands of one or more of the said District Trustees respectively, to the Manager or Accountant of such Bank, in order that proper steps may be taken for transmitting the money to such District Manager, Accountant, or Clerk, for the payment to the party lawfully claiming the same, which Manager, Accountant, or Clerk shall take from such party a proper receipt in writing for the money so paid, and transmit the same to the Manager or Accountant of the said Bank.

In case of death of district depositor.

55. If any district depositor shall die, leaving any sum or sums of money in such Bank, or any interest or dividend due thereon, belonging to him at the time of his death, the same shall be paid only on the conditions hereinbefore provided in case of the death of other depositors in such Bank.

MISCELLANEOUS.

Meetings how to be called.

56. Whenever any meeting of the Trustees is required for any of the purposes of this Act, the same shall be called by a notice signed by the Vice-President, Manager, or Accountant, and published in one or more of the local newspapers, giving at least three clear days' notice of the time and place of the intended meeting.

Power of delegation.

57. It shall be lawful for the Governor, by writing under his hand, from time to time to delegate to any person or persons whomsoever all or any of the powers vested in him by virtue of this Act, and every such delegation at pleasure to revoke.

Ordinance and Act repealed.

58. An Ordinance passed by the Lieutenant-Governor and Legislative Council of New Zealand, Session VIII., No. 4, intituled "*An Ordinance to provide for the Management of Savings Banks,*" and an Act passed by the General Assembly of New Zealand, intituled "*The Savings Bank Ordinance Amendment Act, 1856,*" are hereby repealed: Provided always that all Savings Banks or Branch Banks constituted or established under the provisions of the said Ordinance, Session VIII., No. 4, which are or may be in operation within the Colony of New Zealand at the time this Act shall come into operation, shall be deemed to have been constituted and established under the provisions of this Act, and every act matter or thing done and every mortgage or other security taken in pursuance of the said Ordinance shall be as good valid and effectual, and shall have the same force and effect to all intents and purposes, as though the same had been done or taken under the provisions of this Act.

Commencement of Act.

59. This Act shall come into operation in the Province of Auckland

Qualification of Electors.

Auckland on the passing thereof, and throughout the Colony on the first day of October, one thousand eight hundred and fifty-eight.

60. The Short Title of this Act shall be "*The Savings Bank Act, 1858.*" Short Title.

SCHEDULE.

FORM OF MEMORIAL.

MEMORIAL of the name of the Vice-President [Manager or Accountant, as the case may be,] of Savings Bank, pursuant to "*The Savings Bank Act,*" Session 1858, No. 52.

A.B., Vice-President [Manager or Accountant, as the case may be].

C.D.)
E.F.) Trustees.
G.H.)
I.K.)

Gentlemen of the above-named Bank, maketh oath and sayeth that he was present and did see the foregoing memorial signed by the above-named Vice-President [Manager or Accountant, as the case may be,] and Trustees respectively whose names appear thereto.

Sworn this day of , one thousand eight hundred and .

No. LIII.

AN ACT to amend the Law relating to the Qualification of Electors and Members of the House of Representatives. [19th August, 1858.]

QUALIFICATION OF
ELECTORS.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. No trustee shall be deemed to be qualified to vote at elections of Members of the House of Representatives in respect of any trust estate unless he be in actual possession or receipt of the rents and profits of the estate, but the *cestui que* trust in such possession or receipt shall be deemed to be qualified in respect of the same estate notwithstanding such trust.

Provision as to
Trustees.

2. Every man who shall be duly qualified and registered as an elector of the House of Representatives in any part of the Colony shall be qualified to be elected a Member of the said House for any electoral district within the Colony.

Qualification for
Members of the House
of Representatives.

3. If a Member of the House of Representatives shall after his election cease to possess a qualification as herein prescribed, he shall not by reason only of his ceasing to possess such qualification be deemed incapable of continuing to hold his seat, but shall continue to hold the same until he shall cease to be a Member from some other cause, according to the law for the time being in force.

Member ceasing to
possess qualification
not to be incapable
of holding his seat.

4. In the construction of the Constitution Act, the time of registration shall be deemed to be the last day on which objections to claims to vote may by any law for the time being be served on the officer or person appointed or entitled to receive notice thereof.

Time of registration.

5. This Act shall continue in operation only until the end of the next Session of the General Assembly.

Duration of Act.

6. The Short Title of this Act shall be "*The Qualification of Electors Amendment Act, 1858.*" Short Title.

Registration of Electors.

No. LIV.

REGISTRATION OF
ELECTORS.

AN ACT to amend the Law relating to the Registration of Persons qualified to Vote at Elections of Members of the House of Representatives.

[19th August, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Governor to appoint
Registration Officers.

1. As soon as conveniently may be after this Act shall come into operation, the Governor shall, by warrant under his hand, appoint a Registration Officer for each of the electoral districts within the Colony for the election of Members of the House of Representatives, and may from time to time, by warrant as aforesaid, remove any Registration Officer, and fill up any vacancy that may at any time occur by death removal resignation or otherwise in the office of Registration Officer for any electoral district.

Registration Officer
to make up lists for
revision.

2. It shall be the duty of the Registration Officer for every electoral district annually to make up, in manner hereinafter prescribed, a list of all persons entitled or claiming to vote in the election of Members of the House of Representatives for such district, which lists are hereinafter referred to as the "Lists of Voters," and shall be revised in manner hereinafter provided.

Claims to franchise
how to be made.

3. Every duly qualified person desirous of having his name placed on any electoral roll, or of having any addition or alteration made to or in the statement of his qualification upon any such roll, may make a claim for that purpose in the Form numbered I. in the Schedule to this Act or to the like effect.

Declaration to be
made before a
Justice of the Peace.

4. Every such claim shall have thereunder printed or written or thereon indorsed a declaration according to the Form numbered II. in the said Schedule, which declaration shall be signed and the truth thereof declared to by the claimant before a Justice of the Peace or the Registration Officer, who shall attest the same accordingly without fee; and every person who knowingly and wilfully shall make a false declaration shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way before a Resident Magistrate together with any one or more Justices of the Peace: Provided always that when any person shall have more qualifications than one stated on the roll, the several qualifications shall be numbered.

Claims and declara-
tion to be given to
Registration Officer
in March.

5. No such claim and declaration shall be received unless it be given to the Registration Officer of the electoral district in respect of which such claim shall be made in the month of March in the year in which it is preferred.

Alphabetical list of
claims to be made
out and published.

6. In the first week of the month of April in every year the Registration Officer of each electoral district shall make an alphabetical list of the names of all those persons who shall during the preceding month have preferred claims as aforesaid, together with the particulars of their places of abode and qualifications as set forth in their respective claims, and shall forthwith cause such list to be published twice in one or two newspapers published within the electoral district for which such list shall be made, and if there be no such newspaper, then in one or two newspapers published at the capital town of the Province in which such electoral district shall be situate, or at such other place as such Registration Officer shall deem best adapted to give full publicity to the same.

7. In

Registration of Electors.

7. In every district the Electoral Roll for the time being, together with the list of claimants (if any) to be made out and published as aforesaid, shall together constitute the List of Voters for revision; subject nevertheless to the special provision hereinafter contained respecting the formation of the first Lists of Voters for revision under this Act.

List of claimants and Electoral Roll to be List of Voters for revision.

8. It shall be lawful for any person whose name appears on any List of Voters for revision, to object in any year to the right of any other person to have his name retained or placed on the Electoral Roll to be formed from such list, by giving to the Registration Officer in the month of April in such year a written or printed notice in the Form numbered III. in the said Schedule, or to the like effect.

Objections may be made.

9. If any person whose name shall be on any such List of Voters shall be desirous of having his name removed therefrom, or any of his qualifications therein stated struck out, he shall in the month of April give notice in writing (to be signed by him in the presence of and attested by a Justice of the Peace), in the form or to the effect of the Form numbered IV. in the said Schedule, to the Registration Officer of the district, and the said Registration Officer shall strike the name of such person out of the said list, or shall strike out such qualification as he shall desire to have omitted accordingly.

Any person desirous of having his name omitted to give notice signed in the presence of a Justice of the Peace.

10. The Registration Officer shall, within the first seven days of the month of May, make out an alphabetical list, in the Form numbered V. in the said Schedule, of all persons objected to as aforesaid, and if he shall have reasonable cause to believe that any person whose name shall be on the said List of Voters is dead, or from any cause whatever is not entitled to be on the Electoral Roll in respect of any qualification stated in such list, and is not objected to, he shall insert the name of such person in the list of persons so objected to, and shall affix his name as the objector thereto.

List of persons objected to to be made out.

11. The Registration Officer shall forthwith cause such list to be posted in some public and conspicuous situation within the district, and to be published in like manner as is provided with respect to lists of claimants by the sixth section of this Act, and shall to such list add a notice stating that such objections will be heard by the Revising Officer appointed for that purpose.

And to be published.

12. The Registration Officer shall also publish at the same time and in the same manner an alphabetical list, in the Form numbered VI. in the said Schedule, of all persons whose names shall have been removed from the List of Voters as provided by the ninth section of this Act.

List of persons omitted at their own request to be published.

13. Every person who shall wilfully destroy remove deface or otherwise injure or interfere with any notice list or other document posted for the purpose of publication under the provisions of this Act, during the period for which the same is hereinbefore required to remain so posted, shall for every such offence forfeit any sum not exceeding twenty pounds nor less than forty shillings to any person who shall sue for the same, to be recovered in a summary way before any two Justices of the Peace.

Penalty for destroying posted lists.

14. No list shall be invalidated by reason that it shall not be published in such manner in every place and for the full time hereinbefore required for publication thereof, nor by reason of any error in the copying or printing of the same, but the Revising Officer shall proceed to revise and adjudicate upon every such list which shall have been published in any manner and for any part of the time hereinbefore mentioned in that behalf: Provided that nothing herein contained be construed to exempt the Registration Officer, or other person charged with the duty of publishing any such list as aforesaid,

Lists not invalidated by imperfect publication.

from

Registration of Electors.

from the penalties and other consequences of his neglect or wilful default.

If no list made out or published former list to be in force.

15. In case no List of Voters shall have been made out for any electoral district in any year, or in case such list shall not have been published as hereinbefore mentioned in that behalf, the Electoral Roll for such district then in force shall be taken to be the List of Voters for the purposes of revision for such district for the year then next ensuing, and the provisions herein contained respecting any such List of Voters shall be taken to apply to such Electoral Roll as aforesaid.

Appointment of Revising Officers.

16. The Governor shall, in or about the month of April in every year, appoint so many competent persons as he may deem necessary, who shall be called Revising Officers, to revise the lists of voters for that year in the several electoral districts of the Colony: Provided always that no Member of the House of Representatives, nor any Superintendent, nor any Member of any Provincial Council, shall be appointed a Revising Officer; and that no Revising Officer shall for two years after his appointment be eligible to be elected as a Member of the House of Representatives for any electoral district for which he shall have been so appointed, nor as Superintendent of the Province in which any such electoral district shall be situate, nor as a Member of any Provincial Council for any such district, or any district wholly or partially included therein.

Oath to be taken by Revising Officer.

17. Each of such Revising Officers shall forthwith after his appointment take the following oath before a Judge of the Supreme Court, or some person appointed by the Governor to administer the same, viz:—

I, A.B., do solemnly and sincerely promise and swear that I will, to the best of my ability, perform my duty as a Revising Officer appointed under the provisions of "*The Registration of Electors Act, 1858*," without fear favour or malice. So help me God.

Revising Officer to notify his appointment, and Registration Officer to transmit lists &c.

18. Every Revising Officer shall, as early as conveniently may be after his appointment, notify the same to the Registration Officers of the several electoral districts for which he shall have been appointed, and every such Registration Officer shall, on or about the tenth day of May, transmit to such Revising Officer the List of Voters for revision, together with an authentic copy of the lists to be published in pursuance of the eleventh and twelfth sections respectively of this Act, and all the original claims and declarations and notices of objection which such Registration Officer shall have received.

Revising Officer to hold Courts.

19. The Revising Officer appointed to revise the List of Voters for any electoral district shall hold an open Court for that purpose at such times and places, either within or without such district or both, as he may think fit, between the first day of June and the first day of August in every year, and he shall give at least fifteen days' notice in one or more newspapers, as the Revising Officer shall deem best adapted to give full publicity to the same, of the time and place of holding any Court, and specifying as nearly as may be the business to be transacted thereat.

Names omitted may be inserted.

20. The Revising Officer shall insert in the List of Voters for any electoral district the name and particulars of abode and qualification of every person omitted, who shall be proved to the satisfaction of such Revising Officer to have given due notice of his claim to be inserted in such list, and to have been entitled on the last day of April then next preceding to have his name inserted therein in respect of the qualification described in such notice of claim.

Any person on list

21. It shall be lawful for any person whose name shall be on the List

Registration of Electors.

List of Voters for any electoral district, without any previous notice, to oppose the claim of any person so omitted as aforesaid to have his name inserted on the Electoral Roll for such district.

may object to such insertion.

22. The Revising Officer shall correct any mistake which shall be proved to him to have been made in any List of Voters, and shall expunge, whether objected to or not, the name of every person whose qualification, as stated in such list, shall be insufficient in law to entitle such person to vote, and also any of several qualifications of any one person which as stated in such list shall be insufficient as aforesaid, and also the name of every person proved to him to be dead, and also every name which shall be proved to him to be fictitious; and wherever the christian name, or the place of abode, or the nature of the qualification, or the local or other description of the property of any person who shall be included in any such List of Voters, shall be wholly omitted in any case where the same is by this Act directed to be specified therein, or wherever any person whose name is included in any such list, or his place of abode, or the nature or description of his qualification, shall in the judgment of the Revising Officer be insufficiently described for the purpose of being identified, such Revising Officer shall expunge the name of every such person from such List of Voters unless the matter so omitted or insufficiently described be supplied to the satisfaction of such Revising Officer before he shall have completed the revision of such List of Voters: Provided always that whether any person be objected to or not, no evidence shall be given (except as provided in the twenty-fifth section of this Act) of any other qualification than that which is described in the List of Voters or claims, nor shall the Revising Officer be at liberty to change the description of the qualification as it appears in the said list except for the purpose of more clearly or accurately defining the same.

Corrections may be made in List of Voters.

23. Where any person shall have been objected to as hereinbefore provided, and the person objecting (except the Registration Officer) shall appear in person, or by some one authorized in writing on his behalf, in support of such objection, the Revising Officer shall then require it to be proved that the person so objected to was entitled, on the last day of April then next preceding, to have his name inserted in the List of Voters in respect of the qualification objected to as described in such list, and in case the same shall not be so proved to the satisfaction of such Revising Officer, or in case it shall be proved that such person was then incapacitated by any law from voting at an election, such Revising Officer shall expunge the name of every such person from the said Lists of Voters, or shall expunge the qualification objected to, as the case may require.

Mode of proceeding in cases of objection.

24. No person who shall have been objected to shall be compelled to appear in person to make proof of the nature and sufficiency of his qualification unless summoned to attend by the Revising Officer.

Personal attendance of person objected to not compulsory.

25. Where any person, whose name appears on any List of Voters for any district in respect of a household qualification, shall be objected to on the ground of having changed his place of abode or having ceased to occupy the particular tenement in respect of which his name appears on such list without having sent in a fresh notice of claim, the Revising Officer shall retain the name of such person on the List of Voters provided that such person or some one on his behalf shall prove that he possessed a household qualification on the last day of April then next preceding, and shall also supply his true place of abode and the particulars of his qualification, which the said Revising Officer shall insert in such list.

Provision in certain cases of change of abode.

26. Every Revising Officer holding any Court under this Act shall,

Revising Officer may summon witnesses.

Registration of Electors.

shall, twenty-one days before the sitting of the Court, and during the sittings, and during any adjournment thereof, have power to summon any necessary witness to attend at such Court, and any person who shall be duly summoned and shall neglect or refuse to attend without a reasonable excuse shall be liable to a penalty not exceeding twenty pounds, to be recovered in a summary way before two Justices of the Peace: Provided always that it shall not be compulsory on any person so summoned to attend unless a reasonable sum for travelling expenses shall be first paid or tendered to him.

Penalty for non-attendance.

27. Every Revising Officer shall have power to administer an oath to all persons examined before him, and all parties, whether claiming or objecting or objected to, and all other persons whatsoever, may be examined on oath touching the matters in question; and every person taking any oath under this Act who shall wilfully swear falsely shall be deemed guilty of perjury.

Revising Officer may administer oath.

28. Every Revising Officer holding any Court under this Act shall have power to adjourn the same from time to time and from place to place, either within or without the electoral district in respect of which such Court is held, but so that no such adjourned Court shall be held after the last day of July in any year.

Power to adjourn Court.

29. Every Revising Officer in open Court shall finally determine upon the validity of all claims and objections, shall give his decision, shall also write his initials against the names respectively expunged or inserted, and against any part of the said lists in which any omission or mistake shall have been corrected, or any omission supplied, or any omission or insertion made by him, and shall sign his name to every page of the lists so settled.

Revising Officer shall determine in open Court.

30. The List of Voters for each electoral district so signed shall be forthwith transmitted by the Revising Officer to the Returning Officer thereof, and the said Returning Officer shall forthwith cause the said lists to be written or printed in a convenient form, arranged with the names in alphabetical order according to the surnames, and shall in the said lists prefix to every name its proper number, beginning the numbers from the first name and continuing them in a regular series down to the last name.

List of Voters to be delivered by Revising Officer to Returning Officer.

31. Provided always that whenever the Electoral Roll of the previous year shall have been printed and the alterations required are not so numerous or important as to render it in his opinion necessary to reprint the same, it shall be lawful for the Returning Officer to cause the necessary corrections to be made in the printed copies for such previous year in a clear intelligible form, and any new names to be added shall be printed separately and numbered consecutively from one upwards, and such roll of the previous year, with such corrections and additions, shall for all purposes be deemed the same as though it had been written or printed as hereinbefore provided.

If alterations not numerous, roll of former year with corrections and additions to be Electoral Roll.

32. The Returning Officer shall carefully examine the written or printed copies with the original lists so signed as aforesaid, and such copies being made strictly accurate shall sign three copies, one for his own use, one for the use of the Registration Officer, and the third for transmission as hereinafter provided, and shall also sign a sufficient number of accurate copies, so that at any election there may be a signed copy for the use of the person who shall take the poll at each polling place for the electoral district to which the same relates.

Returning Officer to examine copies and sign sufficient number for persons to take the poll at all the polling places.

33. The said copy so to be signed and kept by the Returning Officer for his own use shall be the Electoral Roll of persons entitled to vote at any election which shall take place for the same electoral district between the last day of September in the year wherein such Electoral Roll shall have been made, and the first day of October in

Copy to be kept by Returning Officer to be Electoral Roll from the last day of September to first day of October in succeeding year.

the

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the next succeeding year but one, and in case the same shall be lost or mislaid, the copy to be transmitted as hereinbefore provided shall be deemed the Electoral Roll for such purpose.

34. Every Returning Officer shall keep or cause to be kept at some convenient place copies of the Electoral Roll for the electoral district in respect of which he is Returning Officer, and a copy of such roll shall be delivered to any person applying for the same upon payment of a price after the rate contained in the Table numbered VIII. in the said Schedule.

Copies to be kept for sale.

35. The Returning Officer of each electoral district having completed the roll as hereinbefore provided, shall forthwith transmit to the Colonial Secretary the original lists as signed by the Revising Officer, together with the triplicate copy of the Electoral Roll as hereinbefore provided, and three of the copies thereof which shall have been prepared for sale as hereinbefore provided.

Original lists and copies to be sent to Colonial Secretary.

36. If in any case it shall appear to any Revising Officer that any person under this Act has made or attempted to sustain any groundless or frivolous and vexatious claim or objection to have any name inserted or retained in any List of Voters, it shall be lawful for the said Revising Officer in his discretion to make such order as he shall think fit for the payment by such person of the costs or of any part of the costs of any person or persons in resisting such claim or objection; and in every such case the said Revising Officer shall make an order in writing specifying the amount which he shall order to be paid for such costs, and by and to whom, and when and where the same shall be paid, and shall date and sign the said order, and deliver it to the person to whom the said sum shall therein be ordered to be paid: Provided always that the sum so ordered to be paid by way of costs shall not in any case exceed the sum of ten pounds: Provided also that no such order shall be made against any Registration Officer: Provided further that no writ or process for removal of any such order or of any warrant issued in respect of the same into the Supreme Court of New Zealand shall be allowed or granted.

Revising Officers may give costs in certain cases.

37. Such order for the payment of costs as aforesaid may be made in any case, notwithstanding any party shall have given notice of his intention to appeal against any decision of the Revising Officer in the same case; but in case of such appeal, the said order for the payment of costs shall be suspended and shall abide the event of such appeal unless the Court of Appeal shall otherwise direct; but no appeal shall be entertained against or only in respect of any such order for the payment of costs: Provided always that whenever any Revising Officer shall have made any such order for the payment of any sum of money for costs by any person who shall have made any objection as aforesaid, it shall not be lawful for the said Revising Officer to hear or admit proof of any other objection or notice of objection made or signed by the same person until the sum of money so ordered to be paid by him for costs be paid to the person entitled to receive the same, or, in case of notice of appeal, until the said sum shall have been deposited in the hands of the Revising Officer to abide the event of such appeal.

Order for costs may be given notwithstanding appeal, but payment suspended.

38. In case any sum of money directed by the order of any Revising Officer to be paid by any person for costs shall not be paid according to the terms of such order, it shall be lawful for any Justice of the Peace, and he is hereby required, upon proof before him that a true copy of the said order has been served upon or left at the usual or last known place of abode in New Zealand of the person in the said order directed to pay such sum, and that the said sum has been demanded of such person either personally or at such place of abode, and that he has refused or neglected to pay the same, to order

No further objection by the same party to be heard till costs paid or deposited.

Costs to be recovered by distress and sale, and in default thereof imprisonment.

by

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by warrant under his hand and seal the said sum of money, together with the reasonable costs attending the said warrant, to be fixed by such Justice, to be levied by distress and sale of the goods and chattels of such person so making default which may be found within the jurisdiction of the said Justice, and the overplus (if any) after the said sum of money and costs and the charges of such distress and sale are deducted shall be paid on demand to the owner of the said goods and chattels: Provided always in case it shall appear to the satisfaction of the Justice that the person against whom any such warrant is applied for has not sufficient goods and chattels to satisfy such levy, or if upon the return of such warrant it shall appear that no sufficient distress can be had, it shall be lawful for such Justice of the Peace, by warrant, to commit such person to some gaol for any time not exceeding two months.

Appeal from Revising Officer's decision on point of law.

39. It shall be lawful for any person who, under the provisions hereinbefore contained, shall have made any claim to have his name inserted in any list, or made any objection to any other person as not entitled to have his name inserted in any list, or whose name shall have been expunged from any list, and who in any case shall be aggrieved by or dissatisfied with any decision of any Revising Officer on any point of law material to the result of such case, either himself or by some person on his behalf, to give to the Revising Officer in Court, before the rising of the Court on the same day on which such decision shall have been pronounced, or on the following day if the Court shall be sitting on such following day, a notice in writing that he is desirous to appeal, and in such notice he shall shortly state the decision against which he desires to appeal.

No appeal on question of fact or admissibility of evidence.

40. No appeal or notice of appeal shall be received or allowed against any decision of any Revising Officer upon any question of fact only, or upon the admissibility or effect of any evidence adduced or tendered in any case to establish any matter of fact only.

Revising Officer to state case.

41. Upon receiving such notice of appeal as aforesaid, the Revising Officer shall state in writing the facts which, according to his judgment, shall have been established by the evidence in the case, and which shall be material to the matter in question, and shall also state in writing his decision upon the whole case and upon the point of law in question appealed against; and the said Revising Officer shall read the said statement to the appellant in open Court, and shall then and there sign the same, and the said appellant, or some one on his behalf authorized in writing for that purpose, shall, at the end of the said statement, make a declaration, in writing under his hand, to the following effect,—“I appeal from that decision;” and the Revising Officer shall then indorse upon such statement the name of the electoral district to which the same shall relate, and the christian and surname and place of abode of the appellant, and shall sign and date such indorsement; the said statement shall be sent by the said Revising Officer to the Registrar of the Supreme Court for the Province within which such electoral district is situate.

Appeals to be determined by a Judge of Supreme Court.

42. All appeals or matters of appeal from or in respect of any decision of any Revising Officer, entertained in manner hereinbefore mentioned, shall be determined by a Judge of the Supreme Court in such manner and form and subject to such rules and regulations as the Judge of any judicial district shall from time to time, by any rule or order made for regulating the practice and proceedings in such appeals, order and direct in respect of such judicial district: Provided always that it shall be lawful for any Judge to determine any such matter of appeal without any argument in open Court, or to direct an argument in open Court, if he shall think fit; and in such latter case he shall cause notice to be given by the Registrar or Deputy-Registrar to the persons

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persons who shall in his opinion be the proper parties to the appeal, to appear on a day and at a place to be fixed by the said Judge for that purpose: Provided always that if both or either of the parties shall neglect to attend, it shall be lawful for the said Judge to determine the said appeal in their or his absence.

43. If any Judge of the Supreme Court shall be of opinion in any case that the statement of the matter of the appeal is not sufficient to enable him to give judgment in law, it shall be lawful for such Judge to remit the said statement to the Revising Officer by whom it shall have been signed, in order that the case may be more fully stated.

Judge may remit statement of matter of appeal to be amended.

44. Whenever by any judgment or order of a Judge of the Supreme Court any decision or order of any Revising Officer shall be reversed or altered upon appeal as aforesaid, so as to require any alteration or correction of the Electoral Roll for any electoral district, notice of the said judgment or order of the said Judge shall be forthwith given, under the hand of the said Registrar or Deputy Registrar, to the Returning Officer or other person having the lawful custody of the Electoral Roll, specifying exactly every alteration or correction to be made in the Electoral Roll in pursuance of the said judgment or order, and such Returning Officer or other person shall forthwith, upon receipt of the said notice, alter and correct the said Electoral Roll accordingly, and shall sign his name against every such alteration or correction in the said Electoral Roll, and shall safely keep with the Electoral Roll every such notice received by him from the Registrar of the Supreme Court; and shall also transmit to the Colonial Secretary and Registration Officer respectively, an accurate copy of such notice, in order that the necessary alteration or correction may be made in the rolls so transmitted to them as aforesaid.

If decision of Revising Officer altered, correction to be made in Electoral Roll accordingly.

45. Every such alteration or correction in an Electoral Roll shall have the like force and effect at and from the time of making the same as though the same had been duly made as an original entry or duly omitted in making up the Electoral Roll under this Act, and the several copies for the persons who shall take the poll, and also those which shall be for sale, shall be corrected or altered accordingly.

Force and effect of alteration.

46. No right of voting at any election shall be affected by any appeal pending, but it shall be lawful for every person to exercise the right of voting at such election as effectually as if no such appeal was pending; and the subsequent decision of any appeal pending shall not in any way alter or affect the poll taken at such election or the return made thereat by the Returning Officer.

Appeal pending not to affect right of voting.

47. It shall be lawful for the Judge who shall determine any appeal to make any order respecting the payment of the costs of the same, or any part thereof, as to him shall seem meet.

Judge may give costs in appeal.

48. Every public officer or other person required by this Act to do any matter or thing shall, for every wilful misfeasance or wilful act of commission or omission, contrary to this Act, forfeit to any party aggrieved, the penal sum of one hundred pounds, or such less sum as the jury before whom may be tried any action to be brought for the recovery of the before mentioned sum shall consider just, to be recovered by such party, with full costs of suit, by action in Her Majesty's Supreme Court of New Zealand, and the sum so recovered shall be in full for all damages for such misfeasance or act of commission or omission.

Wilful misfeasance &c. punishable by penalty of £100, to be recovered by party aggrieved.

49. It shall be lawful for the Governor to fix from time to time the remuneration by way of salary or otherwise which shall be paid to the several persons who shall be employed as Registration Officers, Revising Officers, or Returning Officers, or in any other capacity, for the purpose of carrying this Act into execution, and such remuneration

Remuneration to persons employed to carry this Act into operation to be fixed by Governor.

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shall be payable and paid by the Colonial Treasurer out of such sums as shall from time to time be appropriated by the General Assembly for that purpose.

Offices of Registration Officer, Revising Officer, and Returning Officer may be held by same person.

50. The several offices of Registration Officer, Revising Officer, and Returning Officer, or any two of such offices, may be held and exercised by one and the same person at the same time, anything herein contained or implied to the contrary notwithstanding.

Provision as to service of notices.

51. Whenever any notice claim or declaration is required to be given under this Act to any public officer or other person, it shall be sufficient if such notice claim or declaration shall be delivered personally to such public officer or other person, or shall be left at his usual place of abode or office or other place for transacting business in New Zealand, and no such notice claim or declaration shall be valid unless given before four o'clock p.m. on the last day appointed for giving the same.

Misnomer &c. not to vitiate.

52. No misnomer or inaccurate description of any person place or thing named or described in any List of Voters or Electoral Roll, or in any notice required by this Act, shall in any wise prevent or abridge the operation of this Act with respect to such person place or thing, provided that such person place or thing shall be so designated in such list roll or notice as to be commonly understood.

Governor may delegate powers.

53. It shall be lawful for the Governor from time to time to delegate to any person the performance of any act or thing which by this Act he is empowered or required to do, and any such delegation at any time to revoke.

If roll for any year not completed, roll of preceding year to be in force.

54. Provided always that in case any Electoral Roll for any district shall not, from any cause whatever, be made out and completed for any year, as prescribed by this Act, the Electoral Roll for that district for the year preceding shall be in force for the year for which a roll shall not have been made out and completed as aforesaid.

Mode of forming first List of Voters.

55. For the purpose of forming the first Lists of Voters for revision under this Act the Registration Officer of every electoral district shall in the month of February next make out to the best of his knowledge and ability, according to the Form numbered VII. in the Schedule to this Act, an alphabetical list of all persons who may appear to be entitled to vote at elections of Members of the House of Representatives for such district, by omitting from the Electoral Roll now in force the names of all such persons as he may find not to be entitled to be thereon as electors, and adding thereto the names of all such persons as may appear to him to possess a *bond fide* qualification, and shall cause written or printed copies of such list to be published during the first fourteen days of the month of March next, by posting the same in some conspicuous place in the district, and shall likewise during the same time keep a copy thereof to be perused or copied by any person without payment of any fee at any time between the hours of ten o'clock in the forenoon and four o'clock in the afternoon of every day except Sundays; and the list so made out shall in lieu of the present Electoral Rolls, together with the lists of claimants to be made out and published as aforesaid, constitute the first Lists of Voters for revision under this Act.

Extension of time granted.

Short Title.

56. The Short Title of this Act shall be "*The Registration of Electors Act, 1858.*"

Registration of Electors.

SCHEDULES.

FORM No. I.

To the Registration Officer of the Electoral District of
I HEREBY give you notice that I claim to have my name inserted in the List of Voters for the Electoral District of , and that the particulars of my place of abode and qualification are stated in the columns below.

C. D.

Christian Name and Surname of the Claimant at full length.	Place of Abode.	Nature of Qualification.	Place where Property situate, and name or description of same.

FORM No. II.

I, THE above named C.D., do hereby declare that the particulars of my abode and qualification as stated or referred to in my notice of claim above [*or within*] written in the above [*or within*] columns, are true to the best of my knowledge and belief.

Signed and declared to at , this day of , in the year one thousand eight hundred and

Before me, E.F., Justice of the Peace
[*or Registration Officer*].

FORM No. III.

To the Registration Officer of the Electoral District of
I HEREBY give you notice that I object to the name of the person mentioned and described below being retained on the List of Voters for the Electoral District of , in respect of the qualification hereunder specified.

Christian Name and Surname of the Person objected to as described in the List or Electoral Roll.	Place of Abode as described therein.	Nature of Qualification objected to as described therein.	Ground of Objection concisely stated.

Dated the day of , in the year one thousand eight hundred and G.H., [*Place of abode*].

FORM No. IV.

To the Registration Officer of the Electoral District of
I HEREBY give you notice that I am desirous of having my name [*or my qualification hereunder stated*] omitted from the Electoral Roll [*or List of Claimants*] for the Electoral District of , and that the particulars of my place of abode and qualification are stated in the said Electoral Roll [*or List of Claimants*] as follows:—

Christian Name and Surname as stated in Electoral Roll or List of Claimants.	Place of Abode as therein stated.	Nature of Qualification as therein stated.	Place where Property situate, and name or description of same as therein stated.

J.K.

Signed by the above named J.K. in the presence of
L.M., Justice of the Peace.

FORM

Registration of Electors.

FORM No. V.

THE following persons are objected to as not being entitled to have their names retained on the List of Voters for the Electoral District of .

Christian Name and Surname of each Person objected to.	Place of Abode.	Nature of the supposed Qualification.	Ground of Objection.	Name and Place of Abode of Objector.

N.O., Registration Officer.

FORM No. VI.

THE names of the following persons have been omitted from the Electoral Roll [*or* List of Claimants] for the Electoral District of at their own request.

Christian Name and Surname of Persons omitted as stated in Roll or List.	Place of Abode as therein stated.	Nature of Qualification as therein stated.	Place where Property situate, and name or description of same as therein stated.

N.O., Registration Officer.

FORM No. VII.

LIST OF PERSONS QUALIFIED TO VOTE AT THE ELECTIONS OF MEMBERS OF THE HOUSE OF REPRESENTATIVES FOR THE ELECTORAL DISTRICT OF .

Christian Name and Surname of each Elector at full length.	Place of Abode.	Nature of Qualification.	Place where Property situate, and description of same.

A.B., Registration Officer.

FORM No. VIII.

FOR every printed or written copy of any Electoral Roll containing any number of persons names,—

Not exceeding 250 names	...	...	...	...	...	s.	d.
Exceeding 250 and not exceeding 500	...	...	...	...	...	2	0
Exceeding 500 and not exceeding 750	...	...	...	...	...	3	0
Exceeding 750 and not exceeding 1,000	...	...	...	...	...	4	0
Exceeding 1,000	...	...	...	...	...	5	0
And for every written copy, treble the above rates.	...	...	...	...	...	6	0

*Electoral Districts.***No. LV.**

AN ACT to constitute Electoral Districts for the Election
of Members of the House of Representatives.

**ELECTORAL
DISTRICTS.**

[19th August, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in
Parliament assembled, and by the authority of the same, as
follows:—

1. The House of Representatives for New Zealand shall consist of
forty-one Members.

Number of Members
of House of
Representatives.
Number of electoral
districts.

2. For the purposes of the election of the Members of the said
House, the Colony shall be divided into twenty-eight electoral districts,
the names of which, and the number of Members to be returned by
which respectively, shall be as follows:—

1. Bay of Islands, one Member.
2. Marsden, one Member.
3. Northern Division, two Members.
4. City of Auckland, three Members.
5. Suburbs of Auckland, two Members.
6. Pensioner Settlements, two Members.
7. Southern Division, two Members.
8. Town of New Plymouth, one Member.
9. Grey and Bell, one Member.
10. Omata, one Member.
11. Wanganui and Rangitikei, one Member.
12. Wellington Country, one Member.
13. City of Wellington, three Members.
14. Hutt, two Members.
15. Wairarapa, one Member.
16. County of Hawke, one Member.
17. Motueka and Massacre Bay, one Member.
18. Town of Nelson, two Members.
19. Waimea, two Members.
20. Wairau, one Member.
21. County of Cheviot, one Member.
22. Christchurch Country, two Members.
23. Town of Christchurch, one Member.
24. Town of Lyttelton, one Member.
25. Akaroa, one Member.
26. Dunedin Country, two Members.
27. Town of Dunedin, one Member.
28. County of Wallace, one Member.

3. The said several districts are particularly set forth and
described in the Schedule to this Act, and are delineated on certain
maps and plans duly authenticated for the purposes of this Act and
deposited in the Colonial Secretary's Office.

Description of
districts.

4. The several persons who have been returned to serve as
Members of the said House for the several districts other than those
hereinafter specifically provided for, shall for all purposes be deemed to
be the Members of the said districts respectively as the same are
constituted by this Act.

Present Members to
hold seats.

5. The several persons who have been returned to serve as Members
of the said House for the Bay of Islands, the Northern Division, the
Wairau, the Christchurch Country and the Dunedin Country Districts,
as constituted before the passing of this Act, shall for all purposes

Members of the
present districts now
altered to hold seats
for new districts of
same name.

Electoral Districts.

be deemed to be the Members for the said several districts respectively as constituted by this Act, and the person who has been returned to serve for the Wairarapa and Hawke's Bay shall be deemed to be the Member for the County of Hawke as constituted by this Act.

Electoral Rolls to be formed for new and divided districts.

6. As soon as conveniently may be after the passing of this Act, a person, to be appointed by the Governor for that purpose, shall form separate Electoral Rolls for the several electoral districts following, namely:—

1. Bay of Islands.
2. Marsden.
3. Northern Division.
4. Wairarapa.
5. County of Hawke.
6. Wairau.
7. County of Cheviot.
8. Christchurch Country.
9. Town of Lyttelton.
10. Dunedin Country.
11. County of Wallace.

Mode of forming Electoral Rolls.

7. For the purpose of forming such Electoral Rolls every person whose name is on the roll of any of the electoral districts as constituted before the passing of this Act, specified in section five of this Act, shall be placed on the Electoral Roll of the district in which the tenements or hereditaments in respect of which he is registered are situate.

Rolls to be published.

8. As soon as such Electoral Rolls shall be formed under this Act, the Governor shall cause the same to be published in such convenient form as he shall think fit, and from that day the Electoral Roll so formed for each district shall be the Electoral Roll to be used for such district for all purposes until a new Electoral Roll for the same, to be made under the provisions of the law for the time being for the registration of electors, shall be in force.

When writs to be issued.

9. In the month of October, in the year one thousand eight hundred and fifty-nine, the Governor shall cause writs to be issued for the election of Members for the House of Representatives for the several districts following, namely:—

1. Marsden.
2. Wairarapa.
3. County of Cheviot.
4. County of Wallace.

Short Title.

10. The Short Title of this Act shall be "*The Electoral Districts Act, 1858.*"

SCHEDULE.

ELECTORAL DISTRICTS.

1. The BAY of ISLANDS District comprises so much of the district similarly named (as constituted by the Proclamation of Governor Sir George Grey, dated 5th March, 1853,) as lies to the north of the Marsden District, next hereinafter defined.

2. The MARSDEN District is bounded by a line commencing at Mongonui Bluff on the West Coast, and running thence along the summit of the Mangakahia Range to Tutamoi Mountain; thence by a right line to the North Head of Tutukaka Harbour; on the East thence by the coast line to the southern point of Hawere Island; on the South thence by a right line to the summit of Tamahua; thence along the Rodney Range to the summit of the Dome; thence by a right line to the confluence of the Hotea and Kaitoto Rivers; thence by the Hotea River to high water-mark in Kaipara Harbour; thence by high water-mark to the Tabora Flats; thence by a right line to the North Head of Kaipara Harbour; and on the West thence by the coast line to Mongonui Bluff.

3. The

Electoral Districts.

3. The **NORTHERN DIVISION** comprises so much of the district similarly named (as constituted by the Proclamation aforesaid) as lies to the south of the Marsden District.

4. The **CITY** of **AUCKLAND** District,
5. The **SUBURBS** of **AUCKLAND** District,
6. The **PENSIONER SETTLEMENTS** District,
7. The **SOUTHERN DIVISION** District,
8. The **TOWN** of **NEW PLYMOUTH** District,
9. The **GREY** and **BELL** District,
10. The **OMATA** District,

respectively comprise the districts similarly named, as the same are respectively constituted and defined by the Proclamation aforesaid.

11. The **WANGANUI** and **RANGITIKEI** District is bounded on the North by the 39th parallel of South latitude; on the East by the County of Hawke Electoral District hereinafter defined; on the South-east and South by the Manawatu River from its gorge in the Ruahine Range to its mouth; on the South-west thence by the coast line between the Manawatu River and the Patea River; and on the North-west by a right line from the mouth of the Patea to where the Tuhua River is intersected by the 39th parallel of South latitude.

12. The **WELLINGTON COUNTRY** District is bounded on the North by the Manawatu River from its mouth to the gorge in the Ruahine Range; on the East by a part of the Wairarapa District hereinafter defined to the northern boundary of the Hutt District; and on other sides by the boundaries of the Wellington Country District as the same are defined by the Proclamation aforesaid.

13. The **CITY** of **WELLINGTON** District,

14. The **HUTT** District,

respectively comprise the districts similarly named, as the same are constituted and defined by the Proclamation aforesaid.

15. The **WAIRARAPA** District is bounded on the North by a line from the Manawatu Gorge to the mouth of the Waimata Stream; on the East and South by the coast line from the mouth of the Waimata Stream to Cape Turakirae; and on the West by a line from Cape Turakirae along the summit of the Rimutaka and Tararua Ranges to the gorge of the Manawatu.

16. The **COUNTY** of **HAWKE** District is bounded on the North by the 39th parallel of South latitude; on the East thence by the coast line to the mouth of the Waimata Stream; on the South thence by the Wairarapa District; and on the West by a line from the Manawatu Gorge along the summit of the Ruahine Range to the end of that range, and thence by a right line due north to the 39th parallel of South latitude.

17. The **MOTUEKA** and **MASSACRE BAY** District,

18. The **TOWN** of **NELSON** District,

19. The **WAIIMEA** District,

respectively comprise the districts similarly named, as the same are respectively constituted and defined by the Proclamation aforesaid.

20. The **WAIRAU** District comprises so much of the district similarly named in the Proclamation aforesaid as is not included in the County of Cheviot District hereinafter defined.

21. The **COUNTY** of **CHEVIOT** District is bounded on the North by a line from the summit of the Princess Mountain at Lake Tennyson, along the summit ridges of the mountain range skirting the right bank of the Clarence River, to Waipapa Point; on the East thence by the coast line to the mouth of the Ashley River; thence by that river to the source thereof nearest to Oxford Hill; thence by a line to the summit of Mount Pakiteraki; and on the West by a right line thence to the summit of the Princess Mountain.

22. The **CHRISTCHURCH COUNTRY** District comprises so much of the electoral district similarly named in the Proclamation aforesaid as is not included in the County of Cheviot District and the Town of Lyttelton District.

23. The **TOWN** of **CHRISTCHURCH** District comprises the district similarly named, as constituted by the Proclamation aforesaid.

24. The **TOWN** of **LYTTELTON** District is bounded on the North by the summit of the range of hills on the north side of Lyttelton Harbour; on the East and West by lines drawn due north and south through the easternmost and westernmost points respectively of the boundary of the said Town, as shown on the maps of the Chief Surveyor of the Province of Canterbury in the Land Office at Christchurch; and on the South by low water-mark, including also the town reserve.

25. The **AKAROA** District comprises the district similarly named, as the same is constituted and defined by the Proclamation aforesaid.

26. The **DUNEDIN COUNTRY** District comprises so much of the district similarly named in the Proclamation aforesaid as lies to the east of the 169th degree of East longitude.

27. The **TOWN** of **DUNEDIN** District comprises the district similarly named, as constituted and defined by the Proclamation aforesaid.

28. The **COUNTY** of **WALLACE** District comprises so much of the Dunedin Country District, constituted by the Proclamation aforesaid, as lies to the west of the 169th degree of East longitude.

Regulation of Elections.

No. LVI.

REGULATION OF
ELECTIONS.

AN ACT to make provision for the Regulation and Conduct of Elections of Members of the House of Representatives. [19th August, 1858.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Governor to appoint
Returning Officers.

1. The Governor, by warrant under his hand, shall appoint a Returning Officer for each of the electoral districts within the Colony for the election of Members of the House of Representatives, and may from time to time by warrant as aforesaid remove any Returning Officer, and fill up any vacancy that may at any time occur by death removal resignation or otherwise in the office of Returning Officer for any electoral district.

Returning Officer to
conduct election at
principal polling
place, and to appoint
Deputies.

2. The Returning Officer of each electoral district shall conduct the election at the principal polling place with such Clerks to be appointed by him as may be required, and shall appoint in writing on the occasion of each election a Deputy for each polling place to conduct the election at the several other polling places in the district, and such Deputies shall appoint such Clerks as may be required to assist in taking the poll.

Returning Officer and
Deputy Returning
Officer to take oath.

3. Every Returning Officer and Deputy Returning Officer shall, before acting in his office, make and subscribe an oath, in the Form numbered I. in the Schedule to this Act annexed, before any Justice of the Peace, who is hereby authorized to administer the same and is hereby required to transmit the record of the same by the first convenient opportunity to the Colonial Secretary.

Governor to appoint
polling places.

4. It shall be lawful for the Governor, by warrant under his hand, from time to time to appoint polling places for each electoral district within or without the limits thereof, and to appoint any one of such places to be the principal polling place for the district, and all or any of such polling places at any time to abolish, and, if he think fit, to appoint other polling places in lieu of those abolished; and every such warrant shall be published in the *New Zealand Gazette*: Provided always that no polling place shall be appointed by the Governor under this Act unless he shall be first satisfied that the place to be appointed is more convenient than any other for at least thirty electors to record their votes thereat: Provided also that no new polling place shall be appointed for any district after the day on which the notice of the day of nomination shall be published as hereinafter provided.

Returning Officer to
indorse on writ day
of receiving same, and
to give notice of
election.

5. Whenever a writ for the election of a Member of the House of Representatives shall be received by any Returning Officer, he shall indorse thereon the day on which he shall have received it, and shall forthwith fix and give not less than five nor more than fifty days' notice of the day and hour on which the nomination shall take place, and shall also give notice of the day on which a poll, if necessary, will be taken, in the Form numbered II. in the said Schedule, by publishing the same, together with the notice at the foot thereof, in the said Form numbered II., twice in one or two newspapers published within the electoral district for which such writ shall have been issued, and if there be no such newspaper, then in one or two newspapers published at the place nearest to the principal polling place of the district, or in some other convenient manner within the electoral district, calculated to

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to give, in the opinion of the Returning Officer, full publicity to the same.

6. On the day of nomination so to be fixed as aforesaid the Returning Officer shall preside at a meeting to be held at noon at the principal polling place of the district, and shall declare the purpose for which the meeting is held.

Returning Officer to preside at meeting for nomination.

7. Every candidate shall be proposed by an elector duly qualified to vote at the election and seconded by another elector so qualified, and if there be no more candidates proposed and seconded than the number of Members to be returned, the Returning Officer shall declare such candidate or candidates to be duly elected, and shall make a return accordingly.

Candidates to be proposed and seconded.

8. In the event of there being more candidates proposed and seconded than the number to be elected, the Returning Officer shall call for a show of hands separately in favour of each candidate, and after such show shall declare the persons in whose favour the show of hands shall appear to have been; and if thereupon a poll be not demanded by one of the candidates, or by not less than two electors, the Returning Officer shall declare such persons to be duly elected.

Show of hands to be taken.

9. The names of the persons so declared to be elected shall be indorsed on the writ by the Returning Officer as the persons duly elected in pursuance thereof, and the writ shall be returned by him to the Governor forthwith.

Names of persons elected to be indorsed on writ, and writ returned to Governor.

10. It shall be lawful for any candidate so nominated as aforesaid, at any time thereafter, to withdraw his name as a candidate by giving a notice in the Form numbered III. in the said Schedule, or to the like effect, signed by the said candidate in the presence of and attested by a Justice of the Peace; and whenever any candidate shall so withdraw, the Returning Officer shall forthwith publish such notice in such manner as he shall deem best calculated for giving full publicity to the same, and if after such withdrawal there shall be no more candidates than persons to be elected, no poll shall be taken, but the Returning Officer shall declare at the foot of such last-mentioned notice, in the Form numbered IV. in the said Schedule, or to the like effect, that such candidates are duly elected, and shall indorse the writ accordingly, and return the same to the Governor within the time by which the same shall have been made returnable.

Any candidate may withdraw.

11. If a poll be demanded as aforesaid the Returning Officer shall then declare the day on which the same shall be taken, being the day so to be fixed as aforesaid, and on that day at every polling place of which notice shall have been given as aforesaid, and at no other, the poll shall be opened at nine o'clock in the morning and shall finally close at four o'clock in the afternoon of the same day, unless adjourned as hereinafter provided by reason of riot or other interruption.

Poll to open at 9 a.m. and close at 4 p.m.

12. Every Deputy Returning Officer and every Poll Clerk shall be supplied by the Returning Officer with a written or printed copy of the Electoral Roll, authenticated by his signature, and every such copy shall be deemed sufficient to determine all questions and disputes which may arise before such Deputy Returning Officer or Poll Clerk in reference to anything contained in the Electoral Roll.

Copy of Electoral Roll to be given to each Deputy Returning Officer and Poll Clerk.

13. No other person except the Returning Officer or his Deputy, the necessary Poll Clerks, and not exceeding two agents at each polling booth for each candidate (to be appointed in writing by the candidate or by his proposer on his behalf), together with a sufficient number of constables to keep order, shall remain in any polling booth during the polling, and no person whatever except the Returning Officer or Deputy Returning Officer and the Poll Clerk to whom any vote shall be tendered shall speak to any elector after he shall

Persons who may be present in polling booths.

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have entered the polling booth and before he shall have signed the entry thereof to be made as hereinafter provided, and any person offending against any of the provisions of this section shall forfeit a sum not exceeding twenty pounds, to be recovered in a summary way: Provided always that no such Poll Clerk or agent shall be employed or be permitted to be present and to remain in any polling booth during the polling unless he shall have made and subscribed, in the presence of the Returning Officer or his Deputy, a declaration in the Form numbered V. in the Schedule hereunto annexed.

State of the poll not to be declared until close.

14. The number of votes which may be given for any candidate at any such polling booth shall not be published or made known until after the close of the poll, and every Returning Officer, Deputy Returning Officer, Poll Clerk, agent, or constable, who shall directly or indirectly by any means whatsoever publish or make known before the close of the poll the number of votes which may have been given for any candidate, shall forfeit and pay for every such offence any sum not exceeding fifty pounds, to be recovered in a summary way.

Mode of conducting elections.

15. On the day of election the voting at each polling place shall be conducted in manner following:—

- (1.) Every elector may vote for any number of candidates not exceeding the number of Members then to be chosen.
- (2.) When any elector tenders his vote, the Deputy Returning Officer or Poll Clerk to whom the same is tendered shall state explicitly in alphabetical order the names of the several candidates, and shall then inquire of the elector for which of the said candidates he intends to vote.
- (3.) On such candidate or candidates being named by the elector, the Deputy Returning Officer or Poll Clerk shall enter the vote accordingly in a Poll Book to be kept for that purpose, and the elector shall affix his signature to the entry: Provided always that when the elector affixes his mark, it shall be witnessed by the Returning Officer, Deputy Returning Officer, or Poll Clerk.
- (4.) It shall be lawful for the elector, at any time before he has affixed his signature as aforesaid, to have the entry of the names of the candidate for whom he desires to record his vote altered, but no alteration shall be made after the entry is signed.
- (5.) As soon as the elector has signed the entry he shall immediately leave the polling booth, and on his refusal to do so shall be forthwith removed by order of the Returning Officer or Deputy Returning Officer.

What inquiries may be made at the time of polling.

16. No inquiry shall be permitted at the time of polling as to the right of any person to vote except only as follows, that is to say,—The Returning Officer or Deputy Returning Officer shall, if he think fit, or if required by any candidate, or his agent authorized in writing, or by any elector of the electoral district for which the election is being held, put to any elector before he shall have affixed his signature as herein-before provided, and not afterwards, the following questions, or either of them:—

- (1.) Are you the person whose name appears as A.B. in the Electoral Roll now in force for the Electoral District of [*Here state the name of the district*] ?
- (2.) Have you already voted, here or elsewhere, at this present election for the Electoral District of [*Here state the name of the district*] ?

Oaths may be

17. The Returning Officer or Deputy Returning Officer shall also, if

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if he think fit or if required as aforesaid, administer an oath, in the Form numbered VI. in the said Schedule, to any elector before he shall have affixed his signature as aforesaid and not afterwards, and such Returning Officer or his Deputy shall likewise, if he think fit or if required as aforesaid, administer an oath against bribery, in the Form numbered VII. in the said Schedule.

administered by
Returning Officer or
his Deputy.

18. No person so required to answer any such question or take any oath as aforesaid shall be permitted to vote until he shall have answered such question or taken such oath; and if any person shall wilfully make a false answer to any such question, or shall upon any such oath wilfully swear falsely, such person shall be deemed guilty of a misdemeanour, and on conviction of making such false answer shall be punished by fine and imprisonment, with or without hard labour, for a term not exceeding two years, and on conviction of wilfully swearing falsely shall suffer the like penalties as persons convicted of wilful and corrupt perjury.

No person to vote till
questions answered
and oaths taken.
Penalty for false
answers or oath.

19. No elector at any election shall be required to take any oath except as aforesaid, either in proof of his qualification or right to vote or otherwise; and no persons claiming to vote at any election shall be excluded from voting thereat except it shall appear to the Returning Officer or Deputy Returning Officer (upon putting such questions as aforesaid), or either of them, that the person so claiming to vote is not the person whose name appears on such Electoral Roll as aforesaid, or that he has previously voted at the same election, or except such person refuse or neglect to answer either of the said questions or to take either of the said oaths when required as aforesaid.

No other oath to be
required, and persons
answering questions
and taking oath to be
permitted to vote.

20. If at any election any person shall knowingly personate and falsely assume to vote in the name of any other person whose name appears on the Electoral Roll then in force, whether such other person be then living or dead, or if the name of the said other person be the name of a fictitious person, every such person shall be guilty of a misdemeanour, and on being convicted thereof shall be punished by imprisonment for a term not exceeding two years, together with hard labour.

Personating a
misdemeanour.

21. If during the time any person shall be in any polling booth any agent, appointed in writing as aforesaid by or on behalf of any candidate, shall declare in writing to the Returning Officer or his Deputy that he verily believes and undertakes to prove that the said person is not in fact the person in whose name he assumes to vote, or to the like effect, then and in such case it shall be lawful for the said Returning Officer or his Deputy, and he is required, by word of mouth, to order any constable (if any such be present) to take the person so assuming to vote into custody, which order shall be a sufficient warrant and authority to the said constable for so doing: Provided always that if such person shall insist on voting notwithstanding such charge of personation is made against him, he shall be permitted to vote before he is removed.

Returning Officer may
order persons charged
with personation to
be taken in custody.

22. Every such constable shall take the person so in his custody at the earliest convenient time before two Justices of the Peace having jurisdiction at the polling place at which such person shall have voted as aforesaid: Provided always that in case the attendance of any such Justices cannot be procured within the space of three hours after the close of the poll on the same day on which such person shall have been taken into custody, it shall be lawful for the same constable, and he is hereby required, at the request of such person in his custody, to take him before any one Justice of the Peace having jurisdiction as aforesaid, and such Justice is hereby authorized and required to liberate such person on his entering into a recognizance, with one sufficient surety,

Persons charged with
personation to be
taken before two
Justices, and bail to
be taken by one
Justice in certain
cases.

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surety, conditioned to appear before any two Justices as aforesaid, at a time and place to be specified in such recognizance, to answer the said charge; and if no such Justice shall be found within four hours after the closing of the said poll, then such person shall be discharged from custody: Provided also that if in consequence of the absence of such Justice as aforesaid, or from any other cause, the said charge cannot be inquired into within the time aforesaid, it shall be lawful nevertheless for any two such Justices as aforesaid to inquire into the same on the next or some other subsequent day, and if necessary to issue their warrant for the apprehension of the person so charged.

If Justices are satisfied of guilt, on oath of two credible witnesses, they are to commit for trial.

23. If on the hearing of the said charge the said two Justices shall be satisfied, upon the evidence on oath of not less than two credible witnesses, that the said person so brought before them has knowingly personated and falsely assumed to vote in the name of some other person within the meaning of this Act, and is not in fact the person in whose name he voted or has offered to vote, then it shall be lawful for the said two Justices to commit the said offender to any gaol, to take his trial according to law, and to bind over the witnesses in their respective recognizances to appear and give evidence on such trial as in the case of other misdemeanours.

If Justices satisfied that charge is unfounded they are to order compensation.

24. If the said Justices shall, on the hearing of the charge, be satisfied that the person so charged with personation is really and in truth the person in whose name he voted or offered to vote, and that the charge of personation has been made against him without reasonable or just cause, or if the person so declaring as aforesaid, or some one on his behalf, shall not appear to support such charge, then it shall be lawful for the said Justices, and they are hereby required, to make an order in writing under their hands on the person so declaring as aforesaid to pay to the person so falsely charged, if he shall consent to accept the same, any sum not exceeding the sum of twenty pounds nor less than five pounds by way of damages and costs; and if the said sum shall not be paid within twenty-four hours after such order shall have been made, the same may be levied, by warrant under the hand of any Justice of the Peace having jurisdiction as aforesaid, by distress and sale of the goods and chattels of the person so declaring as aforesaid, and in case no sufficient goods and chattels of the said person so declaring can be found on which such levy can be made, then it shall be lawful for the said person to whom the said sum of money was ordered to be paid, to recover the same from the person so declaring, with full costs of suit, in an action or suit to be brought in any Court within the Colony having jurisdiction to the amount of the said sum so ordered to be paid: Provided always that if the person so falsely charged shall consent in writing to accept such sum as aforesaid by way of damages and costs, and if the whole of the amount so ordered to be paid shall be paid or tendered to such person, in any such case, but not otherwise, the said person so declaring as aforesaid and every other person shall be released from all actions suits and other proceedings civil or criminal for or in respect of the said charge and apprehension.

Proceedings in case of riot or violence.

25. When the proceedings at any polling place shall be interrupted by any riot or open violence, the Returning Officer or his Deputy may from time to time adjourn the taking of the poll until after such interruption shall have ceased, when the Returning Officer or his Deputy shall again proceed with the taking of the poll at the point at which the same may have been interrupted, so that the poll shall be kept open for seven hours in the whole; and all the votes given under such circumstances shall be as valid and effectual as if the same had been recorded during the regular hours on the day fixed for the polling:

Provided

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Provided always that no such adjournment shall extend beyond the day fixed for the return of the writ, and if the polling shall not have been completed by that day, or the election cannot be regularly completed within such time, from any cause whatever, the Returning Officer shall make a special return stating what has been done and the facts which have prevented the election from being duly completed.

26. The Returning Officer for each electoral district, as soon as may be practicable after he shall have received the state of the poll at all the polling places within the district, shall proceed to ascertain the numbers polled for each candidate at such places collectively, and shall at the principal polling place of the district, and at a time to be fixed, of which at least forty-eight hours' notice shall have been given in such manner as he may deem best calculated to give publicity to the same, publicly declare the persons found to have the greatest number of votes to be duly elected: Provided always that if the number of votes for any two or more candidates be equal, the Returning Officer shall then and there decide by his casting vote which of the candidates shall be elected: Provided also that no Returning Officer shall vote at any election for the electoral district of which he is Returning Officer except as aforesaid: Provided also that it shall be lawful for any Deputy Returning Officer, notwithstanding his acting as such, to vote as an elector for any electoral district for which he may be duly registered.

Returning Officer to fix time and place for declaring poll.

27. The Returning Officer, on the day on which such declaration is made, shall indorse on the writ the names of the persons so declared to be elected as aforesaid, and shall add thereto a declaration that such persons are elected in pursuance of the said writ, and shall also date such indorsement on the day on which the same is made, and shall then forthwith despatch the writ to the Governor.

Writ to be indorsed.

28. No election shall be held to be void in consequence of there being no Returning Officer at the time of the issue of any writ, or in consequence of any delay in the holding of the election at the time appointed, or in the taking of the poll, or in the return of the writ (such delay not extending beyond the day named for the return of the writ), or in consequence of any impediment of a technical or formal nature.

Delay or technical objection not to invalidate proceedings.

29. Any Returning Officer, or Deputy Returning Officer, or Poll Clerk, or other person employed in the conduct of an election, who shall wilfully neglect or refuse to perform any of the duties which by the provisions of this Act he is required to perform, or shall misbehave himself in the performance of such duties, shall for each offence forfeit and pay a sum not exceeding fifty pounds, to be recovered in a summary way before two Justices of the Peace.

Penalty on Returning Officer for neglecting duty.

30. It shall be lawful for the Governor to authorize the payment of all necessary expenses to be incurred in carrying the provisions of this Act into execution, to be defrayed out of any sums to be voted by the General Assembly for that purpose.

Governor may authorize payment of necessary expenses.

31. When any matter or thing shall be required, under the provisions of this Act, to be performed on a certain day, and that day happen to be Sunday, Christmas Day, or Good Friday, the said matter or thing shall be performed on the next succeeding day.

Matters requiring to be done on a certain day, and that day Sunday &c., may be done on following day.

32. And whereas divers of the electoral districts under this Act are far distant from the seat of Government, and of great extent, and unforeseen difficulties or delays may arise in carrying into effect the several provisions herein contained with regard to elections for the said districts: Be it therefore enacted that within the period of forty days before or after the day appointed for the holding of any election, it shall be lawful for the Governor in Council to extend the time allowed

Elections not to be declared void by reason of delay in holding same or any formal impediment.

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for the holding of such election or for the return of the writ issued for the same, notwithstanding the day may have passed on which such writ shall be returnable, and to adopt or cause to be adopted such measures as may be necessary to remove any obstacle of a technical or formal nature by which the due course of any such election may be impeded, and to supply any deficiency that may otherwise affect the same: Provided always that any such measure so adopted by the Governor in Council shall be duly notified in the *New Zealand Gazette*.

Interpretation clause.

33. Throughout this Act in the construction thereof the term "Polling Booth" shall include any house building or other place at which any poll is being taken; and the day of the return of the writ shall be deemed to be the day on which the Returning Officer shall have indorsed thereon the names of the persons declared to be duly elected, and not the day on which the Governor shall receive the same.

Commencement of Act.

34. This Act shall come into operation on the first day of January, one thousand eight hundred and fifty-nine.

Short Title.

35. The Short Title of this Act shall be "*The Regulation of Elections Act, 1858.*"

SCHEDULE.

FORM No. I.

I, A.B., Returning Officer for the Electoral District of [or one of the Deputy Returning Officers for the Electoral District of], do promise and swear that I will faithfully perform the duties of Returning Officer [or of Deputy Returning Officer] to the best of my ability. So help me God.

FORM No. II.

ELECTION NOTICE.

Electoral District of [Name].

IN pursuance of the provisions of an Act of the General Assembly of New Zealand, intituled "*The Regulation of Elections Act, 1858,*" I [Name], Returning Officer for the Electoral District of [Name], do hereby give notice that by virtue of a writ bearing date the [day] day of [Month], one thousand eight hundred and [Year], issued under the hand of His Excellency the Governor of New Zealand, an election will be held for the return of a qualified person [or persons] to serve as a Member [or as Members] of the House of Representatives for the said electoral district, and that the nomination of candidates will take place at [Place to be designated], on Monday, the [day] day of [Month], one thousand eight hundred and [Year], and that the poll (if necessary) will be taken on Tuesday, the [day] day of [Month], one thousand eight hundred and [Year].

Dated this [day] day of [Month], one thousand eight hundred and [Year].
A.B., Returning Officer.

The following places are polling places for the Electoral District of [Name].
[Insert here a list of the polling places of the electoral district.]
A.B., Returning Officer.

Dated the [day] day of [Month], one thousand eight hundred and [Year].

FORM No. III.

To the Returning Officer of the Electoral District of [Name].
I, THE undersigned, do hereby give notice that I withdraw my name as a candidate at the election to be held on the [day] day of [Month], one thousand eight hundred and [Year], of a Member [or Members] of the House of Representatives for the Electoral District of [Name].

Dated the [day] day of [Month], one thousand eight hundred and [Year].

[Signature.]

[Place of abode and nature of qualification.]

Signed in the presence of
E.F., Justice of the Peace.

FORM No. IV.

I, A.B. the Returning Officer for the Electoral District of [Name], do hereby declare that
in

Corrupt Practices Prevention.

in pursuance of the writ to me directed, bearing date the _____ day of _____, one thousand eight hundred and _____, the undermentioned candidate [*or candidates*] is [*or are*] duly elected a Member [*or Members*] of the House of Representatives for the said district.

Dated this _____ day of _____, one thousand eight hundred and _____
A.B., Returning Officer.

Christian Name and Surname of Candidate.	Place of Abode.	Nature of Qualification.	Names of Proposers.

FORM No. V.

I, A.B., do hereby solemnly declare that I will not, either directly or indirectly, by any means whatever, publish or make known before the close of the poll the number of votes which may have been given for any candidate at this present election.

A.B.

FORM No. VI.

I do swear that I am the person whose name appears as [*Here specify name*] on the Electoral Roll now in force for the Electoral District of [*Here specify name*], and that I have not already voted either at this polling place or elsewhere at this present election. So help me God.

FORM No. VII.

I, A.B., do swear that I have not received or had, by myself or any person whomsoever in trust for me, or for my use or benefit, or for the use or benefit of any member of my family or kindred, or any friend or dependent, directly or indirectly, any sum or sums of money, office employment gift or reward, or any promise or security for any money office place of emolument gift or reward, by way of consideration, expressed or implied, for giving my vote at this election. So help me God.

No. LVII.

AN ACT to make provision for the Prevention of Corrupt Practices at Elections. [*19th August, 1858.*]

CORRUPT PRACTICES
PREVENTION.

WHEREAS it is expedient to make provision for the prevention of bribery and corruption at elections: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The following persons shall be deemed guilty of bribery, and shall be punishable accordingly:— Bribery defined.

(1.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, give lend or agree to give or lend, or shall offer promise or promise to procure or to endeavour to procure, any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, to or for any other person, in order to induce any elector to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such elector having voted or refrained from voting at any election.

(2.) Every

Corrupt Practices Prevention.

- (2.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer promise or promise to procure or to endeavour to procure, any office or place of employment to or for any elector, or to or for any person on behalf of any elector, or to or for any other person in order to induce such elector to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any elector having voted or refrained from voting at such election.
- (3.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, make any such gift loan offer promise procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person to serve in the General Assembly, or the vote of any elector at any election.
- (4.) Every person who shall, upon or in consequence of any such gift loan offer promise procurement or agreement, procure or engage promise or endeavour to procure the return of any person to serve in the General Assembly, or the vote of any elector at any election.
- (5.) Every person who shall advance or pay or cause to be paid any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

And any person so offending shall be guilty of a misdemeanour, punishable by fine and imprisonment, and shall also be liable to forfeit the sum of one hundred pounds to any person who shall sue for the same, together with full costs of suit.

Bribery further defined.

2. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly :—

- (1.) Every elector who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive agree or contract for any money gift loan or valuable consideration office place of employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election.
- (2.) Every person who shall after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at any election.

And any person so offending shall be guilty of a misdemeanour, punishable by fine and imprisonment, and shall also be liable to forfeit the sum of ten pounds to any person who shall sue for the same, together with full costs of suit.

Treating defined.

3. Every candidate at any election who shall corruptly, by himself or by or with any person or by any other ways or means on his behalf, at any time either before during or after any election, directly or indirectly give or provide or cause to be given or provided or shall be accessory to the giving or providing, or shall pay wholly or in part any expenses incurred for any meat drink entertainment or provision to or
for

Corrupt Practices Prevention.

for any person in order to be elected or for being elected, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election or on account of such person having voted or refrained from voting or being about to vote or refrain from voting at such election, shall be deemed guilty of the offence of treating, and shall forfeit the sum of fifty pounds to any person who shall sue for the same, with full costs of suit: And every elector who shall corruptly accept or take any such meat drink entertainment or provision shall be incapable of voting at such election, and his vote if given shall be utterly void and of none effect.

4. Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force violence or restraint, or inflict or threaten the infliction, by himself or by or through any other person, of any injury damage or loss, or in any other manner practice intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election, or who, by abduction duress or any fraudulent device or contrivance, impede prevent or otherwise interfere with the free exercise of the franchise of any elector, or shall thereby compel induce or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall be guilty of a misdemeanour, punishable by fine and imprisonment, and shall also be liable to forfeit the sum of fifty pounds to any person who shall sue for the same, together with costs of suit.

Undue influence defined.

5. Whenever it shall be proved before a Revising Officer that any person who is or claims to be placed on the list or roll of electors for any electoral district has been convicted of bribery or undue influence at an election, or that judgment has been obtained against any such person for any penal sum hereby made recoverable in respect of the offences of bribery treating or undue influence, or either of them, then such Revising Officer shall in case the name of such person is in the list of electors expunge the same therefrom, or shall in case such person is claiming to have his name inserted therein disallow such claim; and the names of all persons which shall be so expunged from the list of electors, and of all persons whose claims shall be so disallowed, shall be thereupon inserted in a separate list, to be entitled "The List of Persons Disqualified for Bribery, Treating, or Undue Influence," which last-mentioned list shall be appended to the list or roll of electors, and shall be published therewith in three successive annual publications thereof.

Names of persons convicted of bribery and undue influence to be expunged from Electoral Roll.

6. Every person who shall give or cause to be given to any elector on the day of polling, on account of such elector having polled or being about to poll, any meat drink or entertainment by way of refreshment, or any money or ticket to enable such elector to obtain refreshment, shall be deemed to have committed an illegal act, and shall forfeit the sum of forty shillings for each offence to any person who shall sue for the same, with full costs of suit.

Persons giving refreshment on day of polling on account of vote to forfeit 40s.

7. No candidate before during or after any election shall, in regard to such election, by himself or agent, directly or indirectly, give or provide to or for any elector or to or for any other person whomsoever any cockade ribbon or other mark of distinction, and every person so giving or providing shall for every such offence forfeit the sum of forty shillings to such person as shall sue for the same, with full costs of suit. And every person who shall during such election display or cause to be displayed any flag banner or party emblem, or shall employ or cause to be employed publicly any band of music or musical instruments,

No cockades &c. to be given at election.

Corrupt Practices Prevention.

shall for every such offence forfeit the sum of forty shillings to such person as shall sue for the same.

Committee for promoting return of candidates not to sit at licensed public house.

8. No committee or other body organized for promoting the return of any candidate at any election shall sit or hold meetings at any licensed public house, or any building thereto annexed or belonging, and every person being a member of any such committee or organized body who shall attend any such meetings at any such public house or building shall forfeit the sum of five pounds to any person who shall sue for the same, together with full costs of suit.

Poll not to be taken at licensed public house.

9. No poll shall be taken at any licensed public house or any building annexed or belonging thereto, and every Returning Officer who shall take or cause to be taken any poll at such public house or building shall for every such offence forfeit the sum of one hundred pounds to any person who shall sue for the same, together with full costs of suit.

Penalties how recoverable.

10. The pecuniary penalties hereby imposed for the offences of bribery treating or undue influence, and for taking a poll at a licensed public house, shall respectively be recoverable by suit in the Supreme Court of New Zealand, and all other penalties by this Act shall be recoverable in any inferior Court having jurisdiction to the amount claimed.

Court may order costs of prosecution to be paid to prosecutor.

11. Every indictment for bribery or undue influence shall be tried before the Supreme Court only, and it shall be lawful for the said Court to order payment to the prosecutor of such costs and expenses as to the said Court shall appear to have been reasonably incurred in and about the conduct of such prosecution.

In case of private prosecution, defendant may recover costs.

12. In case of any indictment or information by a private person for any offence against the provisions of this Act, if judgment shall be given for the defendant he shall be entitled to recover from the prosecutor the costs, to be taxed by the proper officer of the Court, which the defendant shall have sustained by reason of such indictment or information.

Prosecutor not to be entitled to costs unless he shall have entered into recognizance.

13. It shall not be lawful for the said Court to order payment of the costs of a prosecution for any offence against the provisions of this Act unless the prosecutor shall, before or upon the finding of the indictment or the granting of the information, enter into a recognizance, with two sufficient sureties to be approved of by the Registrar or Deputy Registrar in the Supreme Court, in the sum of one hundred pounds, to be acknowledged before a Judge of the Supreme Court, with the condition following, that is to say, that the prosecutor shall conduct the prosecution with effect, and shall pay to the defendant or defendants, in case he or they shall be acquitted, his or their costs.

Limitations of actions and prosecutions.

14. No person shall be liable to any penalty or forfeiture hereby imposed unless some prosecution action or suit for the offence committed shall be commenced against such person within the space of one year next after such offence against this Act shall have been committed, and unless such person shall be summoned or otherwise served with writ or process within the same space of time, so as such summons or service of writ or process shall not be prevented by such person absconding or withdrawing out of the jurisdiction of the Court out of which such writ or other process shall have been issued; and in case of any prosecution suit or process as aforesaid, the same shall be proceeded with and carried out without any wilful delay.

Candidates guilty of bribery incapable of being elected for same district before next general election.

15. If any candidate at any election for any electoral district shall be declared by any Election Committee or any other tribunal appointed to try the merits of any election petition, guilty by himself or his agents of bribery treating or undue influence, such candidate shall be incapable of sitting or being elected as a Member for such district before the next general election.

16. Throughout

Election Petitions.

16. Throughout this Act and in the construction thereof the word "Election" shall mean the election of any Member or Members of the House of Representatives; the word "Elector" shall mean any person who shall have a right to vote at any such election; and the word "Candidate" shall mean any person who shall have been nominated as required by law at any such election, or who shall have declared himself a candidate at or before any such election. Interpretation clause.

17. The Short Title of this Act shall be "*The Corrupt Practices Prevention Act, 1858.*" Short Title.

No. LVIII.

AN ACT to make provision for the Trial of Petitions against the Election or Return of Members of the House of Representatives. [19th August, 1858.] ELECTION PETITIONS.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. Every petition which shall be presented to the House of Representatives, complaining of an undue election or return of a Member of the House of Representatives, or complaining that no return has been made to any writ issued for the election of any Member of the House of Representatives, or that no return has been made within the time within which any writ is made returnable, or that any return is not according to the requisition of the writ, or complaining of any special matters contained in any such return, shall be deemed an election petition. What shall be deemed election petitions.

2. Every election petition shall be presented to the House within such time as shall be from time to time limited by the House in that behalf; and no such petition shall be received unless, at the time it is presented, it shall have been subscribed by an elector who had a right to vote at the election to which the same shall relate, or by some person who had been a candidate at such election. When election petitions shall be presented, and by whom subscribed.

3. Before any election petition shall be presented to the House, the person or persons subscribing the same, or some one or more of them, shall enter into a bond to the Speaker of the House, with a condition, in the form set forth in the Schedule to this Act, for the sum of one hundred pounds, with one two three or four sufficient sureties, either in the same bond or in separate bonds, for the additional sum of one hundred pounds, in a sum or sums of not less than twenty-five pounds each, for the payment of the costs and expenses in the said bond specified. Bond to be entered into by petitioner.

4. Every such person who shall enter into any such bond as surety for any other person shall testify upon oath in writing, to be sworn at the time of entering into such bond and before the person by whom his bond shall be taken, that he is seized or possessed of real or personal estate, or both, above what will satisfy his debts of the clear value of the sum for which he shall be bound by the said bond, and every such affidavit shall be annexed to the bond; and in every such bond shall be mentioned the names and usual places of residence of the persons becoming sureties as aforesaid, with such other descriptions of the sureties as may be sufficient to identify them readily. Sureties to make affidavit of sufficiency.

5. The

Election Petitions.

Speaker to appoint
Examiner of Election
Bonds.

5. The Speaker shall from time to time, as occasion shall require, appoint the Clerk of the House or some other person to be Examiner of Election Bonds, and every person so appointed shall hold his office during the pleasure of the Speaker.

How bonds to be
entered into.

6. Every bond hereinbefore required shall be entered into and every affidavit hereinbefore required shall be sworn before the Examiner or one of Her Majesty's Justices of the Peace, and the Examiner and also every Justice of the Peace is hereby authorized to administer the same.

Bonds taken before
Justices of the Peace
to be delivered to
Clerk of the House.

7. Every such bond and affidavit which shall be taken before a Justice of the Peace, being duly certified under the hand of such Justice, shall be delivered or transmitted to the Clerk of the House.

Money may be paid
into Bank instead of
security given.

8. It shall be lawful for any person by whom such petition shall be signed, instead of entering into a bond with sureties for the full amount of the sums hereinbefore required, to pay into a Bank to be designated by the Examiner, and in his name as Trustee, for like purposes for which the bond is hereinbefore required, any amount of money which such person shall think fit in a sum or sums not less than twenty-five pounds each; and in such case the person by whom the petition shall be signed shall still be required to enter into his personal bond for the sum of one hundred pounds, but shall be required to find a surety or sureties as aforesaid for so much only of the additional sum of one hundred pounds as the sum paid into the Bank shall fall short of the sum of one hundred pounds.

When money deemed
to be paid into Bank.

9. No money shall be deemed, for the purposes of this Act, to be paid into the Bank until a bank receipt shall have been delivered to the Examiner.

No petition to be
received unless
indorsed by
Examiner.

10. No election petition shall be received unless at the time it is presented to the House it shall be indorsed by a certificate under the hand of the Examiner, that the bond hereinbefore required has been entered into and received by him, with the affidavit thereto annexed; and if the bond shall not have been taken for the full amount, that the necessary amount has been paid into a Bank as hereinbefore required.

Bonds and affidavits
to be open to
inspection.

11. On or before the day when any petition shall be presented to the House, the bonds and affidavits and bank receipts (if any) shall be opened to the inspection of all parties concerned.

Sureties may be
objected to.

12. It shall be lawful for any sitting Member petitioned against, or for any electors petitioning and admitted parties to defend the election or return, to object to the sureties or any of them who shall have entered into such bond, on the ground of insufficiency, or that a surety is dead or cannot be found, from the want of a sufficient description in the bond, or that a person named in the bond has not duly executed the same: Provided that the ground of objection shall be stated in writing under the hand of the objecting party or his agent, and shall be delivered to the Examiner before twelve o'clock at noon on the tenth day after the presentation of the petition, and if such tenth day be Sunday, Christmas Day, or Good Friday, then before twelve o'clock at noon on the following day.

Examiner to appoint
a day for hearing
objections.

13. As soon as any such statement shall be received by the Examiner he shall appoint a day for hearing such objection, not less than three nor more than five days from the day on which he shall have received such statement, and the petitioner and his agent shall be allowed to examine and take copies of every such statement.

Examiner to decide
on objections.

14. At the time appointed, the Examiner shall inquire into the alleged insufficiency of the sureties objected to on the grounds stated in the notice of objection but on no other grounds; and for the purpose of such inquiry the Examiner is hereby required to examine upon oath any

Election Petitions.

any persons who may be tendered by either party for examination by him, and also to receive in evidence any affidavit relating to the matter in dispute before him, which shall be sworn before him or before a Justice of the Peace, each of whom is hereby authorized and required to take and certify such affidavit; and the Examiner shall have power, if he shall think fit, to adjourn the inquiry from time to time until he shall decide on the validity of such objection, and, if he shall think fit, to award costs to be paid by either party to the other, and to give a certificate thereof, which costs shall be recovered in an action of debt in any Court of competent jurisdiction; and the decision of the Examiner shall be final and conclusive against all parties: Provided always that the validity of such certificate (the handwriting of the Examiner thereto being duly verified) shall not be called in question in any Court.

15. If the Examiner shall have decided that any such surety is objectionable, or if any surety shall die and his death shall be stated as a ground of objection before the end of the time allowed for objecting to the sureties, it shall be lawful for the petitioner to pay into a Bank, to be designated by the Examiner and in his name, the sum for which the deceased surety was bound, and on delivery of a bank receipt for such sum to the Examiner within three days after the day on which the statement of such objection shall have been delivered to the Examiner, the sureties shall be deemed unobjectionable if no ground of objection shall be stated to any other of the sureties within the time before mentioned for stating objections to sureties.

In case of
insufficiency or death
of surety, money may
be paid into Bank.

16. It shall be competent to any petitioner, at any time after the presentation of the petition, to withdraw the same upon giving notice in writing under his hand, or under the hand of his agent, to the Speaker, and also to the sitting Member or his agent, and also to any party who may have been admitted to oppose the prayer of such petition, that it is not intended to proceed with the petition, and in such case the petitioner shall be liable to the payment of such costs and expenses as may have been incurred by the sitting Member and also by any party who may have been admitted to oppose the prayer of such petition; such costs and expenses to be ascertained and fixed in such manner and by such person as the Speaker shall direct, and the same being so ascertained and fixed, the Speaker shall give a certificate thereof, whereupon the same shall be recoverable in any Court of competent jurisdiction, and the validity of such certificate (the handwriting of the Speaker thereto being duly verified) shall not be called in question in any Court.

How petitions may
be withdrawn.

17. If at any time after such election petition shall have been presented, the Member petitioned against shall declare in writing to the Speaker that he will not defend his election or return (notice whereof shall be given by the Speaker in such manner as he shall deem best calculated to give full publicity to the same), it shall be lawful for any person having a right to vote at any election to which such petition shall relate, at any time within ten days after the publication of such notice, to petition the House to be permitted to defend such return or oppose the prayer of such petition, and such person shall thereupon be admitted to defend or oppose the same respectively.

Elector may be
admitted to defend
return or oppose
petition.

18. Whenever any Member whose election or return is so complained of in such petition shall have given notice as aforesaid of his intention not to defend the same, he shall not afterwards be allowed to appear or act as a party against such petition in any proceedings thereon, and he shall not be entitled to sit in the House or vote on any question until such petition shall have been decided on.

Member giving notice
of his intention not
to defend, not to be
allowed to sit or vote
till petition decided.

19. Whenever any election petition shall have been presented to the

When election
petition presented,

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time to be fixed for taking same into consideration.

the House, a day and hour shall be appointed by the House for the selection of a Committee to try the allegations therein contained, and notice thereof in writing shall be given by the Speaker to the petitioners and the sitting Member, or to the person who may have been admitted to defend the return or oppose the prayer of the petition, or to their agents, accompanied by an order to attend the House at the time appointed.

Lists to be made of Members available to serve on Committees.

20. At the time appointed, the Speaker shall cause to be made out a list containing the names of all the Members of the House excepting only those of the Speaker and the Chairman of Committees and such Members as have obtained leave of absence, or are not available for service on the Committee through illness or absence, or from such other cause as the House, on the question being referred to them by the Speaker, shall determine to be sufficient excuse for not serving on the Committee.

Copy of lists to be delivered to each party.

21. The Speaker shall cause to be delivered to each party a copy of the list so to be made out as aforesaid.

Each party to choose one Member.

22. Each party shall then name one Member whose name shall be on the said list, and the two Members so named shall be two Members of the Committee.

Speaker to appoint Chairman.

23. The Speaker shall then appoint some one of the other Members on the said list to be the Chairman of the Committee; and in case at any time any Chairman shall from any cause cease to act on the Committee, the Speaker shall appoint some other Member of the Committee to be the Chairman thereof.

Each party to strike names alternately of Members off list till number reduced to four.

24. Each party, the petitioners commencing, shall then alternately strike off one name from the said list till the number thereon shall be reduced to four, and such four, together with the two Members named as aforesaid and the Chairman (appointed by the Speaker), shall form the Committee for the purpose of trying the merits of the petition referred to them, three of whom shall be a quorum.

Mode of proceeding in case parties fail to attend.

25. If on the day so to be appointed as aforesaid for selecting the Committee either party shall neglect to attend, it shall be lawful for the Speaker to appoint either the Clerk of the House or some other person to act on behalf of the party neglecting to attend; and if both parties shall neglect to attend, the petition shall be dismissed without costs to either party, and no further proceedings shall be taken thereon.

Notice of Committee having been chosen to be given to Members selected.

26. When the Committee shall have been chosen as aforesaid, the Speaker shall cause notice thereof in writing to be given to each of the Members so selected, and require his attendance at a certain time and place, to be fixed by the Speaker, for the purpose of holding the first meeting of the Committee.

Members of Committee to be sworn.

27. Every Member of the Committee, before he shall act, shall be sworn at the table of the House, by the Clerk, well and truly to try the merits of the petition referred to the Committee, and a true judgment give according to the evidence.

Committee not to adjourn for more than thirty hours without leave of House.

28. Every such Committee shall sit from day to day, Sunday, Christmas Day, and Good Friday only excepted, and shall never adjourn for more than thirty hours unless a Sunday, Christmas Day, or Good Friday intervene, and in such case for not more than thirty hours exclusive of such Sunday, Christmas Day, or Good Friday, without leave first obtained from the House upon motion and a special cause assigned for a longer adjournment: Provided always that if such Select Committee have occasion to apply or report to the House, and the House be then adjourned for more than thirty hours, such Select Committee may also adjourn to the day appointed for the meeting of the House.

29. Every

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29. Every Member of a Select Committee appointed to try the merits of any election petition who shall absent himself from any meeting of the Committee without the leave of the House, may be ordered by the House to be taken into custody by the Serjeant-at-Arms for such neglect of duty, and shall be censured, or punished by a fine not exceeding twenty pounds, at the discretion of the House, and kept in such custody for ten days unless the fine be sooner paid or such Member be discharged by order of the House, unless it shall appear by facts specially stated and verified upon oath, to be sworn before the Speaker, that such Member was by necessity prevented from attending.

Members absenting themselves without leave may be censured or punished.

30. If the number of Members able to attend such Committee be unavoidably reduced to less than three, and so continue for the space of three sitting days, such Committee shall be dissolved, and another, to be appointed in manner hereinbefore provided, shall be appointed to try the merits of the petition: Provided always that if the parties before the Committee consent thereto, the two remaining Members of the Committee, or the sole remaining Member if only one shall continue to act, shall thenceforward constitute the Committee.

If Committee reduced to less than three to be dissolved.

31. Every Committee shall have power to regulate the form and manner of its proceedings, and to adjourn from time to time, subject nevertheless as hereinbefore mentioned: Provided always that every Committee shall be guided by justice and good conscience without regard to legal forms and solemnities, and shall direct themselves by the best evidence they can procure or that is laid before them, whether the same be such evidence as the law would require in other cases or not: Provided also that the proceedings before any such Committee shall be open to the public except when the Committee shall think fit to deliberate amongst themselves before coming to a decision on any question: And provided also that such proceedings shall not in any case extend beyond seven sitting days, and if no decision be come to within that period, the Chairman of such Committee shall, on such evidence as is then before such Committee, pronounce a decision, and every decision, whether so pronounced by the Committee or by the Chairman, shall be final and conclusive without appeal.

Committee to regulate form of proceedings.

32. All questions before any Committee, if for the time being consisting of more than one Member, shall be decided by a majority of votes, and whenever the votes are equal the Chairman shall have a second or casting vote, and no Member of the Committee shall be allowed to refrain from voting on any question on which the Committee is divided.

Questions to be determined by majority.

33. Whenever a Committee is divided upon any question, the names of the Members voting in the affirmative and of those voting in the negative shall be separately entered on the minutes of the Committee, and shall be reported to the House, with the question on which such decision took place, at the same time with the final report of the Committee.

Names of Members voting for or against any resolutions to be reported to the House.

34. Every such Committee shall be attended by a competent Clerk, who shall make a minute of all proceedings of the Committee in such form and manner as shall be from time to time directed by the Committee, and a copy of the minutes shall be laid from time to time, or at the termination of the inquiry, before the House.

Committee to be attended by a competent Clerk and minutes kept.

35. Every such Committee may send for persons books papers records and other documentary evidence, and may examine any person they may think fit, whether a party to the proceedings before them or not, upon oath, which oath the Chairman of the Committee is hereby authorized to administer; and it shall also be competent for any such Committee in its discretion, if it shall think fit, to receive affidavits relative

Committee empowered to send for and examine persons books papers records and documents.

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relative to any of the matters referred to it taken before any Justice of the Peace, which affidavit Justices of the Peace are hereby authorized and required to take.

Persons misbehaving to be guilty of a misdemeanour.

36. If any person, whether a party to the proceedings or not, who shall have been summoned by any such Committee by a summons under the hand of the Chairman thereof, shall disobey such summons, or shall neglect or refuse to produce any books papers records or other documentary evidence relating to or affecting the matter under investigation which shall have been sent for by any such Committee, or shall refuse to submit himself to examination, or shall give false evidence, or prevaricate, or otherwise misbehave in giving or refusing to give evidence, he shall be deemed guilty of a misdemeanour; and it shall be lawful for the Chairman of any Committee, when authorized by a resolution passed by the Committee, to direct, by a warrant under his hand, the Serjeant-at-Arms of the House, or some other person to be employed by the Chairman for that purpose, to take any person so offending into custody and at the earliest convenient time to take him before a Justice of the Peace: Provided always that no person shall be kept in custody for more than forty-eight hours before being taken before a Justice of the Peace: Provided also that if any person be discharged at the end of forty-eight hours in consequence of there not having been found a Justice of the Peace to hear the case, such person may be prosecuted at any future time on the charge against him being preferred in the usual way.

Giving false evidence to be perjury.

37. Every person who wilfully gives false evidence before any Committee, or who wilfully swears falsely in any affidavit authorized by this Act, shall on conviction thereof be liable to the penalties of wilful and corrupt perjury, and every such person may be taken into custody and dealt with in manner prescribed by the last preceding section of this Act.

Committee to decide and report their determination to the House.

38. Every such Committee shall try the merits of the return or election complained of in the election petition referred to them, and shall determine by a majority of votes, if for the time being consisting of more than one Member, whether the sitting Member or any other person was duly returned or elected or whether the election was void and whether a new writ ought to issue, which determination shall be final between the parties to all intents and purposes; and the House, on the same being reported to them, shall order such report to be entered on their Journal, and shall give the necessary directions for confirming or altering the return, or for ordering a return to be made, or for causing a writ for a new election to be issued, or for carrying the said determination into effect, as the case may require: Provided always that the Electoral Roll shall be deemed and taken to be conclusive evidence that the persons therein named were duly qualified to vote.

Committee may report their determination on other matters to the House.

39. If any Committee come to a resolution other than the determination above mentioned, they shall, if they think proper, report the same to the House for its opinion, and the House may confirm or disagree with such resolution, and may make such orders therein as to it may seem proper.

Committee not dissolved by prorogation of General Assembly.

40. If the General Assembly be prorogued after the appointment of any Committee and before they have so reported to the House their determination, such Committee shall not be dissolved by such prorogation, but shall be thereby adjourned till twelve o'clock on the day immediately following that on which the General Assembly meets again for the despatch of business, and all proceedings of such Committee shall be of the same force and effect as if the General Assembly had not been so prorogued, and such Committee shall meet on the day and

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and at the hour to which it is so adjourned, and shall thereupon continue to sit from day to day, in the manner hereinbefore provided, until they have reported their determination on the merits of such petition.

41. It shall be lawful for any Committee to award to the party prosecuting, or to the candidate against whom the petition shall have been presented, or to the person admitted to defend the return or election, or to any witness who shall in pursuance of any summons under the hand of the Chairman of the Committee have attended to give evidence, such reasonable costs and expenses as such Committee shall deem fit; and such costs and expenses shall be assessed and determined by the Committee, and, a certificate thereof being given under the hand of the Chairman, shall be recoverable by action of debt in any Court of competent jurisdiction from the party by such award made liable to pay the same: Provided always that the validity of such certificate (the handwriting thereto of such Chairman being duly verified) shall not be called in question in any Court.

Costs may be awarded.

42. If such costs and expenses when awarded against any person who may have given a bond as hereinbefore provided be not paid on demand, the Speaker shall, upon application of the party entitled to such costs and expenses, cause the bond to be put in suit, and the money recovered on such bond shall be applied in such order as the Committee shall have directed in satisfaction, so far as the sum will extend, of all the costs and expenses intended to be secured by such bond: Provided always that before putting such bond in suit the Speaker may, if he think fit, require security to be given to his satisfaction to indemnify him against all costs and expenses which he may be put to thereby: Provided always that in lieu of putting such bond in suit the Speaker may assign the same to such person as he may think fit, and the indorsement on the bond of such person's name, together with the signature of the Speaker, shall be deemed a valid and effectual assignment of the same.

If costs be not paid bond to be put in suit.

43. In every case in which payment of any money shall have been made into a Bank instead of giving security as hereinbefore provided, the Examiner shall be bound in the first place, and in such order of payment as shall be directed by the Committee, to satisfy out of the said money all the costs and expenses for securing payment of which such investment was made, or so much thereof as can be thereby satisfied, and thereafter to pay the surplus (if any) to the person by whom such money was paid in.

Costs to be paid out of money deposited in Bank.

44. If any Returning Officer shall wilfully delay neglect or refuse duly to return any person who ought to be returned as a Member of the House of Representatives, such person may, in case it shall have been determined by a Committee that such person was entitled to have been returned, sue the Returning Officer having so wilfully delayed neglected or refused duly to make such return of his election in the Supreme Court of New Zealand, and shall recover double the damages he has sustained by reason thereof, together with full costs of action: Provided that such action be commenced within three months after the conclusion of any proceedings in the House of Representatives relating to such election.

Returning Officer may be sued for neglecting to return any person duly elected.

45. In the construction of this Act, unless there be something in the subject or context repugnant to such construction, the word "House" shall mean the House of Representatives; the word "Speaker" shall mean the Speaker of the House of Representatives; the word "Examiner" shall mean the Examiner of Election Bonds; and the word "Committee" shall mean the Committee appointed under this Act to try the merits of any election petition as defined in section number one of this Act.

Interpretation.

Provincial Elections.

Short Title.

46. The Short Title of this Act shall be "*The Election Petitions Act, 1858.*"

SCHEDULE.

FORM OF CONDITION OF BOND.

THE condition of the above written bond is such that if [*Here insert the names of all the petitioners, and if more than one, add, or any of them*] shall well and truly pay all costs and expenses in respect of the election petition signed by him [*or them*] relating to the Electoral District of [*Here insert name of electoral district*] which shall become payable to the petitioner [*or petitioners*] under "*The Election Petitions Act, 1858,*" to any witness summoned in his [*or their*] behalf, or to the sitting Member, or other party complained of in the said petition, or to any party who may be admitted to defend the same as provided by the said Act, then the above written bond to be void, otherwise to be of full force and effect.

No. LIX.

**PROVINCIAL
ELECTIONS.**

AN ACT to amend the Law relating to the Election of Superintendents of Provinces and Members of Provincial Councils. [*19th August, 1858.*]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

I.—DIVISION OF PROVINCES INTO ELECTORAL DISTRICTS.

Provincial Councils
may divide Provinces
into electoral
districts.

1. It shall be lawful for the Superintendent of every Province, with the advice and consent of the Provincial Council thereof, from time to time to divide such Province into electoral districts for the election of Members of the Provincial Council, and any such division from time to time to annul and alter: Provided always that every Bill for such purpose shall be reserved for the signification of the Governor's pleasure thereon: Provided also that until any such division shall be made the electoral districts existing at the time of the passing hereof in any Province shall continue to be the electoral districts for the election of Members of the Provincial Council of such Province.

II.—REGISTRATION OF ELECTORS.

Electoral Rolls.

2. The Electoral Rolls for the House of Representatives shall be conclusive evidence of the right of the persons whose name shall be thereon as electors to vote at elections of Superintendents of Provinces and Members of the Provincial Councils as hereinbefore provided.

Registration Officers
to form Provincial
Electoral Rolls.

3. A Registration Officer to be appointed by the Governor for every Province in New Zealand shall, as soon as the Electoral Rolls for the House of Representatives shall have been completed, form therefrom Electoral Rolls for the election of the Superintendent of such Province and of the Members of the Provincial Council thereof.

Mode of forming the
Electoral Rolls.

4. There shall be placed on the roll for the election of a Superintendent of a Province every elector registered in respect of any tenement or hereditament situate within such Province, and on the respective rolls for the election of Members of a Provincial Council every elector registered in respect of any tenement or hereditament situate within the respective electoral districts for the election of such Members.

III.—CONDUCT

Provincial Elections.

III.—CONDUCT OF ELECTIONS.

5. Subject to the provisions hereinafter contained, every election of the Superintendent or of a Member of the Provincial Council of a Province shall be conducted in manner prescribed by an Act of the General Assembly, intituled "*The Regulation of Elections Act, 1858*," and all the provisions of the said Act shall apply to the elections of Superintendents and Members of Provincial Councils.

Mode of conducting elections.

6. The Governor shall from time to time appoint and remove Returning Officers for the several electoral districts within the Province as occasion may require: Provided always that for the election of a Superintendent of a Province the whole of such Province shall be deemed to be one electoral district, and one writ only shall be issued for such election, and shall be addressed to the Principal Returning Officer of the capital town of the Province, who shall hold the nomination at such capital town.

Governor to appoint Returning Officers.

7. All writs to supply vacancies in any Provincial Council occurring during the continuance of such Council shall be issued by and returnable to the Superintendent of the Province.

Writs issuable by and returnable to Superintendents.

8. It shall be lawful for the Governor to delegate to the Superintendent of any Province the power of appointing and removing Returning Officers, and also of appointing and abolishing polling places for the election of the Superintendent or of Members of the Provincial Council of such Province; and every warrant by which any such delegated power shall be exercised shall be published in the Provincial Government *Gazette* of such Province instead of the *New Zealand Gazette*.

Power of delegation of certain powers by the Governor.

IV.—CONTROVERTED ELECTIONS, ETC.

9. The right of any person claiming to hold the office of Superintendent or to be a Member of a Provincial Council shall be determined on information in the nature of a *quo warranto*, and by no other mode, except in such cases as are provided for by the eleventh section of the Constitution Act.

Mode of determining controverted elections.

10. The writ of *mandamus* shall lie in respect of Superintendents of Provinces and Provincial Councils and Members thereof in all cases whatsoever to which such a mode of proceeding is applicable.

Writ of *mandamus* to lie in all cases where applicable.

V.—CORRUPT PRACTICES.

11. An Act passed by the General Assembly of New Zealand, intituled "*The Corrupt Practices Act, 1858*," shall be deemed to apply to any election of Superintendent of a Province and of any Member of a Provincial Council of any Province.

"*Corrupt Practices Act, 1858*," applicable to Provincial elections.

12. This Act shall apply to the Provinces already established in New Zealand, and so much thereof as relates to Provincial Councils and Members thereof shall apply to Provinces to be hereafter established, and sections one, nine, and ten only shall apply to Superintendents of Provinces to be hereafter established.

Application of Act.

13. The Short Title of this Act shall be "*The Provincial Elections Act, 1858*."

Short Title.

Provincial Lawsuits.

No. LX.

PROVINCIAL
LAWSUITS.

AN ACT to enable Superintendents of Provinces to Sue and be Sued. [19th August, 1858.]

Preamble.

WHEREAS it is expedient that Superintendents of Provinces should be enabled to sue and be sued as hereinafter provided :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Power to
Superintendents to
sue and be sued.

1. All property belonging to any Province shall, for all purposes of proceedings in any Court, as well criminal as civil, in law or in equity, in any wise touching or concerning the same, be deemed and taken to be and shall in every such proceeding (where necessary) be deemed and taken to be the property of the Superintendent thereof for the time being in his proper name ; and such Superintendent shall and he is hereby authorized to bring and defend or cause to be brought and defended, any action suit prosecution or other proceeding, criminal as well as civil, in any Court of Law or Equity, touching or concerning the property aforesaid ; and such Superintendent shall and may, in all cases concerning the said property, sue and be sued plead and be impleaded in any Court of Law or Equity in his proper name.

Suit &c. not to abate
on death &c. of
Superintendent.

2. No such suit action prosecution or other proceeding shall be discontinued or abate by the death or resignation of any such Superintendent or otherwise, but the same shall and may be proceeded with by the succeeding Superintendent in the proper name of the Superintendent commencing the same ; and such succeeding Superintendent shall pay or receive the same costs as if the action suit or other proceeding had been commenced in his name.

Superintendent not
personally liable
except for wilful
neglect &c.

3. No Superintendent shall be personally liable except for his own act and deed, nor for anything done by him in the execution of his office as Superintendent except in cases where he shall be guilty of wilful neglect or default.

Superintendents may
satisfy judgment.

4. It shall be lawful for the Superintendent of any Province to satisfy and pay any judgment or decree recovered or obtained in any action or suit commenced under the provisions of this Act, out of any money appropriated or to be appropriated for that purpose by the Provincial Council thereof, and to perform the judgment or decree of the said Court in terms of such judgment or decree.

Protection of
Superintendents.

5. The provision of an Act of the Imperial Parliament passed in the year one thousand eight hundred and forty-eight, intituled "*An Act to protect Justices of the Peace from Vexatious Actions for acts done by them in execution of their office,*" shall, so far as the same can be made applicable, apply to Superintendents of Provinces who may be sued or liable to be sued under this Act.

Interpretation.

6. The term "Property" shall include lands tenements and hereditaments, goods chattels moneys and effects, and every right title interest claim and demand whatsoever ; and the terms "belonging to any Province, or to any person on behalf of any Province," shall include having the possession custody care or control, or the right of possession custody care or control, or having any right title interest claim or demand whatsoever, in respect of any act deed contract matter or thing heretofore or at any time hereafter to be made done or entered into by any Superintendent or other person, for or on behalf or as a public officer of any Province, or howsoever otherwise any such right title interest claim or demand may or shall have arisen.

Short Title.

7. The Short Title of this Act shall be "*The Provincial Lawsuits Act, 1858.*"

Lunatics' Ordinance Amendment.

No. LXI.

AN ACT to amend an Ordinance to make provision for the Safe Custody of and Prevention of Offences by Persons Dangerously Insane, and for the Care and Maintenance of Persons of Unsound Mind.

LUNATICS' ORDINANCE AMENDMENT.

[19th August, 1858.]

WHEREAS by an Ordinance enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, Session VII., No. 21, intituled "*An Ordinance to make provision for the Safe Custody of and Prevention of Offences by Persons Dangerously Insane, and for the Care and Maintenance of Persons of Unsound Mind,*" it is enacted that dangerous lunatics and persons of unsound mind may be apprehended and kept in custody in the manner therein provided: And whereas it is expedient that further provision be made for the apprehension and safe custody of persons suffering under mental derangement, by whatever cause produced, and for the prevention of mischief of any kind whatever at the hands of persons liable at various and uncertain times or periods to attacks of mental alienation, whether temporary or permanent:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for any Resident Magistrate or any two Justices of the Peace, on being satisfied by information upon oath that there is reasonable ground to believe that any person is suffering from mental derangement, either permanently or temporarily as aforesaid, which is likely to endanger the safety of any person whomsoever or to result in any injury to property, to issue by warrant under his hand and seal, or their hands and seals, as the case may be, an order for the apprehension of the person so believed to be suffering from such mental derangement as aforesaid, and for his detention in a place of safe custody in such convenient manner as the said Magistrate or Justices shall direct, and such persons so apprehended shall forthwith be brought before the same or other Resident Magistrate or Justices of the Peace at some convenient place to be named in the warrant of apprehension, to be further dealt with as hereinafter provided.

Resident Magistrate or two Justices may, on being satisfied by information on oath, apprehend a person believed to be suffering from mental derangement.

2. The Resident Magistrate or Justices before whom such person shall be brought as aforesaid shall, without any unnecessary delay, direct two or more legally qualified medical practitioners forthwith to examine the person so apprehended, and if upon view and examination of the person so detained in custody the said medical practitioners shall declare upon oath that in their opinion the person so detained in custody is at that time or is likely shortly to become dangerous to himself or others, or is in any way disposed to violence, it shall be lawful for such Resident Magistrate or Justices of the Peace, by warrant under his hand and seal, or their hands and seals, as the case may be, to commit such person to some public lunatic asylum, or in the event of none such being available, to some public hospital gaol or other place of safe custody, there to be kept in safe custody until such person shall be discharged by order of a Resident Magistrate or any two Justices of the Peace; and if any medical practitioner, not being on full pay in Her Majesty's land and sea forces, shall refuse to visit examine and report upon the condition of any lunatic as above provided, he shall be liable

Resident Magistrate or two Justices, being satisfied by declaration on oath of medical practitioners, may forthwith commit to some place of safe custody.

Bankers' Drafts.

to a penalty of not more than fifty pounds for each offence, to be recovered in a summary way.

Resident Magistrate or two Justices may, on being satisfied by declaration on oath of medical practitioners, order persons of unsound mind to be received in some public lunatic asylum or hospital.

3. And whereas it is also desirable to provide for the care and maintenance of persons who are of unsound mind who may not have shown a disposition to violence: Be it enacted that it shall be lawful for any Resident Magistrate or any two Justices of the Peace, on application of one or more of the relatives or friends of any person of unsound mind, and on receiving a declaration on oath from two or more legally qualified medical practitioners that they have examined and found such person to be of unsound mind, to direct and order, if he or they think proper so to do, that such person be received in such public lunatic asylum or hospital as such Resident Magistrate or Justices may appoint: Provided always that no such direction or order shall be acted upon unless and until the same shall have been indorsed with a signature of a Judge of the Supreme Court or the Superintendent of the Province in which such lunatic asylum or hospital is situate, after a proper inquiry by him, if he shall think fit, as to the propriety of carrying out such order or direction.

Person committed may be handed over to the custody of his friends on their entering into surety that he shall receive proper treatment and keep the peace.

4. Provided always that the person so committed to any lunatic asylum or other place of safe custody as aforesaid may at any time be handed over to the care of any of his relatives or friends upon their making application to that effect, and entering into such sureties as may be deemed sufficient by any Resident Magistrate or any two Justices of the Peace, that the person so proposed to be enlarged shall receive proper treatment while in their custody, and shall keep the peace towards himself and all Her Majesty's subjects, and such sureties shall only be discharged by two Justices of the Peace.

Superintendents may visit and inspect lunatic asylums.

5. It shall be lawful for the Superintendent of any Province to visit and inspect any lunatic asylum or hospital situated within the Province of which he is Superintendent at such times as he may deem convenient.

Legally qualified medical practitioners defined.

6. Every person holding a degree or diploma or license in medicine or surgery from any university or college or other corporate body duly authorized to grant the same in Great Britain or Ireland, or who is a member of the Company of Apothecaries of London or Dublin, or who is or has been a medical officer in Her Majesty's land or sea service, shall be deemed a legally qualified medical practitioner for the purposes of this Act.

Section 9 of Ordinance 21 of Session VII. repealed.

7. Section nine of the said recited Ordinance No. 21 of Session VII. of the Legislative Council, and all other provisions contained in the said Ordinance which are repugnant to any provisions of this Act, are hereby repealed,

Short Title.

8. The Short Title of this Act shall be "*The Lunatics' Ordinance Amendment Act, 1858.*"

No. LXII.

BANKERS' DRAFTS.

AN ACT to amend the Law relating to Drafts on Bankers.
[19th August, 1858.]

Preamble.

WHEREAS doubts have arisen as to the obligations of Bankers in respect to cross-written drafts: And whereas it would conduce to the convenience of commerce the security of property and the prevention of crime if drawers and holders of drafts on Bankers payable

Appropriation.

payable to bearer or to order on demand were enabled effectually to direct the payment of the same to be made only to or through some Banker :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. In every case where a draft on any Banker, made payable to bearer or to order on demand, bears across its face an addition in writing or stamped letters of the name of a Banker, such draft shall be payable only to or through such Banker.

Drafts crossed with name of a Banker payable to him only.

2. Where such draft bears across its face an addition in writing or stamped letters of the words "Company" or "Bank," in full or abbreviated, such draft shall be payable only to or through some Banker.

Draft crossed with "Company" "Bank" &c. payable to some Banker only.

3. Where such draft bears across its face an addition in writing or stamped letters of the names of two or more Bankers, such draft shall be payable only to either or any one of such Bankers.

Drafts crossed with names of two or more Bankers payable to either or any one of them only. Interpretation.

4. In the construction of this Act the word "Banker" shall include any person or persons or Corporation or Joint Stock or other Company acting as a Banker or Bankers.

5. Provided always that whenever any such addition shall have been made to any such draft as aforesaid, such addition shall to all intents and purposes whatsoever be deemed and taken to be a material part of the draft across the face of which such addition shall have been written.

Addition to draft deemed to be material part thereof.

6. The Short Title of this Act shall be "*The Bankers' Draft Act, 1858.*"

Short Title.

No. LXIII.

AN ACT to appropriate the Ordinary Revenue of New Zealand for the Year ended the Thirtieth June, One thousand eight hundred and fifty-eight.

APPROPRIATION,
No. 1.

[21st August, 1858.]

No. LXIV.

AN ACT to apply a Sum out of the Ordinary Revenue to the Service of the Year ending the Thirtieth day of June, One thousand eight hundred and fifty-nine, and to appropriate a Sum to be raised by "*The New Zealand Loan Act, 1856.*" [21st August, 1858.]

APPROPRIATION
No. 2.

No. LXV.

Native Schools.

No. LXV.

NATIVE SCHOOLS.

AN ACT to grant the Annual Sum of Seven Thousand Pounds, for a term of Seven Years from the Thirtieth day of June, One thousand eight hundred and fifty-eight, in aid of Schools for the Education of the Aboriginal Native Race. [21st August, 1858.]

Preamble.

WHEREAS it is expedient to make provision for a certain term for the maintenance of schools for the education of Natives and Half-castes :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Grant of £7,000 per annum for seven years on Native education.

1. Out of the ordinary revenue of New Zealand there shall be payable to Her Majesty for the period of seven years, commencing from the thirtieth day of June, one thousand eight hundred and fifty-eight, the annual sum of seven thousand pounds, and such annual sum shall be applied, at the discretion of the Governor but subject to the provisions of this Act, in maintaining or contributing towards the maintenance in New Zealand of schools for the education of persons of the aboriginal native race (whether children or adults) and of half-caste children being orphans or the children of indigent persons.

Periodical payments to be made to Managers of schools for the purposes of this Act.

2. The said annual sum shall be expended by periodical grants of money to the respective Managers of Schools aided under this Act, the amount of which grants shall be determined in manner hereinafter mentioned, and such grants shall be applied by the said Managers for the purposes of this Act.

Grants to schools to be proportionate to number of scholars.

3. Every grant of money under this Act in aid of any school shall be calculated at a certain yearly rate per head upon the daily average number of scholars who shall be both boarded and educated thereat, in accordance with the provisions of this Act and to the satisfaction of the Governor, during the period in respect of which such payment is made.

Rate to be allowed per head for the scholars to be fixed by the Governor in Council.

4. The amount of such yearly rate per head shall be from time to time determined by the Governor in Council, but shall be the same for all schools for the time being receiving aid under this Act, and shall at no time exceed the sum of ten pounds nor be less than the sum of five pounds per head.

Where several schools under a general management, the grants for all the schools may be paid to the General Managers.

5. Where several schools shall be under a common superintendence it shall be lawful to pay over the aggregate of the grants in aid of the same to the person or body charged with such superintendence, and to leave it to such person or body to distribute such sums in such proportions as to such person or body may seem desirable amongst the same schools.

Register of attendance of scholars to be kept at schools.

6. A register of the daily number of boarders shall be kept at every school aided under this Act, in such form and shall be certified in such manner as the Governor shall from time to time appoint.

Governor may require proof of attendance.

7. It shall be lawful for the Governor from time to time to make such regulations respecting the proof to be given of the daily average number of scholars duly boarded and educated at such schools as he shall think fit.

Expenditure of grants to be accounted for.

8. Accounts of the expenditure of all grants in aid of schools under this Act shall be forwarded to the Governor annually or oftener, as the Governor shall direct, by the persons to whom such grants are paid;

Native Schools.

paid; and the said accounts shall be vouched or supported in such manner as the Governor shall require.

9. Instruction in the English language and in the ordinary subjects of primary English education, and industrial training, shall form a necessary part of the system to be pursued in every school to be aided under this Act.

Course of instruction at schools.

10. Every school aided under this Act shall be in connection with some religious body, and shall be managed and superintended in such wise as the Governor, in concert with the head or governing body of such religious body, shall from time to time determine upon: Provided that schools in connection with the Church of England, the Society of Wesleyan Methodists, and the Church of Rome, respectively, shall continue to be managed and superintended in the same manner as schools in connection with the said bodies, and lately in receipt of aid from the sum appropriated by the Constitution Act for Native purposes, are managed and superintended at the passing of this Act, unless and until alterations in the mode of such management and superintendence shall be determined upon in manner aforesaid.

Schools in connection with a religious body. Provision as to management.

11. Schools receiving aid under this Act shall be inspected once at least in every year by Inspectors appointed for the purpose by the Governor; and such Inspectors shall report in writing to the Governor upon the attainments and progress of the scholars, the nature of the instruction given in such schools, the food and clothing cleanliness and health of the scholars, the state of the school buildings and land, and generally upon the discipline management and efficiency of the several schools: Provided that no such Inspector shall be at liberty to examine the scholars at any such school upon any religious subject unless specially requested so to do by the Managers.

Schools to be inspected.

12. All accounts of the expenditure of the schools, and all reports made by the Inspectors under this Act, shall be laid before both Houses of the General Assembly within one month after the commencement of the Session next following the receipt of such accounts and reports; or, if the General Assembly be in Session at the time of such receipt, then immediately upon such receipt.

Accounts of the expenditure of grants.

13. In the event of applications being made in any year for grants in respect of a greater number of scholars than the said annual sum will suffice for at the yearly rate per head for the time being in force, schools in connection with the Church of England shall have a preferable claim to forty-nine per centum of the said annual sum; schools in connection with the Society of the Wesleyan Methodists shall have a preferable claim to thirty-two per centum of the same annual sum; and schools in connection with the Church of Rome shall have a preferable claim to the remaining nineteen per centum of the same annual sum.

Applications for aid from religious bodies at present maintaining schools to be preferred to the extent of their present grants.

14. If in any year the whole of the said annual sum hereby granted shall not be appropriated in payments at the said yearly rate per head, it shall be lawful for the Governor to apply the unexpended balance in special grants for school buildings and for defraying other expenses incident to the first establishment of schools, and for improvements upon any school estate, and in prizes and rewards for deserving scholars.

Application of surplus funds.

15. Notwithstanding anything in this Act contained it shall be lawful for the Governor at his discretion, out of the said annual sum hereby granted, to continue until the first day of January, one thousand eight hundred and fifty-nine, to make payments in aid of the schools for Natives and Half-castes now maintained in connection with the said three several religious bodies, at not exceeding the following rates, that is to say,—

Existing grants may be continued until 1st January, 1859.

Surplus Revenues.

In aid of schools in connection with the Church of England, at not exceeding the annual rate of three thousand four hundred and two pounds.

In aid of schools in connection with the Society of Wesleyan Methodists, at not exceeding the annual rate of two thousand two hundred and thirty-six pounds.

In aid of schools in connection with the Church of Rome, at not exceeding the annual rate of one thousand three hundred and sixty-two pounds.

Interpretation of
"Managers."

16. The term "Managers" shall mean the persons for the time being recognized as such by the Governor.

Short Title.

17. The Short Title of this Act shall be "*The Native Schools Act, 1858.*"

No. LXVI.

SURPLUS REVENUES.

AN ACT to provide for the Distribution of the Surplus Ordinary Revenue amongst the several Provinces of New Zealand. [21st August, 1858.]

Preamble.

WHEREAS it is amongst other things enacted by the Constitution Act, section sixty-six, that, after and subject to the payments and appropriations therein mentioned, the surplus revenue arising from taxes duties rates and imposts levied in virtue of any Act of the General Assembly shall be divided among the several Provinces for the time being established in New Zealand in the like proportion as the gross proceeds of the said revenue shall have arisen therein respectively: And whereas it is expedient to alter the said recited provision in manner hereinafter mentioned:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Recited provision of
Constitution Act
repealed.

1. The said recited provision of the sixty-sixth section of the Constitution Act is hereby repealed.

Mode of ascertaining
surplus revenue to
be paid to Provinces.

2. For the purpose of determining the proportion of surplus revenue which shall from time to time be payable to the several Provinces for the time being established in the Colony, the Colonial Treasurer shall keep a debtor and creditor account with every Province in manner herein provided.

What sums Provinces
to be credited with.

3. In such account every Province shall be credited with such portions of the ordinary revenue of the Colony, as defined by "*The Ordinary Revenue Act, 1858,*" or by any other law for the time being in force for defining the ordinary revenue of the Colony, as shall be levied and received within such Province, which revenue so to be credited is hereinafter referred to as the ordinary revenue of such Province.

What sums to be
debited with.

4. Every Province shall be debited in such account, first, with the expenses authorized by law of the maintenance within such Province of the several departments courts offices and services of the General Government specified in the Schedule, except as in the Schedule is excepted; secondly, with a sum which shall bear the same proportion to the aggregate amount of the other expenses authorized by law of the General Government and the general charges on the revenue of the Colony as the ordinary revenue of such Province shall bear to the ordinary

Land Revenue Appropriation.

ordinary revenue of the Colony; and thirdly, with all such other sums as by law are or may be made a special charge against the ordinary revenue of such Province.

5. If any portion of the ordinary revenue shall be received, or any part of the cost of the departments and services specified in the Schedule, except as therein is excepted, shall be paid, in respect of more than one Province, such an equitable apportionment thereof shall be made between the several Provinces interested as the Governor in Council shall from time to time direct.

Cases where more than one Province interested.

6. The surplus ordinary revenue payable to each of the several Provinces of the Colony shall be the balance after deducting the amounts so to be debited from the amount so to be credited in respect of each Province as aforesaid, and such surplus revenue shall be paid to the respective Treasurers of such Provinces for the public uses thereof to be appropriated by the respective Provincial Councils.

What amount payable to each Province.

7. For the purposes of this Act so much only of the interest and sinking fund payable under "*The New Zealand Loan Act, 1856*," shall be deemed a general charge on the revenue of the Colony as shall not by any law for the time being in force be made a charge upon the Provincial revenue of any particular Province.

What part of loan of £500,000 shall be deemed a general charge.

8. This Act shall be deemed to have come into operation on the first day of July, one thousand eight hundred and fifty-eight.

Commencement of Act.

9. The Short Title of this Act shall be "*The Surplus Revenues Act, 1858*."

Short Title.

SCHEDULE.

1. Supreme Court, except the salaries of the Judges and the expenses of the Circuit Courts thereof.
2. Courts of Justice of inferior jurisdiction.
3. Resident Magistrates and other Justices of the Peace.
4. Customs.
5. Postal service, except the cost of carriage of foreign and inter-provincial mails.
6. Registrars of Marriages.
7. Registrars of Births, Deaths, and Marriages.
8. Sheriffs.
9. Coroners.

No. LXVII.

AN ACT to appropriate the Revenue arising from the Disposal of the Waste Lands of the Crown in New Zealand. [21st August, 1858.]

LAND REVENUE APPROPRIATION.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. All the revenue and receipts which have arisen from the sale letting disposal and occupation of the waste lands of the Crown from the first day of July, one thousand eight hundred and fifty-six, to the thirty-first day of December, one thousand eight hundred and fifty-seven, inclusive, shall be deemed and taken to have been revenue belonging to the several Provinces of New Zealand in which the same shall respectively have arisen, and to have been subject to the appropriation of the respective Provincial Councils thereof accordingly.

Appropriation of land revenue from the 1st day of July, 1856, to the 31st of December, 1857.

2. All such revenue and receipts as shall have arisen from the said thirty-first day of December, one thousand eight hundred and fifty-seven, until

Appropriation of land revenue from the 31st day of

Land Revenue Appropriation.

December, 1857, to the coming into operation of this Act.

Receivers of Land Revenue to be appointed.

No Crown Grant to issue except upon the certificate of a Land Revenue Receiver.

Appropriation of portion of land revenue towards payment of loan.

One-sixth of the land revenue of Provinces of Auckland, New Plymouth, and Wellington to be expended on purchase of Native lands.

Balance of land revenue to be paid to Provinces.

Not to affect "New Zealand Loan Act, 1856."

Short Title.

until the coming into operation of this Act, shall be disposed of in the same manner as is herein provided in respect of such revenue and receipts as shall hereafter arise.

3. The Governor, in the name and on behalf of Her Majesty, shall from time to time appoint a sufficient number of fit persons throughout the Colony to be Receivers of Land Revenue, and such Receivers in each Province shall be paid out of such revenue arising therein respectively such salaries as may be a reasonable remuneration for their services.

4. All revenue and receipts arising from the sale letting disposal and occupation of the waste lands of the Crown within the Colony shall be paid to such Receivers and to no other persons, and no Crown Grant of any land shall be issued unless and until a Receiver of Land Revenue shall have certified, in a form to be from time to time prescribed by the Governor for that purpose, to the effect that such land has been disposed of in conformity with a law (to be specified in such certificate) for the time being in force for the disposal of the waste lands of the Crown, and that all money then due in respect of such land has been received by him in cash.

5. There shall be paid by the Receivers of Land Revenue to the Colonial Treasurer, out of the gross revenue and receipts arising as aforesaid within the several Provinces of Auckland, Wellington, and New Plymouth, one-sixth part of the said revenue and receipts, to be expended as hereinafter provided.

6. The one-sixth part of the gross land revenue so to be paid out of the land revenue of the several Provinces of Auckland, New Plymouth, and Wellington, shall be expended in the extinguishment of the Native title over lands situate in each of the said Provinces respectively, and for no other purpose whatever; and the said one-sixth shall be payable so long as there shall be lands in the said Provinces respectively over which it shall be deemed desirable that the Native title should be extinguished: Provided always that until any such money shall be required it shall be lawful for the Governor to invest the same, or any part thereof, in such manner and upon such security as he shall think fit for the benefit of the Province in respect of which the same shall be received.

7. After and subject to the payments to be made under the provisions hereinbefore contained, all the revenue arising from the disposal of the waste lands of the Crown in the several Provinces of the Colony shall, in pursuance of warrants to be from time to time granted by the Governor, be paid over by the Receivers of Land Revenue to the respective Treasuries of such Provinces for the public uses thereof, subject to the appropriation of the respective Provincial Councils.

8. Provided always that nothing in this Act contained shall prejudice or interfere with the operation of an Act of the General Assembly, intituled "The New Zealand Loan Act, 1856."

9. The Short Title of this Act shall be "The Land Revenue Appropriation Act, 1858."

*Public Debt Apportionment.***No. LXVIII.**

AN ACT to apportion amongst the Provinces of the Northern Island the Sum of One hundred and eighty thousand pounds to be raised for the Extinguishment of Native Title, and to make the Provincial Revenues of the several Provinces chargeable, in exoneration of the Revenue of the Colony, with specific portions of the Public Debt.

PUBLIC DEBT
APPORTIONMENT.

[21st August, 1858.]

WHEREAS under and by virtue of the Act of Assembly intituled *Preamble.*
“*The New Zealand Loan Act, 1856,*” the general revenue of the Colony is or will become charged with the repayment of the principal sums to be borrowed under the said Act, amounting in the whole to the sum of five hundred thousand pounds, and with interest thereon at the rate of four per centum per annum, and with a further payment at the rate of two per centum per annum on the amount of such principal sums for the purpose of providing a sinking fund for the liquidation of the said debt: And whereas by the said Act it is provided that the money to be borrowed under the authority thereof shall be applied as follows, namely:—First, the sum of two hundred thousand pounds in liquidation and full discharge of the debt then due to the New Zealand Company and towards repayment of such sums as the Province of Auckland should have paid towards liquidation of the said debt. Secondly, any sum not exceeding the sum of one hundred and twenty thousand pounds in payment of any public debt of the Colony which should be due on the first day of January, one thousand eight hundred and fifty-eight. Thirdly, any sum not exceeding the sum of one hundred and eighty thousand pounds for the purpose of extinguishing the right of the aboriginal inhabitants to lands in the Northern Island of New Zealand: And whereas the said sum of two hundred thousand pounds has been fully raised and began to bear interest on the first day of January, one thousand eight hundred and fifty-eight: And whereas it is expedient to provide, as between the several Provinces of the Northern Island, in what proportions the said sum of one hundred and eighty thousand pounds shall be applied for the extinction of the rights of the aboriginal inhabitants to lands within the present limits of the said Provinces respectively: And whereas it is also expedient to provide, as between the Colony and the several Provinces thereof, that the Provincial revenues of the several Provinces shall be chargeable in exoneration of the revenue of the Colony with specific portions of the said sums of one hundred and eighty thousand pounds and two hundred thousand pounds: And whereas, in consideration of the limited extent of land over which the title of the aborigines to lands within the Province of New Plymouth has been extinguished, and on other grounds, it is also expedient to make special provision respecting the charge of such extinguishment within that Province, and to make temporary provision for making good to the same Province the deficiency in its land revenue in any year in which the same shall not amount to the sum of two thousand two hundred pounds: And whereas it is expedient that the sum of nine hundred and eleven pounds eight shillings and ninepence, being the principal money secured by certain
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outstanding debentures issued under an Ordinance of the Lieutenant-Governor of New Zealand and the Legislative Council thereof, Session VII., No. 22, intituled "*An Ordinance to authorize Compensation in Colonial Debentures to be made to certain Claimants to Land in the Colony of New Zealand,*" should be charged against the Province of Auckland in exoneration of the general revenue of the Colony: And whereas, in pursuance of the provisions of "*The New Zealand Loan Act, 1856,*" and of resolutions of both Houses of the General Assembly to the effect that a refund ought to be made to the Province of Auckland of such sums as should have been contributed from its revenues towards liquidation of the New Zealand Company's debt, the sum of thirty-two thousand nine hundred and seventy-three pounds nine shillings and threepence halfpenny, being the balance of the said sum of two hundred thousand pounds remaining after the discharge of the same debt, has been paid or is in course of payment to the Treasurer of the said Province on account of such refund: And whereas after making the said payment of thirty-two thousand nine hundred and seventy-three pounds nine shillings and threepence halfpenny, and after charging against the Province of Auckland the said sum of nine hundred and eleven pounds eight shillings and ninepence, there will remain payable into the Treasury of the said Province on account of the said refund a balance of eleven thousand one hundred and fifty-one pounds ten shillings and one penny halfpenny: And whereas the said balance of the said refund is payable out of moneys raised under "*The New Zealand Debentures Act, 1856,*" but will be ultimately charged against the said sum of one hundred and twenty thousand pounds: And whereas it is expedient that provision be made for relieving the Provincial revenue of the Province of Auckland from any part of the annual charge of such part of the said sum of one hundred and twenty thousand pounds as shall be applied in discharge of the said balance:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Apportionment amongst Provinces of Northern Island of fund for extinguishment of Native title.

1. The sum of one hundred and eighty thousand pounds, part of the said loan of five hundred thousand pounds to be raised under "*The New Zealand Loan Act, 1856,*" shall be applied for the extinguishment of the rights of the aboriginal inhabitants to lands within the present limits of the Provinces next hereinafter mentioned, in the following proportions, that is to say,—Within the Province of Auckland there shall be applied for the purpose aforesaid five-tenths of the said sum of one hundred and eighty thousand pounds; within the Province of Wellington, three-tenths of the said sum; and within the Province of New Plymouth, two-tenths of the said sum.

Sums raised for such extinguishment to be charged against the Provinces for which raised.

2. As between the Colony on the one part and the Provinces of Auckland, Wellington, and New Plymouth respectively on the other part, the principal sums raised from time to time out of the said sum of one hundred and eighty thousand pounds in order to be applied as aforesaid within the limits of any one of the said Provinces, and the annual charge in respect of such principal sums, shall be primarily charged upon the Provincial revenue of such Province in exoneration of the ordinary revenue of the Colony.

New Plymouth to be allowed £20,000 out of fund for extinguishment without charge.

3. Provided always that the Provincial revenue of the Province of New Plymouth shall not be so chargeable until after the sum of twenty thousand pounds in the aggregate shall have been raised in order to be applied as aforesaid within the limits of the said Province, and then shall be chargeable only with the principal of such sums as shall for the time being have been so raised in excess of the sum of twenty

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twenty thousand pounds, and with the annual charge in respect thereof.

4. Commencing on the first day of July, one thousand eight hundred and fifty-eight, and until the said sum of twenty thousand pounds in the aggregate shall have been raised as aforesaid and expended within the limits of the said Province of New Plymouth, there shall be annually payable into the Treasury of the said Province such a sum as, together with the gross proceeds during the year of the sale letting disposal and occupation of the waste lands of the Crown within the said Province, will amount to the sum of two thousand two hundred pounds.

New Plymouth receipts for land sales &c. to be made up to £2,200.

5. As between the Colony on the one part and the Provinces of Nelson, Canterbury, and Otago respectively on the other part, the principal sum of two hundred thousand pounds, part of the sum of five hundred thousand pounds raised under "*The New Zealand Loan Act, 1856,*" and the annual charge in respect thereof, shall on and from the first day of January, one thousand eight hundred and fifty-eight, be primarily charged upon the respective Provincial revenues of the same Provinces, in exoneration of the ordinary revenue of the Colony, in the following proportions, that is to say:—Upon the Provincial revenue of the Province of Nelson the principal sum of forty-five thousand pounds, together with the annual charge in respect thereof; upon the Provincial revenue of the Province of Canterbury the principal sum of seventy-seven thousand five hundred pounds, together with the annual charge in respect thereof; and upon the Provincial revenue of the Province of Otago the principal sum of seventy-seven thousand five hundred pounds, together with the annual charge in respect thereof.

Apportionment amongst Provinces of Southern Island of the charge of £200,000.

6. In order to relieve the Provincial revenue of the Province of Auckland from the annual charge of the balance of eleven thousand one hundred and fifty-one pounds ten shillings and one penny half-penny, payable to the Treasurer of the said Province as aforesaid, the said Province shall, as from the thirtieth day of June, one thousand eight hundred and fifty-eight, be annually credited in account with the Colony with such a sum as will suffice to throw such charge exclusively upon the Provincial revenues of the other Provinces of the Colony.

Auckland relieved from annual charge of balance of refund.

7. In the construction of this Act the expression "Provincial Revenue" shall import the moneys payable under the Acts of Assembly respectively intituled "*The Surplus Revenues Act, 1858,*" and "*The Land Revenue Appropriation Act, 1858,*" into the Treasury of the Province with reference to which such expression is used; and the expression "Annual Charge," used in reference to any principal sum raised under the Act of Assembly intituled "*The New Zealand Loan Act, 1856,*" shall include both the interests thereon and the annual payment of two per cent. for providing a sinking fund for the liquidation thereof.

Interpretation of terms.

8. The Short Title of this Act shall be "*The Public Debt Apportionment Act, 1858.*"

Short Title.

Auckland Improvement.

No. LXIX.

AUCKLAND
IMPROVEMENT.

AN ACT to enable the Superintendent of the Province of Auckland to Purchase certain Lands in the Electoral District of the City of Auckland for the purpose of improving the said City, and for that purpose to Borrow Money upon the Security of certain Lands in the said City.

[21st August, 1858.]

Preamble.

WHEREAS it is advisable to enable the Superintendent of the Province of Auckland to purchase certain lands in the City of Auckland for the purpose of improving the said City: And whereas by an Act of the Imperial Parliament passed in the eighth year of the reign of Her Majesty, intituled "*The Land Clauses Consolidation Act*," it was enacted that, for the purpose of incorporating the provisions of the said Act in any Act of Parliament to be thereafter passed authorizing the taking of lands for undertakings of a public nature, it should be sufficient in any such Act to enact that the clauses of the said recited Act with respect to the matter so proposed to be incorporated (describing such matter as it is described in the said recited Act in the words introductory to the enactment with respect to such matter) should be incorporated with such Act, and thereupon all the clauses and provisions of the said recited Act with respect to the matter so incorporated should, save so far as they might be expressly varied or excepted by such Act, form part of such Act, and such Act should be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such Act should relate:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Superintendent may take possession of certain lands and dispose of same.

1. It shall be lawful for the Superintendent of the Province of Auckland, upon giving notice to the owners and occupiers of all or any part of the lands described in the Schedule to this Act annexed, in manner in the said recited Act appointed for the service of notices, to enter upon and take possession of the said lands, and upon payment of compensation as hereinafter provided the said lands shall vest in the said Superintendent, in fee simple, subject to being laid out and disposed of in such manner as the Superintendent and Provincial Council of the said Province shall by Act direct, and subject to the payment of compensation to all parties interested in the said lands or injuriously affected by the taking thereof, in manner provided by the said recited Act and by this Act: Provided always that the notice hereby required to be given shall be so given within four months from the passing of this Act: Provided always that in case notice shall not be given as aforesaid to the owners or occupiers of any of the lands described in the Schedule hereto annexed as allotments numbered four, five, thirty-nine, and forty, there shall be paid by the said Superintendent to the owners and occupiers to whom notice shall not be given, reasonable compensation for the injury (if any) sustained by them by reason of the passing of this Act: Provided also that if the said notices hereinbefore required to be given are not given within the time specified, or in the event of the said notices being duly given and the Provincial Council of the said Province shall fail or neglect to

carry

Auckland Improvement.

carry out the provisions of this Act, then and in that case the several owners and occupiers of the lands described in the Schedule to this Act as allotments numbered four, five, thirty-nine, and forty shall be entitled to compensation from the seventh day of July last for the injury sustained and inconvenience suffered by the passing of this Act, and the amount of such compensation in each case shall be ascertained and settled as provided by the before recited "*Land Clauses Consolidation Act*," such compensation to be a charge on the Provincial revenues of the Province of Auckland.

2. The compensation payable under this Act shall be paid within four months from the time when the amount thereof shall have been finally determined upon, and every amount payable under any verdict or award under the provisions of this Act shall bear interest at such rate not exceeding ten per centum per annum as shall be fixed by such award or verdict.

Compensation to be paid within four months.

3. Such of the provisions of the said recited Act as are applicable to the circumstances of the case, subject to the interpretation thereof hereinafter contained, shall be deemed to be incorporated in this Act.

Certain provisions of recited Act deemed to be incorporated.

4. For the purpose of enabling the said Superintendent to pay for the lands hereby authorized to be taken, it shall be lawful for the said Superintendent to raise, by the sale of debentures, any sum or sums of money for that purpose provided that the total sum raised shall not exceed forty thousand pounds.

Superintendent may raise money for the purchase of lands.

5. The sale of debentures under this Act shall be effected by means of public tender and not otherwise.

Debentures to be sold by public tender.

6. All moneys which may be received by the said Superintendent by the resale of any land hereby authorized to be taken by him shall be applied towards the repayment of any money borrowed under the authority of this Act.

Proceeds of resale to be applied to liquidation of sums borrowed.

7. Every such debenture shall be a first charge upon all lands heretofore granted to the Superintendent of the Province of Auckland, upon trust, for the improvement and benefit of the City of Auckland, and it shall be lawful for the holder of every such debenture, in case the money advanced upon the same shall not be paid at the time fixed in the said debenture for the payment thereof, or in case any interest due in respect thereof shall be in arrear for the space of six months, to sell the said land or any portion thereof either altogether or in lots and either by public auction or private contract or by both of such means, and subject to such conditions as he may think fit, and with power to buy in and resell the same without being liable for any loss occasioned thereby; and upon any such sale of the said lands or any portion thereof the said Superintendent shall convey such lands which shall be so sold as aforesaid to the purchasers thereof, and the receipts in writing of the holders of every such debenture shall be a sufficient discharge to any purchaser of all or any part of such lands for so much of his purchase money as may be thereby expressed to be received; the moneys to arise from such sale as aforesaid shall be applied, first, in payment of the expenses attending any such sale or otherwise incurred in the execution of the power of sale hereby given; secondly, in repayment of the principal money and interest remaining due on any and every such debenture, together with any costs and expenses occasioned by the non-payment thereof. The surplus (if any) shall be paid to the Treasurer of the said Province, and shall be subject to be appropriated by the Provincial Council thereof: Provided that no power hereinbefore given to any such holder of such debentures shall extend to authorize any such holder of such debentures to sell any portion of the said lands hereinbefore mentioned dedicated or hereafter to be dedicated for public purposes as a street road or thoroughfare.

Debentures to be a charge on city endowment lands.

New Provinces.

Superintendent to be
deemed Corporation
sole.

Interpretation clause.

8. For the purposes of this Act the Superintendent of the Province of Auckland and his successors shall be deemed a Corporation sole.

9. The following words and expressions shall have the several meanings hereby assigned to them :

“ Promoters of an undertaking ” shall be construed to mean the Superintendent of the Province of Auckland.

Any special Act shall include this present Act.

“ Clerk of the Peace ” shall be construed to mean the Registrar of the Supreme Court.

“ Superior Court ” shall mean the Supreme Court.

In cases wherein any money is directed to be deposited in the Bank, such money shall be paid deposited or invested in such manner as the Supreme Court or any Judge thereof shall by order to be made at the instance of the Superintendent direct.

Short Title.

10. The Short Title of this Act shall be “ *The Auckland Improvement Act, 1858.* ”

SCHEDULE.

Allotments Nos. 4 and 5 of Section No. 4 of the City of Auckland.

Allotment No. 38 of Section No. 4 of the City of Auckland.

So much of allotments Nos. 40, 39, 37, 36, 35, 34, 33, and 32 of Section No. 4 of the City of Auckland as shall be sufficient to carry High Street at a width of not exceeding sixty feet into Victoria Street.

All those portions of allotments Nos. 26, 27, and 28, situate to the north-west of a line extended from the south-eastern corner of O'Connell Street to the point in the north-eastern boundary of the said allotment No. 28, opposite the south-east corner of the said allotment No. 38.

So much of allotments Nos. 6, 7, 8, and 9 of the said Section as will be sufficient to carry Chancery Street at a width of not exceeding forty feet up to the western corner of Field's Lane, as at present laid out.

So much of the allotment No. 9 as will be sufficient to widen the said lane from Chancery Street to Shortland Street to a width of not exceeding forty feet.

No. LXX.

NEW PROVINCES.

AN ACT to provide for the Establishment of New Provinces in New Zealand. [21st August, 1858.]

Preamble.

WHEREAS it is expedient to make better provision for local self-government, and for that purpose to provide for the establishment of new Provinces in certain cases :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Establishment of
new Provinces.

1. Whenever not less than three-fifths of the registered electors entitled to vote in the election of Members of the House of Representatives, resident within any district whereof the area shall not be less than five hundred thousand acres, shall petition the Governor in Council to establish a new Province comprising such district, the Governor in Council, by Order published in the New Zealand Government *Gazette*, shall with all convenient speed establish such Province accordingly, subject nevertheless to the fulfilment of the following conditions, that is to say,—

(1.) Such petition shall be signed by at least one hundred and fifty registered electors exclusive of persons of the Native race,

New Provinces.

race, and shall contain a sufficient description of the district proposed to be comprised in the new Province.

- (2.) There shall be, at the date of the Order in Council establishing any Province under this Act, a population *bonâ fide* resident within such district, within an area of not exceeding one million acres, of at least one thousand souls, exclusive of aboriginal natives and of officers non-commissioned officers and privates of Her Majesty's troops serving in the Colony.
- (3.) There shall be, at the date of the said Order in Council, within the limits of such district, a town which shall be constituted the capital of the Province, and a port or ports from which the greater part in value of the exported produce of the district shall be shipped coastwise or for exportation beyond seas, or into which the greater part of the imported commodities consumed within such district shall be brought coastwise or imported from beyond seas.
- (4.) No point of the boundary of any such district shall be within sixty miles measured in a right line of the capital town of any Province already or hereafter to be established in New Zealand, except the Province of New Plymouth, nor within thirty-five miles of the Town of New Plymouth: Provided always that this condition shall not apply to any boundary line dividing territory drained by rivers falling into Blind Bay from adjacent territory to the eastward thereof.
- (5.) The area of any such district shall not exceed three millions of acres. And every Province established under this Act shall, subject to the provisions of this Act, be deemed to be a Province established under the Constitution Act.
- (6.) No such district shall comprise any part of more than one Province.

2. Provided always that the Governor in Council shall define the limits of every such new Province by the Order in Council establishing the same, and in so doing may at his discretion include territory not within the district described in the petition, or exclude territory comprised in such district, or may both include and exclude territory as aforesaid: Provided also that the limits of every new Province shall be so fixed as that if a description of the territory therein comprised had been substituted in the petition upon which such order shall be made in lieu of the description of the district actually described in such petition, all the aforesaid conditions would, upon the presentation of such petition, have been fulfilled in respect of such territory.

Definition of limits of new Provinces.

3. Every such Order in Council shall take effect at such time not exceeding six months from the date thereof as shall be therein for that purpose expressed.

Date of effect of Order in Council.

4. All laws in force within any Province of which any new Province established under this Act may have formed a part shall, subject to the provisions of this Act and to the alteration or repeal of such laws by the Provincial Legislature of such new Province, continue in force within such new Province so far as the same are applicable: Provided always that until such alteration or repeal all powers by any such laws vested in the Superintendent of such original Province, either solely or with the advice or the advice and consent of the Executive Council of such original Province, shall within such new Province become vested in the Superintendent thereof.

Laws of original Province to be in force in new Province.

5. The

New Provinces.

Number of Members
of Provincial
Councils.

5. The Provincial Council of every Province established under this Act shall in the first instance consist of such number of Members not less than nine as the Governor shall by Proclamation direct and appoint.

Governor to appoint
electoral districts &c.

6. It shall be lawful for the Governor, by Proclamation, to constitute within every Province established under this Act convenient electoral districts for the election of Members of the Provincial Council, and to appoint and declare the number of Members to be elected for each such district for the Provincial Council, and to make provision for the formation of the first Electoral Rolls for the election of such Members; and in determining the number and extent of such electoral districts, and the number of Members to be elected for each district, regard shall be had to the number of electors within the same, so that the number of Members to be assigned to any one district may bear to the whole number of the Members of the said Council as nearly as may be the same proportion as the number of electors within such district shall bear to the whole number of electors within the limits of the Province.

Provision in respect
of electoral districts
of original Province
wholly or partially
comprised in new
Province.

7. Where any Province established under this Act shall comprise the whole of any electoral district returning a Member or Members to the Provincial Council of the Province of which such new Province may have formed a part, the sitting Member or Members for such district shall forthwith cease to sit in the Provincial Council of such original Province, and such district shall cease to return any Member to such Provincial Council: And where any Province so established shall comprise a part only of any such electoral district, the seat or seats of the sitting Member or Members for such district shall become vacant, and the remainder of such electoral district shall become a complete electoral district in lieu of the original electoral district, and shall return the same number of Members; and the Governor shall cause a new Electoral Roll to be made out for the same, and shall cause to be placed thereon the names of all such registered electors of the original electoral district as shall possess a qualification within the new electoral district; and an election of a Member or Members (as the case may require) to sit for such new electoral district in the Provincial Council of the original Province shall be held with all convenient speed: Provided that nothing in this Act contained shall prevent the Superintendent and Provincial Council of the original Province from altering the boundaries of such new electoral district, or the number of Members to be returned by it to the Provincial Council.

When first writs to
issue.

8. The Governor shall cause the first writs for the election of the Members of the Provincial Council of every Province to be established under this Act to be issued at some time not later than six months next after the publication of the Order in Council establishing such Province.

Election of Super-
intendents.

9. The Superintendents of Provinces established under this Act shall be elected as hereinafter provided.

Provincial Council to
elect Superintendent.

10. Within one month after the election of the first and every successive Provincial Council of any Province established under this Act, the Council shall meet at a convenient time and place to be appointed for that purpose by the Principal Returning Officer of the Province, whereof seven days' previous notice shall be given in some newspaper published within the Province, or by keeping such notice posted for not less than seven days in some conspicuous place within the Province, and after electing their Speaker (which election shall be at once valid and effectual) shall, by an absolute majority, elect some person, qualified to vote in the election of a Member of the said Council, to be Superintendent of the Province: Provided that in the event of the election of a Member of the Provincial Council to the office

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office of Superintendent the seat in the said Council of the person so elected shall be deemed vacant: Provided also that whenever the office of Superintendent shall become vacant in any of the cases provided for by the Constitution Act, a new election shall in like manner take place on a day to be fixed by the Speaker, and to be notified as aforesaid, not being less than ten days nor more than fifteen days after the vacancy shall have been notified by the Governor to the Speaker.

11. The Superintendent of any Province established under this Act shall be capable of being elected and sitting as a Member of the Provincial Council and as the Speaker thereof, and accordingly, if a Member of any such Council shall be elected Superintendent, and his seat in the Council shall be thereby vacated, he shall nevertheless be eligible for re-election.

Superintendent eligible for seat in Provincial Council.

12. It shall not be lawful for the Superintendent of any Province established under this Act to assent on behalf of the Governor to any Bill passed by the Provincial Council of such Province, but only to declare, according to his discretion and subject to such instructions as may from time to time be given him by the Governor, either that he withholds the assent of the Governor or that he reserves such Bill for the signification of the Governor's pleasure thereon.

Superintendent not to assent to Bills on behalf of Governor.

13. It shall be lawful for the Governor, before declaring his pleasure in regard to any such Bill, to make such amendments therein as he may think needful or expedient, and to return such Bill with the amendments to the Superintendent, whose duty it shall be to transmit the Bill and amendments to the Provincial Council, and the consideration of such amendments by such Council shall take place in such convenient manner as the Council shall think fit; and on the Bill being again presented to the Governor, either amended or not, it shall be lawful for the Governor at any time within three months after he shall have received the same to signify his pleasure thereon.

Governor may return Bills with amendments.

14. All the revenues arising from taxes duties rates and imposts levied received or otherwise howsoever arising within any Province established under this Act, which at the time of the establishment of such Province shall be subject to the appropriation of the Provincial Council of any Province of which such new Province shall have formed a part, shall, from and after the establishment of such new Province, be payable and paid to the Treasurer thereof for the public uses thereof, and shall be subject to the appropriation of the Provincial Council of such new Province.

Provincial revenues of original Province levied within new Province to be subject to appropriation of Provincial Council of new Province.

15. Every Province established under this Act shall contribute from its revenues to the payment of the interest and sinking fund on such part of the loan raised under the Act of Assembly intituled "*The New Zealand Loan Act, 1856*," as shall be a special charge upon the revenues of the Province of which such district shall have formed a part, and also to the payment of the interest on the amount, at the time of the establishment of such new Province, of the permanent debt of such original Province, rateably according to the proportion which the annual aggregate of the sums payable to the Treasurer of such new Province under the Acts of Assembly respectively intituled "*The Surplus Revenues Act, 1858*," and "*The Land Revenue Appropriation Act, 1858*," shall bear to the annual aggregate of the sums payable under the same Acts to the Treasurer of such original Province, the year being reckoned as commencing on the first day of July.

Apportionment between original Province and new Province of the charge of the public debt of the original Province.

16. Upon the establishment of any Province under this Act, all estate and interest of the Superintendent of any Province of which such new Province shall have formed a part in any lands theretofore

Public reserves granted to Superintendent of original Province to vest in

Civil List.

Superintendent of new Province.

granted to the Superintendent of such original Province, under the Act of Assembly intituled "*The Public Reserves Act, 1854*," shall forthwith vest in the Superintendent of such new Province, and shall be deemed and taken to have been granted to him and his successors under the provisions of the said "*Public Reserves Act, 1854*."

Short Title.

17. The Short Title of this Act shall be "*The New Provinces Act, 1858*."

No. LXXI.

CIVIL LIST.

AN ACT to alter the Sums granted to Her Majesty by the Constitution Act for Civil and Judicial Services.

[21st August, 1858.]

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, July 25, 1859.]

Preamble.

WHEREAS by an Act of the Imperial Parliament, passed in the Session held in the fifteenth and sixteenth years of the reign of Her Majesty Queen Victoria, intituled "*An Act to grant a Representative Constitution to the Colony of New Zealand*," it is enacted that there shall be payable to Her Majesty every year, out of the revenue arising from taxes duties rates and imposts and from the disposal of the waste lands of the Crown in New Zealand, the several sums mentioned in the Schedule to the said Act annexed: And whereas it is by the said Act further enacted that it shall be lawful for the General Assembly of New Zealand, by any Act or Acts, to alter all or any of the sums mentioned in the said Schedule, subject nevertheless to the provisions in reference thereto in the said Act contained: And whereas it is expedient that the sums mentioned in the said Schedule should be altered as hereinafter provided:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Civil List payable to Her Majesty.

1. There shall be payable to Her Majesty every year, out of the revenue arising from taxes duties rates and imposts levied under any Act or Acts of the General Assembly, the several sums mentioned in the Schedule to this Act, instead and in lieu of the sums mentioned in the Schedule to the said recited Act of Parliament.

When this Act to take effect.

2. This Act shall be deemed to take effect on and after the first day of July, one thousand eight hundred and fifty-eight.

"Governor's Salary Act, 1856," repealed.

3. An Act passed by the General Assembly of New Zealand, intituled "*The Governor's Salary Act, 1856*," is hereby repealed.

Short Title.

4. The Short Title of this Act shall be "*The Civil List Act, 1858*."

SCHEDULE.

	£
Governor	3,500
Governor's Private Secretary	300
Chief Justice	1,400
First Puisne Judge	1,000
Second Puisne Judge	1,000
Establishment of General Government... ..	4,800
Native Purposes	7,000
	£19,000

Customs Duties.

No. LXXII.

AN ACT to alter the Duties of Customs.

CUSTOMS DUTIES.

[21st August, 1858.]

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, July 18, 1859.]

WHEREAS it is expedient to alter the duties of Customs payable on the importation of goods wares and merchandise into the Colony of New Zealand :

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The duties of Customs now chargeable on the importations of all goods wares and merchandise shall cease and determine, and in lieu thereof the following duties shall be charged on all such goods wares and merchandise imported into the Colony of New Zealand or cleared from any warehouse for home consumption, viz. :—

Duties chargeable to cease and other duties to be charged in lieu thereof.

	s.	d.
1. Ale, beer, cider, and perry, in wood, the gallon ...	0	6
Ale, beer, cider, and perry, in bottle, the gallon ...	1	0
2. Cigars and snuff, the lb. ...	3	0
3. Coffee, chicory, cocoa, and chocolate, the lb. ...	0	3
4. Cutlery, hardware, platedware, holloware, and ironmongery of all sorts, and candles and soap of all sorts, the cwt. ...	3	0
5. Firearms of every description, each ...	5	0
6. Gunpowder, the lb. ...	0	3
7. Manufactures of silk, cotton, linen, and woollen, and all articles manufactured therefrom, drapery, haberdashery, hosiery, millinery, furs, hats, boots, shoes, confectionery, bottled fruits, dried fruits, mustard, olive oil, pickles, preserves, sauces, spices, and oilman's stores of all kinds, (measuring outside the packages), the cubic foot ...	4	0
8. Spirits and strong waters of every kind, sweetened or otherwise, of any strength not exceeding the strength of proof by Syke's hydrometer, and so on in proportion for any greater strength than the strength of proof, the gallon ...	9	0
9. Sugar, raw and refined, of all kinds, and treacle and molasses, the lb. ...	0	1
10. Tea, the lb. ...	0	4
11. Tobacco, the lb. ...	1	6
12. Wine, in wood and bottle, containing less than 25 per cent. of alcohol of a specific gravity of .825 at the temperature of 60 degrees Fahrenheit's thermometer, the gallon ...	3	0
13. Anchors and chains, and rod, bolt, bar, sheet, hoop, and pig iron and nails, sailcloth, cordage, twine, cottonyarn, bags, sacks and woolpacks, spirits of tar and turpentine, tobacco for sheepwash, nuts of all kinds, powder fit only for blasting purposes, and all unenumerated goods wares and merchandise ...	Free.	

2. A drawback of the whole of such duties shall be allowed for wines intended for the consumption of the officers of Her Majesty's troops in the Colony of New Zealand, and of the officers of Her Majesty's Navy serving on board any of Her Majesty's ships in the seas adjoining thereto, or such wines may be landed on first importation or delivered out of bond free of duty, subject in all cases to such regulations as the Governor shall from time to time prescribe : Provided always if any such wines shall be subsequently sold in the said

Drawback on wines for the consumption of military and naval officers.

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said Colony, except for the use or consumption of any of Her Majesty's military or naval officers as aforesaid, the same shall be forfeited and liable to seizure accordingly.

Duties to be charged according to standard Imperial weights and measures.

3. All duties of Customs under this Act shall be charged and paid according to the standard Imperial weights and measures, and where such duties are charged according to any specified quantity weight or size, the same shall be chargeable on any greater or less quantity weight or size.

How to be levied and paid.

4. The duties of Customs imposed by this Act shall be raised levied collected and paid under the provisions of "*The Customs Regulation Act, 1858,*" and subject also to all such provisions and regulations as may for the time being be in force for the collection management and receipt of the duties of import in the Colony of New Zealand.

Commencement of Act.

5. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of her Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor.

Short Title.

6. The Short Title of this Act shall be "*The Customs Duties Act, 1858.*"

No. LXXIII.

AN ACT for granting a Duty upon Gold.

[19th August, 1858.]

GOLD DUTY.

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, July 25, 1859.]

Preamble.

WHEREAS it is expedient to levy a duty upon gold exported from New Zealand :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Interpretation of word "Gold."

1. For the purposes of this Act the term "Gold" shall mean and include gold in its natural state, whether mixed with any other substance or not, gold dust, and all other gold, whether wrought or unwrought, (except coined gold issued from the Mint at London, or of the branch thereof at Sydney,) or of any Foreign State, articles of plate jewellery or ornament actually worn upon the person or made elsewhere than in the Colony.

Duty upon gold.

2. From and after the day on which this Act shall come into operation there shall be levied collected and paid to Her Majesty, her heirs and successors, for the public uses of the Colony, and in support of the Government thereof, the following duty upon gold, that is to say,—At the Customs previous to exportation from New Zealand the sum of two shillings and sixpence upon every ounce troy weight of such gold, and so on in proportion for any greater or less quantity than an ounce : Provided always that until the next Session of the General Assembly it shall be lawful for the Governor, by an Order in Council, to declare that a lower rate of duty than two shillings and sixpence shall be collected on each ounce ; and also from time to time to suspend the collection of such duty whenever to the Governor in Council it shall seem meet.

Gold revenue what to be deemed.

3. The revenue arising from such duty shall not be deemed to be Customs revenue within the meaning of "*The Ordinary Revenue Act, 1858,*" but it shall be lawful for the Governor to defray thereout all the

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the expenses authorized for the government of the gold fields, and the surplus, if any, shall be deemed and taken to be revenue arising from the disposal and occupation of the waste lands of the Crown within the Province in which such gold fields are situated.

4. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of the Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor of the Colony. Commencement of Act.

5. The Short Title of this Act shall be "*The Gold Duty Act*," Short Title.
1858."

No. LXXIV.

AN ACT to make provision for the Management of Gold
Fields in the Colony of New Zealand.

GOLD FIELDS.

[19th August, 1858.]

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, 25th July, 1859.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. In the construction and for the purposes of this Act the following terms shall have the respective meanings hereby assigned to them, if such meanings be not inconsistent with the context or subject matter thereof, that is to say,— Interpretation.

The verb "Mine" shall be understood to include any mode or method of working whatsoever, whereby the soil or earth or any rock or stone may be disturbed removed carted carried washed sifted smelted refined crushed or otherwise dealt with for the purpose of obtaining gold, whether the same may have been previously disturbed or not.

The word "Gold" shall signify as well any gold as any earth clay quartz stone mineral or other substance containing gold or having gold mixed therein or set apart for the purpose of extracting gold therefrom.

The words "Gold Mine" and "Gold Field" shall mean that part of the waste lands of the Crown in the Colony on which any persons are or may be actually engaged in mining for gold, and which shall be proclaimed to be gold fields as hereinafter provided.

The word "Claim" shall mean the portion of land which each person or party shall be entitled to occupy or to occupy and mine in under any miner's right license or lease to be issued under the provisions of this Act.

The expression "Holder of a Miner's Right" or "Holder of a Business License" shall mean the person in whose favour the same respectively shall have been issued.

The word "Business" shall mean and include any profession trade calling or occupation (except mining), and any vending or disposing of any goods merchandise or chattels, whether by hawking or in any other manner.

The words "Authorized Persons" shall mean and include all holders of any license or lease, ministers of religion and schoolmasters, and any warden or commissioner for the gold
fields,

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fields, or constable or other person employed exclusively in the Government service, and the servants of such persons respectively there residing with and in the actual employment of any of them, and all females and all children under the age of fourteen years who shall only reside and not mine for gold upon any gold field.

OCCUPATION OF GOLD FIELDS.

Governor to proclaim district to be gold fields.

2. It shall be lawful for the Governor from time to time, by Proclamation, to constitute and appoint any portion of the Colony to be a gold field under the provisions of this Act, and the limits of such gold field from time to time to alter as occasion may require, and also, if he shall see fit, to revoke the Proclamation by which such gold field shall have been constituted; and whenever any district shall have been proclaimed a gold field, the same shall be subject to the provisions of this Act.

Miners' rights to be issued.

3. It shall be lawful for the Governor to cause documents to be issued each of which shall be called "The Miner's Right," and shall be granted to any person applying for the same upon payment of the sum of one pound, and every such document shall be dated on the day and at the place of issuing the same, and shall be in force for the period of twelve months from the date thereof, and shall contain the christian and surname of the person in whose favour the same shall be issued.

Effect of miners' rights.

4. Every miner's right to be issued as aforesaid shall during the continuance thereof, subject to the provisions of this Act and to the rules and regulations to be made as herein provided, authorize the holder to mine for gold upon and to occupy for mining purposes and for residence (except as against Her Majesty) so much of the waste lands of the Crown comprised in any gold field as may be prescribed by such rules and regulations.

Business licenses may be issued.

5. It shall be lawful for the Governor in Council, subject to the provisions of this Act and to such rules and regulations as he may think fit to make for the purpose, to cause licenses to be issued, which shall be in force for the period of twelve months from the date thereof respectively, authorizing the holder to occupy waste lands of the Crown for the purpose of carrying on business upon any gold fields, and the fees to be paid for every such license shall be five pounds: Provided always that no person shall be entitled under this Act, or any rules or regulations to be made in pursuance thereof, to occupy except under a lease more than twenty perches of land.

Governor may license for the sale of spirits &c.

6. It shall be lawful for the Governor to license any person to sell or to license any house for the sale of spirituous liquors wine ale beer or porter, in any quantity in any gold field at such times in such manner and upon such terms and conditions and upon payment of such fees as the Governor may think fit; and no license for the sale of any spirituous liquor wine ale beer or porter in any quantity within any gold field or within three miles from the boundaries thereof shall be issued except under the authority of this Act; and every person who shall sell any spirituous liquor wine ale beer or porter, in any gold field or within three miles of any boundary thereof except he be licensed for the purpose under this Act, shall forfeit and pay any sum not exceeding fifty pounds.

Mining leases may be granted.

7. It shall be lawful for the Governor in Council to demise to any person, for any term not exceeding fifteen years from the making of the lease, any auriferous Crown land for mining purposes, and also to grant water-rights and other easements for such purposes, and to fix the amount to be paid by way of rent or royalty for the same respectively: Provided always that no such lease shall be granted until the expiration

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expiration of three months after notice of the intention to grant the same shall have been published in the *Government Gazette* and at least one of the local newspapers best calculated, in the opinion of the Governor, to give publicity to the same amongst the persons specially interested.

8. It shall be lawful for the Governor in Council from time to time to make such regulations, not being contrary to the provisions of this Act, as he shall think fit for regulating the granting of leases for mining purposes, and the terms and conditions on which such leases shall be granted, and such regulations from time to time to alter or abolish.

Governor in Council may make regulations for granting leases.

9. Nothing hereinbefore contained shall authorize any person to occupy as aforesaid any Crown land which shall have been exempted by the Governor from the operations of mining, or which shall have been applied to any public use or purpose, or be lawfully and *bonâ fide* used as a garden or orchard, or for any race or dam, or for any house outhouse shed or other building, or to cut or remove from such Crown land any trees growing thereon, or to cut or construct any race or dam through or upon any such Crown land; but nevertheless it shall be lawful for the Governor to authorize the holders of miners' rights to occupy under such rights and also to cut and construct races and dams for the purposes aforesaid through or upon any Crown lands which may have been so exempted or applied as aforesaid, subject to such conditions and restrictions as the Governor shall impose.

Certain lands exempted.

10. When any gold mine or gold field shall have been discovered upon any Crown lands then under lease or license for pastoral purposes, it shall be lawful for the Governor to suspend the said lease or license so far only as may be necessary for the accommodation of the horses and cattle required for the subsistence and convenience of the persons holding the miner's right and licenses and leases under this Act, and for the supply of water to the said gold field, and otherwise for effectually working the said gold mine or gold field, and thereupon to return or remit as the case may require such portion of the rent of the lessee of the said land as may be thought reasonable and just, and also to pay him out of the revenue derived from the gold mines or gold fields of the Colony full compensation for loss if any be sustained by him by reason of such suspension, and such compensation shall be ascertained by the appointment of two indifferent persons, one to be chosen by the Governor and the other by the holder of such lease or license, or by an umpire to be chosen by such two appraisers.

Power to cancel pastoral licenses extending over gold fields.

11. It shall also be lawful for the Governor in Council, subject to the provisions of this Act, to make rules and regulations relating to the terms and conditions upon which miners' rights shall be granted, and the forms of such miners' rights and of licenses and leases to be issued under this Act, and the modes times and places of the issue thereof, and also touching the extent and position of any claim and the conditions under which it shall be worked held assigned or forfeited, the application and use of machinery, and all such other rules and regulations relating to mining under miners' rights or otherwise in any gold field as he may deem most beneficial.

Governor in Council may make rules regulating mining in gold fields.

LOCAL LEGISLATION.

12. Upon petition of not less than one hundred persons holding miners' rights or leases under this Act at any gold field, and having held such rights or leases for not less than three calendar months, it shall be lawful for the Governor in Council, by Proclamation, to declare such gold field or any part thereof, containing not less than one hundred persons holding miners' rights or leases, to be a district for the purpose

District may be proclaimed for purpose of forming Mining Boards.

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purpose of forming a Mining Board, with the powers and authority hereinafter described, and to declare the name of such district and define the limits thereof, and from time to time to alter such limits and make others, and to revoke such Proclamation if he shall think fit; and after the publication of any such Proclamation, the locality so described shall be and become a mining district for the purposes aforesaid.

Governor, by Order in Council, to regulate elections of members of Mining Boards.

13. The Governor, by Order in Council, shall from time to time prescribe what shall be the number of members of each such Mining Board, what qualification shall be required to render them eligible, who shall act as Returning Officer, when where and in what manner the elections of such members shall be conducted, in what manner erroneous returns shall be corrected, for what period such members shall be elected, when and in what manner vacancies in any Mining Board shall be created and how the same shall be filled up, and generally shall make provision for insuring the orderly effective and impartial conduct of the elections of members of such Mining Board.

Powers of Mining Boards.

14. Every Mining Board shall, subject to the provisions of this Act, have power to frame rules and regulations touching their own proceedings and for regulating the quantity and form of land which may be occupied under any miners' rights or business licenses, and the conditions under and mode in which such land shall be worked assigned or forfeited, and all such other rules and regulations relating to mining under miners' rights and applicable to the mining district for which they may be elected as they shall deem most beneficial: Provided always that when any Mining Board shall be established in any mining district, the power of the Governor to make rules and regulations for such district for any of the purposes mentioned in this section shall cease: Provided also that no such rule shall be in force until it shall have received the assent of the Governor and been published in the *New Zealand Gazette* and at least one of the local newspapers best calculated, in the opinion of the Governor, to give publicity to the same amongst the persons specially interested.

ADMINISTRATION OF JUSTICE.

Governor to constitute Wardens' Courts.

15. It shall be lawful for the Governor, by Order in Council, from time to time to constitute for any gold field or for any part thereof, Wardens' Courts for the administration of justice therein, and to appoint Wardens as Judges of such Courts, with power to act alone or with assessors or juries, and in such manner and to exercise all or any of the powers hereinafter mentioned as the Governor shall think fit to direct.

General powers of Courts.

16. It shall be lawful for every such Court, subject to the provisions of this Act, to hear and determine all complaints respecting boundaries of claims, or respecting any encroachments upon the same; to inquire into and decide upon breaches of rules and regulations of Mining Boards, or of any laws rules or regulations relating to the gold fields in force for the time being, and to inflict the penalties imposed by the same; to entertain partnership questions, and generally to hear and determine all disputes between miners relating to gold mining, and to ascertain damages and award compensation as hereinafter more particularly provided.

Summary powers of Courts to remove encroachers and award damages.

17. It shall be lawful for any such Court, upon the complaint of any person holding the miner's right or any license or lease under the provisions of this Act that any other person has encroached upon the claim of the complainant, to proceed forthwith to the spot for the purpose of investigating the matter of such complaint, and to inquire into the case, and, on view or upon the oath of any witness, to determine the same in a summary way; and if it shall appear to such

Court

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Court that the person so complained against has so encroached, by occupying mining or undermining such claim, or unlawfully interfered therewith in any other way whatsoever, whereby the right title or interest of such applicant in or to such claim shall have been injuriously affected, it shall be lawful for such Court to adjudge accordingly, and to assess and award to the complainant the amount of damage, if any, sustained by the complainant, and to cause the encroaching persons, his servants implements goods and chattels, to be removed from the claim so encroached upon.

18. It shall be lawful for such Court, upon the hearing of any complaint as aforesaid, upon proof of any gold having been unlawfully or improperly removed from any claim, to cause any gold which may have been so taken or removed to be summarily seized and delivered to the person whose claim has been encroached upon.

To seize and restore gold unlawfully removed.

19. It shall be lawful for any such Court, upon any complaint made by the holder of any miner's right lease or license as aforesaid, that he is or has been whilst such holder engaged in a gold-mining partnership with any other person within the mining district wherein the land held or occupied under such miner's right lease or license is situated, and that a balance is due to him on account thereof, or upon the application of any such holder so engaged in such partnership that the partnership may be dissolved and that the sums respectively due to the several members thereof may be ascertained and paid, to issue a summons requiring such members of the said partnership as he shall deem necessary to appear before such Court, and upon such appearance, or in default thereof after service of such a summons to procure and compel the same as hereinafter provided, or in the absence of such members as shall not appear to be necessary parties to such case, to inquire into and hear such complaint or application, and order that such partnership shall be dissolved, and ascertain and determine the amount to be paid by any member or members thereof, and to exercise all such powers in making and enforcing any award judgment or order in the matter as are hereinafter more particularly provided.

To hear and decide partnership questions.

20. Every such Court shall have power to summon witnesses and parties necessary to any case to be heard by such Court, and to administer an oath to any such witness and any party to the suit, and to issue warrants to compel the attendance of any such witnesses parties jurymen and assessors; and no proceedings taken before any such Court shall be quashed for want of form, or be removed into the Supreme Court by *certiorari* or otherwise.

Powers of Courts to summon witnesses.

21. Before any jurymen or assessor shall proceed to hear any case in any such Court, the Judge thereof shall administer to him an oath to the effect that he will well and truly inquire into the matter of complaint or in dispute then submitted, and a true finding and decision give according to the evidence, and thereupon the Court shall proceed to hear such complaint.

Judge to administer oath to jurymen and assessors.

22. Every such Court shall have power in every case brought before it to make such decree or give such judgment as shall be just without regard to any rule of law or the practice of any Court of Law or Equity, and to award damages and reasonable costs or direct payments to be made to either party: Provided that the amount of damages payments and costs to be made by or to any one party shall not exceed one hundred pounds.

Decision of Courts to be irrespective of rules of law &c.

23. A minute of every such decision shall be entered by the Judge of every such Court in a book to be kept for that purpose, and shall be signed by the persons who concur in making such decision, and no formal order shall be necessary, and a copy of such minute shall on demand be given to any of the parties interested therein.

Judge to keep record of decisions.

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Decisions to be enforced by summary proceeding.

24. Every order decree or judgment made by any such Court shall be carried out and enforced in the same manner as any order or judgment of a Resident Magistrate may be enforced according to the law for the time being in force for regulating summary proceedings before Justices of the Peace.

Appeal.

25. If any person ordered decreed or adjudged, under the authority of this Act, to forfeit or pay any fine or penalty damages or compensation (exclusive of costs) amounting to twenty pounds or upwards, shall feel aggrieved by any such order decree or judgment, and shall within five days after the making of the same give notice of appeal and of the matter and ground thereof to the Court and to the other party to the case in respect whereof the order decree or judgment to be appealed against was made, and also shall within seven days give sufficient security, by bond or otherwise, to the satisfaction of such Court, to appear and try such appeal and abide the judgment of the Court of Appeal thereon and to pay such costs as shall be awarded, it shall be lawful for the person so feeling aggrieved to appeal to the District Court having jurisdiction over the district within which the matter in dispute shall have arisen, at the first sitting thereof which shall be holden after the expiration of ten days next after the security shall have been given as aforesaid, and upon such security being given, the appellant if in custody shall be forthwith liberated: Provided always that if there be no District Court having such jurisdiction, an appeal in like manner shall lie to the Supreme Court at the first sitting thereof which shall be held after the expiration of ten days as aforesaid in the Province within which the matter in dispute shall have arisen.

Power to suspend working of claims.

26. It shall be lawful for any such Wardens Court, whenever it shall seem fit or requisite so to do, to order the working of any claim affected by any matter in dispute brought before it to be suspended until such matter shall have been investigated and adjudicated upon as herein provided.

Governor may make rules of procedure and Court regulations for orderly conduct of business.

27. It shall be lawful for the Governor in Council from time to time to make alter and revoke rules regulating the procedure and practice in the Courts to be established under this Act, and in cases of appeal therefrom, and also to fix the fees to be taken in respect of proceedings therein; and it shall be lawful for the Wardens or Judges of the said Courts to prescribe such regulations as may from time to time be necessary for the orderly transaction of the business of the said Courts respectively.

PENALTIES, ETC.

Persons mining without authority liable to penalty.

28. Any person not being the holder of a miner's right or of a lease under this Act, who shall mine for gold upon any proclaimed gold field, and any person who shall employ any such unauthorized person so to mine, and any person not being the holder of a miner's right license or lease duly empowering him in that behalf and not being an authorized person within the meaning of this Act, who shall occupy any waste lands in or become resident upon or at any proclaimed gold field, shall be liable to the penalties following, that is to say,—For the first offence a sum not exceeding five pounds; for the second or any subsequent offence a sum not exceeding ten pounds nor less than five pounds.

Penalty for mining on private lands.

29. Any person who shall knowingly mine or employ any person to mine for gold on any land belonging to a private individual, without the consent of the owner thereof or his duly authorized agent, shall be subject to the like penalties as are mentioned in the last preceding clause.

Forging lease or other

30. If any person shall forge or alter any miner's right license lease

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lease or other document issued under the authority of this Act, with intent to defeat the provisions thereof or to defraud any person whomsoever, shall be guilty of a misdemeanour, and on conviction thereof before any Court of competent jurisdiction shall be subject to fine or imprisonment, with or without hard labour, not exceeding three years, or both, at the discretion of the Court.

document a
misdemeanour.

31. If any person shall use or exhibit any forged miner's right license or lease issued or purporting to be issued under the authority of this Act knowing the same to be forged, or if any person shall fraudulently personate the holder of any such miner's right license or lease, or shall falsely and fraudulently represent that any servant or other person is an authorized person within the meaning of this Act, or shall fraudulently use or exhibit as his own any miner's right license or lease belonging to or granted to any other person, or shall use or exhibit as valid a miner's right license or lease which shall have expired, he shall be liable to a penalty for every such offence not exceeding fifty pounds.

Punishment for
personation &c.

32. Every person committing any breach, whether of omission or commission, of any of the rules or regulations made under the authority of this Act, shall for every such breach be liable to a fine or penalty not exceeding ten pounds for the first offence and twenty pounds for any second or subsequent offence.

Penalty for breach
of rules.

33. If any person summoned to attend the hearing of any suit or matter to be heard or determined under the provisions of this Act, whether as jurymen, assessor, witness, or party to the suit, having been duly summoned, shall neglect or refuse to attend at such time and place as shall be named in the summons, or if he shall refuse to be sworn as witness, or to be sworn or serve as a jurymen or assessor, it shall be lawful for the Judge of any such Court in any such case, unless some reasonable cause for such non-attendance or refusal be made to appear to such Judge, to fine such person any sum not exceeding five pounds as to the Judge shall seem fit.

Penalty for non-
attendance, refusal to
be sworn or serve, &c.

34. If any person shall assault or resist any Judge of any Court constituted under this Act, or any Resident Magistrate, or any other person whilst in the execution of the duties provided to be performed by him under this Act, or if any person, having had the boundaries of his claim pointed out by any such Court, shall encroach or trespass upon the claim of any other person, every such person so assaulting resisting or encroaching shall be fined any sum not exceeding fifty pounds, with imprisonment till payment in some gaol or house of correction, there to remain for any time not exceeding one calendar month for every five pounds or fractional part of five pounds so to be paid: Provided that the time of imprisonment shall in no case exceed six calendar months, and shall cease upon payment of the penalty ordered to be paid together with costs.

Penalty for resisting
Judge &c. or
encroaching.

35. If any person after having been ordered to suspend the working of any claim, as hereinbefore provided, shall work such claim, he shall be liable to a penalty not exceeding twenty pounds.

Penalty for working
claim after order to
suspend.

36. All proceedings for any infringements in any gold field of the provisions of this Act, or of any rules or regulations to be made in pursuance hereof, shall, if there be any Court constituted under this Act for such gold field, be had and taken in such Court, and if there be no such Court, then before a Resident Magistrate or Justice of the Peace, according to the law for the time being in force for regulating summary proceedings before Justices of the Peace.

Penalties &c. how
recoverable.

REVENUE AND EXPENSES.

37. All rents and royalties which shall be receivable under this Act

Rents &c. to be paid

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to Receiver of Land Revenue.

Act shall be paid to a Receiver of Land Revenue, and shall for all purposes be deemed to be revenue and receipts arising from the sale letting disposal and occupation of the waste lands of the Crown, and shall be chargeable in the first instance with all the costs charges and expenses of carrying this Act into execution.

Expenses how to be regulated and charged.

38. All the costs charges and expenses incident to the management and administration of the gold fields of the Colony, and to the construction and repair of works of public utility and convenience therein or leading thereto, shall be from time to time regulated in such manner as shall be directed by the Governor in Council, and shall be paid out of the revenue and receipts to arise from fees fines rents royalties or in any other manner howsoever under this Act.

Costs &c. of management of gold fields when to be regulated by Acts or Ordinances of Provincial Councils.

39. Provided always that whenever the Governor shall have delegated to the Superintendent of any Province, as hereinafter provided, all or any the powers vested in the Governor or in the Governor in Council by this Act, it shall be lawful for the Governor, by Order in Council, to appoint and declare that all the costs charges and expenses incident to the management and administration of the gold fields within such Province shall be regulated by Acts or Ordinances to be passed by the Superintendent and Provincial Council of such Province.

GENERAL PROVISIONS.

Governor in Council may make regulations for carrying this Act into effect.

40. In all cases where no provision or no sufficient provision is made by this Act, it shall be lawful for the Governor in Council, from time to time, for the purpose of facilitating or more effectually carrying into execution any of the objects thereof, to make and prescribe all such rules and regulations touching any of the matters intended to be hereby provided for, and touching all matters having reference to the provisions of this Act, as to the said Governor in Council may seem expedient, and such rules and regulations from time to time to alter and revoke as to the Governor in Council may appear requisite.

Governor may delegate powers under this Act.

41. It shall be lawful for the Governor in Council, under his hand and the Public Seal of the Colony, from time to time to delegate to the Superintendent of any Province, or to such other person as the Governor may deem fit, all or any of the powers vested in the Governor or the Governor in Council by this Act, except the powers conferred by sections seven, eight, twenty-seven, and forty thereof, subject or not to any limitations or restrictions as he may think fit, and in like manner to alter or revoke any such powers.

Rules &c. to be laid before General Assembly.

42. Every rule or regulation made under the authority of this Act shall be laid before both Houses of the General Assembly within twenty-eight days from the issuing thereof if the General Assembly be then in Session, and if not, then within fourteen days after the commencement of the next Session thereof.

Royal prerogative not interfered with.

43. Nothing in this Act contained shall be deemed to abridge or control the prerogative rights and powers of Her Majesty the Queen in respect of the gold mines and gold fields of the Colony.

Commencement of Act.

44. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of the Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor of the Colony.

Short Title.

45. The Short Title of this Act shall be "*The Gold Fields Act, 1858.*"

Waste Lands.

No. LXXV.

AN ACT to regulate the Disposal and Administration of
the Waste Lands of the Crown in New Zealand.

WASTE LANDS.

[19th August, 1858.]

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, 15th February, 1860.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The several Acts Ordinances and Regulations specified in the Schedule to this Act annexed are hereby declared to have been valid from the time of the passing or issuing thereof, and the said Acts Ordinances and Regulations and the Bills specified in the said Schedule shall hereafter have the full force and effect of law in the several Provinces to which they respectively relate, except so far as the same are repugnant to or inconsistent with the provisions hereinafter contained, that is to say,—

Acts &c. specified in Schedule declared valid and to remain in force with certain exceptions.

(1.) No larger quantity of land than three hundred and twenty acres shall be put up for sale by auction in any one lot, and the upset price shall in no case be less than five shillings an acre.

(2.) No land, after the first day of August, one thousand eight hundred and sixty, shall be sold upon credit, except such as it may be lawful to set apart for special settlement by immigrants expected to arrive.

(3.) The priority of choice shall in no case whatever be decided by lot, but in all cases in which two or more applications are made on the same day for any land open for selection at a fixed price, such land shall be put up to auction at an upset price of the same amount as the fixed price, at which auction only the applicants in person or by their agents shall be allowed to bid; but this provision shall not extend to applications heard before the Waste Lands Board of the Province of Canterbury.

2. If at any time the Superintendent and Provincial Council of any Province shall recommend to the Governor that an augmentation should be made in the price at which the waste lands of the Crown within such Province shall be offered for sale either by selection or by auction, it shall be lawful for the Governor in Council, if he think fit, to fix such price accordingly.

Governor in Council may alter prices of lands.

3. Subject to the said several Acts Ordinances Regulations and Bills, and in cases where no provision shall have been made in such behalf, it shall be lawful for the Governor in Council, in the name and on behalf of Her Majesty, to constitute such Offices and Boards and appoint such officers as may be necessary for the management and administration of the waste lands of the Crown, and for the survey thereof, within the several Provinces of the Colony, and from time to time to make such changes and alterations and remove such officers as he may think fit.

The Governor to constitute offices and appoint officers.

4. All the acts authorized or required to be performed by and all the powers conferred upon or given to the Superintendents of the several Provinces, acting either with or without the advice or the advice and consent of the respective Executive Councils thereof, under or by virtue of the several Acts Ordinances Bills and Regulations specified in the Schedule to this Act, shall henceforth cease to be vested in the Superintendent, and shall and may henceforth be vested in and

Powers vested in Superintendent to be exercised by Governor.

Waste Lands.

may be performed and exercised by the Governor alone, fully and effectually for all purposes.

Governor may compel performance of engagements.

5. It shall also be lawful for the Governor to exercise and perform every power and act which may be necessary to complete carry out or compel the performance of any subsisting contract or agreement which may have been lawfully made entered into or commenced under any law in force within any Province before the coming into operation within such Province of any of the several Acts Ordinances Bills and Regulations specified in the said Schedule.

Governor may delegate powers.

6. It shall be lawful for the Governor, under his hand and the Public Seal of the Colony, from time to time to delegate to the Superintendent of any Province, or to such other person as the Governor may think fit, all or any of the powers vested in the Governor by sections three, four, and five, and also by section fourteen of this Act, subject or not to any limitations or restrictions as he may think fit, and in like manner to revoke any such powers: Provided always that any power which may be in any Superintendent at the time of the coming into operation of this Act, under any of the Acts Ordinances Bills or Regulations specified in the said Schedule, shall thenceforth be deemed and taken to have been duly delegated under this Act.

Governor may make regulations.

7. Subject to the said several Acts Ordinances Regulations and Bills, it shall be lawful for the Governor in Council from time to time to make and revoke regulations for the guidance of the several officers employed in the management and administration of the waste lands of the Crown, and for the management and conduct of the business of any Land Board or Office, and for the settling of all disputes and differences relating or incident to the sale letting disposal or occupation of the waste lands of the Crown, and all such regulations shall be binding and conclusive on all persons whomsoever.

Appropriation of Crown Grant fees.

8. All fees payable on the issue of Crown Grants shall be chargeable in the first place with the salary of a Secretary for Crown Lands, and with the costs and expenses of maintaining a Crown Grant Office.

Part of section 62 Constitution Act repealed; costs of administration of waste lands to be regulated by Acts or Ordinances of Provincial Councils.

9. So much of the sixty-second section of the Constitution Act as authorizes the Governor to pay out of the revenue arising from the disposal of the waste lands of the Crown all the costs charges and expenses incident to the collection management and receipt thereof is hereby repealed, and, except the salaries of the Secretary for Crown Lands and of the Receivers of Land Revenue, and the expense incident to the maintenance of the Crown Grant Office, all the costs charges and expenses incident to the management and administration of the waste lands of the Crown within each Province of the Colony shall be regulated by Acts or Ordinances to be passed by the Superintendent and Provincial Council thereof.

Accounts of receipts and disbursements to be audited by Secretary for Crown Lands.

10. All the accounts of such costs charges and expenses shall be audited by the Secretary for Crown Lands, and, so far as the same relate to each Province, shall be from time to time laid before the Provincial Council thereof.

Governor to fulfil contracts &c.

11. And whereas it is proper and expedient that power should be given to the Governor to fulfil engagements heretofore made on behalf of Her Majesty, and also to make reserves for certain public purposes within the Colony: Be it therefore further enacted that it shall be lawful for the Governor at any time to fulfil and perform any contract promise or engagement heretofore made by or on behalf of Her Majesty, and whereof there is evidence in writing, with respect to any allotment or parcel of land within the Colony, and any Crown Grant made in pursuance of any such contract promise or engagement shall be valid.

Waste Lands.

12. It shall also be lawful for the Governor in Council, at any time and from time to time, to except from sale, and either reserve to Her Majesty or dispose of in such other manner as for the public interest may seem best, such of the waste lands of the Crown in any of the said Provinces as may be required for the purposes of military defence, or for the construction of trunk lines of road, or as sites for public buildings for the use of the General Government, or for other purposes of public utility or convenience; and all such exceptions shall be deemed to have been made whenever the Governor by writing under his hand shall have notified to the Superintendent of the Province in which any land so excepted is situate that the same is required for any of the purposes aforesaid, and such notification shall have been published in the *New Zealand Gazette*.

Governor empowered to make reserves.

13. It shall also be lawful for the Governor in Council, by Proclamation in the *New Zealand Gazette*, to change the specific purpose for which any land has heretofore been or may hereafter be set apart as a reserve for the General Government, and also to exchange any land for the time being set apart as such reserve for other land of equal value, or to sell any land so set apart, as he may think fit, and in case of the exchange or sale of any such land, to make a Crown Grant thereof accordingly: Provided always that in the event of a sale of any such land the proceeds thereof shall be invested in the purchase of other land, and any land so acquired by exchange or purchase shall be forthwith proclaimed as a public reserve under "*The Public Reserves Act, 1854.*"

Governor may change purpose of or exchange or sell reserves.

14. And whereas Crown Grants have heretofore from time to time been made in which rights of road through the lands therein comprised have been reserved, and it is expedient that power should be given to release such rights: Be it therefore further enacted that it shall be lawful for the Governor, by writing under his hand, to release by an endorsement on the Crown Grant or by a separate instrument any rights reserved as aforesaid, and on such release being given, the power to take or set apart any road by virtue of any such reservation shall thenceforth cease and determine: Provided always that any road set apart in pursuance of any such reservation, previously to such release, shall be deemed and taken for all purposes whatsoever to be a public road and highway.

Rights to make roads reserved in certain Crown Grants may be released.

15. Whereas it is desirable to encourage the settlement of naval and military settlers throughout the Northern Island of New Zealand: Be it therefore further enacted that naval and military officers, whether on full or half-pay, and every non-commissioned officer and private, marine, and seaman, whether belonging to Her Majesty's service or to the service of the East India Company, who may retire or obtain his discharge from the service to which he may belong, or who, having retired or obtained his discharge for the purpose of settling in the Provinces of New Plymouth or Wellington, has not selected land under any former law or regulation enabling naval and military settlers to select land free of cost, shall be entitled to land free of cost in the said Provinces respectively in like manner and upon the same terms and conditions as naval and military settlers are entitled to land free of cost under "*The Auckland Waste Lands Act, 1858.*" And the several powers and duties of the Commissioner appointed under the said Act in respect of land to be so granted shall be exercised and performed by any Commissioner of Crown Lands in the said several Provinces of New Plymouth and Wellington.

Naval and military settlers entitled to land free of cost.

16. The Acts passed by the General Assembly of New Zealand, intituled respectively "*The Waste Lands Act, 1854,*" and "*The Provincial Waste Lands Act, 1854,*" are hereby repealed.

Former Acts repealed.

17. This

Waste Lands.

Commencement of Act.

17. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of the Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor of the Colony.

Short Title.

18. The Short Title of this Act shall be "*The Waste Lands Act, 1858.*"

SCHEDULE.

ACTS, ORDINANCES, BILLS, AND REGULATIONS FOR THE SALE, LETTING, DISPOSAL, AND OCCUPATION OF THE WASTE LANDS OF THE CROWN, REFERRED TO IN THIS ACT:

Provinces.	By what Legislature or other Authority Enacted or put in Force.	Session and Number of Acts or Ordinances.	Title or Short Title.	Date Assented to or put in force.
Province of AUCKLAND	Act of the Governor and Provincial Council Bill passed by the Provincial Council, and reserved for the Governor's assent	Session VIII., No. 2 Session VIII., No. 3	"Auckland Waste Lands Act, 1858" "Immigration Certificate Bill, 1858"	9th March, 1858. At passing of this Act.
Province of NEW PLYMOUTH	Proclamation of the Governor under "The Waste Lands Act, 1854"	...	Regulations for the Sale and Disposal of the Waste Lands of the Crown	20th October, 1855.
Province of WELLINGTON	Proclamation of the Governor-in-Chief under "The Constitution Act" Proclamation of the Officer Administering the Government, under "The Waste Lands Act, 1854"	... ...	General Land Regulations Additional Land Regulations for the Amendment and Extension of the Regulations of 4th March, 1853	4th March, 1853. 16th June, 1855.
Province of NELSON	Bill passed by the Provincial Council, and reserved by the Superintendent for the Governor's assent Bill passed by the Provincial Council, and reserved by the Superintendent for the Governor's assent	Session V., Session V.,	"Nelson Waste Lands Bill, 1858" "Dun Mountain Railway Act, 1858"	At passing of this Act. At passing of this Act.
Province of CANTERBURY	Proclamation of the Governor under "The Waste Lands Act, 1854" Proclamation of the Governor under "The Waste Lands Act, 1854" Ordinance of the Governor and Provincial Council Bill passed by the Provincial Council, and reserved by the Superintendent for the Governor's assent	... ... Session VII., No. 2 Session IX., No. 1	Regulations for the Disposal, Sale, Letting, and Occupation of the Waste Lands of the Crown Amended Regulations Waste Lands Regulations Amendment Ordinance Waste Lands Regulation Amendment Bill	9th February, 1856. 14th August, 1856. 6th January, 1857. 11th February 1858.
Province of OTAGO.	Proclamation of the Governor under "The Waste Lands Act, 1854" Ordinance of the Governor and Provincial Council Ordinance of the Governor and Provincial Council	... ... ...	Land Regulations "Land Sales and Leases Ordinance, 1856" "Town Land Sales Ordinance, 1857."	12th February, 1856. 27th January, 1857. 11th February, 1858.

Land Claims Settlement Extension.

No. LXXVI.

AN ACT to make further provision for the Settlement of
Land Claims. [19th August, 1858.]LAND CLAIMS
SETTLEMENT
EXTENSION.[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, May 31, 1859.]

WHEREAS it is expedient to make further provision for the settlement of claims to land within the Colony of New Zealand arising out of dealings with the aboriginal inhabitants thereof :

Preamble.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The term "Act of 1856" herein used shall mean "*The Land Claims Settlement Act, 1856.*" The term "Commissioners" shall mean any Commissioner appointed under that Act; and every such Commissioner shall be deemed to have the powers hereby vested in the Commissioners. The provisions of this Act shall be of force, anything in the "Act of 1856," or the rules thereunder established, to the contrary notwithstanding.

Interpretation clause.

2. The period limited for initiating proceedings by the Attorney-General respecting voidable grants, and for filing notifications of claims, is hereby extended from first July, one thousand eight hundred and fifty-eight, to first July, one thousand eight hundred and fifty-nine.

Time extended for
filing notifications
and calling in grants.

3. If upon the examination of any claim or grant it shall appear to the Commissioners that difficulties exist in the way of the claimant obtaining quiet possession of land to which he may be really entitled and which would otherwise have been granted, or if from delay in the settlement of the claim or from any act of the Government the value of the land may have been materially reduced, or if for other reasons it shall appear expedient to exchange the particular land claimed for other land, the Commissioners in their discretion may direct a grant of rural land within the same Province, of equal value, as compensation for the land taken in exchange, or may grant compensation to such an amount as they may deem to be just by the issue of a certificate entitling the person in whose favour the same shall be issued, or his assigns, to purchase waste lands of the Crown within the Province in which the land taken in exchange is situate, according to the law for the time being in force for the sale of such lands: Provided always that the right conferred by every certificate shall be exercised within twelve months from the date thereof, and after the expiration of that time such certificate shall cease to be of any value or effect whatever.

Lands in a claim may
be exchanged.

4. It shall be lawful for any claimant holding or claiming title under a grant examined by the Commissioners, to surrender the land comprised in such grant to Her Majesty by an indorsement on the grant in the form or to the effect of the Schedule to this Act, and thereupon the Commissioners may cancel such grant and deal with the case in like manner as is provided in cases of grants called in and adjudged void.

Grants may be
surrendered by a
claimant.

5. In the case of any grant called in by the Attorney-General, which shall on examination before the Commissioners not appear to be actually void or voidable but in which there shall be any uncertainty inaccuracy or insufficiency of description, or in which the description shall not agree with the survey, or in which the indorsement authorized by the "*Ordinance for quieting Titles in New Ulster,*" Session X.,

Grants not actually
void but insufficiently
described may be
cancelled.

Land Claims Settlement Extension.

No. 4, shall have been erroneously or insufficiently made, or in which from any other reason the grant may appear to be of doubtful validity, the Commissioners may cancel the grant and direct the issue of a new grant in like manner as last aforesaid.

If grants called in not produced, new grants may be issued notwithstanding.

6. In the case of any grant adjudged void by the Commissioners, which shall not within three months after the publication of such adjudication in the *Government Gazette* be delivered up to be cancelled pursuant to law, the Commissioners may, without application from or notice to the person in whose name such grant was originally issued, direct a new grant to be issued either to him or to any person duly deriving title from him: Provided that if such new grant be in the name of the original grantee, it shall only be delivered to him on surrender or proof of loss of the grant adjudged void.

Commissioners' non-attendance to examine grants not to vitiate Attorney-General's notice.

7. If the Commissioners shall have been or be unable to attend at the time and place specified in any notice of the Attorney-General calling in grants for examination, such non-attendance shall not vitiate the Attorney-General's notice, and it shall be sufficient for the Commissioners, by notice in the *Government Gazette*, to appoint some other time or place for the production and examination of the grants, and they may proceed thereupon as if they had attended at the time and place named by the Attorney-General.

Native reserves within exterior boundaries of a claim may be granted.

8. Where a reserve has been originally made by the Natives for their own occupation within the exterior boundary of any claim or grant, and they may be willing to give it up to the claimant or grantee, the Governor may, if he think fit, take a cession to the Queen of such reserve, and the Commissioners may thereupon direct a grant thereof to such claimant or grantee on payment for the same at the price of ten shillings per acre.

Claimants may purchase surplus land within their boundaries.

9. Whenever the exterior boundaries of the land comprised in any claim or grant examined by the Commissioners shall contain a larger quantity than can be granted under the "Act of 1856," it shall be lawful for the Governor, if he shall think fit, on the recommendation of the Commissioners, to grant to the claimant a pre-emptive right of purchasing the residue or any part thereof at the price of ten shillings per acre, whereupon the Commissioners may direct a grant of such residue or part to be issued: Provided always that if the Commissioners shall be satisfied the land is of such inferior character as not to be worth ten shillings per acre, they may recommend the Governor to reduce the price thereof to any sum not less than five shillings per acre, and the Governor may, if he think fit, reduce it accordingly: Provided also that such pre-emptive right shall be exercised within six months after the same shall have been granted.

Purchase moneys to go to land fund of Province where claim situate.

10. All purchase moneys paid under the preceding provisions shall be carried to the credit of the land revenue of the Province within which the land is situate. All moneys paid under the "Act of 1856" in cases of pre-emptive claims shall be carried to the common fund for defraying the charges of carrying the said Act and this Act into effect.

Where particular land claimed was originally awarded without naming quantity, grant of such land may be made.

11. In case of any claim or grant examined by the Commissioners, if the original award under the "*The Land Claims Ordinances*," Session I. No. 2 and Session III. No. 3 of the Legislative Council of New Zealand, shall have been made for the particular piece of land claimed without specifying a definite number of acres, the Commissioners may direct a grant to be issued for such piece of land: Provided that the quantity to be granted (exclusive of the additional sixth and the allowance for surveys and fees authorized by the "Act of 1856") shall not exceed the number of acres to which the claimant

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claimant would have been entitled according to the scale in the Schedule C to the said Act.

12. Wherever possession has been or shall hereafter be taken on behalf of Her Majesty of any land the Native title to which shall be proved to have been extinguished prior to the fourteenth January, one thousand eight hundred and forty, but in respect whereof no claim can be heard under the "Act of 1865," it shall be lawful for the Commissioners, in their discretion, to estimate the actual outlay of the original claimant in extinguishing the Native title, and thereupon to direct a grant to be issued to him in respect of such outlay at the rate of one acre of rural land for every five shillings of such outlay.

When possession of a claim taken by Government, outlay in extinguishing Native title may be allowed.

13. In any case where land has heretofore been set apart by Natives for the maintenance of persons of the Half-caste race, it shall be lawful for the Governor at his discretion, on the recommendation of the Commissioners, to grant such land or any part thereof either to such persons or to Trustees for their benefit, and under such regulations and limitations as to him shall seem fit: Provided always that in any case where land which would otherwise have been granted may have been alienated by the Government, it shall be lawful for the Governor at his discretion, on the recommendation of the Commissioners, to grant other land in lieu thereof equivalent in value (to be determined by the Commissioners) to the land alienated at the time the same was taken by the Government.

Grants may be made to Half-caste children.

14. Whenever the fees required by the "Act of 1856" shall be found to bear an unreasonable proportion to the value of any claim, or whenever under special circumstances it shall appear just that any remission thereof be made, the Governor may, on the recommendation of the Commissioners, make such remission as to him shall seem fit.

Fees in certain cases may be remitted.

15. And whereas it has been found that there are exceptional cases in which the provisions of the "Act of 1856," relating to the class under which such cases would come, cannot in justice be strictly applied, or in which claimants excluded by the said Act have remained for many years and are now in actual possession or occupation of the land comprised in their claims, or in which the claims were disallowed for want of evidence which has been since supplied: It shall be lawful for the Commissioners, in their discretion, to deal with such cases in like manner as is provided for by the fiftieth section of the said Act in respect of special claims, and to make such orders and adjudications as shall in their judgment be most agreeable to justice and good conscience, but always as nearly as may be in accordance with the general provisions of the said Act.

Proceedings in exceptional cases.

16. Provided always that it shall not be lawful under this Act to deal with any case in which the claim shall have been heard and allowed wholly or in part, and in respect of which the claimant shall have received in satisfaction of such claim the compensation in money or debentures or a grant of land offered by the Government.

No claim to be heard under this Act where compensation has been received in satisfaction thereof.

17. Every grant of land made or purporting to be made in pursuance of this Act shall be deemed and taken to be a good valid and effectual conveyance of the land thereby intended to be granted, against Her Majesty, her heirs and successors, and all other persons whatsoever: Provided always that every such grant shall be subject in equity to the same claims rights and interests as any cancelled grant in lieu whereof any grant made under this Act shall issue.

Grants under this Act to be valid.

18. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of her Privy Council, and a Proclamation

Commencement of Act.

Land Orders and Scrip.

a Proclamation of such confirmation having been given shall have been made by the Governor or person administering the Government of New Zealand.

Short Title.

19. The Short Title of this Act shall be "*The Land Claims Settlement Extension Act, 1858.*"

SCHEDULE.

SURRENDER OF GRANT.

PURSUANT to "*The Land Claims Settlement Extension Act, 1858.*" I, A.B., of _____, being the person duly claiming title under the within grant, do hereby surrender the land comprised in the said grant to Her Majesty Queen Victoria.

Dated the _____ day of _____, one thousand eight hundred and _____

A.B.

Witness, C.D.

No. LXXVII.

LAND ORDERS
AND SCRIP.

AN ACT to amend the Law defining and settling the Rights of Holders of Land Orders and Land Scrip.

[21st August, 1858.]

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, July, 25, 1859.]

Preamble.

WHEREAS by an Act passed by the General Assembly of New Zealand, intituled "*The Land Orders and Scrip Act, 1856.*" provision was made for defining and settling the rights of holders of land orders and land scrip, and it is expedient that the said Act should be repealed and the provisions thereof re-enacted with certain amendments:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Act of 1856 repealed.

1. The said Act, intituled "*The Land Orders and Scrip Act, 1856.*" is hereby repealed: Provided always that everything already done in pursuance of the said Act shall be as valid and effectual as though this Act had not been passed.

Land orders may be exercised on land.

2. Notwithstanding the provisions of any Act Ordinance Regulation or Proclamation to the contrary, all land orders issued by the New Zealand Company, which have not been exercised or commuted, entitling the holders or owners thereof to select a definite quantity of land within any of the said Company's settlements except New Plymouth, may hereafter be exercised and used in the selection of the same quantity of land as is specified in such land orders out of the waste lands of the Crown over which the Native title shall have been extinguished at the date of the passing of "*The Land Orders and Scrip Act, 1856.*" situate within the Province in which such settlement lies, but not elsewhere, subject to the ordinary regulations for the time being in force as regards shape frontage and other particulars of selection, and subject to the exceptions and reservations hereinafter contained; and all such selections shall be made, according to priority of application, at the land office of the district wherein the same are to be made.

Commutation of land orders for Government scrip declared valid.

3. The commutation of New Zealand Company's land orders and scrip for Government scrip made in accordance with the provisions of "*The New Zealand Company's Land Claimants' Ordinance.*" shall in all

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all cases be deemed to have been valid up to the seventeenth day of August, one thousand eight hundred and fifty-eight, but no such commutation shall be made after such date.

4. All such scrip as aforesaid issued by the Government of New Zealand remaining unexercised at the date of the passing of this Act may be exercised within the Province within which the settlement is situated in respect of which such scrip was issued and not elsewhere; but, except as hereinafter is provided with respect to the Province of New Plymouth, no such scrip shall be exercised over any lands to which the title of the Natives shall not have been extinguished at the date of the passing hereof: Provided always that in the purchase of rural or country land such scrip shall be taken at such a value as that one pound in scrip shall represent the upset price or fixed price, as the case may be, of one acre of rural or country land at the date when the scrip may be tendered in payment.

Government scrip
where to be exercised.

5. Where selection has heretofore been made, by virtue of any such land orders, of lands over which the Native title is not extinguished, such land orders shall not, except as hereinafter specially provided, entitle the holders to claim such land when the Native title may hereafter be extinguished, but the same shall be deemed to be unexercised land orders and exercisable as such.

Where selection has
been made of Native
land, land orders &c.
to be deemed
unexercised and
exercisable as such.

6. Within the Province of Wellington every holder of a land order originally selected within the block of sections laid out by the New Zealand Company at Manawatu shall be entitled to retain the particular section selected whenever the Native title to the block shall be extinguished: Provided always that the Superintendent may, within three months afterwards, set apart any portion of the said block not exceeding in extent ten thousand acres as the site of a township, and the holder of any land order whose section is within the limits of such township or of any Native reserve shall be entitled to make a re-selection from any land laid open as rural land within any district the Native title whereto shall at the time or within two years afterwards be extinguished, subject to all rules at the time in force relating to selections of rural land. And every holder of a land order originally selected within any other block of sections laid out within the said Province by the New Zealand Company in districts not acquired from the Natives, shall likewise be entitled to retain the particular section selected whenever the Native title shall be extinguished, unless such section be reserved by the Superintendent or be included in a Native reserve, in which case such holder shall have the like privilege of making a re-selection from any rural land the Native title whereto shall at the time or within two years afterwards be extinguished, subject as aforesaid to all the rules at the time in force within the said Province relating to selections of rural land.

How original land
orders may be
exercised in the
Manawatu Block.

7. Within the Province of New Plymouth Government scrip shall be available in the purchase of lands over which the Native title now is or hereafter shall be extinguished, subject nevertheless to the regulations respecting Government scrip now in force within the said Province.

How scrip to be
exercised in Province
of New Plymouth.

8. Within the said Province of New Plymouth every unexercised original land order issued by the Plymouth Company of New Zealand or by the New Zealand Company, and conferring or purporting to confer on the owner or holder thereof the right to select, according to a fixed and definite order of choice, fifty acres of land within the Settlement of New Plymouth, shall entitle such owner or holder, in priority to general purchasers and according to the aforesaid order of choice, to select out of any land over which the Native title now is or hereafter shall be extinguished, and which shall be declared open for purchase

How original land
orders may for the
future be exercised in
the Province of New
Plymouth.

Land Orders and Scrip.

(except the Hua village site) one acre of town land, or thirty-seven and a half acres of suburban land, or seventy-five acres of rural land, at the option of such owner or holder and subject to the following conditions, that is to say:—Provided, first, that every such selection in town or suburban land, or in rural land, divided into sections, be, so far as may be, of an entire section or sections, the proper quantity being made up, where necessary, by including some contiguous portion of an adjoining section, or where a section may exceed in area the whole quantity to be selected, by dividing a section; in either of which cases the portion taken shall be laid off by the Government Surveyor: And provided, secondly, that for the purpose of enabling such selections to be made according to the priority aforesaid, a convenient day and place be appointed for the purpose by the Superintendent of the Province, by notice published in the *Government Gazette* of the Province, which notice shall be published at least three months before the day appointed thereby: And provided, thirdly, that every such selection be made subject to the ordinary regulations in force respecting shape frontage and other particulars of selection.

Rate at which scrip is to be computed in the Province of New Plymouth.

9. Within the Province of New Plymouth all unsatisfied original land orders issued by the Plymouth Company of New Zealand or by the New Zealand Company, and conferring or purporting to confer on the owners or holders thereof the right to select land within the Settlement of New Plymouth, according to priority of application or otherwise than in a fixed and definite order of choice, shall be considered as equivalent, in the purchase of waste lands of the Crown, to an amount of Government scrip computed at the rate of two pounds sterling in Government scrip for every acre of land which such land orders purport to entitle the holders to select, and all supplementary land orders and compensation or land scrip issued by the said New Zealand Company shall be considered as equivalent, in the purchase of waste lands of the Crown within the said Province, to an amount of Government scrip computed at the rate of one pound sterling in Government scrip for every acre of land which such last-mentioned land orders or land scrip purport to entitle the holders to select. And all such land orders and land scrip, as well original as supplementary, shall not be otherwise available or exercisable for the purchase or selection of waste lands of the Crown.

Land orders and scrip not to be exercised within certain districts except in part payment of purchase money.

10. And whereas in pursuance of section eight of "*The Land Orders and Scrip Act, 1856*," hereby repealed, certain districts in the Province of Wellington have been declared townships within which no scrip can be exercised except in payment to the extent of twenty per cent. of the purchase money of any allotment therein purchased, and it is expedient that the proportion of scrip receivable should be altered: Be it therefore enacted that Government scrip may be received within such district in payment, to the extent of fifty per cent. of the purchase money, of any allotments therein purchased, and with the express consent of such Superintendent and Provincial Council to any greater extent; and where the amount of any Government scrip tendered in the purchase of any allotment shall exceed fifty per cent. of the price thereof, the party tendering the same shall be entitled to a credit for the balance of such scrip towards further purchases, and so on in like manner until the scrip be exhausted.

Commencement of Act.

11. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of the Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor.

Short Title.

12. The Short Title of this Act shall be "*The Land Orders and Scrip Act, 1858*."

No. LXXVIII.

Highways and Watercourses.

No. LXXVIII.

AN ACT to enable Provincial Councils to pass Laws for diverting Public Roads and Watercourses, and for disposing of the Land over which the same passed.

[19th August, 1858.]

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, July 25, 1859.]

WHEREAS it is expedient to extend the powers of Superintendents and Provincial Councils in reference to the diversion of roads and watercourses :

HIGHWAYS AND
WATERCOURSES.

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. It shall be lawful for the Superintendent of any Province, with the advice and consent of the Provincial Council thereof, by any Law or Ordinance to be made or ordained for that purpose, to authorize and empower the Superintendent to divert or stop up any public street road highway or thoroughfare in any such Province, and also to divert or stop up any river stream or creek in such Province, and to build bridges dams wharves and other erections on the banks or in the beds of any such river stream or creek, and also to sell exchange or otherwise dispose of the land over which any such public street road highway or thoroughfare was laid out or passed, or the bed of any river stream or creek so diverted or stopped up.

Laws may be passed by Provincial Councils for diverting &c. roads and watercourses, and disposing of the soil thereof.

2. All provisions of any Acts or Ordinances passed by any Superintendent and Provincial Council for any of the said purposes, and not disallowed by the Governor, which would have been legal and valid if this Act had been in force at the time of the passing of such Acts or Ordinances, shall be and be deemed to have been valid as from the time of the passing thereof, and all acts done under the authority of any such provision shall be effectual accordingly.

Acts or Ordinances deemed valid.

3. It shall be lawful for the Governor, in the name and on behalf of Her Majesty, to make and execute Crown Grants, in the usual form, of any land which shall be sold exchanged or otherwise disposed of in pursuance of any Law or Ordinance so to be made or ordained as aforesaid.

Governor may grant land disposed of.

4. The Short Title of this Act shall be "*The Highways and Watercourses Diversion Act, 1858.*"

Short Title.

No. LXXIX.

AN ACT to enable the Governor to establish a Settlement for Colonization in the Bay of Islands.

[19th August, 1858.]

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, August 25, 1859.]

WHEREAS the formation of a special settlement on the western side of the Bay of Islands, for colonization by Her Majesty's subjects, without distinction of race, would tend to advance the prosperity and welfare of the inhabitants generally, and especially to promote the civilization of the aborigines in the Northern districts of the Colony, and it is therefore expedient that the Governor should be empowered

BAY OF ISLANDS
SETTLEMENT.

Preamble.

Bay of Islands Settlement.

empowered to take the necessary steps for the formation of such a settlement :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Governor may set apart a site for a settlement in the Bay of Islands.

1. It shall be lawful for the Governor, whenever he shall think fit, by Proclamation in the *Government Gazette*, to set apart on the western side of the Bay of Islands an eligible site for a settlement for colonization, and the limits of such settlement from time to time to define and vary as he shall think fit: Provided always that the extent of such settlement shall at no time exceed two hundred and fifty thousand acres of land, inclusive of any land therein comprised that may be the property of private individuals.

Land specified in Schedule may be reserved or taken by Governor.

2. For the purpose of such settlement the Governor may reserve or take the whole or any part of the land specified in the Schedule to this Act; and such land shall be deemed to be Crown land, freed and discharged from all claims whatever, as soon as the Governor shall have notified in the *New Zealand Gazette* that he has reserved or taken the same for the purposes of this Act.

Compensation to be given for land reserved or taken.

3. Whenever any land shall have been so reserved or taken, the person to whom the same would otherwise have been granted shall be compensated according to the value thereof at the time of the same being reserved or taken, to be determined at the option of such person by a Commissioner appointed under "*The Land Claims Settlement Act, 1856*," or by the award of two indifferent arbitrators, one to be appointed in writing by the person whose land shall be so reserved or taken, and the other by the Colonial Secretary; or in case of their not agreeing in an award within three weeks from the time of the question being referred to them by the Colonial Secretary in writing, then by the award of their umpire, to be chosen before they enter upon the question: Provided always that if no award shall have been made within six weeks from the time of such reference by the Colonial Secretary, the amount of compensation shall be determined by the said Commissioner.

Colonial Treasurer to issue certificate for amount of compensation.

4. Upon the determination of the amount of compensation so to be granted as aforesaid, the Colonial Treasurer shall issue to the person entitled to the same a certificate entitling such person or his assigns to purchase waste land of the Crown within the Province of Auckland to the amount thereof, according to the law for the time being in force regulating the sale of such land: Provided always that it shall be lawful for the Governor, at the request of the party entitled to compensation, to pay in money the value, to be determined as aforesaid, of any improvements made upon any land reserved or taken under this Act.

Crown lands &c. within settlement to be disposed of under provisions of this Act.

5. Within the settlement so constituted all the waste lands of the Crown, and all land now or hereafter to be reserved or taken for the purposes of this Act, shall be held and disposed of under the provisions hereof and not otherwise.

Governor to cause a town &c. to be laid out.

6. It shall be lawful for the Governor within such settlement to cause a town to be surveyed and laid out, and also suburban and rural allotments.

Land to be disposed of as the Governor shall prescribe.

7. All such town suburban and rural lands shall be let sold occupied and disposed of for such prices in such manner for such purposes upon such terms and subject to such regulations as the Governor in Council shall from time to time prescribe for that purpose.

Proceeds to be expended in settlement for purposes specified.

8. The money to arise from the sale and disposal of any such lands shall be disposed of as the Governor in Council shall from time to time direct for the following purposes, namely :—

(1.) In

Native Territorial Rights.

- (1.) In defraying the expenses incident to the formation and laying out such settlement, including the payment of any compensation to the owners of any land that may be reserved or taken under the provisions of this Act. Formation &c.
- (2.) In the making and erection of roads bridges docks quays landing-places wharves piers public buildings and other public works within such settlement, and in repayment of any loans advanced for any such purposes. Roads &c.
- (3.) In establishing endowing and maintaining public schools and other public institutions. Schools &c.
- (4.) In promoting emigration from other places for the purpose of securing the efficient colonization of the said settlement. Emigration &c.

Provided always that all such money shall, for the purposes of "*The New Zealand Loan Act, 1856,*" be deemed and taken to be revenue arising from the disposal of waste lands of the Crown in the Colony of New Zealand, and shall be chargeable with the sums of money borrowed and raised under the authority of the said Act, and with the interest thereon.

9. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of her Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor or person administering the Government of New Zealand. Commencement of Act.

10. The Short Title of this Act shall be "*The Bay of Islands Settlement Act, 1858.*" Short Title.

SCHEDULE.

ALL that parcel of land situate within the Bay of Islands District and comprised within the boundaries following, that is to say:—Commencing at the Wharau Point at the entrance of the Keri Keri River; thence ascending the main ridge of hills to the hill called Te Puke; thence by the ridges forming the eastern and southern boundary of John Edmonds' claim; thence by a line along the southern boundary of James Shepherd's claim to the hill called Pukewhau; thence along the eastern boundary of the claim known as the "Children's Land" to its termination at the Whiringatau Creek; thence by that creek to the Keri Keri River, and by the Keri Keri River to the rapid at the Church Mission Station; thence across the river to the road from that station to the Rangitane Creek, and from that creek by a line in a north-easterly direction to the Mangonui River; thence by high water-mark to the Ake Ake Point; and thence by a line across the Keri Keri River to the Wharau Point, including all the islands within the said boundary. Estimated to contain fifteen thousand acres, more or less.

No. LXXX.

AN ACT to enable the Native Tribes of New Zealand to have their Territorial Rights ascertained, and to authorize the Issue in certain cases of Crown Grants to Natives. [21st August, 1858.] NATIVE TERRITORIAL RIGHTS.

[Reserved for the signification of Her Majesty's pleasure. Disallowed, *Gazette*, July 27, 1859.]

WHEREAS it is expedient that provision be made for enabling the Native tribes of New Zealand to have their territorial rights ascertained and defined; and it is also expedient that the Governor in Council be empowered to make free grants, to a limited extent, to individual Natives, of lands over which the Native title shall have been Preamble.

Native Territorial Rights.

ceded for the purpose, and that the estates and interests to be created by such grants be, in certain cases, inalienable to persons of European race, and in other cases be alienable to such persons upon certain conditions :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

I.—CERTIFICATES OF NATIVE TITLE.

Governor in Council empowered to issue certificates of Native title to tribes &c.

1. Upon the application of any tribe community or individuals of the aboriginal inhabitants of New Zealand, and upon the Governor in Council being satisfied that such tribe community or individuals are entitled, according to Native custom, to the exclusive use and occupancy of any lands within the Colony over which the Native title has not been extinguished, it shall be lawful for the Governor, at his discretion, to issue under his hand, to the tribe community or individuals so appearing entitled, a certificate of their title to such lands.

Title to be reported on before issue of certificate.

2. No such certificate shall be issued unless and until a report shall have been made to the Governor, by some qualified person appointed by him for the purpose, certifying the names of or otherwise describing or indicating (as precisely as may be) all the aboriginal natives entitled, according to Native custom, to the use and occupancy of the lands to be comprised in such certificate, and that such Natives or so many of them as are not under any natural disability or incapacity are desirous of the issue thereof.

Lands in certificate to be surveyed.

3. No such certificate shall be issued until a survey of the lands to be therein comprised shall have been made by a surveyor approved of by the Governor for the purpose, and the boundaries thereof distinctly marked out, and every such certificate shall have written or indorsed thereon, or annexed thereto, an accurate plan of the lands therein comprised, and shall particularly set forth the metes and bounds of such lands.

On change in ownership new certificate may be issued.

4. Upon proof to the satisfaction of the Governor in Council that any change in the Native ownership of any lands comprised in any such certificate has taken place, it shall be lawful for the Governor, at his discretion, to issue a supplementary certificate of title to be annexed to the original certificate, or, if necessary or convenient, to cancel the original certificate of title and to issue in lieu thereof a new certificate of title.

Certificates may fix the succession to lands.

5. It shall be lawful for the Governor, with the assent of the Native owner, by any such certificate or supplementary certificate, to indicate and fix the succession to and mode of devolution of the Native title to the lands therein comprised.

Certificates to be registered.

6. A copy of every such certificate and plan or supplementary certificate shall be recorded in a book to be kept for the purpose by such person and under such regulations as the Governor shall prescribe.

Question of Native title to be determined as the Governor in Council shall direct.

7. Any question of or affecting the Native title to or right of occupancy over lands comprised in any such certificate, may be determined by the Governor in Council or otherwise as the Governor in Council shall appoint.

Declaration that Colonial Courts have no cognizance of questions of Native title.

8. It is hereby declared that no Court of Law or Equity within the Colony hath or ought to have cognizance of any question of or affecting the title or right of occupancy of the aboriginal natives, as amongst themselves, to or over any lands or hereditaments over which the Native title is not extinguished, except so far as the Native Circuit Court may have such jurisdiction under and by virtue of any regulation made in pursuance of "*The Native Districts Regulation Act, 1858.*"

Native Territorial Rights.

II.—CROWN GRANTS TO NATIVES.

9. The Governor in Council may authorize the granting of lands over which the Native title shall have been duly ceded to Her Majesty for the purpose unto or in trust for the benefit of any person or persons of the Native race either in fee simple or for any less estate or interest, or the settlement of any such lands upon or for the benefit of any such person or persons and their children or remoter issue, and may for that purpose authorize the limitation or creation of such lawful estates or interests as may seem fit; and the Governor may at his discretion make such grants and settlements accordingly; and any such deed of grant may contain powers of revoking all or any of the estates or interests thereby limited or created, and of appointing or creating new estates or interests in lieu thereof, either for the purpose of resettling the lands comprised in such grant, or any of them, or of effecting any sale exchange mortgage or lease thereof or for any other purpose whatsoever, such powers being exercisable by or at the discretion of the Governor in Council or by or at the discretion of any person or persons to be appointed or designated in that behalf by such deed of grant.

Governor in Council empowered to issue Crown Grants, and to create entails for the benefit of individual Natives.

10. It shall be lawful for the Governor, by the provisions of any such deed of grant, to prohibit the alienation or restrict the alienability of any estate or interest created by such grant, any rule of law or equity to the contrary notwithstanding.

Estates created by grants may be rendered inalienable.

11. No estate or interest whatsoever other than that of a trustee in or affecting any lands granted under this Act shall be or be agreed to be alienated to acquired by or created or in any wise charged or incumbered in favour of any person not being of the Native race, by way of sale mortgage demise gift or devise, or by or in consequence of any other act of the party, or by or in consequence of the process of any Court of Law or other act or operation of law, or by any other means whatsoever, unless there shall have been previously paid into the Colonial Treasury, for the use of Her Majesty, the sum of ten shillings for every acre of land in or affecting which such estate or interest shall be so alienated acquired created charged or incumbered, which payment shall be a condition precedent to the vesting in any person not being of the Native race of any estate or interest whatsoever other than that of a trustee in any lands so granted: Provided always that in cases in which the area of the land affected shall be a fractional part of an acre, or shall exceed a whole number of acres by a fractional part, such fractional part shall for the purposes of this present provision reckon as a full acre, and the sum payable in respect of such land shall be computed accordingly.

Ten shillings per acre to be paid into Treasury on alienation to Europeans where permitted.

12. No greater extent of lands than fifty thousand acres shall be granted in any one year under or by virtue of this Act, the year being reckoned to commence on the first day of January; nor shall any grant be issued under this Act after the thirty-first day of December, one thousand eight hundred and sixty-one.

Limit of quantity to be granted.

13. All sums of money which shall be received into the Colonial Treasury under this Act shall be carried to a separate account, and shall be expended, after payment thereof of the costs and expenses (exclusive of surveys) to be incurred in carrying this Act into execution, in the construction of such roads bridges and other public works and improvements upon or in the vicinity of the land in respect of which such money shall be received, or in districts over which the Native title shall not have been extinguished, as the Governor in Council shall from time to time think fit to direct, and for no other purpose whatever: Provided nevertheless that all such money shall,

Appropriation of fund.

for

Native Territorial Rights.

for the purposes of "*The New Zealand Loan Act, 1856*," be deemed and taken to be revenue arising from the disposal of waste lands of the Crown within the Colony of New Zealand, and shall be chargeable with the sums of money borrowed and raised under the authority of the said Act, and with the interest thereon.

Penalty on illegal occupation by Europeans.

14. Any person not being of the Native race who, otherwise than as a trustee for some person of the Native race, shall occupy or take or receive any rents or profits of any lands granted under this Act, except such profits as may be derived from the sale of timber growing thereon, in respect of which due payment shall not have been made into the Colonial Treasury of such sum of money as by this Act is made payable as a condition precedent to the acquirement by any person not being of the Native race of an estate or interest in such lands shall forfeit the sum of one hundred pounds, to be recovered with full costs of suit, in any Court of competent jurisdiction, by any person who shall be appointed by the Governor to sue for the same.

III.—GENERAL.

Half-castes &c. to be deemed Natives.

15. Half-castes shall, for the purposes of this Act, be deemed to be persons of the Native race.

Commencement of Act.

16. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of her Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor or person administering the Government of New Zealand.

Short Title.

17. The Short Title of this Act shall be "*The Native Territorial Rights Act, 1858.*"

ANNO VICESIMO QUARTO
VICTORIÆ REGINÆ.

SESSION III. No. I.

AN ACT to enable the Committees of both Houses of the General Assembly to administer Oaths to Witnesses in certain cases. [17th August, 1860.]

PRIVATE BILLS
EVIDENCE.

WHEREAS it is expedient that Committees of the Legislative Council and House of Representatives to whom Private Bills may be referred should be enabled to administer oaths to witnesses examined before them : Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The Short Title of this Act shall be "*The Private Bills Evidence Act, 1860.*" Short Title.

2. Any Select Committee of the Legislative Council or of the House of Representatives, or a Joint Committee of the Legislative Council and House of Representatives, to which any Private Bill may be referred by the Legislative Council or House of Representatives respectively, may examine witnesses upon oath upon matters relating to such Bill, and for that purpose may administer an oath to any such witness. Select Committees of Houses may examine witnesses on oath and administer the same.

3. Any person examined as aforesaid who shall wilfully give false evidence shall be liable to the penalties of perjury. False evidence perjury.

No. II.

AN ACT to render the Property in New Zealand of Debtors absent from the Colony available for the Payment of their Debts. [24th September, 1860.]

ABSENT DEBTORS.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The Short Title of this Act shall be "*The Absent Debtors' Act, 1860.*" Short Title.

2. The Act of the General Assembly of New Zealand, intituled "*The Absent Debtors' Act, 1858,*" is hereby repealed. "Absent Debtors' Act, 1858," repealed.

3. This Act shall be deemed and taken to have been in force from the Saving clause.

Absent Debtors.

the twenty-eighth day of May, one thousand eight hundred and fifty-eight, and any proceeding and act commenced and done under the said "*Absent Debtors' Act, 1858,*" shall have the same force and effect as if the same had been commenced and done under this Act, and may be prosecuted carried on and completed accordingly.

Action may be commenced against defendant not within Colony, and the plaintiff may proceed by foreign attachment.

Writ and declaration and affidavit to be filed before writ of foreign attachment issued.

4. An action in the usual form may be commenced in the Supreme Court of New Zealand against any defendant who is not within the Colony, and the plaintiff may proceed in such action by process of foreign attachment in manner hereinafter provided.

5. Before issuing a writ of foreign attachment the plaintiff shall file in the Supreme Court, instead of serving it on the defendant, a copy of the writ in the action, with the declaration annexed, and shall also file an affidavit verifying the matters contained in the declaration and stating that the cause of action arose in respect of a breach of contract made or to be wholly or in part performed in the Colony of New Zealand, and that the defendant is not, to the best of the plaintiff's belief, within the said Colony.

If defendant in the Colony when writ issued, same and all proceedings to be set aside, and if cause of action did not arise in the Colony, attachment to be dissolved.

6. Provided always that if it shall at any time appear that the defendant was within the jurisdiction of the Court at the time of issuing the writ, the said writ and all proceedings thereupon shall be set aside, on application to the Supreme Court or a Judge thereof, with such costs to be paid by the plaintiff to such person and in such manner as the said Court or Judge shall direct. And in case it shall at any time appear that the cause of action did not arise in respect of a breach of contract made or to be wholly or in part performed in the said Colony, the attachment shall be forthwith dissolved by order of the Court or any Judge thereof, with costs to be paid by the plaintiff to such parties and in such manner as such Court or Judge shall direct.

Upon filing writ &c., foreign attachment to issue and to be served on garnishees.

7. Upon filing such writ and declaration and affidavit as aforesaid, a writ of foreign attachment shall be issued at the plaintiff's instance, and shall be served upon the several garnishees or persons therein named, in whose hands it is intended thereby to attach any real or personal property, by delivering a copy thereof to each such garnishee or other person personally, or by leaving the same at his last usual place of abode. And if the said writ of foreign attachment is intended to affect property not in the control of any garnishee or other person within the Colony, a copy thereof, written on parchment, in lieu of such service as aforesaid, shall be affixed in some conspicuous place on the property intended to be thereby affected. Such writ shall remain in force for three calendar months, including the day of the date thereof, and it cannot be served after such time.

To be also published in *Gazette* and newspapers.

8. In addition to such service or affixing as aforesaid, a copy of the said writ shall be published in the *Government Gazette* (if any) of the Province in which the writ shall have been issued, and twice at least in one of the newspapers (if any) published in the principal town of such Province, and in one of the newspapers (if any) published in the principal town of the Province in which the property intended to be thereby affected is situate.

Property and debts bound from time attachment served.

9. From the time of the service of such writ upon any garnishee, all and singular the real and personal property of whatsoever nature in the custody or under the control of such garnishee then belonging to the defendant in the action, or to or in which such defendant shall then be legally or equitably entitled or otherwise beneficially interested, whether solely or jointly with any other person, and all debts of every kind then due by any such garnishee to such defendant, although the same or any part thereof may be payable only at a future day, shall to the extent of such defendant's right title and interest therein respectively be attached in the hands of such garnishee, and, subject to any

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Absent Debtors.

bonâ fide prior claim or lien thereon, shall be liable to the satisfaction of the particular demand or cause of action of which he shall by the said writ have had notice.

10. If any such garnishee shall, without leave of the Supreme Court or one of the Judges thereof, at any time after such service and before the said attachment shall be dissolved, sell or otherwise knowingly dispose of or part with any such property, or pay over any such debt or any part thereof, excepting only to or to the use of the plaintiff in the action, he shall upon application in a summary way to the said Court or to a Judge thereof, and on proof of the facts, pay such damages to the plaintiff as such Court or Judge shall in that behalf think fit to order.

Garnishee parting &c. with property before attachment dissolved to be liable to damages.

11. After such writ of attachment shall have been served or affixed and published as aforesaid, the said Court or a Judge thereof shall, on a day to be fixed by such Court or Judge, proceed to inquire and determine whether the plaintiff's cause of action arose in respect of any breach of contract made or to be wholly or in part performed within the Colony of New Zealand, and if so, then what real and personal property belonging to the defendant has been affected by the service of the said writ as hereinbefore provided, and whether such real and personal property or any property to which any copy of the writ of foreign attachment shall have been affixed in lieu of service as aforesaid, is or can be made available for the purpose of satisfying wholly or in part the claim of the plaintiff.

Inquiry to be made as to where cause of action arose, and as to property in garnishee's hands.

12. For the purpose of disposing of any application to be made in a summary way under this Act, and for the purpose of making such inquiry and determination as aforesaid, it shall be lawful for the Court or Judge in a summary way to examine or permit the plaintiff to examine upon oath every such garnishee as aforesaid, and also any witnesses the Court or Judge may think proper, and for that purpose to make such orders and to issue such summonses to the several garnishees and witnesses as may be deemed expedient.

Powers of Court or Judge in making such inquiry.

13. Any garnishee or any witness who shall refuse or neglect to attend or shall refuse to be examined, shall be liable to be summarily proceeded against for contempt of Court and to be punished accordingly: Provided always that it shall be lawful for the Court or Judge to dispense with the attendance of any garnishee or any witness on his submitting to be examined upon interrogatories, or before a Commissioner to be appointed, or upon such other terms as such Court or Judge shall impose.

Garnishee or witness refusing to attend liable for contempt of Court.

14. It shall be lawful for the Court or Judge, at their or his discretion, to direct the reasonable expenses of any garnishee or witness to be paid by the plaintiff, and to direct that any sums so paid shall be costs in the cause.

Garnishee's or witness's expenses to be paid.

15. So soon as it shall have been determined by the Court or Judge as aforesaid what real and personal property can, consistently with existing liens or prior claims thereon (to be summarily determined by the said Court or Judge), be made available for the purpose of making satisfaction to the plaintiff, the said Court or Judge shall forthwith order the same or any part thereof to be thenceforth held and to continue subject to such attachment accordingly, or to be sold or otherwise disposed of or dealt with as such Court or Judge shall think fit, and the proceeds, or in the case of debts payable the amount thereof, to be paid subject to the attachment into the hands of some officer of the Court; and as to all real and personal property to which such order shall not apply, or as to which no such order shall be made, it shall be lawful for the said Court or Judge at any time to direct that the said attachment shall be dissolved.

Property available or the proceeds thereof to be held subject to attachment.

16. A memorial

Absent Debtors.

Memorial of order may be registered in the Register Office for Deeds of the district where land situate.

16. A memorial of any such order, setting forth the date thereof the title of the cause and so much of the order as shall relate to the land thereby affected, may be registered in the Register Office for Deeds of the district in which such land is situate, and such registration shall be effected in the same manner and shall have the like effect as the registration of a suit pending.

Provision in cases when more than one writ of attachment.

17. When more than one writ of attachment shall have been issued against the same garnishee, or the same property shall have been attached at the suit of more than one plaintiff, it shall be lawful for the said Court or any Judge to award and determine how much and what part of the property so attached or to what amount in value thereof shall be retained or held under each of such writs or be paid into Court or disposed of (as the case may be) for the separate benefit of each plaintiff.

Court or Judge on application of garnishee may order sale &c. of property.

18. It shall be lawful for the said Court or any Judge thereof at any time to authorize any garnishee, on application being made by him after due notice thereof to the plaintiff, to sell or dispose of or otherwise deal with any real or personal property so attached as aforesaid, and any sum of money or any real or personal property received by virtue or in respect of such authority shall be thereafter held by such garnishee or be paid into Court or invested or otherwise appropriated, subject to such attachment as aforesaid or otherwise for the satisfaction of the plaintiff, as such Court or Judge shall think fit to order.

After inquiry plaintiff on giving bond may proceed with action on a day to be fixed by the Court or Judge.

19. After the inquiry and determination as provided in section eleven of this Act shall have been made as aforesaid by the said Court or by a Judge thereof, it shall be lawful for the plaintiff, on or after a day to be fixed by the Court or Judge for such purpose, to proceed in his action in the same manner as though the defendant resided in the Colony and had been duly served with the process of the Court: Provided that a bond as hereinafter prescribed shall have been first entered into; and if such bond be not entered into within fifteen days after the day so to be fixed as aforesaid and the action proceeded with, the attachment shall be *ipso facto* dissolved and the action terminated.

Nature of bond.

20. Such bond shall be entered into with the Registrar or Deputy Registrar of the Supreme Court, with sufficient sureties satisfactory to the Judge thereof and in such sum as any Judge thereof shall fix, and shall contain (amongst such other stipulations and conditions as such Judge may think proper and direct) a condition to pay to the said Registrar or Deputy Registrar all such sums as the said plaintiff shall recover in the action in case the judgment therein be thereafter vacated or reversed, together with the costs sustained by the defendant; and in case of any breach or alleged breach of the conditions of the said bond, it shall be lawful for the said Registrar or Deputy Registrar, by direction of a Judge of the said Court, to assign the said bond to the said defendant, who may then proceed thereon in his own name.

If security given on behalf of the defendant, action may be defended.

21. If, pending any such writ of foreign attachment, or any time before final judgment shall be obtained in the action in which such writ issued, the defendant or any person on his behalf shall enter into a bond, with sufficient sureties to be approved by a Judge of the Supreme Court in such sums as such Judge shall think fit to order, conditioned to pay the plaintiff the amount of such debt or damages and costs as he shall at any time thereafter recover in the said action, it shall then be lawful for such defendant, or person acting on his behalf, to plead in the usual manner to the action within such time as such Judge shall direct, and to defend the same, and, upon giving five clear days' notice thereof to the plaintiff, to apply to the Court or to a Judge thereof, by motion as of course, that the attachment may be

Absent Debtors.

be dissolved, and the same shall be dissolved accordingly, and the action shall thereupon proceed in the ordinary way.

22. At any time after final judgment shall have been obtained by the plaintiff, it shall be lawful for him to act in all respects as in the case of a judgment of the Supreme Court obtained in the ordinary way, subject nevertheless to any award or determination made by the said Court or any Judge, where more than one writ of attachment shall have been issued against the same garnishee or person, or the same property shall have been attached at the suit of more than one plaintiff.

After final judgment plaintiff may act as in ordinary action.

23. It shall also be lawful for the Court or any Judge thereof, upon application of the plaintiff, at any time in a summary way to cause any debtor of the defendant to be summoned to attend such Court or Judge to show cause why he should not forthwith pay the amount of his debt to the plaintiff, and, if no sufficient cause be shown, to order such payment accordingly, and to enforce such order, together with costs attending the same, by an attachment for a contempt of Court as in other cases.

Court or Judge may order debts due to defendant to be paid to plaintiff.

24. It shall be lawful for such Court or Judge, either before summoning such debtor as aforesaid or after summoning him, if such Court or Judge shall see sufficient cause, to authorize an action for the amount of any such debt to be brought or carried on in the name of the creditor, being such defendant as aforesaid. Such action shall be brought or carried on at the expense of the plaintiff, and any money recovered under the same shall be paid to the Sheriff, to be disposed of by him in the same manner as money received by him under *fiери facias* issued by the plaintiff against the defendant.

Court or Judge may order action to be brought for such debts.

25. If after any final judgment obtained as aforesaid an affidavit or declaration as hereinafter provided shall be made by the defendant against whom such process of foreign attachment shall have been issued as aforesaid, that such defendant had at the time of obtaining the said judgment and still has a substantial ground of defence, either wholly or in part, to the plaintiff's action on the merits, and such affidavit shall at any time before the expiration of three years next after such judgment be filed in the Supreme Court of New Zealand, it shall be lawful for the said Court, upon motion by the defendant after ten days' notice thereof being given to the plaintiff, to cause the merits so alleged as aforesaid to be inquired into and determined in such manner and form, either summarily or by a feigned issue between the parties or otherwise, and at such time and under such terms and conditions and after or without security for costs given, as to the said Court shall seem expedient for the purpose of securing the substantial ends of justice.

Court may within three years order merits to be inquired into on application of defendant with substantial grounds of defence.

26. The said Court, after such inquiry and determination, shall thereupon give such judgment in the matter for the vacating or reversal of the judgment in the original action, either in the whole or in part, and may from time to time make such order in the premises between the parties, as the justice of the case shall appear to require.

Such judgment may be given as justice of case requires.

27. Any affidavit under this Act may be sworn in any place in Her Majesty's dominions before any person authorized by law to administer an oath in the place where the same is taken, and at any foreign port or place before any Consul-General, Consul, Vice-Consul, or Consular Agent for the time being appointed by Her Majesty at such port or place; and every affidavit so sworn may be used and shall be admitted as evidence, saving all just exceptions, provided it purport to have the signature thereto of any person so authorized as aforesaid, or of any such Consul-General, Consul, Vice-Consul, or Consular Agent, and be duly certified in the usual way under the hand and seal

Before whom affidavits under this Act may be sworn.

Absent Debtors.

of a Notary Public, or upon such other proof as the Court or Judge shall think fit to receive of the official character and signature of the person appearing to have signed the same.

Use of forged affidavit felony.

28. If any person shall within the Colony use or tender in evidence any such affidavit with a false or counterfeit signature thereto, knowing the same to be false or counterfeit, or containing false evidence knowing the same to be false, he shall be guilty of felony, and upon conviction thereof, liable to penal servitude for any term not exceeding six years or less than one year, and every accessory before or after the fact to any such felony shall be liable to the same punishment as the principal.

Property in possession of a co-defendant or wife may be attached.

29. The property of any such absent defendant may under the provisions of this Act be attached and taken in the custody or power of the defendant's wife or of any co-defendant, and no process of foreign attachment against any such absent defendant, nor any lien intended to be thereby created upon any real or personal property of such defendant thereby attached, shall be defeated by reason of such co-defendant or any garnishee as aforesaid being or claiming to be jointly interested with such defendant therein either as partner or otherwise; and in all cases it shall be sufficient for the purpose of this Act to attach property in the hands of the person having the actual care custody or control of the same for the time being.

Attachment after execution levied may be pleaded in bar.

30. Every writ of attachment, where the same shall have been followed by execution levied, may be pleaded in bar, by any person in whose hands any real or personal estate as aforesaid shall be attached, to any action brought by or on behalf of the defendant for the recovery of such property; and if any action shall be brought pending attachment, such action shall be stayed by order of the Court or a Judge until the attachment shall be dissolved or the proceedings thereupon be otherwise determined.

Court or Judge may order questions to be tried by jury.

31. It shall be lawful for the said Court or any one of the Judges thereof, for the more satisfactory determination of any question of fact arising before such Court or Judge under this Act, to direct the trial of any feigned issue by a jury, and for that purpose to make all necessary orders as to the form thereof, and who shall be parties thereto, and in all such other respects as the said Court or Judge shall think fit.

Supreme Court may make rules.

32. In all cases where no provision or no sufficient provision is made by this Act, it shall be lawful for the Supreme Court or the Chief Justice thereof, from time to time, for the purpose of facilitating or more effectually carrying into execution any of the objects of this Act, to make and prescribe all such general rules and also all such orders applicable to particular cases only touching any of the matters intended to have been hereby provided for, and touching also the manner and form of proceeding before or applying to the said Court and any Judge thereof respectively, and also the execution of writs and orders, and the allowance and taxation of costs, and touching all such other matters having reference to the provisions of this Act as to the said Court or Chief Justice may seem expedient, and such rules and orders from time to time to revoke or alter as to the Court or Chief Justice shall appear to be requisite: Provided always that it shall be lawful for any Judge of the said Court to exercise the power hereinbefore given to the Supreme Court or Chief Justice thereof, to make and prescribe orders applicable to particular cases only.

When plaintiff does not proceed with diligence, Court or Judge may dissolve attachment.

33. If it shall appear to the said Court or to a Judge thereof at any time that a plaintiff is not proceeding *bonâ fide* or with due and proper diligence, it shall be lawful for such Court or Judge to dissolve the attachment, and to direct the plaintiff to pay such costs to such persons as the said Court or Judge may deem reasonable: Provided always

Absent Defendants.

always that no attachment under this Act shall be deemed to be dissolved from any cause whatever except by an order of the said Court or a Judge thereof.

34. The Court and any of the Judges thereof shall in all cases whatsoever under this Act have full power of adjournment from time to time, and also in all cases not provided for by this Act to award or refuse costs to be paid by and to such party as the Court or Judge shall think fit.

Court or Judge may adjourn and award costs.

35. In the construction of this Act the word "Garnishee" shall include every person in whose hands any real or personal property shall be attached or liable to be attached.

Interpretation.

No. III.

AN ACT to provide for the Service of the Process of the Supreme Court of New Zealand upon Defendants absent from the Colony.

ABSENT DEFENDANTS.

[24th September, 1860.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Absent Defendants' Act, 1860.*"

Short Title.

2. The Act of the General Assembly of New Zealand, intituled "*The Absent Defendants' Act, 1858,*" is hereby repealed.

Repeal of 21 and 22 Vict. No. 4.

3. This Act shall be deemed and taken to have been in force from the twenty-eighth day of May, one thousand eight hundred and fifty-eight, and any proceeding and act commenced and done under the said "*Absent Defendants' Act, 1858,*" shall have the same force and effect as if the same had been commenced and done under this Act, and may be prosecuted carried out and completed accordingly.

Saving clause.

4. In case any defendant in any action in the Supreme Court is not within the Colony, it shall be lawful for the plaintiff to issue a writ of summons in the usual form according to the nature of the action, but which, in addition to any other indorsements required by law, shall before the same is issued be indorsed as follows, namely:—"This writ is issued out of the Supreme Court of the Colony of New Zealand for service out of the said Colony;" and, "This writ remains in force six calendar months including the day of the date thereof. It cannot be served after such time unless the defendant consent to be served therewith;" and the time for appearing and pleading by the defendant shall be regulated by the distance from New Zealand of the place where the defendant is residing.

Writs with certain indorsements may be issued against defendants absent from the Colony.

5. Such writ may be served on the defendant anywhere out of the Colony.

May be served anywhere out of the Colony.

6. Upon being satisfied upon affidavit that there is a cause of action which arose within the Colony, or a cause of action in respect of a breach of a contract made or to be wholly or in part performed within the Colony, and that the writ with the declaration annexed was personally served upon the defendant, or that reasonable efforts had been made to effect personal service thereof upon the defendant, and that it came to his knowledge, and that either the defendant wilfully neglects

Court or Judge may direct that the plaintiff may proceed in action on certain conditions.

Absent Defendants.

neglects to appear and plead to such writ and declaration, or that he is living out of the jurisdiction of the said Court in order to defeat or delay his creditors, it shall be lawful for any Court or Judge of the Court to direct from time to time that the plaintiff shall be at liberty to proceed in the action in such manner and subject to such conditions as to such Court or Judge may seem fit, having regard to the time allowed for the defendant to appear and plead being reasonable, and to the other circumstances of the case.

Plaintiff to prove his claim.

7. Provided always that the plaintiff shall and he is hereby required, before he obtain judgment in such action, to prove his damage or demand in such action in such manner either before a jury or otherwise as the Court or Judge may direct, according to the nature of the case and as near as may be in accordance with the rules of the Supreme Court for the time being in force in that behalf.

Omission to make indorsement to be an irregularity only.

8. If the plaintiff or his attorney shall omit to indorse on any writ or copy thereof any of the matters required by this Act, such writ or copy shall not on that account be held void, but it may be set aside as irregular or amended upon application to be made to the Court or a Judge thereof, and such amendment may be made upon an application to set aside the writ upon such terms as to the Court or Judge may seem meet.

Concurrent writs may be issued.

9. A writ for service within the Colony may be issued and marked as a concurrent writ with one for service out of the Colony, and a writ for service out of the Colony may be issued and marked as a concurrent writ with one for service within the Colony, and a writ for service out of the Colony may be issued and marked as a concurrent writ with another for service out of the Colony.

Before whom affidavits under this Act may be sworn.

10. Any affidavit under this Act may be sworn in any place in Her Majesty's dominions before any person authorized by law to administer an oath in the place where the same is taken, and at any foreign port or place before any Consul-General, Consul, Vice-Consul, or Consular Agent for the time being appointed by Her Majesty at such port or place; and every affidavit so sworn may be used and shall be admitted as evidence, saving all just exceptions, provided it purport to have the signature thereto of any person so authorized as aforesaid, or of any such Consul-General, Consul, Vice-Consul, or Consular Agent, and be duly certified in the usual way under the hand and seal of a notary public, or upon such other proof as the Court or Judge shall think fit to receive of the official character and signature of the person appearing to have signed the same.

Use of forged affidavit felony.

11. If any person shall within the Colony use or tender in evidence any such affidavit with a false or counterfeit signature thereto, knowing the same to be false or counterfeit, or containing false evidence knowing the same to be false, he shall be guilty of felony, and upon conviction thereof, liable to penal servitude for any term not exceeding six years or less than one year, and every accessory before or after the fact to any such felony shall be liable to the same punishment as the principal.

Foreign Seamen.

No. IV.

AN ACT for preventing Desertion and other Misconduct
of Seamen belonging to Foreign Ships.

FOREIGN SEAMEN.

[24th September, 1860.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Foreign Seamen's Act, 1860.*" Short Title.

2. "*The Foreign Seamen's Act, 1858,*" is hereby repealed.

Repeal of "*Foreign Seamen's Act, 1858.*"
Foreign seamen deserting &c. may be apprehended by warrant.

3. If any seaman belonging to any foreign ship shall, whilst such ship shall be in any port in the Colony of New Zealand or otherwise within the limits thereof, desert or absent himself without leave, or wilfully neglect or refuse to join after signing an agreement to do so, or shall refuse to proceed to sea in such ship, it shall be lawful for any Justice of the Peace, upon the complaint upon oath of the master of such ship, to issue his warrant for the apprehension of such seaman and thereupon deal with him as hereinafter provided, or, at the request of such master, to order such seaman to be put forcibly on board the ship to which he may belong, or to place such seaman at the disposal of the Consul of the nation or state to which such vessel shall belong.

4. The master of any such ship may require any constable, who is thereupon hereby authorized, without first procuring a warrant, to apprehend any such seaman so deserting absents himself neglecting or refusing to join or refusing to proceed to sea as aforesaid, and such constable shall thereupon convey him before a Justice of the Peace, to be dealt with according to law: Provided that if such apprehension be made on improper or insufficient grounds, the master who caused the same to be made shall be liable to a penalty not exceeding fifty pounds.

Also without warrant.

5. Every seaman of any foreign ship who shall, whilst such ship shall be in any port of this Colony or otherwise within the limits thereof, commit any of the offences hereinafter mentioned, shall upon conviction thereof in a summary way before any Justice of the Peace be imprisoned, with or without hard labour, in any gaol or house of correction for periods not exceeding the periods hereinafter set against the said offences respectively, that is to say,—

Punishments.

(1.) For desertion or absents himself without leave, or refusing to join after signing an agreement to do so, or refusing to proceed to sea in such ship, a period of twelve weeks for the first offence and a period of six months for a second or subsequent desertion or absence as aforesaid.

Desertion.

(2.) For assaulting any master or other officer of such ship, a period of six months.

Assaulting officers.

(3.) For wilful disobedience to any lawful command of such master or other officer of such ship, or for a wilful neglect of his duty as a seaman, or for attempting to leave any such ship without the consent of the officer in charge thereof, a period of four weeks.

Disobedience or neglect of duty.

(4.) For continued wilful disobedience to such lawful commands, or for continued wilful neglect of such duty, a period of twelve weeks.

Continued disobedience or neglect of duty.

(5.) For combining with any other of the crew to desert, or to disobey the lawful commands of his officers, or to neglect

Combining to disobey or neglect duty &c.

Foreign Seamen.

his duty as seaman, or impede the discharge loading or departure of the ship or the progress of the voyage, a period of twelve weeks :

Provided that nothing herein contained shall take away or abridge any powers which a master of any such ship may have over his crew.

Power to order convicted seaman to be put on board.

6. It shall be lawful for any Justice of the Peace, at the instance of the master of any such ship, to order any such seaman, at or after the expiration or earlier determination of his sentence of imprisonment or at any time during the continuance thereof, to be put forcibly or otherwise on board the ship to which he may belong, and in all such cases it shall be lawful for any Justice of the Peace to grant an order to any gaoler or keeper of any prison to discharge such seaman from prison into such custody as such Justice shall direct, which shall be a sufficient warrant to such gaoler or keeper to deliver such seaman into such custody and for such purpose as aforesaid.

Ships or places may be searched.

7. It shall be lawful for any Justice of the Peace, upon the complaint on oath of the master of any such ship that he has good cause for suspecting that any runaway seaman of such ship is harboured secreted or concealed on board any ship or boat or in any house or place whatsoever, to issue a warrant to search such ship or boat or such house or place and to apprehend such seaman and lodge him in some place for safe custody, and such warrant shall be executed accordingly, and every such seaman shall be brought with all convenient speed before some Justice of the Peace to be dealt with according to law.

Penalties for harbouring deserters &c.

8. If any person shall knowingly and wilfully harbour conceal employ or retain, or assist in harbouring concealing employing or retaining, any seaman belonging to any such ship as aforesaid who shall have deserted or absented himself or refused or neglected to join or refused to proceed to sea as aforesaid, or shall cause induce or persuade any such seaman, by words or by any other means whatsoever, to violate or attempt to violate any agreement which he may have entered into to serve on board any such ship as aforesaid, or shall knowingly connive at the desertion or absence or refusal or neglect to join or refusal to proceed to sea of any such seaman, such person so offending shall for every such offence forfeit and pay a penalty not exceeding twenty pounds for the first offence, and not less than ten or more than fifty pounds for a second or subsequent offence.

Officer having charge of police may put constables on board ships.

9. It shall be lawful for the officer having charge of the police at any port, upon the application of the master of any such ship, to place constables on board such ship to prevent desertion therefrom and to prohibit the approach of boats without the authority of such constables or of the officer in charge of such ship.

Penalty for approaching ship in boat after being duly warned.

10. The occupier of any boat approaching any such ship without such authority as aforesaid after being duly warned shall forfeit and pay any sum not exceeding ten pounds for every such offence, and any seaman attempting to leave any such ship without the consent of the officer in charge thereof may be apprehended by any constable, without warrant first obtained, and kept in safe custody, to be taken as soon as conveniently may be before some Justice of the Peace to be dealt with according to law : Provided always that if any seaman shall make any complaint to any constable placed as aforesaid on board any ship, a statement of such complaint shall be made by such constable as soon as conveniently may be to the officer having charge of the police, who shall forthwith inquire into the ground of such complaint.

Attesting witness of ship's articles need not be called.

11. In prosecuting under this Act it shall not be necessary, for the purpose of proving the articles or agreements under which any such seaman shall have engaged to serve on board any such ship, to call

Foreign Seamen.

call any subscribing or attesting witness thereto, but such articles or agreement may be proved as if there was no such subscribing or attesting witness.

12. All penalties imposed by this Act may be recovered before one or more Justices of the Peace in a summary way, and the service of any summons or other document in any proceeding under this Act shall be good service if made as now required by law or if made by leaving a copy of such summons or other document for the person to be served on board any ship to which he may belong, with the person being or appearing to be at the time in command or charge of such ship, and explaining to such person the purport thereof.

Penalties how recoverable, and service of summons how to be made.

13. All expenses incidental to the prevention of desertion apprehension confinement or removal of any seaman by virtue of the powers and authority conferred by this Act shall be paid to the officer having charge of the police by the Consul, master, mate, or other person at whose instance the same shall have been incurred.

Expenses to be paid by master.

14. Provided always that none of the provisions of this Act shall be enforced in respect of the masters and seamen of any foreign ships, until it shall have been signified in writing to the Governor of New Zealand, by a Consul or some other proper officer of the Government of the nation or state to which any such ship shall belong, that it is the desire of such Government that this Act shall be enforced in respect of the master and seamen of the ships of such nation or state.

Provisions of this Act not to be enforced except by desire of Consul &c. of nations to which foreign ships may belong.

15. Whenever a notification shall have been published in the *New Zealand Gazette* to the effect that the provisions of this Act will be enforced in respect of the master and seamen of the ships of any foreign nation or state, the same shall be enforced accordingly from and after a day to be fixed in such notification; and any printed copy of the *New Zealand Gazette* purporting to have been printed and published by authority of the New Zealand Government, containing such notification, shall be deemed sufficient evidence that this Act may be enforced in respect of the master and seamen of any ship belonging to the nation or state to which such notification shall refer.

After notification in *New Zealand Gazette* this Act may be enforced.

16. The following Acts are hereby repealed, namely:—

- (1.) An Act passed by the Provincial Council of the Province of Auckland, Session I., No. 2, intituled "*An Act for preventing Desertion and other Misconduct of Seamen belonging to Foreign Ships.*"
- (2.) An Act passed by the Provincial Council of the Province of Wellington, Session II., No. 7, intituled "*An Act to prevent the Desertion of Seamen from Foreign Ships or Vessels.*"

Acts of Provincial Councils on same subject repealed.

17. In the construction of this Act, unless there be something in the subject or context repugnant to such construction, the word "Port" shall include any roadstead harbour creek or river; and the word "Ship" every description of vessel employed on the high seas; and the term "Master" any person for the time being in command or charge of such ship; and the word "Seaman" every person except the master employed or engaged to serve in any capacity on board any such ship; and the words "Foreign Ship" all ships not entitled to be deemed British ships under an Act of the Imperial Parliament, intituled "*The Merchant Shipping Act, 1854;*" and the word "Consul" shall include Vice-Consul and any other consular officer or agent.

Interpretation.

Fraudulent Trustees.

No. V.

**FRAUDULENT
TRUSTEES.**

AN ACT to make better provision for the Punishment of Frauds committed by Trustees, Bankers, and other Persons intrusted with Property.

[24th September, 1860.]

Preamble.

WHEREAS it is expedient to make better provision for the punishment of frauds committed by trustees, bankers, and other persons intrusted with property :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The Fraudulent Trustees' Act, 1860.*"

Trustees fraudulently disposing of property guilty of misdemeanour.

2. If any person, being a trustee of any property for the benefit, either wholly or partially, of some other person or for any public or charitable purpose, shall, with intent to defraud, convert or appropriate the same or any part thereof to or for his own use or purposes, or shall with intent aforesaid otherwise dispose of or destroy such property or any part thereof, he shall be guilty of a misdemeanour.

Bankers &c. fraudulently selling &c. property intrusted to their care guilty of misdemeanour.

3. If any person, being a banker, merchant, broker, attorney, or agent, and being intrusted for safe custody with the property of any other person, shall, with intent to defraud, sell negotiate transfer pledge or in any manner convert or appropriate to or for his own use such property or any part thereof, he shall be guilty of a misdemeanour.

Persons under powers of attorney fraudulently selling property guilty of misdemeanour.

4. If any person intrusted with any power of attorney for the sale or transfer of any property shall fraudulently sell or transfer or otherwise convert such property or any part thereof to his own use or benefit, he shall be guilty of a misdemeanour.

Bailees fraudulently converting property to their own use guilty of larceny.

5. If any person, being a bailee of any property, shall fraudulently take or convert the same to his own use or the use of any person other than the owner thereof, although he shall not break bulk or otherwise determine the bailment, he shall be guilty of larceny.

Directors &c. of any Body Corporate or Public Company fraudulently appropriating property.

6. If any person, being a director, member, or public officer of any Body Corporate or Public Company, shall fraudulently take or apply for his own use any of the money or other property of such Body Corporate or Public Company, he shall be guilty of a misdemeanour.

Or keeping fraudulent accounts.

7. If any person, being a director, public officer, or manager of any Body Corporate or Public Company, shall as such receive or possess himself of any of the money or other property of such Body Corporate or Public Company otherwise than in payment of a just debt or demand, and shall, with intent to defraud, omit to make or to cause or direct to be made a full and true entry thereof in the books and accounts of such Body Corporate or Public Company, he shall be guilty of a misdemeanour.

Or wilfully destroying books &c.

8. If any director, manager, public officer, or member of any Body Corporate or Public Company shall, with intent to defraud, destroy alter mutilate or falsify any of the books papers writings or securities belonging to the Body Corporate or Public Company of which he is a director or manager, public officer, or member, or make or concur in the making of any false entry or any material omission in any book of account or other document, he shall be guilty of a misdemeanour.

9. If

Fraudulent Trustees.

9. If any director, manager, or public officer of any Body Corporate or Public Company shall make circulate or publish, or concur in making circulating or publishing, any written statement or account which he shall know to be false in any material particular with intent to deceive or defraud any member, shareholder, or creditor of any such Body Corporate or Public Company, or with intent to induce any person to become a shareholder or partner therein, or to intrust or advance any money or property to such Body Corporate or Public Company, or to enter into any security for the benefit thereof, he shall be guilty of a misdemeanour.

Or publishing fraudulent statements guilty of misdemeanour.

10. If any person shall receive any chattel money or valuable security which shall have been so fraudulently disposed of as to render the party disposing thereof guilty of a misdemeanour under any of the provisions of this Act, knowing the same to have been so fraudulently disposed of, he shall be guilty of a misdemeanour, and may be indicted and convicted thereof whether the party guilty of the principal misdemeanour shall or shall not have been previously convicted or shall or shall not be amenable to justice.

Persons receiving property fraudulently disposed of, knowing the same to have been so, guilty of misdemeanour.

11. Every person found guilty of a misdemeanour under this Act shall be liable, at the discretion of the Court, to be kept in penal servitude for the term of three years, or to suffer such other punishment, by imprisonment for not more than two years with or without hard labour, or by fine, as the Court shall award.

Punishment for a misdemeanour under this Act.

12. Nothing in this Act contained shall enable or entitle any person to refuse to make a full and complete discovery or to answer any question or interrogatory in any civil proceeding, in any Court of Law or Equity or in any Court of Bankruptcy or Insolvency; but no such discovery, nor any such answer to any such question or interrogatory, shall be admissible in evidence against such person in any proceeding under this Act.

No person exempt from answering questions in any Court. Evidence not admissible in prosecutions under this Act.

13. Nothing in this Act contained, nor any proceeding conviction or judgment to be had or taken thereon against any person under this Act, shall prevent lessen or impeach any remedy at law or in equity which any party aggrieved by any offence against this Act might have had if this Act had not been passed; but no conviction of any such offender shall be received in evidence in any action or suit against him; and nothing in this Act contained shall affect or prejudice any agreement entered into or security given by any trustee, having for its object the restoration or repayment of any trust property misappropriated.

No remedy at law or in equity shall be affected.

Convictions shall not be received in evidence in civil suits.

14. No proceeding or prosecution for any offence included in the second section but not included in any other section of this Act shall be commenced without the sanction of the Attorney-General of New Zealand: Provided that where any civil proceeding shall have been taken against any person to whom the provisions of the said second section but not of any other section of this Act may apply, no person who shall have taken such civil proceeding shall commence any prosecution under this Act without the sanction of the Court or Judge before whom such civil proceeding shall have been had or shall be pending.

No prosecution shall be commenced without the sanction of the Attorney-General, or in certain cases of the Court or a Judge.

15. If upon the trial of any person under this Act it shall appear that the offence proved amounts to larceny, he shall not by reason thereof be entitled to be acquitted of a misdemeanour under this Act.

If offence amounts to larceny, person not to be acquitted of a misdemeanour.

16. In every prosecution for any misdemeanour against this Act the Court before which any such offence shall be prosecuted or tried may allow the expenses of the prosecution in all respects as in cases of felony.

Costs of prosecution.

17. No misdemeanour under this Act shall be prosecuted or tried in any District Court.

Misdemeanours not triable at District Courts.

Remission of Penalties.

Interpretation of certain terms.

18. The word "Trustee" shall in this Act mean a trustee on some express trust created by some deed will or instrument in writing, and shall also include the heir and personal representative of any such trustee, and also all executors and administrators, liquidators under "*The Joint Stock Companies Act, 1860*," and all Assignees in Bankruptcy and Insolvency. The word "Property" shall include every description of real and personal property goods raw or other materials money debts and legacies, and all deeds and instruments relating to or evidencing the title or right to any property or giving a right to recover or receive any money or goods; and such word property shall also denote and include not only such real and personal property as may have been the original subject of a trust, but also any real or personal property into which the same may have been converted or exchanged, and the proceeds thereof respectively, and anything acquired by such proceeds.

No. VI.

REMISSION OF PENALTIES.

AN ACT to amend the Law concerning the Remission of Penalties. [24th September, 1860.]

Preamble.

WHEREAS penalties which under certain Penal Statutes are made payable to parties other than the Crown cannot be remitted or pardoned by the Crown where no express provision has been made by the Statute for that purpose, and it is expedient that the law as to the remission of such penalties should be amended and made uniform :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The Remission of Penalties Act, 1860*."

Penalties for offences may be remitted by the Governor although payable to parties other than the Crown.

2. It shall be lawful for the Governor to remit in whole or in part any sum of money which, under any Act of the Imperial Parliament, or any Act or Ordinance of the present or any former Legislature of the Colony, or of any Province thereof, for the time being in force, may be imposed as a penalty or forfeiture on a convicted offender, although such money may be in whole or in part payable to some party other than the Crown, and to extend the Royal mercy to any person who may be imprisoned for non-payment of any sum of money so imposed, although the same may be in whole or in part payable to some party other than the Crown.

No. VII.

SUMMARY PROCEEDINGS IMPROVEMENT.

AN ACT to improve the Administration of the Law so far as respects Summary Proceedings before Justices of the Peace. [28th September, 1860.]

Preamble.

WHEREAS it is expedient that provision should be made for obtaining the opinion of a Superior Court on questions of law which

Summary Proceedings Improvement.

which arise in the exercise of summary jurisdiction by Justices of the Peace :

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The Short Title of this Act shall be "*The Summary Proceedings Improvement Act, 1860.*" Short Title.

2. In the interpretation and for the purposes of this Act the word "Court" shall mean the Supreme Court of New Zealand, and the words "Justice or Justices" shall include a Resident Magistrate. Interpretation of terms.

3. After the hearing and determination, by a Justice or Justices of the Peace, of any information or complaint which he or they have power to determine in a summary way by any law now in force or hereafter to be made, either party to the proceeding before the said Justice or Justices may, if dissatisfied with the said determination as being erroneous in point of law, apply in writing within three days after the same to the said Justice or Justices to state and sign a case setting forth the facts and the grounds of such determination for the opinion thereon of the Court, and such party, hereinafter called the "Appellant," shall within fourteen days after receiving such case transmit the same to the Court, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other party to the proceeding in which the determination was given, hereinafter called the "Respondent" : Provided always that no such determination may be appealed against on the ground of improper admission or rejection of evidence. Justices on application of a party aggrieved to state a case for the opinion of Court.

4. The appellant, at the time of making such application and before the case shall be stated and delivered to him by the Justice or Justices, shall in every instance enter into a recognizance before such Justice or Justices, or any one or more of them, or any other Justice exercising the same jurisdiction, with or without surety or sureties and in such sum as to the Justice or Justices shall seem meet, conditioned to prosecute without delay such appeal, and to submit to the judgment of the Court and pay such costs as may be awarded by the same ; and the appellant shall at the same time and before he shall be entitled to have the case delivered to him, pay the fees for and in respect of the case and recognizances, according to the Schedule to this Act annexed, which fees may from time to time be varied or abolished by the Governor in Council ; and the appellant, if then in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same Justice or Justices, or if that is impracticable, before some other Justice or Justices exercising the same jurisdiction, who shall be then sitting, within ten days after the judgment of the Court shall have been given, to abide such judgment unless the determination appealed against be reversed. Security and notice to be given by the appellant.

5. If the Justice or Justices be of opinion that the application be merely frivolous, but not otherwise, he or they may refuse to state a case, and shall on request of the appellant sign and deliver to him a certificate of such refusal : Provided that the Justice or Justices shall not refuse to state a case when application for that purpose is made to them by or under the direction of Her Majesty's Attorney-General for the Colony. Justices may refuse a case when they think the application frivolous.

6. When the Justice or Justices shall refuse to state a case as aforesaid, it shall be lawful for the appellant to apply to the Court, upon an affidavit of the facts, for a rule calling upon such Justice or Justices and also upon the respondent to show cause why such case should not be stated, and the Court may make the same absolute or discharge it, with or without payment of costs, as to the Court shall seem meet ; and the Justice or Justices, upon being served with such rule When the Justices refuse, the Court may by rule order a case to be stated.

rule

Summary Proceedings Improvement.

rule absolute, shall state a case accordingly, upon the appellant entering into such recognizance as is hereinbefore provided.

Court to determine the questions on the case.

7. The Court shall hear and determine the question or questions of law arising on any case transmitted to it under this Act, and shall thereupon reverse affirm or amend the determination in respect of which the case has been stated, or remit the matter to the Justice or Justices with the opinion of the Court thereon, or may make such other order in relation to the matter and may make such orders as to costs as to the Court may seem fit; and all such orders shall be final and conclusive on all parties: Provided always that no Justice or Justices of the Peace who shall state and deliver a case in pursuance of this Act shall be liable to any costs in respect or by reason of such appeal against his or their determination.

Its decisions shall be final.

Case may be sent back for amendment.

8. The Court shall have power, if they think fit, to cause the case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended.

Powers of the Court may be exercised by a Judge at Chambers.

9. The authority and jurisdiction hereby vested in the Court for the opinion of which a case is stated under this Act, shall and may, subject to any rules and orders of such Court in relation thereto, be exercised by a Judge of such Court sitting in Chambers.

After the decision of Court Justices may issue warrants.

10. After the decision of the Court in relation to any case stated for their opinion under this Act, the Justice or Justices in relation to whose determination the case has been stated, or any other Justice or Justices of the Peace exercising the same jurisdiction, shall have the same authority to enforce any conviction or order which may have been affirmed amended or made by such Court as the Justice or Justices who originally decided the case would have had to enforce his or their determination if the same had not been appealed against; and no action or proceeding whatsoever shall be commenced or had against the Justice or Justices for enforcing such conviction or order by reason of any defect in the same respectively.

Certiorari not to be required for proceedings under this Act.

11. No writ of *certiorari* or other writ shall be required for the removal of a conviction order or other determination in relation to which a case is stated under this Act, or otherwise for obtaining the judgment or determination of the Court on such case under this Act.

Court may make rules for proceedings.

12. The Court may from time to time, and as often as it shall see occasion, make and alter rules and orders to regulate the practice and proceedings in reference to the cases hereinbefore mentioned.

Recognizances how to be enforced.

13. In all cases where the conditions or any of them in the said recognizance mentioned shall not have been complied with, the Justice or Justices who shall have taken the same, or any other Justice or Justices, shall certify upon the back of the recognizance in what respect the conditions thereof have not been observed, and transmit the same to the Registrar of the Court within the district within which such recognizance shall have been taken, to be proceeded upon in like manner as other forfeited recognizances of the Court.

Appellants under this Act not to be allowed to appeal otherwise.

14. Any person who shall be entitled to appeal under the provisions of this Act against any determination of a Justice or Justices of the Peace shall not be entitled to appeal under the provisions of an Ordinance of the Governor and Legislative Council of New Zealand, Session II., No. 5, intituled "*An Ordinance to regulate Summary Proceedings before Justices of the Peace*," nor in any other manner than under the provisions of this Act.

Trade and Commerce.

SCHEDULE.

Fees.

	s.	d.
For drawing case and copy, where the case does not exceed five folios of 90 words each	10	0
Where the case exceeds five folios, then for any additional folio	1	0
For the recognizance to be taken in pursuance of the Act	5	0
For every enlargement or renewal thereof	2	6
For certificate of refusal of case	2	0

No. VIII.

AN ACT to amend the Laws affecting Trade and Commerce. [28th September, 1860.]

TRADE AND
COMMERCE.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Mercantile Law Amendment Act, 1860.*" Short Title.

2. No writ of *fiery facias* or other writ of execution and no writ of attachment against the goods of a debtor shall prejudice the title to such goods acquired by any person *bonâ fide* and for a valuable consideration before the actual seizure or attachment thereof by virtue of such writ: Provided such person had not, at the time when he acquired such title, notice that such writ or any other writ by virtue of which the goods of such owner might be seized or attached had been delivered to and remained unexecuted in the hands of the Sheriff. Persons acquiring title to goods before they have been seized or attached under writ against the seller protected.

3. In all actions and suits in any Court of Record for breach of contract to deliver specific goods for a price in money, on the application of the plaintiff and by leave of the Judge before whom the cause is tried, the jury shall, if they find the plaintiff entitled to recover, find by their verdict what are the goods in respect of the non-delivery of which the plaintiff is entitled to recover and which remain undelivered; what (if any) is the sum the plaintiff would have been liable to pay for the delivery thereof; what damages (if any) the plaintiff would have sustained if the goods should be delivered under execution, as hereinafter mentioned, and what damages if not so delivered; and thereupon, if judgment shall be given for the plaintiff, the Court or any Judge thereof, at their or his discretion, on the application of the plaintiff, shall have power to order execution to issue for the delivery of the said goods on payment of such sum (if any) as shall have been found to be payable by the plaintiff as aforesaid, without giving the defendant the option of retaining the said goods upon paying the damages assessed; and such writ of execution may be for the delivery of such goods; and if such goods so ordered to be delivered or any part thereof cannot be found, and unless the Court or such Judge as aforesaid shall otherwise order, the Sheriff or other officer of such Court of Record shall distrain the defendant by all his lands and chattels in the said Sheriff's bailiwick, or within the jurisdiction of such Court of Record, till the defendant deliver such goods, or, at the option of the plaintiff, cause to be made of the defendant's goods the assessed value or damages or a due proportion thereof: Provided that

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the plaintiff shall, either by the same or a separate writ of execution, be entitled to have made of the defendant's goods the damages costs and interest in such action or suit.

Consideration for guarantee need not appear by writing.

4. No special promise to be made by any person after the passing of this Act to answer for the debt default or miscarriage of another person, being in writing and signed by the party to be charged therewith or some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action suit or other proceeding to charge the person by whom such promise shall have been made by reason only that the consideration for such promise does not appear in writing or by necessary inference from a written document.

Guarantee to or for a firm to cease upon a change in the firm, except in special cases.

5. No promise to answer for the debt default or miscarriage of another made to a firm consisting of two or more persons, or to a single person trading under the name of a firm, and no promise to answer for the debt default or miscarriage of a firm consisting of two or more persons or of a single person trading under the name of a firm, shall be binding on the person making such promise in respect of anything done or omitted to be done after a change shall have taken place in any one or more of the persons constituting the firm or in the person trading under the name of a firm, unless the intention of the parties that such promise shall continue to be binding notwithstanding such change shall appear either by express stipulation or by necessary implication from the nature of the firm or otherwise.

A surety who discharges the liability to be entitled to assignment of all securities held by the creditor.

6. Every person who, being surety for the debt or duty of another or being liable with another for any debt or duty, shall pay or satisfy such debt or perform such duty, shall be entitled to have assigned to him, or a trustee for him, every judgment specialty or other security which shall be held by the creditor in respect of such debt or duty, whether such judgment specialty or other security shall or shall not be deemed at law to have been satisfied by the payment of the debt or performance of the duty, and such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and if need be, and upon a proper indemnity, to use the name of the creditor in any action or other proceeding at law or in equity in order to obtain from the principal debtor or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who shall have so paid or satisfied such debt or performed such duty, and such payment satisfaction or performance so made by such surety shall not be pleadable in bar of any such action or other proceeding by him: Provided always that no co-surety, co-contractor, or co-debtor shall be entitled to recover from any other co-surety, co-contractor, or co-debtor, by the means aforesaid, more than the just proportion to which as between those parties themselves such last-mentioned person shall be justly liable.

Acceptance of a bill, inland or foreign, to be in writing on it and signed by the acceptor or his agent.

7. No acceptance of any bill of exchange, whether inland or foreign, made after the thirty-first day of December, one thousand eight hundred and sixty, shall be sufficient to bind or charge any person unless the same be in writing on such bill, or if there be more than one part of such bill, on one of the said parts, and signed by the acceptor or some person duly authorized by him.

Limitation of actions for "Merchants' Accounts."

8. All actions of account or for not accounting, and suits for such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants, shall be commenced and sued within six years after the cause of such actions or suits, or when such cause has already arisen, then within six years after the passing of this Act; and no claim in respect of a matter which arose more than six years before the commencement of such action or suit shall be enforceable by action or suit by reason only of some other matter of claim comprised

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comprised in the same account having arisen within six years next before the commencement of such action or suit.

9. No person or persons who shall be entitled to any action or suit with respect to which the period of limitation within which the same shall be brought is fixed by the Act of the twenty-first year of the reign of King James the First, chapter sixteen, section three, or by the Act of the fourth year of the reign of Queen Anne, chapter sixteen, section seventeen, or by the Act of the fifty-third year of the reign of King George the Third, chapter one hundred and twenty-seven, section five, or by the Acts of the third and fourth years of the reign of King William the Fourth, chapter twenty-seven, sections forty, forty-one, and forty-two, and chapter forty-two, section three, shall be entitled to any time within which to commence and sue such action or suit beyond the period so fixed for the same by the enactments aforesaid, by reason only of such person or some one or more of such persons being beyond the seas at the time such cause of action or suit accrued, or in the cases in which by virtue of any of the aforesaid enactments imprisonment is now a disability by reason of such person or some one or more of such persons being imprisoned at the time such cause of action or suit accrued.

Absence beyond seas or imprisonment of a creditor not to be a disability.

10. Where such cause of action or suit with respect to which the period of limitation is fixed by the enactments aforesaid or any of them lies against two or more joint debtors, the person or persons who shall be entitled to the same shall not be entitled to any time within which to commence and sue any such action or suit against any one or more of such joint debtors who shall not be beyond the seas at the time such cause of action or suit accrued by reason only that some other one or more of such joint debtors was or were at the time such cause of action accrued beyond the seas; and such person or persons so entitled as aforesaid shall not be barred from commencing and suing any action or suit against the joint debtor or joint debtors who was or were beyond seas at the time the cause of action or suit accrued after his or their return from beyond seas, by reason only that judgment was already recovered against any one or more of such joint debtors who was not or were not beyond seas at the time aforesaid.

Period of limitation to run as to joint debtors in the Colony though some are beyond seas.

Judgment recovered against joint debtors in the Colony to be no bar to proceeding against others beyond seas after their return.

11. In reference to the provisions of the Act of the Imperial Parliament of the ninth year of the reign of King George the Fourth, chapter fourteen, sections one and eight, an acknowledgment or promise made or contained by or in writing signed by an agent of the party chargeable thereby duly authorized to make such acknowledgment or promise shall have the same effect as if such writing had been signed by such party himself.

Provisions of 9 Geo. IV. c. 14, ss. 1 and 8, extended to acknowledgments by agents.

12. In reference to the provisions of the Acts of the twenty-first year of the reign of King James the First, chapter sixteen, section three, and of the Act of the third and fourth years of the reign of King William the Fourth, chapter forty-two, section three, when there shall be two or more co-contractors or co-debtors, whether bound or liable jointly only or jointly and severally, or executors or administrators of any contractor, no such co-contractor or co-debtor, executor or administrator, shall lose the benefit of the said enactments or any of them so as to be chargeable in respect or by reason only of payment of any principal interest or other money by any other or others of such co-contractors or co-debtors, executors or administrators.

Part payment by one contractor &c. not to prevent bar by certain statutes of limitations in favour of another contractor &c.

Married Women's Property Protection.

No. IX.

**MARRIED WOMEN'S
PROPERTY
PROTECTION.**

AN ACT to protect the Property of Married Women.

[28th September, 1860.]

Preamble.

WHEREAS it is expedient to amend the law relating to property acquired by married women deserted by their husbands:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Married Women's Property Protection Act, 1860.*"

Wife deserted by her husband may apply to a Resident Magistrate or Justices in Session for protection.

2. A wife deserted by her husband may at any time after such desertion apply to a Resident Magistrate or to Justices of the Peace in Petty Sessions for an order to protect any money or property she may acquire by her own lawful industry, and property which she may become possessed of after such desertion, against her husband or his creditors, or any person claiming under him; and such Resident Magistrate or Justices, if satisfied of the fact of such desertion, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and property acquired since the commencement of such desertion from her husband, and all creditors and persons claiming under him: Provided always that every such order shall, within ten days after the making thereof, be entered with the Clerk to the nearest Resident Magistrate, and that it shall be lawful for the husband and any creditor or other person claiming under him to apply to the Resident Magistrate or Justices by whom the order was made to discharge vary or reverse the same: Provided also that if the husband or any creditor or other person claiming under the husband shall seize or continue to hold any property of the wife after notice of the order, he shall be liable at the suit of the wife (which she is hereby empowered to bring) to restore the specific property and also to pay a sum equal to double the value of the property so seized or held after such notice as aforesaid.

Provisions respecting property of wife to extend to property vested in her as executrix &c.

3. The provisions herein contained shall be deemed to extend to property to which the wife has become or shall become entitled as executrix, administratrix, or trustee, since the commencement of the desertion; and the death of the testator or intestate shall be deemed to be the time when the wife became entitled as executrix or administratrix.

Order for protection of earnings &c. of wife to be deemed valid.

4. The order shall, until reversed or discharged, so far as necessary for the protection of any person or Corporation who shall deal with the wife, be deemed valid and effectual, and no discharge variation or reversal thereof shall prejudice or affect any rights or remedies which any person would have had in case the same had not been so reversed varied or discharged in respect of any debts contracts or acts of the wife incurred entered into or done between the times of the making of the order and of the discharge variation or reversal thereof; and property of or to which the wife is possessed or entitled for an estate in remainder or reversion at the date of the desertion shall be deemed to be included in the protection given by the order.

Order to state the time at which the desertion commenced.

5. The order shall state the time at which the desertion in consequence whereof the same is made commenced, and shall as regards all persons dealing with the wife in reliance thereon be conclusive as to the time when such desertion commenced.

6. The

Bankers' Returns.

6. The wife shall during the continuance of the order be considered during such desertion as a *feme sole* with respect to property of every description which she may acquire or which may come to or devolve upon her, and such property may be disposed of by her in all respects as a *feme sole*; and on her decease the same shall, in case she shall die intestate, go as the same would have gone if her husband had been then dead: Provided that if the order shall be reversed or discharged and the wife shall again cohabit with her husband, all such property as she may be entitled to when such cohabitation shall take place shall be held to her separate use, subject however to any agreement in writing made between herself and her husband before such renewed cohabitation.

Rights and liabilities of wife deserted and having obtained order of protection.

7. In every case in which a wife shall have obtained such order as aforesaid she shall, until the same shall be reversed or discharged as aforesaid, be considered as a *feme sole* for the purposes of contract and wrongs and injuries, and suing and being sued in any civil proceedings; and her husband shall not be liable in respect of any engagement or contract she may have entered into, or for any wrongful act or omission by her, or for any costs she may incur as plaintiff or defendant during such period: Provided that where upon such desertion alimony has been ordered to be paid to the wife, and if the same shall not be duly paid by the husband, he shall be liable for necessaries supplied for her use: Provided also that nothing shall prevent the wife from joining at any time during such desertion in the exercise of any joint power given to herself and her husband.

To be considered a *feme sole* for purposes of contract and suing.

8. All persons and Corporations who shall, in reliance on any order, make any payment to or permit any transfer or act to be made or done by the wife who has obtained the same, shall, notwithstanding the order may then have been discharged reversed or varied, be protected and indemnified in the same way in all respects as if at the time of such payment transfer or other act the order were valid and still subsisting without variation in full force and effect, unless at the time of such payment transfer or other act such persons or Corporations had notice of the discharge reversal or variation of the order.

Indemnity for making payments under order afterwards reversed.

No. X.

AN ACT to amend "*The Bankers' Returns Act, 1858.*"
[28th September, 1860.]

BANKERS' RETURNS.

WHEREAS by "*The Bankers' Returns Act, 1858,*" it is enacted that every Banker in the Colony of New Zealand shall, at the close of business on Monday in every week, prepare and make up at each place where he shall carry on the business of Banker in the Colony a full and correct account and statement in writing of the assets and liabilities of such Banker at such place, in the form in the said Act specified, and that from such weekly accounts and statements there shall be prepared, on the last Monday of each quarter ending on the last days of March June September and December respectively, by every such Banker, a general abstract in writing of the average amount during such quarter of the assets and liabilities of every such Banker, also in the form in the said Act specified; and it is expedient to empower the Governor from time to time to vary for any Banker the times by the said Act specified for the making and preparation of such accounts and statements and abstracts respectively:

Preamble.

Gold Fields.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Bankers' Returns Act Amendment Act, 1860.*"

Governor may vary times for preparation of Bankers' returns.

2. It shall be lawful for the Governor, by warrant under his hand, to be published in the *Government Gazette*, from time to time to vary for every or any Banker at every or any place within the Colony the several days and times provided by the above in part recited Act for the making and preparation of the said accounts and statements and abstracts respectively: Provided that such accounts and statements and abstracts made and prepared in any one year shall not be less in number than provided by the said Act, and shall be made and prepared at regular intervals of time.

No. XI.

GOLD FIELDS.

AN ACT to amend "*An Act to make provision for the Management of Gold Fields in the Colony of New Zealand.*" [28th September, 1860.]

Preamble.

WHEREAS it is expedient to enable the Governor to grant leases of lands within a gold field for agricultural and business purposes, and in other respects to amend "*The Gold Fields Act, 1858.*"

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows:—

Act and "*Gold Fields Act, 1858,*" to be one Act.

1. This Act and "*The Gold Fields Act, 1858,*" shall, save so far as the latter is varied by this Act, be taken to be and construed as one Act, and shall have the Short Title of "*The Gold Fields Act, 1858, 1860.*"

Interpretation of phrase "Authorized Person."

2. The phrase "Authorized Person" shall include all holders of any license or mining lease, ministers of religion and schoolmasters, and any Warden or Commissioner for the Gold Fields, or constable or other person employed exclusively in the Government service, and the servants of any such person respectively there residing with and in the actual employment of any of them and not mining for gold either permanently or occasionally, and all holders of agricultural and business leases not mining for gold either permanently or occasionally and their servants as aforesaid, and all females and all children under the age of fourteen years who shall only reside and not mine for gold upon any gold field.

Power to Governor to demise lands for agricultural purposes.

3. Subject to the provisions hereinafter contained, it shall be lawful for the Governor by deed from time to time to demise, for agricultural or business purposes, to any person for any term not exceeding seven years from the making of the lease, any land within a gold field not exceeding ten acres in the whole, subject to such rent costs and conditions on the part of the lessee, his executors, administrators, and assigns, to be paid observed and performed, as to the Governor shall seem meet.

Lease may be determined on notice from Governor.

4. Provided that if at any time after the granting of any such lease the land thereby demised or any part thereof shall in the judgment of the Governor be deemed to be highly auriferous, it shall be lawful for the Governor or any person appointed by him to give notice
in

Gold Fields.

in writing as hereinafter mentioned of his intention to determine such lease.

5. At the expiration of three months from the delivery of such notice to the lessee or occupier, or to some servant of one of them on the demised land, or from the affixing of such notice to some conspicuous object on the demised land in case there is no occupier or servant as aforesaid thereon, such lease shall become null and void, and all interest of the lessee, his executors, administrators, and assigns therein shall cease and determine. Service of notice.

6. Provided nevertheless that such lessee, his executors, administrators, or assigns, shall be entitled to compensation on account of the determination of his lease, and for any improvements he may have made on such land during the subsistence of such lease, to be ascertained in manner hereinafter contained. Lessee to be compensated.

7. Such compensation may be settled by agreement between the lessee and any person appointed by and on behalf of the Governor. Compensation may be settled by agreement.

8. If the amount of such compensation shall not be determined by agreement, then and in every such case the matter in difference shall be settled by arbitration by two arbitrators, one to be named by the Governor or some person deputed by him for such purpose, and the other arbitrator to be named by the party interested in such lands, and the matter in difference shall be determined by the said arbitrators or by any umpire to be appointed by them before they shall enter upon the reference; and if any arbitrator or umpire appointed under this Act shall die or refuse or for seven days neglect to act, another person shall forthwith be named or appointed to supply the place of the person so dying or refusing or neglecting to act, in the same manner as such last-mentioned person was named or appointed: And further the said arbitrators or umpire shall determine by whom and how the costs of the reference and award or umpirage shall in each case be paid, and they or he may summon and examine upon oath any witness, and administer the oath for that purpose. Or by arbitration.

9. Every lease of any lands estate or rights by the Governor, made in pursuance of "*The Gold Fields Act, 1858, 1860,*" may be made in the usual form between the Governor of the one part and the lessee of the other part, and in any such lease it shall be sufficient to call or describe the Governor by the style or title of "the Governor of the Colony of New Zealand," without naming him, and any such lease may be executed by the Governor by signing his name thereto. Form of lease.

10. All covenants on the part of the lessee, his heirs, executors, administrators, and assigns, and all powers reserved to the lessor, his heirs, executors, administrators, or assigns, in any lease implied, and all other covenants agreements stipulations reservations and conditions expressed in any lease made in pursuance of the said "*Gold Fields Act, 1858, 1860,*" on the part of the lessee, his heirs, executors, administrators, or assigns, to be made entered into reserved or undertaken to and with the Governor, shall be deemed and taken to be made entered into reserved or undertaken to and with the Governor for the time being, and when and so often as the present Governor and any succeeding Governor shall cease to hold such office, shall, by virtue of this Act, be vested in and be enforceable by his successor in the said office. Covenants &c. on part of lessee with the Governor to run with the office.

11. The Governor for the time being may bring prosecute and maintain any action of ejectment or other proceedings for recovering possession of any lands so demised, and may sue and distrain for any arrears of rent which shall have become due for or in respect of any parol or other demise from him or any predecessor in office, made in pursuance of the said "*Gold Fields Act, 1858, 1860;*" and also may bring Governor may prosecute actions on covenants.

Representation.

bring prosecute and maintain any other action in respect of any covenants agreements stipulations reservations and conditions whatsoever contained or implied in any such demise; and in every such action or other proceeding shall be styled "the Governor," without being named.

Action not to abate.

12. No such action or other proceeding shall abate by the death resignation or removal from office of the Governor.

Governor not personally liable.

13. Nothing in any lease made in pursuance of "The Gold Fields Act, 1858, 1860," shall extend to charge the person of the Governor, or the heirs, executors, or administrators of such Governor, or any of his or their own proper lands tenements goods or chattels, with or for the performance of all or any of the covenants conditions or agreements in such lease contained on the part of the Governor.

Gold field not subject to "Waste Lands Act, 1858," or other land regulations.

14. Any district proclaimed or to be proclaimed a gold field and subject to the provisions of this Act and of "The Gold Fields Act, 1858," shall not be subject to the provisions of "The Waste Lands Act, 1858," or the several Acts Ordinances Bills and Regulations specified in the Schedule thereto.

No. XII.

REPRESENTATION.

AN ACT to make further provision for the Representation of the People of New Zealand in the General Assembly. [20th October, 1860.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "The Representation Act, 1860."

House to consist of fifty-three members.

2. After the dissolution of the present Parliament the House of Representatives shall consist of fifty-three Members.

Electoral districts established.

3. For the purposes of the election of Members of the said House the Colony shall be divided into forty-three electoral districts, as the same are respectively defined and set forth in the Schedule to this Act.

Names of districts and number of Members.

4. The names of such electoral districts and the number of members to be returned by each district respectively shall be as follows:—

1. Mongonui	...	...	One Member.
2. Bay of Islands	...	...	One Member.
3. Marsden	...	...	One Member.
4. Northern Division	...	...	Two Members.
5. City of Auckland East	...	...	One Member.
6. City of Auckland West	...	...	Two Members.
7. Parnell	...	...	One Member.
8. Newton	...	...	One Member.
9. Pensioner Settlements	...	...	One Member.
10. Town of Onehunga	...	...	One Member.
11. Franklin	...	...	Two Members.
12. Raglan	...	...	One Member.
13. Grey and Bell	...	...	One Member.
14. Town of New Plymouth	...	...	One Member.
15. Omata	...	...	One Member.
16. Wanganui	...	...	One Member.
17. Rangitiki	...	...	One Member.
18. Porirua	...	...	One Member.

19. City

Representation.

19. City of Wellington	...	...	Three Members.
20. Hutt	...	...	Two Members.
21. Wairarapa	...	...	One Member.
22. Napier	...	...	One Member.
23. Clive	...	...	One Member.
24. Collingwood	...	...	One Member.
25. Motueka	...	...	One Member.
26. City of Nelson	...	...	Two Members.
27. Suburbs of Nelson	...	...	One Member.
28. Waimea	...	...	One Member.
29. Picton	...	...	One Member.
30. Wairau	...	...	One Member.
31. Cheviot	...	...	One Member.
32. Kaiapoi	...	...	One Member.
33. Avon	...	...	One Member.
34. Heathcote	...	...	One Member.
35. Ellesmere	...	...	One Member.
36. City of Christchurch	...	...	One Member.
37. Town of Lyttelton	...	...	One Member.
38. Akaroa	...	...	One Member.
39. Timaru	...	...	One Member.
40. Hampden	...	...	One Member.
41. Bruce	...	...	Two Members.
42. City of Dunedin	...	...	Two Members.
43. Wallace	...	...	Two Members.

5. The Colonial Secretary shall cause properly authenticated maps of the said electoral districts to be deposited in the office of the Clerk of the said House. Maps of districts to be made.

6. Immediately after the passing of this Act, officers to be appointed by the Governor for that purpose shall form new Electoral Rolls for the several electoral districts constituted by this Act. New Rolls to be formed.

7. For the purpose of forming such new Electoral Rolls the name of every elector registered on the Roll for the time being in force of any electoral district as constituted before the passing of this Act shall be placed on the new Electoral Roll of that one of the electoral districts constituted by this Act in which the tenements or hereditaments in respect whereof he is so registered are situate. Mode of forming new Rolls.

8. Upon such new Electoral Rolls being so formed by each officer appointed as aforesaid, the same shall forthwith be transmitted by such officer to the Colonial Secretary, and shall be published in such convenient manner as the Governor shall direct, and from the day of such publication the Electoral Roll so formed for each district shall be the Electoral Roll to be used for such district for all purposes until a revised Electoral Roll for the same shall be in force under the provisions of the law for the time being for the registration of electors. Publication and effect of new Rolls.

9. Writs shall be issued for the election of Members of the House of Representatives in the ensuing Parliament so soon as the new Electoral Rolls shall have been formed as hereinbefore provided for the electoral districts constituted by this Act. Writs to be issued.

10. Provided always that notwithstanding anything in this Act contained, if it shall appear to the Governor to be necessary to summon a Parliament before new Electoral Rolls for all the electoral districts constituted by this Act shall have been formed and published as hereinbefore provided, it shall be lawful for the Governor from time to time to issue writs for the election of Members of the House of Representatives in like manner as if this Act had not been passed; and in such case no election shall take place under this Act (except such as shall If necessary, Governor may issue writs for a new Parliament without reference to this Act.

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shall take place under this present provision) until after the dissolution of the Parliament next succeeding this present Parliament.

“Electoral Districts Act, 1858,” repealed.

11. *“The Electoral Districts Act, 1858,”* is hereby repealed.

SCHEDULE.

1. MONGONUI, ONE MEMBER.

This electoral district comprises so much of the North Island as lies to the north of a line from the head of False Hokianga Harbour to the summit of Maungataniwha Mountain, and thence to the mouth of the Pupuke River, at the head of Wangaroa Harbour, including the adjacent islands.

2. BAY OF ISLANDS, ONE MEMBER.

This electoral district is bounded on the North by the Mongonui District hereinbefore defined; on the South by the Marsden District hereinafter defined; and on the East and West by the sea, including the adjacent islands.

3. MARSDEN, ONE MEMBER.

This electoral district is bounded on the North by a line commencing at Mongonui Bluff on the West Coast, and running thence along the summit of the Mangakahia Range to Tutamoi Mountain; thence by a right line to the North Head of Tutukaka Harbour; on the East by the coast line to the southern point of Hawere Island; on the South by a right line to the summit of the Dome; thence by a right line to the confluence of the Hotea and Kaitoto Rivers; thence by the Hotea River to high water-mark in Kaipara Harbour; thence by high water-mark to the Taporā Flats; thence by a right line to the North Head of Kaipara Harbour; and on the West by the sea to Mongonui Bluff.

4. NORTHERN DIVISION, TWO MEMBERS.

This electoral district is bounded on the North by the Marsden District last defined and by Kaipara Harbour; on the West by the sea; on the South by the Manukau Harbour; on the East by the western boundary of the Whau Township to the Whau Creek; thence by the Whau Creek to Waitemata Harbour; and thence by the coast line to Cape Rodney; including the Islands of Rangitoto, Motutapu, Great and Little Barrier, Tiri Tiri Matangi, Kauau, and adjacent isles.

5. CITY OF AUCKLAND EAST, ONE MEMBER.

This electoral district is bounded on the North by Auckland Harbour; on the West by the centre of Queen Street; on the South by the centre of Karangahape Road; and on the South-east by the centre of Symonds Street to the southern boundary of City Section 34; thence along that boundary to Stanley Street; thence by the centre of Stanley Street to the southern boundary of City Section 11; thence by the southern and eastern boundaries of Section 11 to the Mill Stream in Mechanics' Bay, and by that stream to the sea.

6. CITY OF AUCKLAND WEST, TWO MEMBERS.

This electoral district is bounded on the North by Auckland Harbour; on the North-west by the centre of Franklin Road; on the South-west by the centre of Pounsonby Road; on the South by the centre of Karangahape Road; and on the East by the centre of Queen Street.

7. PARNELL, ONE MEMBER.

This electoral district is bounded on the North by Auckland Harbour; on the West and North-west by the City of Auckland East District hereinbefore defined, from the Mill Stream to Cemetery Road, and thence by the centre of Cemetery Road to Scoria Quarry Road; on the South by Scoria Quarry Road, Kyber Pass Road, and Tamaki Road; and on the East by the eastern boundary of Suburban Section 14 from Tamaki Road to Remuera Creek; and thence by that creek to the sea.

8. NEWTON, ONE MEMBER.

This electoral district is bounded on the North by Auckland Harbour and the City of Auckland East and West Districts hereinbefore defined; on the East by the Parnell District hereinbefore defined; on the South by the centre of Cabbage Tree Road and Karangahape Road; and on the West by Meola Creek and Scoria Creek to Auckland Harbour.

9. PENSIONER SETTLEMENTS, ONE MEMBER.

This electoral district comprises the following pensioner villages:—(1.) Otahuhu: bounded on the North by the Portage Road and Tamaki River; on the West by the Great South Road; on the South by Fairburn's Road; and on the East by Tamaki River. (2.) Panmure: comprising all the Village Lots, and Sections 1, 2, 3, and 4 of the Suburban Lots adjacent. (3.) Howick: comprising all the Village Lots, and Sections 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, and 12 of Suburban Lots adjacent.

10. TOWN

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10. TOWN OF ONEHUNGA, ONE MEMBER.

This electoral district is bounded on the North by Mount Smart Road; on the East by Section 17 of the Suburbs of Auckland; on the South by Manukau Harbour; and on the West by Section 13 of the Suburbs of Auckland.

11. FRANKLIN, TWO MEMBERS.

This electoral district is bounded on the North by the Parnell District hereinbefore defined, and by the sea, including the islands of Waiheke, Pounui, and other isles in the Frith of the Thames; on the East by the sea from Cape Colville to the 39th parallel of South latitude; on the West by the Great South Road, from the junction of Kyber Pass Road, to Maungatawhiri, on the Waikato River; thence by the Waikato River to Lake Taupo; and thence by a line due south to the 39th parallel; and on the South by the 39th parallel of South latitude; excepting the Pensioner Settlements District hereinbefore defined.

12. RAGLAN, ONE MEMBER.

This electoral district is bounded on the North by the Newton District hereinbefore defined, and by Waitemata Harbour to Whau Creek; on the West by the Northern Division District hereinbefore defined, and the coast line to Mokau River; on the South by the Grey and Bell District hereinafter defined; and on the East by the Great South Road and Franklin District hereinbefore defined; excepting the Town of Onehunga District hereinbefore defined.

13. GREY AND BELL, ONE MEMBER.

This electoral district is bounded on the North by the River Mokau to its source; thence by a right line to the centre of Lake Taupo; on the South-east, by a line from the centre of Lake Taupo to the confluence of the Tuhua and Wanganui Rivers; thence by the Wanganui River to the point where it is met by the Taumatamahoe Path; thence by a right line to the nearest point of the Patea River, and by the Patea River to the sea; on the South-west by the sea coast from Patea to Manawapou; and on the West and North-west by a line from Manawapou to the Paritutu Line, by the Paritutu Line to the sea, and by the sea to Mokau River; excepting the Town of New Plymouth District hereinafter defined.

14. TOWN OF NEW PLYMOUTH, ONE MEMBER.

This electoral district comprises the Town of New Plymouth, as laid out by the New Zealand Company.

15. OMATA, ONE MEMBER.

This electoral district is bounded on the East by the Grey and Bell District hereinbefore defined, and on other sides by the sea from the Paritutu Line to Manawapou River.

16. WANGANUI, ONE MEMBER.

This electoral district is bounded on the North-west by the Grey and Bell District hereinbefore defined; on the South-west by the sea between the Patea and Wangaehu Rivers; and on the South-east and East by the Wangaehu River to Ruapahu Mountain, and thence by a line north to the centre of Lake Taupo.

17. RANGITIKI, ONE MEMBER.

This electoral district is bounded on the North-east and East by a line from the centre of Lake Taupo to the 39th parallel of South latitude; thence by the Napier and Clive Districts hereinafter defined; on the South by the Manawatu River from its gorge in the Ruahine Range to its mouth; on the West by the coast line between the Manawatu River and the Wangaehu River; and on the North-west by the Wanganui District hereinbefore defined.

18. PORIRUA, ONE MEMBER.

This electoral district is bounded on the North by the Manawatu River from its mouth to the gorge in the Ruahine Range; on the East and South-east by the Wairarapa and Hutt Districts hereinafter defined, to the mouth of the Korokoro Stream in Port Nicholson; and on the South and West by the coast line from the Korokoro to the Manawatu, including the adjacent islands; except the City of Wellington District hereinafter defined.

19. CITY OF WELLINGTON, THREE MEMBERS.

This electoral district comprises the boundaries of the Town of Wellington, including the Town Belt, as originally laid out by the New Zealand Company.

20. HUTT, TWO MEMBERS.

This electoral district is bounded on the North-west by the Korokoro Stream in Port Nicholson to its source; thence along the hills forming the watershed between Port Nicholson and Porirua, to the Tararua Range; on the East by the Tararua and Rimutaka Ranges to Cape Turakirae; and on the South by the sea, including Somes and Ward Islands.

21. WAIRARAPA,

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21. WAIRARAPA, ONE MEMBER.

This electoral district is bounded on the North by a line from the Manawatu Gorge to the mouth of the Waimata Stream; on the East and South by the coast line from the mouth of the Waimata Stream to Cape Turakirae; and on the West by the Hutt and Porirua Districts hereinbefore defined.

22. NAPIER, ONE MEMBER.

This electoral district is bounded on the North by the 39th parallel of South latitude; on the East by the coast line to the mouth of the Ngaruroro River; on the South by the Ngaruroro River to its source in the Ruahine Range; and on the West by the Rangitiki District hereinbefore defined.

23. CLIVE, ONE MEMBER.

This electoral district is bounded on the North by the Napier District; on the West by the Rangitiki District; and on the South by the Wairarapa District, as respectively hereinbefore defined; and on the East by the sea.

24. COLLINGWOOD, ONE MEMBER.

This electoral district is bounded on the East by a line following the main ridges from Separation Point to Mount Arthur; on the South by a line from Mount Arthur to the mouth of the River Mackay, and on other sides by the sea; including the adjacent islands.

25. MOTUEKA, ONE MEMBER.

This electoral district is bounded on the East by the sea from Separation Point to the mouth of the Waimea River (including Rabbit Island and other adjacent isles); thence by the Waimea and Waiti Rivers to Pigeon Valley Stream; thence on the South by Pigeon Valley Stream to its source; thence by a line across the Moutere Range to the junction of the Wangapeka and Motueka Rivers, and thence by a line to Mount Arthur; and on the West by the Collingwood District hereinbefore defined.

26. CITY OF NELSON, TWO MEMBERS.

This electoral district comprises the Town of Nelson, including the Town Belt, as originally laid out by the New Zealand Company.

27. SUBURBS OF NELSON, ONE MEMBER.

This electoral district is bounded on the South by the road from the sea to the hills separating Sections Nos. 79, 69, 70, and 93, from Sections Nos. 78, 71, 72, and 94, and a straight line continued in the same direction to the boundary line of the Picton District; on the East by the Picton District hereinafter defined; and on other sides by the sea, including D'Urville's Island and other adjacent isles; excepting the City of Nelson District, as hereinbefore defined.

28. WAIMEA, ONE MEMBER.

This electoral district is bounded on the North by the Collingwood, Motueka, the sea, and Suburbs of Nelson Districts, as respectively hereinbefore defined; on the East by the Picton, Wairau, and Cheviot Districts, as respectively hereinafter defined; on the South by the Cheviot District, as hereinafter defined; and on the West by the sea.

29. PICTON, ONE MEMBER.

This Electoral District is bounded on the North by a line from the head of Elaine Bay in Tennyson Inlet to Mount Duppa; thence by a line to Saddle Hill; thence by a line to Dun Mountain; thence by a line to Mount Rintoul; thence by a line to Ben Nevis Mountain; thence by a line to the point where the road from Nelson crosses the Top House Creek; and thence by the Top House Creek to the Wairau River; on the South by the Wairau River to its mouth, and on other sides by the sea; including Arapaoa and other adjacent islands.

30. WAIRAU, ONE MEMBER.

This electoral district is bounded on the North by the Wairau River to its mouth; on the West by a line from the point where the Top House Creek falls into the Wairau River to the summit of the nearest ridge of hills; thence along the ridges forming the eastern watershed of the Upper Wairau River to the Wairau Gorge; thence by a line to Princess Mountain, and thence to Lake Tennyson; on the South by the Clarence River from Lake Tennyson to the sea; and on other sides by the sea.

31.—CHEVIOT, ONE MEMBER.

This electoral district is bounded on the North by the Wairau District hereinbefore defined; on the West by a line from Princess Mountain to Mount Pakiteraki; thence by a right line to Lake Brunner; thence by the Grey River from Lake Brunner to the sea, and by the sea; on the South by the south bank of the River Rakaia to its source, and thence by a right line due west to the sea coast; and on the East by the sea coast from the mouth of the River Rakaia to Lake Ellesmere; thence by a line drawn due
north

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north and south through Trig. Pole C 29 (on the south bank of the River Waimakariri) from Lake Ellesmere to the River Ashley; thence by the River Ashley to the sea, and thence by the sea to the mouth of the Clarence River.

32. KAIAPOI, ONE MEMBER.

This electoral district is bounded on the North by the River Ashley; on the West by the Cheviot District hereinbefore defined; on the South by the south bank of the River Waimakariri and a line drawn from Trig. Pole C 19 on the south bank of that river to Trig. Pole C 27 on the sea coast; and on the East by the sea.

33. AVON, ONE MEMBER.

This electoral district is bounded on the North by the Kaiapoi District hereinbefore defined; on the West by the Cheviot District hereinbefore defined; on the South by the north bank of the River Avon from its mouth to the point where it meets the boundary of the Town of Christchurch District hereinafter defined; thence by the boundary of that district as far as the south-east corner of Rural Section No. 10; thence by the south boundary of Section 10 and the south-east boundary of Section 145, till it is crossed by a creek running easterly into the River Heathcote; thence by that creek till it is intersected by a line in continuation of the south-eastern boundary-line of Section 180; thence by that line to the south-east corner of Section 180; thence by the south boundaries of Sections 180, 211, 240, and 337, and by the north side of the road on the south boundaries of those sections continued to the point where that road first meets a branch of the River Heathcote, and thence by a line due west to the Cheviot District hereinbefore defined; and on the East by the sea.

34. HEATHCOTE, ONE MEMBER.

This electoral district is bounded on the North by the Avon District hereinbefore defined and the Town of Christchurch District hereinafter defined; on the West by the Cheviot District hereinbefore defined; on the South by the ridge of hills from the flagstaff on Mount Pleasant to the highest of the peaks called Cooper's Knobs; thence by a line to the point where the River Halswell meets Lake Ellesmere, and by the north shore of that lake; and on the East by a right line from the flagstaff on Mount Pleasant to the point where the Ferry Road crosses the River Heathcote at the Old Ferry; and thence by the shore of the Heathcote Estuary to its mouth.

35. ELLESMERE, ONE MEMBER.

This electoral district comprises all that portion of the Province of Canterbury included between the sea coast, Lake Forsythe, Lake Ellesmere, the Heathcote District hereinbefore defined, and the Akaroa District hereinafter defined; excepting the Town of Lyttelton District hereinafter defined.

36. CITY OF CHRISTCHURCH, ONE MEMBER.

This electoral district comprises the Town of Christchurch, including the Town Reserve, as originally laid out by the Canterbury Association.

37. TOWN OF LYTTELTON, ONE MEMBER.

This electoral district is bounded on the North by the summit of the range of hills on the north side of Lyttelton Harbour; on the East and West by lines drawn due north and south through the easternmost and westernmost points of the boundary of the Town of Lyttelton, as originally laid out by the Canterbury Association, including the Town Reserve; and on the South by the sea.

38. AKAROA, ONE MEMBER.

This electoral district is bounded on the West by a right line drawn across Banks Peninsula from a point mid-way between Port Levy and Pigeon Bay, southerly to the head of Little River, and thence by that River and Lake Forsythe to the sea coast; and on other sides by the sea.

39. TIMARU, ONE MEMBER.

This electoral district is bounded on the North by the Cheviot District hereinbefore defined; on the West and South by a line from Mount Cook to Lake Pukaki; thence by Lake Pukaki to the Waitaki River, and by the Waitaki River to its mouth; and on the East by the sea.

40. HAMPDEN, ONE MEMBER.

This electoral district is bounded on the North and North-east by the Heathcote and Timaru Districts hereinbefore defined; on the North-west by the sea; on the South-west and South by a line from the head of Milford Haven to the Wakatipu Lake; thence by that lake to the Kawarau River; thence by that river to Clutha River; thence by the Clutha River to the confluence of the Minzionburn; thence up the Minzionburn to Lammerlaw Peak; thence by a line to the nearest source of the Deep Stream; thence down the Deep Stream to its confluence with the Taieri River; thence by a line due east across the Silver Peak Hills to Cherry Farm Creek; thence down

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that creek to its confluence with the Waikowaiti River, and down the Waikowaiti River to the sea; and on the East by the sea.

41. BRUCE, TWO MEMBERS.

This electoral district is bounded on the North by the Hampden District last defined, from the mouth of the Waikowaiti River to the confluence of the Minzionburn and Clutha River; thence by a line to the summit of Mount Spylaw; thence down the Spylaw Burn to its confluence with the Pomahaka River; thence on the West by the Pomahaka River to the confluence of the Waipahi Creek; thence up the Waipahi Creek to the confluence of the Kawera Creek; thence by a line to Otaraia Peak; thence on the South-west by a line to Cattlin's Cone; thence by Cattlin's River to the sea; and thence by the sea to Waikowaiti River; excepting the City of Dunedin as herein-after defined.

42. CITY OF DUNEDIN, TWO MEMBERS.

This electoral district comprises the Town of Dunedin as originally laid out by the New Zealand Company, including the Town Belt.

43. WALLACE, TWO MEMBERS.

This electoral district comprises that part of the Middle Island bounded on the North and East by the Hampden and Bruce Districts hereinbefore defined, and on other sides by the sea; and also comprises Stewart's Island, and all adjacent isles.

No. XIII.

JOINT STOCK
COMPANIES.AN ACT for the Incorporation and Regulation of Joint
Stock Companies and other Associations.

[24th October, 1860.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Joint Stock Companies' Act, 1860.*"

Act not to apply to
Banking and
Insurance Companies.

2. This Act shall not apply to persons associated together for the purpose of banking or insurance.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS.

*Registry.*Company formed by
memorandum of
association and
registration.

3. Seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requisitions of this Act in respect of registration, form themselves into an Incorporated Company with or without limited liability.

Penalty on partner-
ships exceeding a
certain number.

4. If after the passing of this Act more than seven persons carry on in partnership any trade or business having for its object the procurement of gain to the partnership, then unless such persons are included within one or both of the classes following, that is to say,—

- (1.) Are registered as a Company under this Act;
- (2.) Are a Company incorporated or otherwise legally constituted by or in pursuance of some Act of the Imperial Parliament or of the General Assembly of New Zealand or by Royal Charter or Letters Patent;

Each one of the persons so carrying on business in partnership together contrary to this provision shall be severally liable for the payment of the whole debts of the partnership, and may be sued for the same without the joinder in the action or suit of any other member of the partnership.

5. The

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5. The Registrar of Joint Stock Companies shall, on payment of five shillings, issue a certificate of incorporation of any Company to any person applying for the same, and such certificate shall be admissible in evidence in like manner as the certificate of incorporation hereafter directed to be given.

Registrar to give certificate of incorporation.

6. The memorandum of association shall contain the following particulars, that is to say,—

Matters required to be prescribed by memorandum of association.

- (1.) The name of the proposed Company.
- (2.) The Province and Town of the Colony in which the registered office of the Company is to be established.
- (3.) The objects for which the proposed Company is to be established.
- (4.) The liability of the shareholders, whether it is to be limited or unlimited.
- (5.) The amount of the nominal capital of the proposed Company.
- (6.) The number of shares into which such capital is to be divided and the amount of each share, subject to the following restriction,—

That in the case of a Company formed with limited liability, and hereinafter called a limited Company, the word "Limited" shall be the last word in the name of the Company.

7. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to mislead; and if any Company through inadvertence or otherwise is registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to mislead, such first-mentioned Company may with the sanction of the Registrar change its name, and upon such change being made the Registrar shall enter the new name on the register in the place of the former name, but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Prohibition against identity of names in registered Companies.

8. The memorandum of association shall be in the form marked A in the Schedule hereto, or as near thereto as circumstances admit, and it shall when registered bind the Company and the shareholders therein to the same extent as if each shareholder had subscribed his name and affixed his seal thereto, or otherwise duly executed the same, and there were in such memorandum contained on the part of himself, his heirs, executors, and administrators, a covenant to conform to all the regulations of such memorandum subject to the provisions of this Act.

Form of memorandum of association.

9. Every subscriber of the memorandum of association shall take one share at the least in the Company. The number of shares taken by each subscriber shall be set opposite his name in such memorandum of association, and upon the incorporation of the Company he shall be entered in the register of shareholders hereinafter mentioned as a shareholder to the extent of the shares he has taken.

Shares to be taken by subscribers of memorandum of association.

10. The memorandum of association may be accompanied by or have annexed thereto or indorsed thereon articles of association, signed by the subscribers to the memorandum of association, and prescribing regulations for the Company; but if no such regulations are prescribed, or so far as the same do not extend to modify the regulations con-

Special regulations may be prescribed by articles of association.

tained

Joint Stock Companies.

tained in the table marked B in the Schedule hereto, such last-mentioned regulations shall so far as the same are applicable be deemed to be the regulations of the Company, and shall bind the Company and the shareholders therein to the same extent as if they had been inserted in articles of association and such articles had been registered.

Form and effect of articles of association.

11. The articles of association shall be in the form marked C in the Schedule hereto or as near thereto as circumstances admit. They shall when registered bind the Company and the shareholders therein to the same extent as if each shareholder had subscribed his name and affixed his seal thereto, or otherwise duly executed the same, and there were in such articles contained on the part of himself, his heirs, executors, and administrators, a covenant to conform to all the regulations of such articles subject to the provisions of this Act.

Use of printed copies and attestation.

12. Any person signing a printed copy of the memorandum of association or articles of association shall be deemed to have signed such memorandum and articles respectively, and the execution by any person of the memorandum of association or articles of association shall be attested by one witness at the least, and attestation by one witness shall be essential and sufficient.

Registration of memorandum of association and articles of association.

13. The memorandum of association and articles of association shall be delivered to the Registrar of Joint Stock Companies, who shall retain and register the same. There shall be paid to the Registrar of Joint Stock Companies, in respect of the several matters mentioned in the table marked D in the Schedule hereto, the several fees therein specified, or such smaller fees as the Governor in Council may from time to time direct, and all fees so paid shall be paid into the receipt of the Colonial Treasury and shall form part of the ordinary revenue of the Colony: Provided that such fees shall not be deemed, for the purposes of "*The Surplus Revenues Act, 1858*," to be levied within any Province of the Colony.

Effect of registration.

14. Upon any such memorandum of association, either with or without articles of association as aforesaid, being registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a limited Company that the Company is limited. The subscribers of the memorandum of association, together with such other persons as may from time to time become shareholders in the Company, shall thereupon be a body corporate by the name prescribed in the memorandum of association, having a perpetual succession and a common Seal, with power to hold lands but with such pecuniary liability on the part of the shareholders as is hereinafter mentioned. The certificate of incorporation given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with, and the date of such certificate shall be deemed to be the date of the incorporation of the Company.

Directors to be liable for debts if dividend be paid when the Company is known by them to be insolvent.

15. If the Directors of any such Company shall declare or pay any dividend when the Company is known by them to be insolvent, or any dividend the payment of which would to their knowledge render it insolvent, they shall be jointly and severally liable for all the debts of the Company then existing and for all that shall be thereafter contracted so long as they shall respectively continue in office: Provided always that the amount for which they shall all be so liable shall not exceed the amount of such dividend, and that if any of the Directors shall be absent at the time of making the dividend or dividends so declared or paid, or shall object thereto and shall file their objection in writing with the Clerk of the Company, they shall be exempted from the said liability.

Issue of shares by the Company.

16. As soon as a certificate of incorporation has been granted by the

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the Registrar of Joint Stock Companies, the Company may issue certificates of shares to the subscribers of the memorandum of association and to all other persons to whom shares may be allotted, of such number and amount as may be prescribed by the memorandum of association, but not of any greater number or amount. The shares so issued shall be personal estate and shall not be of the nature of real estate, and each share shall be distinguished by its appropriate number.

Register of Shareholders.

17. Every Company registered under this Act hereinafter referred to as "the Company" shall cause to be kept in one or more books a register of shareholders, and there shall be entered therein the following particulars:—

Register of shareholders.

- (1.) The names addresses and occupations (if any) of the shareholders in the Company, and the shares held by each of them, distinguishing each share by its number.
- (2.) The amount paid on the shares of each shareholder.
- (3.) The date at which the name of any person was entered in the register as a shareholder.
- (4.) The date at which any person ceased to be a shareholder in respect of any share.

18. Once at the least in every year a list shall be made of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting of the Company, or if there is more than one ordinary general meeting in each year the first of such ordinary general meetings is held, are holders of shares in the Company, and such list shall state the names addresses and occupations of all the persons therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:—

Annual list of shareholders on register.

- (1.) The amount of the nominal capital of the Company and the number of shares into which it is divided.
- (2.) The number of shares taken from the commencement of the Company up to the date of the summary.
- (3.) The amount of calls made on each share.
- (4.) The total amount of calls that have been received.
- (5.) The total amount of calls unpaid.
- (6.) The total amount of shares forfeited.

The above list and summary shall be contained in a separate part of the register, and shall be in the form marked E in the Schedule hereto, or as near thereto as circumstances admit. Such list and summary shall be completed within seven days after such fourteenth day as is mentioned in this section, and a copy thereof, authenticated by the Seal of the Company, shall forthwith be forwarded to the Registrar, and any person may inspect and take copies of the same, subject to the regulations under which a person is hereinafter declared to be entitled to inspect and take copies of any documents kept by the Registrar.

19. If any Company Registered under this Act makes default in keeping a register of shareholders or in sending a copy of such list and summary as aforesaid to the Registrar in compliance with the foregoing rules, such Company shall incur a penalty not exceeding five pounds for every day during which such default continues.

Penalty on Company not keeping a proper register.

20. No notice of any trust express or implied or constructive shall be entered on the register or receivable by the Company, and every person who has accepted a share in a Company registered under this Act, and whose name is entered in the register of shareholders, and no other person (except a subscriber to the memorandum of association

Restrictive definition of shareholder.

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in respect of the shares subscribed for by him), shall for the purposes of this Act be deemed to be a shareholder.

Transfer of shares.

21. The transfer of any share in the Company shall be in the form marked F in the Schedule hereto or to the like effect, and shall be executed both by the transferor and transferee. The transferor shall be deemed to remain holder of such a share until the name of the transferee is entered in the register book in respect thereof.

Certificate of shares.

22. A certificate, under the Seal of the Company, specifying any share or shares held by any shareholder shall be *prima facie* evidence of the title of the shareholder to the share or shares therein specified.

Calls a debt to Company.

23. The amount of calls for the time being unpaid on any share shall be deemed to be a debt due from the holder of such share to the Company.

Inspection of register.

24. The register of shareholders, commencing from the incorporation of the Company, shall be kept at the registered office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, the register shall during business hours, but subject to such reasonable restrictions as the Company may in general meeting impose so that not less than two hours in each day be appointed for inspection, be open to the inspection of any shareholder gratis, and to the inspection of any other person on the payment of one shilling or such less sum as the Company may prescribe for each inspection, and every such shareholder or other person may require a copy of such register or of any part thereof on payment of sixpence for every one hundred words required to be copied. If such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding two pounds, and a further penalty not exceeding two pounds for every day during which such refusal continues.

Power to close register.

25. The Company may, upon giving notice by advertisement in some newspaper circulating in the district in which the registered office of the Company is situate, close the register of shareholders for any time or times not exceeding in the whole twenty-one days in each year, and the period during which the books are closed shall not be reckoned as part of the time within which a transfer is to be registered.

Remedy for improper entry or omission of entry in register.

26. If the name of any person is without sufficient cause entered or omitted to be entered in the register of shareholders of any Company, such person or any shareholder of the Company may, by motion in the Supreme Court, apply to such Court for an order that the register may be rectified, and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may if satisfied of the justice of the case make an order for the rectification of the register, and may direct the Company to pay all the costs of such motion and any damages the party aggrieved may have sustained; and if the Company makes default or is guilty of unnecessary delay in registering any transfer of shares, it shall be responsible to any person injured by such default or delay for the amount of damage he may thereby have sustained.

Register to be evidence.

27. The register of shareholders shall be evidence of any matters by this Act directed or authorized to be inserted therein.

Copies of memorandum and articles of association to be given to shareholders.

28. Copies of the memorandum of association and articles of association shall be forwarded to every shareholder at his request on payment of the sum of one shilling for each copy, or such less sum as may be prescribed by the Company, and if any Company makes default in so forwarding such copies, it shall for each offence incur a penalty not exceeding one pound.

Power of limited Company to convert paid up shares into stock.

29. Any limited Company may by special resolution convert into stock any shares which have been fully paid up, and upon such conversion

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conversion being made, all the provisions of this Act which require or imply that the capital of the Company is divided into shares of any fixed amount and distinguished by numbers, and all the provisions which require the Company to keep a register of shareholders or to make an annual list of shareholders in the register, shall cease as to so much of the capital as has been so converted into stock.

30. Any Company that has converted any portion of its capital into stock shall give notice of such conversion, specifying the shares so converted, to the Registrar of Joint Stock Companies, within fifteen days from the date of the last of the meetings at which the resolution was passed by which such conversion was authorized, and the Registrar shall forthwith record the fact of such conversion. If such notice is not given within the period aforesaid, the Company shall incur a penalty not exceeding five pounds for every day during which such neglect to give notice continues.

Company to give notice of conversion of capital into stock.

31. Any Company that has converted any portion of its capital into stock shall keep, at the registered office of the Company, a register of the names and addresses of the persons for the time being entitled to such stock, and such register shall be open to inspection in the manner and subject to the penalties in and subject to which the register of shareholders is directed to be kept open.

Register of holders of stock.

32. If the name of any person is without sufficient cause entered or omitted to be entered in the register of stock of any Company, such person or any holder of stock in the Company may apply to have the register rectified in manner directed by the twenty-sixth section hereof.

Remedy for improper entry or omission of entry in register of stock.

33. The Court may in any proceeding under the twenty-sixth section of this Act decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in or erased from the register, whether such question arises between two or more holders or alleged holders of shares or stock or between any holders or alleged holders of shares or stock, and the Company and generally the Court may in any such proceeding decide any question that it may be necessary or expedient to decide for the rectification of the register.

Power of Court under 26th section to decide on disputed questions.

PART II.

MANAGEMENT AND ADMINISTRATION OF COMPANIES.

General.

34. The Company shall have a registered office to which all communications and notices may be addressed. If any Company registered under this Act carries on business without having such an office, it shall incur a penalty not exceeding five pounds for every day during which business is so carried on.

Registered office of Company.

35. Notice of the situation of such registered office and of any change therein shall be given to the Registrar of Joint Stock Companies and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered office.

Notice of situation of registered office.

36. Every limited Company registered under this Act shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible, and shall have its name engraven in legible characters on its Seal, and shall have its name mentioned in legible characters in all notices advertisements and other official publications of such Company, and in all bills of exchange promissory notes indorsements cheques and orders for money or goods and purporting to be signed by or on behalf of such Company, and in all

Publication of name by a limited Company.

all

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all bills of parcels invoices receipts and letters of credit of the Company.

Penalties on non-publication of name.

37. If any limited Company registered under this Act does not paint or affix, and keep painted or affixed, its name in manner aforesaid, it shall be liable to a penalty not exceeding five pounds for not so painting or affixing its name and for every day during which such name is not so kept painted or affixed; and if any officer of such Company or any person on its behalf uses any seal, purporting to be a Seal of the Company, whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company any bill of exchange promissory note indorsement cheque order for money or goods, or issues or authorizes to be issued any bill of parcels invoice receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of fifty pounds, and shall further be personally liable to the holder of any such bill of exchange promissory note cheque or order for money or goods for the amount thereof unless the same is duly paid by the Company.

General meeting of Company.

38. A general meeting of the Company shall be held once at the least in every year.

Power of Company to alter regulations by special resolution.

39. Any Company registered under this Act may in general meeting, from time to time by such special resolution as is hereinafter mentioned, alter and make new provisions in lieu of or in addition to any regulations of the Company contained in the articles of association or the table marked B in the Schedule.

Definition of special resolution.

40. A resolution shall be deemed to be a special resolution of the Company whenever the same has been passed by three-fourths in number and value of such shareholders of the Company for the time being entitled to vote as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed) at any meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such shareholders for the time being entitled to vote as may be present in person or by proxy at a subsequent meeting of which notice has been duly given and held at an interval of not less than one month nor more than three months from the date of the meeting at which such special resolution was first passed. Unless a poll is demanded by at least five shareholders, a declaration of the Chairman of any such meeting as is mentioned in this section that a special resolution has been carried shall be deemed conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall, for the purposes of this section, be deemed to be duly given and the meeting to be duly held whenever such notice is given and meeting held in manner prescribed by the regulations of the Company.

Registry of special resolution.

41. A copy of any special resolution that is passed by any Company registered under this Act shall be forwarded to the Registrar of Joint Stock Companies and recorded by him. If such copy is not so forwarded within fifteen days from the date of the passing of the resolution, the Company shall incur a penalty not exceeding two pounds for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded.

Copies of special resolutions.

42. A copy of any special resolution shall be given to any shareholder on payment of one shilling or of such less sum as the Company may direct.

Notice to Registrar of increase of capital.

43. The Company, if authorized to do so by its resolutions, may increase its nominal capital in manner directed by such regulations, but

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but notice of any increase so made shall be given to the Registrar of Joint Stock Companies within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and the Registrar shall forthwith record the amount of such increase. If such notice is not given within the period aforesaid, the Company shall incur a penalty not exceeding five pounds for every day during which such neglect to give notice continues.

44. If any Company registered under this Act carries on business when the number of its shareholders is less than seven for a period of six months after the number has been so reduced, then every person who is a shareholder in such Company during the time that it so carries on business after such period of six months shall be severally liable for the payment of the whole debts of the Company contracted during such time, and may be sued for the same without the joinder in the action or suit of any other shareholder.

Prohibition against carrying on business with less than seven shareholders.

45. The Company shall cause minutes of all resolutions and proceedings of general meetings of the Company to be duly entered in books to be from time to time provided for the purpose, and any such minute as aforesaid, if signed by any person purporting to be the Chairman of such meeting, shall be receivable in evidence in all legal proceedings, and until the contrary is proved every general meeting in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened.

Evidence of proceedings at meetings.

Legal Instruments of Company.

46. Contracts on behalf of any Company registered under this Act may be made as follows, that is to say,—

Contracts how made.

- (1.) Any contract which if made between private persons would by law be required to be in writing, and if made according to law to be under seal, may be made on behalf of the Company in writing under the common Seal of the Company, and such contract may be in the same manner varied or discharged.
- (2.) Any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company, and such contract may in the same manner be varied or discharged.
- (3.) Any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company, and such contract may in the same way be varied or discharged.

And all contracts made according to the provisions herein contained shall be effectual in law and shall be binding upon the Company and their successors and all other parties thereto, their heirs, executors, or administrators, as the case may be.

Deeds.

47. Any Company registered under this Act may, by instrument or writing under their common Seal, empower any person, either generally or in respect of any specified matters, as their attorney, to execute deeds on their behalf in any place not situate in the Colony, and every deed signed by such attorney on behalf of the Company and under his seal shall be binding on the Company to the same extent as if it were under the common Seal of the Company.

Execution of deeds abroad.

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Promissory notes and bills of exchange.

48. A promissory note or bill of exchange shall be deemed to have been made accepted or indorsed on behalf of any Company registered under this Act if made accepted or indorsed in the name of the Company by any person acting under the express or implied authority of the Company.

Conveyances mortgages and leases.

49. The provisions of an Ordinance of the Governor and Legislative Council of New Zealand, Session II., No. 10, intituled "*An Ordinance to facilitate the Transfer of Real Property and simplify the Law relating thereto*," shall be deemed to apply to conveyances mortgages and leases made by any Company registered under this Act.

Examination of Affairs of Company.

Examination of affairs of Company by Inspectors appointed by the Governor.

50. On the application of one-fifth in number and value of the shareholders of any Company registered under this Act, the Governor may appoint one or more competent Inspectors to examine into the affairs of the Company and to report thereon in such manner as he directs.

Power of Inspectors.

51. It shall be the duty of all officers and agents of the Company to produce for the examination of the Inspectors all books and documents in their custody or power. Any Inspector may examine upon oath the officers and agents of the Company in relation to its business, and may administer such oath accordingly. If any officer or agent refuses to produce any such book or document or to answer any question relating to the officers of the Company, he shall incur a penalty not exceeding five pounds in respect of each offence.

Result of examination how dealt with.

52. Upon the conclusion of the examination the Inspectors shall report their opinion to the Governor or his delegate to be appointed as hereinafter mentioned. Such report shall be written or printed as the Governor directs. A copy shall be forwarded, by direction of the Governor, to the registered office of the Company, and a further copy shall, at the request of the shareholders upon whose application the inspection was made, be delivered to them or to any one or more of them. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the shareholders upon whose application the inspectors were appointed.

Power of Company to appoint Inspectors.

53. Any Company registered under this Act may in general meeting appoint Inspectors for the purpose of examining into the affairs of the Company. The Inspector so appointed shall have the same powers and perform the same duties as Inspectors appointed by the Governor with this exception, that instead of making their report to the Governor they shall make the same in such manner and to such persons as the Company in general meeting directs, and the officers and agents of the Company shall incur the same penalties in case of any refusal to produce any book or document to such Inspectors, or to answer any question, as they would have incurred if such Inspectors had been appointed by the Governor.

Report of Inspectors to be evidence.

54. A copy of the report of any Inspectors appointed under this Act, authenticated by the Seal of the Company into whose affairs they have made inspection, shall be admissible as evidence in any legal proceeding.

Governor may delegate powers conferred by sections 50 and 52.

55. It shall be lawful for the Governor from time to time within any Province, by warrant under his hand, to delegate to a Collector of Customs or other public officer all or any of the powers and duties vested in him by sections fifty and fifty-two of this Act, and any such delegation at his pleasure to revoke.

Notices.

Service of notices on Company.

56. Any summons or notice requiring to be served upon the Company

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Company may, except in cases where a particular mode of service is directed, be served by leaving the same at their registered office or by giving it to any Director, Secretary, or other principal officer of the Company.

57. Any summons notice writ or proceeding requiring authentication by the Company may be signed by any Director, Secretary, or other authorized officer of the Company, and need not be under the common Seal of the Company, and the same may be in writing or in print or partly in writing and partly in print.

Authentication of notices of Company.

Legal Proceedings.

58. Where a limited Company is plaintiff in any action suit or other legal proceeding, any Judge having jurisdiction in the matter may, if it be proved to his satisfaction that there is reason to believe that if the defendant be successful in his defence the assets of the Company will be insufficient to pay his costs, require sufficient security to be given for such costs, and may stay all proceedings until such security be given.

Provision as to costs in action brought by certain limited Companies.

59. All offences under this Act made punishable by any penalty may be prosecuted summarily before two or more Justices in manner directed by an Act of the Imperial Parliament, intituled "*The Summary Convictions Act, 1848.*"

Recovery of penalties.

60. The Justices imposing any penalty under this Act may direct the whole or any part thereof to be applied in or towards the payment of the costs of the proceedings, and, subject to such direction, all penalties shall be paid into the receipt of the Colonial Treasury as ordinary revenue.

Application of penalties.

Alteration of Forms.

61. The Governor in Council may from time to time make such alterations in the forms and tables contained in the Schedule hereto as he deems requisite. Every form or table when altered shall be published in the *New Zealand Gazette*, and upon such publication being made it shall have the same force as if it were included in the Schedule to this Act.

Governor may alter forms in Schedule.

PART III.

WINDING - UP.

Preliminary.

62. The provisions of this Act relating to the winding-up of Companies shall apply to all Companies registered under this Act but not to any other Companies.

Application of Part III. of Act.

63. The expression "the Court" as used in the third part of this Act shall mean the Supreme Court of New Zealand, and the Court shall, in addition to its ordinary powers, have the same power of enforcing any orders made by it in pursuance of this Act as the Supreme Court has in relation to matters within its jurisdiction.

Definition of "the Court."

64. In the event of any Company being wound up by the Court or voluntarily, the existing shareholders shall be liable to contribute to the assets of the Company to an amount sufficient to pay the debts of the Company and the costs charges and expenses of winding-up the same, with this qualification, that if the Company is limited, no contribution shall be required from any shareholder exceeding the amount, if any, unpaid on the shares held by him.

Liability of existing shareholders in respect of debts.

65. In the event of any Company other than a limited Company being wound up by the Court or voluntarily, any person who has ceased to be a shareholder within the period of three years prior to the commencement of the winding-up shall be deemed, for the purposes of contribution

Liability of former shareholders in a Company other than a limited Company with respect to debts.

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contribution towards payment of the debts of the Company and the costs charges and expenses of winding-up the same, to be an existing shareholder, and shall have in all respects the same rights and be subject to the same liabilities to creditors as if he had not so ceased to be a shareholder, with this exception, that he shall not be liable in respect of any debt of the Company contracted after the time at which he ceased to be a shareholder.

Liability of former shareholders in a limited Company with respect to debts.

66. In the event of any limited Company being wound up by the Court or voluntarily, any person who has ceased to be a holder of any share or shares within the period of one year prior to the commencement of the winding-up shall be deemed, for the purposes of contribution towards payment of the debts of the Company and the costs charges and expenses of winding-up the same, to be an existing holder of such share or shares, and shall have in all respects the same rights and be subject to the same liabilities to creditors as if he had not so ceased to be a shareholder.

Commencement of winding-up of Company defined.

67. The winding-up shall, if the Company is wound up by the Court, be deemed to commence at the time of the presentation of such petition as is hereinafter required to be presented to the Court, and if the Company is wound up voluntarily, be deemed to commence at the time of the passing of the resolution authorizing such winding-up.

Definition of "Contributory" and legal character of his liability.

68. Any existing or former shareholder upon whom calls are authorized to be made by the third part of this Act is hereinafter called a "Contributory," and the representatives of any deceased contributory shall be liable in a due course of administration to the same extent as such contributory would be liable, under the third part of this Act, if alive.

Rights of contributories between themselves.

69. For the purpose of ascertaining the liability of existing and former shareholders as between themselves the following rule shall be adopted, that is to say,—

- (1.) In the case of a Company other than a limited Company, every transferee of shares shall, in a degree proportioned to the shares transferred, indemnify the transferor against all existing and future debts of the Company.
- (2.) In the case of a limited Company, every transferee shall indemnify the transferor against all calls made or accrued due on the shares transferred subsequently to the transfer.

Winding-up by Court.

Circumstances under which a Company may be wound up by the Court.

70. A Company may be wound up by the Court under the following circumstances, that is to say,—

- (1.) Whenever the Company in general meeting has passed a special resolution requiring the Company to be wound up by the Court.
- (2.) Whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year.
- (3.) Whenever the shareholders are reduced in number to less than seven.
- (4.) Whenever the Company is unable to pay its debts.
- (5.) Whenever three-fourths of the capital of the Company have been lost or become unavailable.

Company when deemed unable to pay its debts.

71. A Company shall be deemed to be unable to pay its debts—

- (1.) Whenever a creditor to whom the Company is indebted in a sum exceeding fifty pounds then due has served on the Company, by leaving the same at their registered office, a demand under his hand requiring the Company to pay the sum so due, and the Company have for the space of three weeks

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weeks succeeding the service of such demand neglected to pay such sum or to secure or compound for the same to the satisfaction of the creditor.

- (2.) Whenever execution issued on a judgment decree or order obtained in any Court in favour of any creditor in any suit or other legal proceeding instituted by such creditor against the Company is returned unsatisfied, in whole or in part, by the Sheriff of the district in which the registered office of the Company is situate.

72. Any application for the winding-up of a Company shall be by petition, and there shall be filed or lodged at the time when such petition is presented an affidavit verifying the same. Such petition may, in cases where the Company is unable to pay its debts, be presented either by a creditor or a contributory, but where any other ground is alleged for winding-up the Company, a contributory alone is entitled to present the petition.

Application for winding-up to be by petition.

73. Upon the hearing of any petition presented by a creditor the Court may dismiss such petition, with or without costs to be paid by the petitioner, or it may make an order directing the Company, by a day to be named in the order, to pay or secure payment to the creditor of all moneys that may be proved due to him, together with such costs as the Court may direct; or the Court may if it so thinks fit, on the hearing of such petition, make an order for the winding-up the Company in the first instance, or such other order as it deems just.

Course to be pursued by Court on petition of a creditor.

74. If at the expiration of the time named in such order such payment is not made or security given, the Court may thereupon make an order for winding-up the Company.

Order for winding-up Company on creditor's petition.

75. Upon the hearing of a petition presented by a contributory the Court may dismiss such petition, with or without costs to be paid by the petitioner, or it may make an order directing the Company to be wound up, or such other order as it deems just.

Course to be pursued by Court on petition of contributory.

76. After the date of such order for winding-up the Company, all suits and actions against the Company shall, if the Court so orders, be stayed. No Director or other officer of the Company shall, without the sanction of the Court, dispose of any of the property effects or things in action of the Company, and no transfer of any shares shall be valid without the sanction of the Court. A copy of such order shall forthwith be reported by the Company to the Registrar of Joint Stock Companies, who shall make a minute thereof in his books relating to the Company.

Effect of the order for winding-up Company.

77. As soon as may be after making an order for winding-up the Company, the Court shall cause the assets of the Company to be collected and applied in discharge of its liabilities in a due course of administration.

Collection and application of assets.

78. Any such conveyance mortgage delivery of goods payment execution or other act relating to property as would, if made or done by or against any individual trader, be deemed in the event of his bankruptcy under any law for the time being in force in New Zealand to have been made or done by way of undue or fraudulent preference of any creditor of such trader, shall, if made or done by or against any Company registered under this Act, be deemed in the event of an order being made for winding-up such Company to have been made or done by way of undue or fraudulent preference of such creditor of such Company, and shall be invalid accordingly; and for the purposes of this section the presentation of a petition for winding-up a Company shall be deemed to correspond with the filing of a petition for adjudication of bankruptcy in the case of an individual trader; and any conveyance or assignment made by any Company registered under this

Fraudulent preference.

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Act of all its estate and effects to Trustees for the benefit of all its creditors shall be void to all intents.

Power of Court to summon persons suspected of having property of Company.

79. The Court may, after it has made an order for winding-up the Company, summon before it any person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade dealings estate or effects of the Company; and the Court may require any such person to produce any books papers deeds writings or other documents in his custody or power which may appear to the Court requisite to the full disclosure of any of the matters which the Court thinks necessary to be inquired into for the purpose of winding-up the Company; and if any person so summoned refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may by warrant authorize and direct the persons therein named for that purpose to apprehend such person and bring him before the Court for examination.

Power to arrest shareholder about to abscond or to remove or to conceal any of his property.

80. Where an order has been made for winding-up a Company, if upon the application of the Official Liquidator hereinafter mentioned it appears to the Court that there is probable cause for believing that any contributory to such Company is about to quit the Colony, or otherwise abscond or to remove or conceal any of his goods or chattels for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, the Court may by warrant directed to such person or persons as it thinks fit cause such contributory to be arrested, and his books papers moneys securities for moneys goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

Arrested shareholder may apply to Court for his discharge.

81. Any contributory who has been arrested or whose goods or chattels have been seized under any such warrant as aforesaid may, at any time after such arrest or seizure, apply to the Court to discharge him from custody, or to direct the delivery to him of any books papers moneys securities for moneys goods or chattels that may have been seized, and the Court shall take such application into consideration, and shall make such order thereon as it thinks just.

Calls under third part of this Act to be speciality debts.

82. All calls that are authorized by the third part of this Act to be made on a contributory, in the event of the Company to which he belongs being wound up by the Court or voluntarily, shall be deemed to be speciality debts due from such contributory to the Company.

Examination of parties by Court.

83. The Court may examine upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid concerning the trade dealings estate or effects of the Company, and may reduce into writing the answers of every such person and require him to sign and subscribe the same.

Penalty on falsification of books.

84. If any Director, officer, or contributory of any Company, for the winding-up of which an order or decree has been made under this Act, destroys mutilates alters or falsifies any books papers writings or securities, or makes or is privy to the making of any false or fraudulent entry in any register book of account or other document belonging to the Company with intent to defraud the creditors or contributories of such Company or any of them, every person so offending shall be deemed to be guilty of a misdemeanour, and upon being convicted shall be liable to imprisonment for any term not exceeding two years with or without hard labour.

Attachments sequestrations and executions within three months of petition to be void.

85. If any attachment sequestration or execution is issued against any Company by virtue whereof the estate and effects of the Company or any of them may be attached sequestrated or taken in execution

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execution at any time within three months next before the filing or presentation of the petition for winding-up the Company, such attachment sequestration or taking in execution shall be void in favour of the liquidators of the Company as against the attaching sequestrating or execution creditor, whether the same has been completely executed or not, except that such creditor shall, if the attachment sequestration or execution would have been valid but for this provision, be entitled to retain out of any money already realized his costs of suit and of the attachment sequestration or execution, or to proceed with the attachment sequestration or execution for the purpose of realizing such costs; but on satisfaction of such costs or on tender of the amount thereof by the liquidators to the creditor, it shall be lawful for the liquidators to recover from such creditor the property so attached sequestrated and taken in execution, and the proceeds of such property or the residue thereof as the case may be.

86. All books accounts and documents of the Company and of the liquidators hereinafter mentioned shall, as between the contributories of the Company, be *prima facie* evidence of the truth of all matters therein contained and purporting to be therein recorded.

Books of Company to be evidence.

87. The Court may, at any time after making an order for winding-up a Company, and before it has ascertained the sufficiency of the assets of the Company or the debts in respect of which the several classes of contributories are liable, make calls on all or any of the contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts of the Company and the costs of winding it up, and it may in making a call take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

Power of Court to make calls.

88. In fixing the amount payable by any contributory he shall be debited with the amount of all debts due from him to the Company including the amount of the call, and shall be credited with all sums due to him from the Company on any independent contract or dealing between him and the Company, and the balance after making such debit and credit as aforesaid shall be deemed to be the sum due.

Manner of making a call.

89. All calls made or to be made on any shareholder or contributory shall, in the event of such shareholder or contributory becoming bankrupt or insolvent, be proveable against his estate.

Calls proveable against bankrupts' or insolvents' estates.

90. All moneys received under the direction of the Court on account of the sale or conversion of any of the assets of the Company, or in respect of calls made on any contributories, or of any other matter with the exception of such balance (if any) as the Official Liquidators may with the sanction of the Court retain in their hands for the payment of current expense, shall be paid into such one of the banks carrying on business in New Zealand and to the credit of such account there as the Court may direct. And no moneys standing to such account shall be paid out by the bank except upon cheques signed in such manner as the Court directs.

Payment of money into bank.

91. In case of any Company being wound up compulsorily, the liquidators may invest any moneys for the time being in their hands or standing to their credit in any bank as aforesaid arising from such winding-up, in such manner as the Court shall think fit to direct.

Power for liquidators to invest.

92. The Court may at any time after the presentation of a petition for winding-up a Company, and either before or after making an order for winding-up the same, upon the application by motion of any creditor or contributory of such Company, restrain further proceedings in any action or suit against the Company, or appoint a Receiver of the estate and effects of the Company. It may also

Power of Court to grant injunction.

by

Joint Stock Companies.

by notice or advertisement require all creditors to present and prove their claims within a certain time, or be precluded from the benefit of any distribution which may be made before such claim is proved.

Power of Court to stay proceedings.

93. The Court may at any time after an order has been made for winding-up a Company, upon the application by motion of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding-up ought to be stayed, make an order staying the same either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Power of Court to adjust rights of contributories.

94. As soon as the creditors are satisfied, the Court shall proceed to adjust the rights of the contributories amongst themselves, and to distribute any surplus that may remain amongst the parties entitled thereto, and for the purposes of such adjustment it may make calls on the contributories, to the extent of their liability, for payment of such sums as it deems necessary, and it may in making a call take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

Power of Court to order costs.

95. The Court may make such order as to the priority and payment out of the estate of the Company of the costs charges and expenses incurred in winding-up any Company as it thinks just.

Official Liquidators.

Appointment of Official Liquidators.

96. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court therein, there shall be appointed a person or persons to be called an Official Liquidator or Official Liquidators, and such appointment shall be made as follows, that is to say,—

- (1.) The Court may after requiring due security appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of Official Liquidators. It may from time to time remove any person or persons so appointed, and fill up any vacancy occasioned by such removal or by the death or resignation of any such appointee or appointees. If one person only is appointed he shall have all the powers hereby given to several Liquidators. If more persons than one are appointed, the Court shall declare whether any act hereby required or authorized to be done by the Official Liquidators may be done by all or any one or more of such persons.
- (2.) The Court shall, in the appointment of an Official Liquidator or Official Liquidators, consult the interests of both the creditors and contributories, and hear such creditors or contributories as it thinks fit to hear with respect to such appointment. It may, unless both the creditors and contributories concur in the appointment of a single Liquidator, appoint one or more Liquidator or Liquidators to act on behalf of each of such parties. It may declare that in case of difference any act may be done by a majority of Liquidators, or it may require the Liquidators in all cases of difference to apply to the Court. It may do anything hereby authorized to be done either upon the first appointment of a Liquidator or at any subsequent stage of the winding-up; but notwithstanding anything herein contained it shall not be obligatory on the Court to appoint more than one Liquidator if in its discretion it thinks that such appointment will be most conducive to justice.

97. The

Joint Stock Companies.

97. The Official Liquidators or Liquidator shall be described by the style of the Official Liquidators or Official Liquidator of the particular Company in respect of which they or he are or is appointed, and not by their or his individual names or name. They or he shall take into their or his custody all the property effects and things in action of the Company, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

*Style and duties of
Official Liquidators.*

98. The Official Liquidators shall have power with the sanction of the Court to do the following things:—

*Powers of Official
Liquidators.*

- (1.) To bring or defend any action suit or prosecution or other legal proceedings, civil or criminal, in the name and on behalf of the Company.
- (2.) To carry on the business of the Company so far as may be necessary for the beneficial winding-up of the same.
- (3.) To sell the real and personal property effects and things in action of the Company by public auction or private contract, with power, if they think fit, to transfer the whole thereof to any person or Company or to sell the same in parcels.
- (4.) To execute in the name and on behalf of the Company all deeds receipts and other documents they may think necessary, and for that purpose to use when necessary the Company's Seal.
- (5.) To refer disputes to arbitration.
- (6.) To compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims whether present or future, certain or contingent, ascertained or sounding only in damages subsisting or supposed to subsist between the Company and any contributory or alleged contributory or other debtor or person apprehending liability to the Company upon the receipt of such sums payable at such times and generally upon such terms as may be agreed upon, with power for the Liquidators to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls debts or liabilities, subject to the proviso that where an order has been made by the Court for winding-up a Company compulsorily, or where an order has been made as hereinafter provided for the continuance of a voluntary winding-up, no such compromise shall be made except in accordance with the directions of the Court, as expressed generally in any order made by the Court or as given in each particular case, and after giving such notice to creditors or any portion of them as the Court shall direct; and that where a Company is being wound up altogether voluntarily no such compromise shall be effected except with the sanction of a special resolution of the Company, or of a general or particular power delegated to the Liquidators by a special resolution.
- (7.) To prove claim rank and draw a dividend in the matter of the bankruptcy insolvency or sequestration of any contributory for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance in the matter of bankruptcy insolvency or sequestration, as a separate debt due from such bankrupt or insolvent, and rateably with the other separate creditors.
- (8.) To draw accept make and indorse any bill of exchange or promissory note, and also to raise upon the security of the assets of the Company from time to time any requisite sum or sums of money, and the drawing accepting making or indorsing

Joint Stock Companies.

indorsing of every such bill of exchange or promissory note as aforesaid on behalf of the Company shall have the same effect with respect to the liability of such Company as if such bill or note had been drawn accepted made or indorsed by such Company in the course of carrying on the business thereof.

(9.) To do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

Power of Court to give discretion to Official Liquidators.

99. Where the Court makes an order for winding-up a Company compulsorily, it may if it thinks fit provide by that or any subsequent order that the Official Liquidators may exercise any specified powers without the intervention of the Court.

Appointment of solicitor to Official Liquidators.

100. The Official Liquidators may with the approval of the Court appoint a solicitor and such clerks or officers as may be necessary to assist them in the performance of their duties. There shall be paid to such solicitor, clerks, and officers, such remuneration by way of fees or otherwise as may be allowed by the Court.

Remuneration of Official Liquidators.

101. There shall be paid to the Official Liquidators such salary or remuneration by way of percentage or otherwise as the Court directs.

Dissolution of Company.

102. Where the affairs of the Company have been completely wound up, the Court shall make an order declaring the Company to be dissolved from the date of such order, and the Company shall be dissolved accordingly.

Order for dissolution to be reported to Registrar.

103. Any order so made shall be reported by the Official Liquidators to the Registrar of Joint Stock Companies, who shall make a minute accordingly, in his books, of the dissolution of such Company.

Power of Judges to make rules.

104. The Judges of the Supreme Court may, as often as circumstances require, make such rules concerning the mode of proceeding to be had for winding-up a Company in the Court as may from time to time seem necessary.

Rules with respect to fees.

105. The Judges of the Supreme Court may make rules specifying the fees to be paid in respect of proceedings taken under the third part of this Act for winding-up a Company in the Court, and the fees so paid shall be applied in the manner in which fees taken in such Court in ordinary proceedings are applied.

Special Commissioners for receiving evidence.

106. The Judges of the District Courts and the Resident Magistrates shall be Commissioners for the purpose of taking evidence under the third part of this Act in cases where any Company is wound up by the Supreme Court, and it shall be lawful for such Court to refer the whole or any part of the examination of any witnesses under the third part of this Act to any such Commissioner, and any such Commissioner, in addition to any power of summoning and examining witnesses and requiring the production or delivery of documents and certifying or punishing defaults by witnesses which he might lawfully exercise as a Judge of a District Court or Resident Magistrate in a matter within his jurisdiction, shall also have in the matter so referred to him all the same powers of summoning and examining and requiring the production or delivery of documents and punishing defaults by witnesses and allowing costs and charges and expenses to witnesses as the Supreme Court has, and the examination so taken shall be returned or reported to the Supreme Court in such manner as it directs.

Voluntary Winding-up of Company.

Circumstances under which Company may be wound up voluntarily.

107. A Company may be wound up voluntarily,—

(1.) Whenever the period, if any fixed, for the duration of the Company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided

Joint Stock Companies.

provided by the articles of association that the Company is to be dissolved.

- (2.) Whenever the Company in general meeting has passed a special resolution requiring the Company to be wound up voluntarily.

Whenever a Company is wound up voluntarily, the Company shall from the date of the commencement of such winding-up cease to carry on its business except in so far as may be required for the beneficial winding-up thereof, but its corporate state and all its corporate powers shall, notwithstanding any provision to the contrary in its articles of association, continue until the affairs of the Company are wound up.

108. Notice of any special resolution to wind up a Company voluntarily shall be given in the *New Zealand Gazette*.

109. The following consequences shall ensue upon the voluntary winding up of a Company :—

- (1.) The property of the Company shall be applied in satisfaction of its liabilities, and subject thereto shall, unless it be otherwise provided by the articles of association, be distributed among the shareholders in proportion to their shares.
- (2.) Liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the property.
- (3.) The Company in general meeting may appoint such person or persons as it thinks fit to be a Liquidator or Liquidators, and may fix the remuneration to be paid to him or them.
- (4.) If one person only is appointed, all the provisions herein contained in reference to several Liquidators shall apply to him.
- (5.) When several Liquidators are appointed every power herein given may be exercised by any two of them.
- (6.) The Liquidators may, at any time after the passing of the resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company or the debts in respect of which the several classes of contributories are liable, call on all or any of the contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts of the Company and the costs of winding it up, and they may in making a call take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.
- (7.) The Liquidators shall have all powers hereinbefore vested in Official Liquidators, and may exercise the same without the intervention of the Court.
- (8.) All books papers and documents in the hands of the Liquidators shall at all reasonable times be open to the inspection of the shareholders.
- (9.) When the creditors are satisfied, the Liquidators shall proceed to adjust the rights of the contributories amongst themselves, and for the purposes of such adjustment they may make calls on all the contributories, to the extent of their liability, for any sums they may deem necessary, and they may in making a call take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

Notice of resolution to wind up voluntarily.
Consequences of voluntary winding-up.

(10.) As

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- (10.) As soon as the affairs of the Company are fully wound up, the Liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of, and such account with vouchers thereof shall be laid before such person or persons as may be appointed by the Company to inspect the same, and upon such inspection being concluded the Liquidators shall proceed to call a general meeting of the shareholders for the purpose of considering such account, but no such meeting shall be deemed to be duly held unless one month's previous notice, specifying the time place and object of such meeting, has been published in the *New Zealand Gazette*.
- (11.) Such general meeting shall not enter upon any business except the consideration of the account, but the meeting may proceed to the consideration thereof notwithstanding the quorum required by any regulation of the Company to be present at general meetings is not present thereat; and if on consideration the meeting is of opinion that the affairs of the Company have been fairly wound up, they shall pass a resolution to that effect, and thereupon the Liquidators shall publish a notice of such resolution in the *New Zealand Gazette*, and shall also make a return to the Registrar of Joint Stock Companies of such resolution, and on the expiration of one month from the date of the registration of such return, the Company shall be deemed to be dissolved.
- (12.) If within one year after the passing of a resolution for winding-up the affairs of the Company such affairs are not wound up, the Liquidators shall immediately thereafter make up an account showing the state of the affairs and the progress that has been made in winding-up down to that date, and they shall add thereto a report stating the reason why the winding-up has not been completed, and a general meeting shall be called to consider the same, and so on from year to year until the winding-up of the affairs of the Company is completed.

All costs charges and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the Liquidators, shall be payable out of the assets of the Company in priority to all other claims.

Power for Liquidators to accept shares as a compensation for sale of property of Company.

110. Where a Company is being wound up voluntarily, and the whole or a portion of its property is about to be sold to another Company registered under this Act, the Liquidators of the first-mentioned Company may, with the sanction of a special resolution of the Company by whom they were appointed, receive in compensation or part compensation for such sale shares in such other Company for the purpose of distribution amongst the shareholders of the Company being wound up, or may enter into any other arrangement whereby the shareholders of the Company being wound up may, in lieu of receiving cash or shares or in addition thereto, participate in the profits of or receive any other benefit from the purchasing Company; and any sale made or arrangement entered into by the Liquidators in pursuance of this section shall be binding on the shareholders of the Company being wound up, subject to this proviso, that if any shareholder in the Company being wound up, who has not voted in favour of the special resolution passed by his Company at either of the meetings held for passing the same, expresses his dissent from any such special resolution

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in writing, addressed to the Liquidators or one of them, and left at the registered office of the Company not later than seven days after the date of the last of the meetings at which such special resolution was passed, such dissentient shareholder may require the Liquidators to do such one of the following things as they may prefer, that is to say, either to abstain from carrying such resolution into effect or to purchase the shares held by the dissentient shareholder or shareholders at such price as may be agreed upon or settled by arbitration, such purchase money to be paid before the Company is dissolved, and to be raised by the Liquidators in such manner as may be determined by special resolution.

111. In the case of a Company being wound up voluntarily, the Liquidators may from time to time during the continuance of such winding-up summon general meetings of the Company for the purpose of obtaining the sanction of the Company by a special resolution, or for such other purposes as they think fit.

Power of Liquidators to call general meeting.

112. Where a Company is being wound up voluntarily, the Liquidators may apply to the Court, by petition motion or the presentation of a special case or in such other manner as the Court may direct, to determine any question arising in the matter of such winding-up, or to exercise as respects the enforcing any calls or in respect of any other particular matter all or any of the powers which the Court might exercise if the Company were being wound up compulsorily; and the Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede wholly or partially to such application, upon such terms and subject to such conditions as the Court thinks fit, or it may make such other order on such application as the Court thinks just.

Power for Liquidators in voluntary winding-up to apply to Court for aid.

113. Where a Company is being wound up voluntarily, if it appear to the Liquidators conducting such winding-up that any past or existing Director, Manager, public officer, or member of such Company, has been guilty of any offence in relation to the Company for which he is criminally responsible, it shall be lawful for the Liquidators, with the previous sanction of the Court, to prosecute such offender, and all expenses properly incurred by them in such prosecution shall be payable out of the assets of the Company in priority to all other liabilities.

Prosecution of delinquent Directors &c. in case of voluntary winding-up.

114. Where a Company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may if it think fit, notwithstanding that it makes an order directing the Company to be wound up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up. It may also, instead of making an order that the Company should be altogether wound up by the Court, direct that the voluntary winding-up should continue, but subject to such supervision of the Court, and with such liberty for creditors contributories or others to apply to the Court, and generally upon such terms and subject to such conditions as the Court thinks just.

Power of Court to adopt proceedings for voluntary winding-up.

115. A petition to the Court, praying wholly or in part that a voluntary winding-up may continue subject to the supervision of the Court, shall for the purpose of giving jurisdiction to the Court over actions and over the appointment of a Receiver be deemed to be a petition for winding-up the Company by the Court, and in determining whether a Company is to be wound up altogether compulsorily or under the provisions of the one hundred and fourteenth section of this Act, the Court may have regard to the wishes of the majority in number and value of the creditors as proved to it by any sufficient evidence.

Petition for continuance of voluntary winding-up subject to supervision.

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Power of Court in proceeding under section 114 to appoint additional Liquidators.

116. Where any order is made by the Court in pursuance of the said one hundred and fourteenth section for the continuance of a voluntary winding-up, the Court may in such order or in any subsequent order appoint an additional Liquidator or Liquidators, and any Liquidator or Liquidators so appointed by the Court shall have the same powers be subject to the same obligations and in all respects stand in the same position as if he or they had been appointed by the Company. The Court may from time to time remove any Liquidator or Liquidators so appointed by the Court, and fill up any vacancy occasioned by such removal or by the death or resignation of any such Liquidator or Liquidators. The Court shall, in the appointment of a Liquidator or Liquidators under this section, consult any creditor or classes of creditors it may think expedient to consult for the purpose of ascertaining what appointments are most for the interest of the creditors.

Effect of order of Court under the said section 114.

117. Where any order is made by the Court in pursuance of the said one hundred and fourteenth section for the continuance of a voluntary winding-up, the Liquidators appointed to conduct such winding-up may, subject to any order made by the Court, exercise all powers given to them without the intervention of the Court in the same manner as if the Company were being wound-up altogether voluntarily; but, save as aforesaid, any order made by the Court in pursuance of the said one hundred and fourteenth section for the continuance of a voluntary winding-up shall for all purposes, including the application of any provision relating to fraudulent preference, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls and to enforce calls made by the Liquidators and to exercise all other powers which it might have exercised of its own motion or on the application of the Official Liquidators if an order had been made for winding-up the Company altogether by the Court.

Inspection of books &c.

118. Where an order has been made for winding-up a Company compulsorily, or where an order has been made in pursuance of the said one hundred and fourteenth section for the continuance of a voluntary winding-up, the Court may make such order as it thinks just as to the inspection by the creditors and contributories of books and papers of the Company, and such books and papers may be inspected by creditors or contributories in conformity with such order of the Court, but not further or otherwise.

Appointment of Voluntary Liquidators as Official Liquidators.

119. Where an order has been made in pursuance of the said one hundred and fourteenth section for the continuance of a voluntary winding-up, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the Voluntary Liquidators or any of them either provisionally or permanently and either with or without the addition of any other persons to be Official Liquidators.

General scheme of liquidation may be sanctioned by the Court.

120. Where an order has been made for winding-up a Company compulsorily, or where an order has been made in pursuance of the said one hundred and fourteenth section for the continuance of a voluntary winding-up, the liquidators may, with the sanction of the Court and upon such notice to creditors as to the Court shall seem fit, at any stage of the winding-up pay any classes of creditors in full or make such other arrangement with creditors as the Court may sanction; and any general or partial scheme of liquidation, if approved of by the Court, shall be binding on all the creditors and contributories of the Company.

Power of Company to fill up vacancies in Liquidators.

121. Where a Company is being wound up altogether voluntarily, or is being wound up subject to the provisions of the said one hundred and

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and fourteenth section, the Company in general meeting may fill up any vacancy occasioned by the death or resignation of any Liquidator or Liquidators appointed by the Company.

122. Where any order is made for winding-up a Company compulsorily, or for the continuance of a voluntary winding-up subject to the provisions of the said one hundred and fourteenth section, if it appear in the course of such winding-up that any past or existing Director, Manager, public officer, or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up or of its own motion, direct the Official Liquidators or the Liquidators (as the case may be) to institute and conduct a prosecution or prosecutions for such offence, and to order the costs and expenses to be paid out of the assets of the Company.

Prosecution of delinquent Directors in the case of compulsory or continuance of voluntary winding-up.

123. If the Liquidators make default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order declaring the Company to be dissolved, and in the case of a Company being wound up voluntarily the resolution declaring the Company to have been fairly wound up, they shall be liable to a penalty not exceeding five pounds for every day during which they are so in default, and moreover shall not while so in default be entitled to recover any compensation for their services as Liquidators.

Penalty on Liquidators not reporting dissolution of Company to Registrar.

124. If at the expiration of twelve months from the date of the dissolution of any Company that has been wound up there remain in the hands of the Liquidators any money shares or other property which they have been unable, by reason of the absence or death of any persons entitled thereto or for any other reason, to distribute amongst the parties so entitled, the Liquidators shall be deemed to be trustees of such moneys shares or other property, and shall only pay or transfer such moneys shares or other property in such manner as the Supreme Court may from time to time direct, upon petition in a summary way, or otherwise as the Court shall think fit.

Remedy for Liquidators having in their hands undistributed assets of the Company.

125. The voluntary winding-up of a Company shall not prejudice the right of any creditor of such Company to institute proceedings for the purpose of having the same wound up by the Court.

Saving of rights of creditors.

PART IV.

Registration Office.

126. The registration of Companies shall be conducted as follows, that is to say,—

Constitution of Registration Office.

- (1.) The Governor may from time to time appoint such Registrars, Assistant Registrars, Clerks, and servants as he may think necessary for the registration of Companies under this Act, and remove them at pleasure.
- (2.) The Governor may make such regulations as he thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, Clerks, and servants as aforesaid.
- (3.) The Governor may from time to time determine the place or places at which offices for the registration of Companies are to be established.
- (4.) The Governor may from time to time direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of Companies.
- (5.) Every person may inspect the documents kept by the Registrar of Joint Stock Companies, and there shall be paid for such inspection a fee of one shilling for each inspection, and

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and any person may require a copy or extract of any document or any part of any document to be certified by the Registrar, and there shall be paid for such certified copy or extract a fee of sixpence for each folio of such copy or extract, and such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever.

- (6.) There shall be paid to any Registrar, Assistant Registrar, Clerk, or servant that may hereafter be employed in the registration of Joint Stock Companies such salary as the Governor may direct out of any moneys duly appropriated for the purpose by the General Assembly.

SCHEDULE.

FORM A.

MEMORANDUM OF ASSOCIATION OF "THE WELLINGTON STEAM NAVIGATION COMPANY (LIMITED)."

1st. The name of the Company is "The Wellington Steam Navigation Company (Limited)."

2nd. The registered office of the Company is to be established in the Province of Wellington.

3rd. The objects for which the Company is established are "The conveyance of passengers and goods in ships or boats between such places as the Company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

4th. The liability of the shareholders is "limited."

5th. The nominal capital of the Company is ten thousand pounds, divided into one thousand shares of ten pounds each.

We the several persons whose names and addresses are subscribed are desirous of being formed into a Company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:—

Names and Addresses of Subscribers.	Number of Shares taken by each Subscriber.
1. John Jones, of _____, in the Province of _____	10
2. John Smith, of _____, " " " " " "	15
3. Thomas Green, of _____, " " " " " "	15
4. John Thompson, of _____, " " " " " "	10
5. Caleb White, of _____, " " " " " "	5
6. Andrew Brown, of _____, " " " " " "	15
7. Caesar White, of _____, " " " " " "	10
Total shares taken	80

Dated the 2nd day of December, 1860.

Witness to the above signatures,
A.C.S.,

Lambton Quay, Wellington.

TABLE B.

REGULATIONS FOR MANAGEMENT OF THE COMPANY.

Shares.

1. No person shall be deemed to have accepted any share in the Company unless he has testified his acceptance thereof, by writing under his hand, in such form as the Company from time to time directs.

2. The Company may from time to time make such calls upon the shareholders in respect of all moneys unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each shareholder shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Company.

3. A call

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3. A call shall be deemed to have been made at the time when the resolution authorizing such call was passed.

4. If before or on the day appointed for payment any shareholder does not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate of eight pounds per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

5. The Company may, if they think fit, receive from any of the shareholders willing to advance the same all or any part of the moneys due upon the respective shares beyond the sums actually called for, and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the shareholder paying such sum in advance and the Company agree upon.

6. If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of the share.

7. The Company may decline to register any transfer of shares made by a shareholder who is indebted to them.

8. Every shareholder shall, on payment of such sum not exceeding one shilling as the Company may prescribe, be entitled to a certificate under the common Seal of the Company specifying the share or shares held by him and the amount paid up thereon.

9. If such certificate is worn out or lost, it may be renewed on payment of the sum of one shilling.

9A. The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

10. The executors or administrators of a deceased shareholder shall be the only persons recognized by the Company as having any title to his share.

11. Any person becoming entitled to a share in consequence of the death bankruptcy or insolvency of any shareholder, or in consequence of the marriage of any female shareholder, or in any way other than by transfer, may be registered as a shareholder upon such evidence being produced as may from time to time be required by the Company.

12. Any person who has become entitled to a share in any way other than by transfer may, instead of being registered himself, elect to have some person to be named by him registered as a holder of such share.

13. The person so becoming entitled shall testify such election by executing to his nominee a deed of transfer of such share.

14. The deed of transfer shall be presented to the Company, accompanied with such evidence as they may require to prove the title of the transferor, and thereupon the Company shall register the transferee as a shareholder.

Forfeiture of Shares.

15. If any shareholder fails to pay any call due on the appointed day, the Company may at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call, together with any interest that may have accrued by reason of such non-payment.

16. The notice shall name a further day, and a place or places, being a place or places at which calls of the Company are usually made payable, on and at which such call is to be paid. It shall also state that, in the event of non-payment at the time and place appointed, the shares in respect of which such call was made will be liable to be forfeited.

17. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may be forfeited by a resolution of the Directors to that effect.

18. Any shares so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company thinks fit.

19. Any shareholder whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

Increase in Capital.

20. The Company may, with the sanction of the Company previously given in general meeting, increase its capital.

21. Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls or the forfeiture of shares on non-payment of calls or otherwise, as if it had been part of the original capital.

General Meetings.

22. The first general meeting shall be held at such time, not being more than twelve months after the incorporation of the Company, and at such place, as the Directors may determine.

23. Subsequent general meetings shall be held at such time and place as may be prescribed by the Company in general meetings, and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the Directors.

Joint Stock Companies.

24. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

25. The Directors may, whenever they think fit, and they shall, upon a requisition made in writing by any number of shareholders holding in the aggregate not less than one-fifth part of the shares of the Company, convene an extraordinary general meeting.

26. Any requisition so made by the shareholders shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

27. Upon the receipt of such requisition the Directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other shareholders holding the required number of shares may themselves convene a meeting.

28. Seven days' notice at the least, specifying the place, the time, the hour of meeting, and the purpose for which any general meeting is to be held, shall be given by advertisement or in such other manner (if any) as may be prescribed by the Company.

29. Any shareholder may, on giving not less than three days' previous notice, submit any resolution to a meeting beyond the matters contained in the notice given of such meeting.

30. The notice required of a shareholder shall be given by leaving a copy of the resolution at the registered office of the Company.

31. No business shall be transacted at any meeting, except the declaration of a dividend, unless a quorum of shareholders is present at the commencement of such business, and such quorum shall be ascertained as follows, that is to say,—If the shareholders belonging to the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional shareholders up to fifty, and one for every ten additional shareholders after fifty, with this limitation, that no quorum shall in any case exceed forty.

32. If within one hour from the time appointed for the meeting the required number of shareholders is not present, the meeting, if convened upon the requisition of the shareholders, shall be dissolved. In any other case it shall stand adjourned to the following day at the same time and place, and if at such adjourned meeting the required number of shareholders is not present, it shall be adjourned *sine die*.

33. The Chairman (if any) of the Board of Directors shall preside as Chairman at every meeting of the Company.

34. If there is no such Chairman, or if at any meeting he is not present at the time of holding the same, the shareholders present shall choose some one of their number to be Chairman of such meeting.

35. The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

36. At any general meeting, unless a poll is demanded by at least five shareholders, a declaration by the Chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

37. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the Chairman directs, and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

Votes of Shareholders.

38. Every shareholder shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares held by him beyond the first one hundred shares.

39. If any shareholder is a lunatic or an idiot he may vote by his committee, and if any shareholder is a minor he may vote by his guardian, or any one of his guardians if more than one.

40. If one or more persons are jointly entitled to a share or shares, the person whose name stands first in the register of shareholders as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

41. No shareholder shall be entitled to vote at any meeting unless all calls due from him have been paid, nor until he shall have been possessed of his shares three calendar months, unless such shares shall have been acquired or shall have come by a bequest, or by marriage, or by succession to an intestate's estate, or by any deed of settlement after the death of any person who shall have been entitled for life to the dividend of such shares.

42. Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a Corporation, under the common seal.

43. No person shall be appointed a proxy who is not a shareholder, and the instrument appointing him shall be deposited at the registered office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to

vote;

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vote; but no instrument appointing a proxy shall be valid after the expiration of one month from the date of its execution.

Directors.

44. The number of the Directors and the names of the first Directors shall be determined by the subscribers of the memorandum of association.

45. Until Directors are appointed, the subscribers of the memorandum of association shall for all the purposes of this Act be deemed to be Directors.

Powers of Directors.

46. The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are not by this Act or by the articles of association (if any) declared to be exercisable by the Company in general meeting, subject nevertheless to any regulations of the articles of association, to the provisions of this Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

Disqualification of Directors.

47. The office of Director shall be vacated—

If he holds any other office or place of profit under the Company.

If he becomes bankrupt or insolvent.

If he is concerned in or participates in the profits of any contract with the Company.

If he participates in the profits of any works done for the Company.

But the above rules shall be subject to the following exceptions: that no Director shall vacate his office by reason of his being a shareholder in any incorporated Company which has entered into contracts with or done any work for the Company of which he is Director; nevertheless he shall not vote in respect of such contract or work, and if he does so vote his vote shall not be counted, and he shall incur a penalty not exceeding twenty pounds.

Rotation of Directors.

48. At the first ordinary meeting after the incorporation of the Company, the whole of the Directors shall retire from office; and at the first ordinary meeting in every subsequent year, one-third of the Directors for the time being, or if their number is not a multiple of three then the number nearest to one-third, shall retire from office.

49. The one-third or other nearest number to retire during the first and second years ensuing the incorporation of the Company shall, unless the Directors agree among themselves, be determined by ballot. In any subsequent year the one-third or other nearest number who have been longest in office shall retire.

50. A retiring Director shall be re-eligible.

51. The Company at the general meeting at which any Directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

52. If at any meeting at which an election of Directors ought to take place no such election is made, the meeting shall stand adjourned till the next day at the same time and place; and if at such adjourned meeting no election takes place, the former Directors shall continue to act until new Directors are appointed at the first ordinary meeting of the following year.

53. The Company may from time to time, in general meeting, increase or reduce the number of Directors, and may also determine in what rotation such increased or reduced number is to go out of office.

54. Any casual vacancy occurring in the Board of Directors may be filled up by the Directors, but any person so chosen shall retain his office so long only as the vacating Director would have retained the same if no vacancy had occurred.

Proceedings of Directors.

55. The Directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chairman in addition to his original vote shall have a casting vote. A Director may at any time summon a meeting of the Directors.

56. The Directors may elect a Chairman of their meetings, and determine the period for which he is to hold office; but if no such Chairman is elected, or if at any meeting the Chairman is not present at the time appointed for holding the same, the Directors present shall choose some one of their number to be Chairman of such meeting.

57. The Directors may delegate any of their powers to Committees consisting of such member or members of their body as they think fit. Any Committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the Directors.

58. A Committee may elect a Chairman of the meetings. If no such Chairman is elected

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elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting.

59. A Committee may meet and adjourn as they think proper. Questions at any meetings shall be determined by a majority of votes of the members present, and in case of an equal division of votes, the Chairman shall have a casting vote.

60. All acts done by any meeting of the Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

61. The Directors shall cause minutes to be made in books provided for the purpose—

- (1.) Of all appointments of officers made by the Directors.
- (2.) Of the names of the Directors present at each meeting of Directors and Committees of Directors.
- (3.) Of all orders made by the Directors and Committees of Directors; and
- (4.) Of all resolutions and proceedings of meetings of the Company and of the Directors and Committees of Directors.

And any such minutes as aforesaid, if signed by any person purporting to be the Chairman of any meeting of Directors or Committee of Directors, shall be receivable in evidence without any further proof.

62. The Company in general meeting may, by a special resolution, remove any Director before the expiration of his period of office, and appoint another qualified person in his stead. The person so appointed shall hold office during such time only as the Director in whose place he is appointed would have held the same if he had not been removed.

Dividends.

63. The Directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the shareholders in proportion to their shares.

64. No dividend shall be payable except out of the profits arising from the business of the Company.

65. The Directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof, and the Directors may invest the sum so set apart as a reserved fund upon such securities as they, with the sanction of the Company, may select.

66. The Directors may deduct from the dividends payable to any shareholder all such sums of money as may be due from him to the Company on account of calls or otherwise.

67. Notice of any dividend that may have been declared shall be given to each shareholder or sent to his registered place of abode, and all dividends unclaimed for three years after having been declared may be forfeited by the Directors for the benefit of the Company.

68. No dividend shall bear interest as against the Company.

Accounts.

69. The Directors shall cause true accounts to be kept—

- (1.) Of the stock in trade of the Company.
- (2.) Of the sums of money received and expended by the Company, and the matter in respect of which such receipt and expenditure takes place; and
- (3.) Of the credits and liabilities of the Company.

Such accounts shall be kept upon the principle of double entry, in a cash book, journal, and ledger. The books of accounts shall be kept at the principal office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meeting, shall be open to the inspection of the shareholders during the hours of business.

70. Once at the least in every year the Directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

71. The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

72. A balance sheet shall be made out in every year and laid before the general meeting of the Company, and such balance sheet shall contain a summary of the property and liabilities of the Company, arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

73. A printed

Joint Stock Companies.

73. A printed copy of such balance sheet shall, seven days previously to such meeting, be delivered at the registered address of every shareholder.

Audit.

74. The accounts of the Company shall be examined, and the correctness of the balance sheet ascertained, by one or more Auditor or Auditors to be elected by the Company in general meeting.

75. If not more than one Auditor is appointed, all the provisions herein contained relating to Auditors shall apply to him.

76. The Auditors need not be shareholders in the Company. No person is eligible as an Auditor who is interested otherwise than as a shareholder in any transaction of the Company; and no Director or other officer of the Company is eligible during his continuance in office.

77. The election of Auditors shall be made by the Company at their ordinary meeting, or, if there are more than one, at their first ordinary meeting in each year.

78. The remuneration of the Auditors shall be fixed by the Company at the time of their election.

79. Any Auditor shall be re-eligible on his quitting office.

80. If any casual vacancy occurs in the office of Auditor, the Directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

81. If no election of Auditors is made in manner aforesaid, the Governor may, on the application of one-fifth in number of the shareholders of the Company, appoint an Auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

82. Every Auditor shall be supplied with a copy of the balance sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

83. Every Auditor shall have a list delivered to him of all books kept by the Company, and he shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the Directors or any other officer of the Company.

84. The Auditors shall make a report to the shareholders upon the balance sheet and accounts, and in every such report they shall state whether, in their opinion, the balance sheet is a full and fair balance sheet, containing the particulars required by these regulations, and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs; and, in case they have called for explanations or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory; and such report shall be read, together with the report of the Directors, at the ordinary meeting.

Notices.

85. Notices requiring to be served by the Company upon the shareholders may be served either personally or by leaving the same addressed to the shareholders at their registered places of abode.

86. All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons is named first in the register of shareholders, and notice so given shall be sufficient notice to all the proprietors of such share.

87. All notices required by this Act to be given by advertisement shall be advertised in a newspaper circulating in the district in which the registered office of the Company is situated.

Joint Stock Companies.

FORM OF BALANCE SHEET REFERRED TO IN TABLE B.		BALANCE SHEET OF		18 .		Cr.
Dr.		COMPANY, MADE UP TO		PROPERTY AND ASSETS.		£ s. d.
CAPITAL AND LIABILITIES.						£ s. d.
I.—CAPITAL	...	1	Showing— The total amount received from the shareholders Showing also— (A.) The number of shares (B.) The amount paid per share (C.) If any arrears of calls, the nature of the arrears and the names of the defaulters ... Any arrears due from any Director or officer of the Company to be separately stated. (D.) The particulars of any forfeited shares ...	£ s. d.	£ s. d.	
II.—DEBTS & LIABILITIES OF THE COMPANY	...	2	Showing— The amount of loans on mortgage or debenture bonds The amount of debts owing by the Company, distinguishing— (A.) Debts for which acceptances have been given (B.) Debts to tradesmen for supplies of stock-in-trade or other articles (C.) Debts for law expenses (D.) Debts for interest on debentures or other loans (E.) Unclaimed dividends (F.) Debts not enumerated above	£ s. d.	£ s. d.	
VI.—RESERVE FUND	...	3	Showing— The amount set aside from profits to meet contingencies Showing— The disposable balance for payment of dividend, &c.	£ s. d.	£ s. d.	
VII.—PROFIT AND LOSS	...		Claims against the Company not acknowledged as debts Moneys for which the Company is contingently liable	£ s. d.	£ s. d.	
		III.—PROPERTY HELD BY THE COMPANY	Showing— Immovable property, distinguishing— (A.) Freehold land (B.) Ditto buildings (C.) Leasehold ditto Movable property, distinguishing— (D.) Stock-in-trade (E.) Plant The cost to be stated, with deductions for deterioration in value as charged to the Reserve Fund or Profit and Loss.	£ s. d.	£ s. d.	
		IV.—DEBTS OWING TO THE COMPANY	Showing— Debts considered good for which the Company hold bills or other securities Debts considered good for which the Company hold no security Debts considered doubtful and bad, any debts due from a Director or other officer of the Company to be separately stated	£ s. d.	£ s. d.	
		V. CASH AND INVESTMENTS	Showing— The nature of investment and rate of interest The amount of cash, where lodged, and if bearing interest	£ s. d.	£ s. d.	

Joint Stock Companies.

FORM C.

MEMORANDUM OF ASSOCIATION OF "THE PATENT STEREOTYPE COMPANY (LIMITED)," WITH ARTICLES OF ASSOCIATION ANNEXED.

Memorandum of Association.

1st. The name of the Company is "The Patent Stereotype Company."

2nd. The registered office of the Company is to be established in the Province of Nelson.

3rd. The objects for which the Company is established are "The working of a patent method of founding and casting stereotype plates, of which method John Smith, of _____, is the sole patentee."

4th. The liability of the shareholders is limited.

5th. The capital of the Company is two thousand pounds, divided into twenty shares of one hundred pounds each.

We the several persons whose names are subscribed are desirous of being formed into a Company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

Names and Addresses of Subscribers.	Number of Shares taken by Subscribers.
1. John Jones, of _____, in the Province of _____	1
2. John Smith, of _____	5
3. Thomas Green, of _____	2
4. John Thompson, of _____	2
5. Caleb White, of _____	3
6. Andrew Brown, of _____	4
7. Archibald White, of _____	1
Total shares taken	18

Witness to above signatures,

A.B.,

No. 20 Bond Street, Nelson.

Articles of Association of "The Patent Stereotype Company (Limited)."

It is agreed as follows:—

1st. No shareholder shall transfer his shares without the consent of the Directors expressed in writing.

2nd. If any shareholder feels aggrieved with the refusal of the Directors to allow him to transfer his shares, the matter shall be settled by arbitration.

3rd. Calls on the shares of the Company not considered as paid up shares shall be made at such time as the Directors think fit, but no call shall exceed ten pounds per share.

4th. The Company shall not be obliged to register the transferee under the regulations numbered 12 and 13 in Table 13 unless he is approved by the Directors, but, in the event of their disapproving, the matter may be decided by arbitration.

5th. The regulations of Table B as to general meetings, numbered 22, 23, and 25, shall not apply.

6th. The first general meeting of the Company shall be held on the 1st of July next, and subsequent general meetings shall be held on the 1st of July in every succeeding year, or if that day is a Sunday, on the succeeding Monday.

7th. An extraordinary general meeting may be summoned at any time by any two shareholders of the Company.

8th. All matters in question between the shareholders shall be decided by an arbitrator appointed by the Nelson Chamber of Commerce.

9th. The regulation of Table B as to votes of shareholders, numbered 38, shall not apply, and every shareholder shall have one vote in respect of every share that he holds.

The several persons hereinafter named subscribers to the memorandum of association shall be the first Directors of the Company, that is to say, John Jones, John Smith, Thomas Green, John Thompson, Caleb White, Andrew Brown, and Archibald White.

Names and Addresses of Subscribers.

1. John Jones, of _____, in the Province of _____
2. John Smith, of _____
3. Thomas Green, of _____
4. John Thompson, of _____
5. Caleb White, of _____
6. Andrew Brown, of _____
7. Archibald White, of _____

Witness to above signatures,

A.B.,

No. 20 Bond Street, Nelson.

TABLE D.

Joint Stock Companies.

TABLE D.

TABLE OF FEES.

	£	s.	d.
For the registration of a Company whose nominal capital does not exceed £1,000	5	0	0
For every £1,000 of nominal capital, or part of £1,000, after the first £1,000	0	5	0
For registration of an increase in the capital of a Company, for every £1,000 or part of £1,000	0	5	0
For registering any document hereby required or authorized to be registered other than the memorandum of association	0	5	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies	0	5	0

FORM E.

SUMMARY OF CAPITAL AND SHARES OF THE COMPANY, MADE UP TO THE DAY OF

Nominal Capital, £ , divided into shares of £ each.
 Number of shares taken up to the day of .
 There has been called up on each share, £ .
 Total amount of calls received, £ .
 Total amount of calls unpaid, £ .
 Total amount of shares forfeited, £ .

LIST of PERSONS holding SHARES in the Company on the day of , and of Persons who have held Shares therein at any time during the Year immediately preceding the said day of , showing their Names and Addresses, and an account of the Shares so held.

Folio in Register Ledger containing particulars.	Names, Addresses, and Occupations.				Account of Shares.				Remarks.	
					Shares held by existing Shareholders on the day of .	Additional Shares held by existing Shareholders during preceding Year.		Shares held by Persons no longer Shareholders.		
	Surname.	Christian Name.	Address.	Occupation.		Number.	Date of Transfer.	Number.		Date of Transfer.

FORM F.

FORM OF TRANSFER OF SHARES.

I, of , in consideration of the sum of paid to me by of , do hereby transfer to the said share [or shares] numbered in "The Company," standing in my name in the books of the Company, to hold unto the said , his executors, administrators, and assigns [or successors and assigns], subject to the several conditions on which I held the same at the time of the execution hereof. And I the said do hereby agree to take the said share [or shares] subject to the same conditions.

As witness our hands the day of .

FORM G.

MORTGAGE MADE BETWEEN "THE AUCKLAND GAS COMPANY (LIMITED)," OF THE ONE PART, AND JOHN SMITH OF THE OTHER PART.

WHEREAS the said John Smith has advanced to the said Company the sum of one thousand pounds on condition that the Company will repay the same to him on the first day of January next, with interest thereon in the meantime at the rate of eight pounds per centum, and in the event of their not repaying the same on the said first day of January will, so long as the same remains unpaid, pay interest thereon at the rate of five pounds per centum, by equal half-yearly payments, on the first day of July and the first day of January in every year:

Now

Patents.

Now it is hereby witnessed that, for securing the said advance and interest, the Company hereby grant to the said John Smith and his heirs all the lands described in the Schedule hereto, with all their actual and reputed appurtenances, and it is hereby declared that if the Company fails in paying the whole of the principal and interest moneys hereby secured on the said first day of January, the said John Smith or any person for the time entitled to such moneys may at any time thereafter, upon giving to the Company three months' notice, sell the said mortgaged lands, and reimburse himself out of the moneys arising from the sale all sums due on this security and all expenses incurred by him in respect of such sale, rendering the surplus (if any) to the Company or its assigns. The condition as to notice shall apply only between the parties hereto, and shall not affect a purchaser, a sale to whom shall be valid notwithstanding such notice may not have been given.

In witness, &c.

No. XIV.

AN ACT to regulate Grants of Patents for Inventions.

[27th October, 1860.]

PATENTS.

WHEREAS it is expedient to make provision for granting patents for inventions in the Colony: Preamble.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority thereof, as follows:—

1. The Short Title of this Act shall be "*The Patents Act, 1860.*" Short Title.

2. Any person being the originator or discoverer of any new invention or improvement for which no patent or instrument in the nature of letters patent has been issued or granted in New Zealand or any other country, and being desirous of obtaining letters patent under this Act, shall deposit with the Colonial Treasurer the sum of ten pounds, and shall leave at the office, or in the custody of such person as the Governor may from time to time or for any particular case appoint, a petition addressed to the Governor, stating clearly and succinctly the object to be attained by his invention or discovery, and praying that letters patent may be granted to him for the exclusive use thereof in the Colony. Mode of application for letters patent.

3. The inventor shall deliver a written description or specification in duplicate of his invention or improvement, and of the manner and process of compounding the same, in such full clear and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch or with which it is most nearly connected, to make compound and use the same. Inventor to deliver description or specification of his invention or improvement &c. in duplicate.

4. In the case of any machine he shall fully explain the principle and the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions. Principle of machine &c. to be explained.

5. He shall accompany the whole with drawings and written references made in duplicate, where the nature of the case admits of drawings, or specimens of the ingredients or of the composition of matter sufficient in quantity for the purpose of experiment. Drawings and written references in case of drawings and specimens of ingredients &c. for purpose of experiment to be delivered.

6. The applicant for a patent shall furnish duplicate drawings, wherever the case admits of drawings, one of which shall be deposited in the office of the Colonial Secretary or other officer appointed in that behalf, and the other shall be annexed to the patent and considered a part of the specification thereof, and a copy of the specification shall be in all cases annexed to the patent. Duplicate drawings whenever case admits to be furnished, one to be deposited in Colonial Secretary's Office and the other annexed to patent.

7. Notice of the said application shall be inserted in the Government *Gazette* and in one newspaper published in the principal town Notice of application to be published in Gazette.

Patents.

of each Province of the Colony, and requiring any person who may wish to prefer any objection to the granting of such letters patent to send, within four months of the said publication, to the office or address of such person so appointed as aforesaid, a statement in writing setting forth the grounds of such objection, subscribed with his proper name and address.

Governor may refer objections to persons appointed who shall report.

8. It shall be lawful for the Governor, upon receipt within the time aforesaid of such objection, and on the deposit by the opponent of the sum of ten pounds, to refer the consideration thereof to one or more competent person or persons, to be appointed by him, and also to direct the applicant for such letters patent and the opponent thereof to attend before such person or persons so appointed, who shall investigate the said matter, and shall be at liberty to call to his or their aid such witnesses as he or they may think fit, and to cause to be paid to such witnesses by the applicant or opponent such remuneration as he or they may direct, and such person or persons so appointed shall report to the Governor whether in his or their opinion such letters patent should be issued; and if any objection shall be sustained, the specification drawings and models shall be returned to the applicant, and the balance of ten pounds, after payment of such costs and expenses as may be awarded by the said investigator or investigators, shall be returned to the applicant or opponent respectively.

Costs of inquiry to be given.

9. It shall be lawful for such investigator or investigators, if he or they see fit, by certificate under his or their hand, to determine the amount of the costs of any hearing or inquiry upon such objection, and to order by and to whom such costs shall be paid; and if any such costs so ordered to be paid be not paid within seven days after service of such order, either personally or upon his agent or by leaving the same at his last usual place of abode, every such order may be made a rule of the Supreme Court.

If no objection, letters patent may be issued.

10. In case no objection shall be made within the time aforesaid to the grant of the said letters patent, or in case such person or persons so appointed shall report that such letters patent should be granted, the Governor may grant such letters patent, and such specification drawings and other things so sent as aforesaid shall be deposited with the Colonial Secretary or other officer appointed in that behalf.

Letters patent and specifications &c. to be enrolled.

11. The Colonial Secretary shall cause the said letters patent and the said specification and other things to be kept in his office, and shall also cause a book to be kept in his office, containing an index to all such letters patent which may be issued or assigned as hereinafter mentioned, the object to be attained by the invention to be protected thereby, the date thereof, the name of the person to whom the same is issued or assigned, and such description of the enrolment thereof as may be necessary to facilitate reference: And all persons whosoever may have access to the said books letters patent and other things, and may inspect the same, and may have copies thereof or of such parts thereof as they may require, certified by the Colonial Secretary, upon payment of reasonable expenses of making the same, and such certified copies or extracts shall be received in evidence in all Courts or proceedings whatsoever.

Holder of letters patent issued under this Act entitled to same privileges in New Zealand as patentee under Great Seal entitled to in England.

12. Any person to whom the Governor shall, according to the provisions herein contained, grant letters patent, shall have within the Colony, for a term of fourteen years next after the granting of such letters patent, the exclusive enjoyment and advantage in the Colony of such invention or improvement, and such and the same protection and such and the same remedies at law and in equity against any person in the Colony infringing the said letters patent, and generally such and the same rights powers and privileges throughout the Colony with

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with respect to the invention for which such letters patent shall be granted, as any person to whom letters patent for a new invention have been granted under the Great Seal of England has by the law of England in and throughout the realm of England save so far as such protection remedies rights powers and privileges may be inconsistent with the provisions of this Act: Provided that the provisions contained in an Act of the United Parliament of Great Britain and Ireland, passed in the Session of the fifth and sixth years of the reign of His late Majesty King William the Fourth, intituled "*An Act to amend the Law touching Letters Patent for Inventions,*" and the several provisions contained in an Act of the United Parliament of Great Britain and Ireland, passed in the Session of the fifteenth and sixteenth years of the reign of Her present Majesty, intituled "*An Act for amending the Law for granting Patents for Inventions,*" shall not be deemed applicable to the Colony of New Zealand.

13. It shall be lawful for a larger number than twelve persons to have a legal and beneficial interest in any letters patent issued under the provisions of this Act.

More than twelve persons may be interested in letters patent.

14. Every patent granted under this Act shall be assignable in law, either as to the whole interest or any undivided part thereof, by any instrument in writing, a memorial of which assignment, and also every grant and conveyance and license of the exclusive right under any patent to make and use and to grant to others to make and use the thing patented within the Colony, shall be recorded in the office of the Colonial Secretary within six months from the execution thereof, upon payment by the assignee or grantee to the Colonial Treasurer of the sum of ten shillings.

Assignment of a patent and record thereof.

15. In any action in the Supreme Court for the infringement of any letters patent granted under the provisions of this Act, it shall be lawful for the Court, as well in its common law as its equity jurisdiction, or, if the Court be not sitting, then for a Judge of such Court, on the application of the plaintiff or defendant respectively, to make such order for an injunction inspection or account, and to give such direction respecting such action injunction inspection and account, and the proceedings therein respectively, as to such Court or Judge shall seem fit.

Injunction may be granted.

16. Any letters patent granted by virtue of this Act shall be liable to be repealed, by writ of *scire facias*, for the same causes and in the same manner as any grants of the Crown are liable to be repealed.

Letters patent may be repealed by *scire facias*.

17. Whenever any patent granted under the authority of this Act shall be inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the patentee claiming as his own invention more than he had or shall have a right to claim as new, if the error has or shall have arisen by inadvertency accident or mistake and without any fraudulent or deceptive intention, it shall be lawful for the Governor, upon the surrender of such patent and the payment to the Colonial Treasurer of the sum of ten pounds, to cause a new patent to be issued to the said inventor for the same invention for the residue of the period then unexpired for which the original patent was granted, in accordance with the patentee's corrected description and specification. And in case of his death or any assignment by him made of the original patent a similar right shall vest in his executors, administrators, or assigns. And the patent so re-issued, together with the corrected description and specification, shall have the same effect and operation in law on the trial of all actions commenced for causes subsequently accruing, as though the same had been originally filed in such corrected form before the issuing out of

Specification may be corrected.

the

Patents.

the original patent. And whenever the original patentee or his assignee shall be desirous of adding the description and specification of any new improvement of the original invention or discovery, which shall have been originated or discovered by him subsequent to the date of his patent, he may (like proceedings being had in all respects as in the case of original application, and on the deposit of ten pounds, to be accounted for in manner hereinbefore provided,) have the same annexed to the original description and specification, and the Colonial Secretary shall certify on the margin of such annexed description and specification the time of its being annexed and recorded, and the same shall thereafter have the same effect in law, to all intents and purposes, as though it had been embraced in the original description and specification.

Disclaimer may be entered.

18. Any person who shall obtain such letters patent, or his assignee, may, if he think fit, enter with the Colonial Secretary a disclaimer of any part of either the title of the invention or of the specification, stating the reason for such disclaimer, or may enter a memorandum of any alteration in the said title or specification not being such disclaimer or such alteration as shall extend the exclusive right granted by the said letters patent, and such disclaimer or memorandum of alteration being deposited with the Colonial Secretary shall be deemed and taken as part of such letters patent or such specification, and subject to the several incidents thereof: Provided that no such disclaimer or alteration shall be receivable as evidence in any action (save and except in any proceeding by *scire facias*) pending at the time when such disclaimer or alteration was enrolled; but in every such action the original title and specification alone shall be deemed and taken to be the title and specification of the invention for which the letters patent have been or shall have been granted.

Punishment for false entries or false affirmations.

19. If any person shall wilfully make or cause to be made any false entry or alteration in any register or assignment of patents as aforesaid, or in any specification, or shall wilfully make or forge or cause to be made or forged any false writing purporting to be a copy of any entry in the said book or of any such patent or specification, or shall produce or tender or cause to be produced or tendered in evidence any such writing knowing the same to be false or forged, or shall wilfully make any false affirmation before any Justice of the Peace respecting any of the matters concerning which an affirmation is hereby required to be made as aforesaid, he shall be guilty of a misdemeanour, and on conviction thereof shall be punished by fine and imprisonment at the discretion of the Court.

Holder or assignee of patent obtained in other countries may obtain letters of registration.

20. No person shall receive a patent under this Act for an invention or discovery which has been previously patented in Great Britain or any other country, but it shall be lawful for the Governor, in his discretion, on the application of any person being the holder or assignee of any patent granted in Great Britain or any other country for any new discovery or invention, and upon such proof as the Governor may deem sufficient that such person is the *bonâ fide* holder or assignee of the said patent, and that the same is in full force, and upon payment to the Colonial Treasurer of the sum of ten pounds, to grant letters of registration, under the Seal of the Colony, to the holder of such patent as aforesaid or his assignee, and such letters of registration shall be deposited in the office of the Colonial Secretary, and shall be deemed to be letters patent granted under this Act for such invention or improvement, and shall have the same force and effect as letters patent granted thereunder, and shall, unless repealed by writ of *scire facias* or otherwise, enure to the benefit of the holder during the continuance of the original patent in the country in which it was granted

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granted and no longer; and all the provisions of this Act shall apply to such letters of registration in the same way, *mutatis mutandis*, and as fully as to letters patent granted under this Act.

21. That if any action at law or any suit in equity for an account shall be brought in respect of an alleged infringement of such letters patent heretofore or hereafter granted, or any *scire facias* to repeal such letters patent, and if a verdict shall pass for the patentee or his assigns, or if a final decree or decretal order shall be made for him or them upon the merits of the suit, it shall be lawful for the Judge before whom such action shall be tried to certify on the record, or the Judge who shall make such decree or order to give a certificate under his hand, that the validity of the patent came in question before him, which record or certificate being given in evidence in any other suit or action whatever touching such patent, if a verdict shall pass or decree or decretal order be made in favour of such patentee or his assigns, he or they shall receive treble costs in such suit or action, to be taxed at three times the taxed costs unless the Judge making such second or other decree or order, or trying such second or other action, shall certify that he ought not to have such treble costs.

If in any action or suit a verdict or decree shall pass for the patentee, the Judge may grant a certificate which shall entitle the patentee upon a verdict in his favour to receive treble costs.

22. In any action against any person for infringing any letters patent, the defendant on pleading thereto shall give to the plaintiff, and in any *scire facias* to repeal such letters patent the plaintiff shall file with his declaration, a notice of any objections on which he means to rely at the trial of such action, and no objection shall be allowed to be made on behalf of such defendant or plaintiff respectively at such trial unless he proves the objections stated in such notice: Provided always that it shall be lawful for any Judge at Chambers, on summons served by such defendant or plaintiff on such plaintiff or defendant respectively to show cause why he should not be allowed to offer other objections whereof notice shall not have been given as aforesaid, to give leave to offer such objections on such terms as to such Judge shall seem fit.

Plaintiff in any action shall file with declaration notice of objections on which he means to rely at trial.

Judge at Chambers on summons may allow other objections at his discretion.

23. In any action brought for infringing the right granted by any letters patent, in taxing the costs thereof regard shall be had to the part of such case which has been proved at the trial which shall be certified by the Judge before whom the same shall be heard, the costs of each part of the case shall be given according as either party has succeeded or failed therein, regard being had to the notice of objections as well to the statements or counts in the declaration and without regard to the general result of the trial.

Costs of action.

24. If any person shall write paint or print, or mould cast or carve, or engrave or stamp, upon anything made used or sold by him for the sole making or selling of which he hath not or shall not have obtained letters patent, the name or any imitation of the name of any other person who hath or shall have obtained letters patent for the sole making and vending of such thing, without leave in writing of such patentee or his assigns, or if any person shall, upon such thing not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having the license or consent in writing of such patentee or his assigns, write paint print mould cast carve engrave stamp or otherwise mark the word "Patent," the words "Letters Patent," or the words "by the Queen's Patent," or any words of the like kind meaning or import, with a view of imitating or counterfeiting the stamp mark or other device of the patentee, or shall in any other manner imitate or counterfeit the stamp or mark or other device of the patentee, he shall for every such offence be liable to a penalty of fifty pounds, to be recovered by action in the Supreme Court by any person to whom letters patent shall be granted under the

Penalty for counterfeiting &c.

Real Estate Administration.

provisions of this Act or by his assignee: Provided always that nothing herein contained shall be construed to extend to subject any person to any penalty in respect of stamping or in any way marking the word "Patent" upon anything made for the sole making or vending of which a patent before obtained shall have expired.

Interpretation clause.

25. In the construction of this Act the word "Person" shall include bodies corporate and companies as well as individuals, unless the context be repugnant thereto.

Royal prerogative saved.

26. Nothing in this Act contained shall be deemed to interfere with Her Majesty's Royal prerogative in granting or issuing or withholding the grant or issue of any letters patent.

No. XV.

REAL ESTATE
ADMINISTRATION.

AN ACT to enable the Registrar of the Supreme Court to manage the Real Estate of Deceased Persons.

[27th October, 1860.]

Preamble.

WHEREAS it is expedient to make provision for the temporary management of real estate to which heirs-at-law or devisees absent from the Colony are or may become entitled:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Real Estate Administration Act, 1860.*"

Interpretation.

2. In the interpretation of this Act the words "Judge" and "Registrar" shall mean respectively the Judge and Registrar of the Supreme Court for that district in which the estate dealt with may be situate.

Registrar to manage real estate of absent heir or devisee.

3. All real estate and all rents income and proceeds arising therefrom accruing or which may have accrued to any heir-at-law or devisee who may be or may have been absent from the Colony at the time of the death of the person from whom such real estate is or was immediately derived, may, until such heir-at-law or devisee shall duly establish his right and title to the possession of such estate to the satisfaction of a Judge of the Supreme Court, or unless such heir-at-law or devisee shall have already taken possession of such estate, be taken possession of managed and received by the Registrar.

Powers of Registrar.

4. For the purposes of this Act, and subject to the provisions thereof, the Registrar shall have and may exercise the same rights and powers as the heir or devisee if he were present.

Purposes for which Registrar may expend money.

5. Out of the rents and proceeds received by the Registrar under this Act in respect of any messuages and land, the Registrar may expend money for the following purposes with respect to the messuages and land from whence the same arise, that is to say,—

May keep any buildings and fences in good repair, and may maintain the same, with their appurtenances, in good order and condition.

May erect any such fence as the owner or occupier of such land is by law required to make.

May cut and gather such crops as may be growing thereon at the time of the testator's decease.

May insure any buildings thereon from loss by fire.

May

Real Estate Administration.

May pay any rates by law due and payable.

May contribute towards the formation of any road footway or improvement projected under the authority of any law by which the Government or any municipal or provincial body make an equal contribution.

With the sanction of the Judge previously obtained, the Registrar may do any other act clearly necessary for the preservation maintenance or improvement of the land with its buildings and appurtenances.

6. The Registrar may from time to time let all or any part of such messuages and land, with the appurtenances, and for such consideration to such person for such period (not exceeding a tenancy from year to year) and subject to such rent covenants and conditions as he shall think fit. Registrar may lease.

7. Rents and other moneys received by the Registrar, after the deduction of such sums as may be expended under the powers hereinbefore contained, shall by him be paid quarterly, by order of the Judge, into the Colonial Treasury, to an account to be called "Real Estate Administration Account. Estate of A.B.," stating the name of the deceased: Provided that after payment as aforesaid of the said rents and moneys into the Colonial Treasury, it shall be lawful for the Judge from time to time to order that such rents and moneys or any part thereof shall be paid to the Registrar, to be applied by him to any of the purposes hereinbefore mentioned, and upon the production of any such order the Colonial Treasurer shall pay the money therein specified to the Registrar. Custody of money.

8. Upon the establishment of the right and title of the heir-at-law or devisee as hereinbefore mentioned, the Judge to whom the application shall be made shall make an order for the payment to him by the Colonial Treasurer of the money in the Colonial Treasury to which he is entitled, and upon the production of such order the Colonial Treasurer shall pay such money to such heir-at-law or devisee. Money to be paid to heir or devisee.

9. The Registrar shall for each estate administered by him under this Act make up for examination and audit annually an account, stating therein in detail the gross receipts and the sums expended under the powers of this Act, with the explanatory particulars of each item, and such account shall be examined by the Judge and allowed by him as correct if he shall be satisfied therewith, and shall be delivered to the Colonial Treasurer and by him be published in the *Government Gazette*: Provided that if the right and title of the heir-at-law or devisee be established as aforesaid before the expiration of any such year, the said account shall be made up to the date of such establishment, and shall be examined delivered and published as aforesaid. Accounts.

10. On the establishment by the heir-at-law or devisee of such right or title as aforesaid, possession of the land with the appurtenances shall be immediately delivered by the Registrar to such heir-at-law or devisee. Possession of land given to heir or devisee.

11. There shall be included and allowed by the Judge in the aforesaid account five per cent. on the gross receipts and expenditure, being an allowance to the Registrar for the performance of his duties under this Act. Allowance to Registrar.

Conveyancing Ordinance Amendment.

No. XVI.

**CONVEYANCING
ORDINANCE
AMENDMENT.**

AN ACT to amend "*The Conveyancing Ordinance*," No. 10 of Session II., of the Legislative Council of New Zealand. [27th October, 1860.]

Preamble.

WHEREAS by an Ordinance passed by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, Session II., No. 10, intituled "*An Ordinance to facilitate the Transfer of Real Property, and to simplify the Law relating thereto*," it is enacted by section one that "Every deed shall be signed by the conveying parties, and shall also be attested by two witnesses; the place of abode of the witnesses, their calling or business, shall be stated; but no particular form of words shall be requisite for the attestation:" And whereas the mode of attestation required by the said section has been found inconvenient in practice:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Conveyancing Ordinance Amendment Act, 1860.*"

**Construction of
"Mortgagee" and
"Mortgagor."**

2. In the construction of this Act the term "Mortgagee" shall extend to and include the executors, administrators, and assigns of the original mortgagee; and the term "Mortgagor" shall extend to and include the heirs, executors, administrators, and assigns of the original mortgagor, unless there be something in the subject or context repugnant to such constructions.

**Recited section
repealed.**

3. The said recited section one of Ordinance No. 10, Session II., is hereby repealed.

**Signature and
attestation of deeds.
Deeds executed
before passing hereof.**

4. Every deed shall be attested by at least one witness.

5. Every deed executed before the passing hereof, attested as by this Act required, shall from the execution thereof be deemed as valid and effectual as if the same had been attested as prescribed in the said Ordinance by the said section thereof hereby repealed.

**Mortgagee with
power of sale by
auction may apply
to Registrar of
Supreme Court to
conduct sale of
mortgaged premises.**

6. And whereas it is injurious to the interests of both mortgagors and mortgagees that mortgagees are prohibited from being purchasers of the mortgaged property at sales by auction under the powers of sale vested in mortgagees: Be it therefore enacted that it shall be lawful for any present or future mortgagee, having a power of sale by auction, to apply to the Registrar or Deputy Registrar of the Supreme Court who shall be resident nearest to the land or hereditaments to be sold, to conduct the sale of the whole or any part of the land and hereditaments comprised in the mortgage.

**Registrar shall take
proper steps
accordingly.**

7. The said Registrar or Deputy Registrar shall fix a convenient time (being within three months of the application) and a convenient place for the sale, shall approve of proper conditions of sale, shall employ an auctioneer, and shall do all other necessary acts for effectuating the sale.

**Mortgagee may
become purchaser.**

8. It shall be lawful for the mortgagee to be a bidder at any such sale by auction conducted by any Registrar or Deputy Registrar as aforesaid, and to become the purchaser of the land and hereditaments or any part thereof.

**Conveyance may be
made by Registrar to
mortgagee.**

9. In the event of the mortgagee being declared the purchaser, the Registrar or Deputy Registrar who shall have conducted the sale shall, on behalf of the mortgagor and in his name, execute such deed or instrument for conveying or causing the same to be conveyed

as

Conveyancing Ordinance Amendment.

as would in the case of an ordinary sale be required to be executed by the mortgagor, and which deed or instrument shall be as valid and effectual as a conveyance or transfer of the same land and hereditaments would have been if made by the mortgagee to a competent *bonâ fide* purchaser.

10. On any sale conducted by the Registrar or Deputy Registrar as aforesaid, he shall be entitled as remuneration for his trouble, on the completion of the purchase, to a percentage on and to be paid out of the purchase money after the rate, where the purchase money does not exceed two hundred pounds, of one per cent., and where the purchase money exceeds that sum, of one per cent. on two hundred pounds, and one-half per cent. on the remainder of the purchase money.

Remuneration to Registrar.

11. And whereas delay frequently takes place after the sale of Crown lands before the grants of the same are issued to the purchasers thereof, and between the times of such sales and the dates of such grants conveyances and other dispositions of the said land are made: And whereas, to prevent loss and inconvenience to grantees and persons claiming through them, it is expedient to vest the legal estate in manner hereinafter mentioned: Be it therefore enacted that all deeds heretofore or hereafter to be executed by grantees of Crown lands, their heirs and assigns, after the purchases of such lands have been or shall be made, but before the date of the Crown Grants by which the same have been or shall be subsequently granted, shall (for the purpose of completing the titles of parties to such deeds but for no other purpose) be deemed to have the same force and effect as though the Crown Grants respectively in which such lands are comprised had been or shall be executed immediately upon the payment of the purchase money for the same.

Effect of deeds executed before issue of Crown Grants.

12. It shall be lawful for the Secretary for Crown Lands to indorse on any such grant the day of the payment of the purchase money for the same, and for the purposes of this Act the day so indorsed shall be deemed to be the day of payment.

When legal estate to vest.

13. And whereas doubts have arisen as to the authority for the appointment of certain persons who have heretofore acted as Commissioners for taking Acknowledgments of Married Women, under the Act of the Imperial Parliament passed in the Session held in the third and fourth years of the reign of His late Majesty King William the Fourth, intituled "*An Act for the Abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance,*" and as to the validity of acts done by them under the said Act, and it is expedient to remove such doubts and to make provision for the future taking of acknowledgments by married women of deeds executed by them: Be it further enacted that all acts and things done by any person so acting as Commissioner as aforesaid, purporting to be done by the authority of or in pursuance of the said Act of the Imperial Parliament, shall be deemed as good and valid and effectual as though the person having done the same had been duly appointed.

Acknowledgments of married women taken under Fines and Recoveries Act to be valid.

14. All the acts powers and duties with respect to the appointment of persons to be Commissioners for taking the acknowledgments by married women of deeds executed by them under the said Act to be done by or given to or imposed upon the Chief Justice of Her Majesty's Court of Common Pleas at Westminster, or by to or upon any Judge of the said Court, may be done exercised and performed by any Judge of the Supreme Court of New Zealand within his judicial district, as fully and effectually to all intents and purposes as such acts powers and duties may be done exercised and performed in England by the Chief Justice and other Judges of the said Common Pleas or any of them.

Judges of Supreme Court may appoint Commissioners.

15. Every Commissioner appointed under or by virtue of the foregoing

Powers and duties of Commissioners.

Supreme Court.

foregoing provisions of this Act may do exercise and perform all the acts powers and duties which may be done exercised and performed by a Commissioner appointed for a like purpose in England by the Chief Justice or other Judge of the said Court of Common Pleas.

No. XVII.

SUPREME COURT.

AN ACT to consolidate and amend the Law relating to the Supreme Court in New Zealand.

[27th October, 1860.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The Supreme Court Act, 1860.*"

Repeal of former Ordinances and Acts.

2. The several Ordinances and Acts specified in the First Schedule hereunto annexed are hereby repealed.

Supreme Court a Court of Record.

3. The Supreme Court of New Zealand (hereinafter called the Court) shall be a Court of Record for the administration of justice throughout the Colony.

Legal jurisdiction.

4. The Court within the Colony shall have jurisdiction in all cases whatsoever as fully as Her Majesty's Courts of Queen's Bench Common Pleas and Exchequer at Westminster and each of such Courts have or hath in England at the time of the passing of this Act.

Equitable &c.

5. The Court shall also have within the Colony all such equitable and common law jurisdiction as the Lord High Chancellor of England, the Court of Chancery, or any other Superior Court of Equity hath in England; and also all such jurisdiction and control over the persons and estates of infants, idiots, lunatics, and persons of unsound mind, and over the guardians and committees of such persons and estates respectively as the Lord High Chancellor of England hath under or by virtue of the Royal Sign-Manual or otherwise, so far as the same shall be applicable to the circumstances of the Colony.

Ecclesiastical.

6. The Court shall have within the Colony jurisdiction and authority in relation to granting and revoking probate of wills and letters of administration of the effects of deceased persons, and in regard to the hearing and determining of all questions relating to actions testamentary depending or which shall or may arise or be depending within the Colony as fully as the Court of Probate now hath in England in relation to those matters and causes testamentary and those effects of deceased persons which are within the jurisdiction of such Court of Probate, or as any Ecclesiastical Court had in England previously to the coming into operation of the Act 20 and 21 Vict. c. 77, commonly called "*The Court of Probate Act, 1857.*"

Offences committed before 14th January, 1840.

7. The Court shall not take cognizance of any criminal case where the offence shall have been committed before the fourteenth day of January, one thousand eight hundred and forty.

Capital conviction, mode of procedure.

8. Whenever sentence of death shall be pronounced by any Court or Judge in New Zealand, the officer whose duty it may be to carry out such sentence shall not proceed to execute the same till he have received an intimation of the Governor's pleasure with respect to such sentence; and it shall be the duty of such officer, within three days after

Supreme Court.

after receiving a notice that the Governor will not interfere with such sentence, to carry out the same.

9. It shall be lawful for the Governor, in the name and on behalf of Her Majesty, from time to time to appoint such Registrars, Deputy Registrars, Clerks, Criers, and other officers as may be required for the conduct of the business of the Court throughout the Colony, who shall severally hold office during the Governor's pleasure.

Appointment of Registrars and other officers.

10. In order that the Court may be enabled to exercise the jurisdiction hereinbefore conferred upon it, every Registrar and Deputy Registrar shall have all the powers and perform all the duties in respect of the Court (except such powers and duties as any other officer may be specially appointed to exercise and perform) which the several officers of the several Courts hereinbefore mentioned respectively have and perform in England.

Powers and duties of Registrars.

11. The Court shall have in the custody of each Registrar or Deputy Registrar a seal of the Court for the sealing of all writs and other instruments or documents issued by such Registrar or Deputy Registrar and requiring to be sealed.

Seals of the Court to be provided for sealing writs probates &c.

12. Every such Registrar or Deputy Registrar shall, for the purpose of authentication, also have a seal or stamp wherewith summonses office copies certificates reports and other documents and writings requiring authentication may be sealed or stamped.

Seals for Registrars to be provided for sealing summonses &c.

13. Every Judge of the Court before entering on his office shall take an oath, according to the form in the Third Schedule hereunto annexed, faithfully to execute the duties thereof.

Judge's oath of office.

14. It shall be lawful for the Governor in Council from time to time to divide the Colony into judicial districts for the purposes of this Act, and the limits of such districts from time to time to alter as occasion may require.

Governor in Council may divide Colony into districts.

15. The Governor in Council shall assign every such district to a Judge or Judges of the Court, who shall have within the same all the powers and jurisdiction hereby given to the Court.

Governor in Council to assign districts to Judges.

16. Every Judge of the Court in his own judicial district shall have the same jurisdiction and may exercise the same powers in all matters whatsoever, and whether the said jurisdiction or powers exist at Common Law or be given by Statute, as fully as any one Judge or as any two or more of the Judges of the several Courts hereinbefore specified hath have or may exercise in England at the time of the passing of this Act.

Jurisdiction of a single Judge.

17. There shall be held Circuit Courts for the dispatch of civil and criminal business of the Court, before one of the Judges thereof, at such places and times as the Governor in Council may from time to time appoint: Provided always that when by reason of the death or absence of any Judge, or from any other cause, the Court cannot be held, a Registrar or Deputy Registrar may adjourn the same to such day as he shall deem convenient.

Circuit Courts.

18. It shall be lawful for a single Judge of the Court, on circuit or otherwise, to hear and determine all cases of crimes and misdemeanours committed within the district which shall have been assigned to him as aforesaid, and any issues of fact joined in any action or proceeding in the Court within the district or removed to such district for trial out of any other district by virtue of any general rules of the Court, and to exercise all such powers and jurisdiction as Courts of Oyer and Terminer and Gaol Delivery and Assize and Nisi Prius have in England.

Power of Judges on Circuit.

19. Subject to the power of alteration and revocation hereinafter contained, the General Rules of Procedure and the Schedule thereto annexed, specified in the Second Schedule to this Act, shall henceforth

Rules of Procedure.

be

Supreme Court.

be the sole authority by which all matters and questions of practice pleading and procedure in all actions suits and other proceedings, civil and criminal, in the said Court shall be regulated and determined, except only those matters as to which the practice of any of the superior Courts of England is in the said rules expressly retained: Provided always that the rules of the Supreme Court (second day of May, one thousand eight hundred and forty-four,) touching the administration of estates and effects of persons deceased, and the rules (seventeenth day of December, one thousand eight hundred and forty-five,) touching official administration, shall have the same force and effect as though this Act had not been passed.

Judges may make other rules.

20. It shall be lawful for the Judges of the said Court from time to time, by other rules to be made for that purpose, to alter or revoke the aforesaid rules or any of them, or any other rules of the Court which now may or hereafter shall be in force, and also from time to time to make such additional rules touching the practice pleading and procedure of the Court in all matters, both civil and criminal, as the Judges may deem advisable; and all rules so made or altered shall have the same force and effect as if they had been inserted in the Second Schedule to this Act.

Each Judge may make certain rules for his judicial district.

21. Each Judge of the Court may in his own judicial district make such rules as he may think fit respecting the sittings of the Court, sittings at Chambers, and the order of disposing of business, and respecting hours for the service and delivery of process and pleadings, and the hours of attendance at the office of the Court by the Registrar or Deputy Registrar and his Clerks, and respecting other such matters: Provided that such rules shall not be inconsistent with the general rules of the Court, the laws of the Colony, or the proclamations of the Governor.

Judges may by consent try questions of fact.

22. The parties to any action may by consent in writing signed by them or their solicitors, as the case may be, leave the decision of any issue of fact to the Court, provided that the Court, upon a rule to show cause, or a Judge on summons, shall in their or his discretion think fit to allow such trial; or provided the Judges, in pursuance of the powers hereinbefore given to them, make a general rule or order dispensing with such allowance either in all cases or in any particular class of cases to be defined in such rule or order.

How to be tried.

23. Such issue of fact may thereupon be heard and determined and damages assessed, when necessary, in open Court by any Judge of the Court, either with or without the assistance of any other Judge or Judges of the Court; and the verdict of such Judge or Judges shall be of the same effect as the verdict of a jury, save that it shall not be questioned as being against the weight of evidence; and the proceedings upon and after such trial, as to the power of the Court or Judge, the evidence, and otherwise, shall be the same as in the case of trial by jury.

Proceedings pending.

24. All proceedings which shall have been commenced in the Court under the authority of any Ordinance or Act heretofore in force, which are still pending and incomplete, shall continue in as full force and effect, and may be continued executed and enforced, as if the same had been commenced under the authority of this Act.

Commencement of Act.

25. This Act shall come into operation on the first day of January, one thousand eight hundred and sixty-one.

Barristers and Solicitors Admission.

SCHEDULES.

FIRST SCHEDULE.

Session and Number.	By what Legislature passed.	Title.
Session II., No. 1.	Governor and Legislative Council.	"An Ordinance for establishing a Supreme Court."
Session III., No. 1.	Governor and Legislative Council.	"An Ordinance for establishing a Supreme Court."
Session IV., No. 1.	Governor and Legislative Council.	"An Ordinance to Confirm certain Rules, Forms, and Tables of Fees touching the Practice of the Supreme Court."
Session VII., No. 3.	Lieut.-Governor and Legislative Council.	"An Ordinance to amend 'An Ordinance for establishing a Supreme Court and to establish a Court of Appeals.'"
Session VII., No. 12.	Lieut.-Governor and Legislative Council.	"An Ordinance to Confirm certain Rules, Forms, and Tables of Fees touching the Practice of the Supreme Court."
Session IX., No. 3.	Governor-in-Chief and Legislative Council.	"An Ordinance to amend 'The Supreme Court Ordinance.'"
Session IV., No. 15.	General Assembly.	"An Act for regulating the Procedure of the Supreme Court."

SECOND SCHEDULE.

GENERAL Rules of Procedure annexed to an Act of the General Assembly of New Zealand, Session IV., No. 15, intituled "*An Act for regulating the Procedure of the Supreme Court*," except so far as the said rules are revoked or altered by any subsequent rules.

"Regulæ Generales, May, 1859," made by the Judges of the Court and approved by the Governor in Council the 31st day of May, 1859, except so far as the said Regulæ Generales are revoked or altered by any subsequent rules.

THIRD SCHEDULE.

I, A. B., do swear that I will truly and faithfully, and to the best and utmost of my skill and knowledge, discharge the duties of [Chief Justice, or Judge of the Supreme Court, *as the case may be,*] without fear favour or malice. So help me God.

No. XVIII.

AN ACT to continue, until the end of the next Session of the General Assembly, certain provisions for the Admission of Barristers and Solicitors of the Supreme Court. [27th October, 1860.]

BARRISTERS
AND SOLICITORS
ADMISSION.

WHEREAS by an Ordinance of the Governor and Legislative Council of New Zealand, Session III., No. 1, provision was made for the enrolment of certain persons as barristers and solicitors of the Supreme Court, and for the making of rules regulating the admission of barristers and solicitors to practice therein: And whereas by an Act of the General Assembly, intituled "*The Supreme Court Act, 1860*," the said Ordinance is repealed: And whereas it is intended

Preamble.

English Acts.

intended hereafter to consolidate and amend the law relating to the admission of barristers and solicitors and to the practice of the profession of the law in New Zealand; but in the meantime it is necessary to continue the provisions of the said recited Ordinance so far as the same relate to the enrolment and admission of barristers and solicitors :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The Barristers and Solicitors Admission Act, 1860.*"

Persons entitled to be admitted as barristers and solicitors.

2. In addition to other persons entitled by any Act or Ordinance of the Legislature of New Zealand, there may be enrolled in the Supreme Court to practice therein as barristers such persons as shall have been admitted as barristers or advocates in Great Britain or Ireland; and to practice therein as solicitors such persons as shall have been admitted as solicitors, attorneys, or writers in one of the Courts of Westminster, Dublin, or Edinburgh, or proctors in any Ecclesiastical Court in England, or shall have served such term of clerkship with a solicitor of the Court, not being less than five years, as shall be required by the general rules thereof.

Barristers and solicitors may be removed from the Roll on reasonable cause.

3. All persons whosoever enrolled to practice as barristers and solicitors in the Supreme Court shall be removable from the Rolls of the Court upon reasonable cause whensoever and wheresoever the same may have arisen.

Judges may make rules.

4. The Judges of the Supreme Court shall have power from time to time to make rules and regulations touching all matters whatsoever relating to the admission of barristers and the examination and admission of solicitors, as they may think fit.

Duration of Act.

5. This Act shall continue in force until the end of the next Session of the General Assembly, and no longer.

No. XIX.

ENGLISH ACTS.

AN ACT for bringing into operation within the Colony certain Acts of the Imperial Parliament.

[27th October, 1860.]

Preamble.

WHEREAS certain Acts of the Imperial Parliament, specified in the Schedule hereunto annexed, have been passed for the amendment of the law, and it is expedient that the same be adopted and brought into operation within the Colony :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The English Acts Act, 1860.*"

Certain Acts adopted.

2. The several Acts of the Imperial Parliament specified in the Schedule hereunto annexed shall be taken to extend to this Colony, and shall be applied therein in the administration of justice in like manner as Acts of Parliament passed before the establishment of the Colony are applied.

15 Vict. c. 24, in

3. The Statute 15 Vict. c. 24 shall be deemed and taken to have been

Official Documents Evidence.

been in force on and after the thirty-first day of December, in the year one thousand eight hundred and fifty-four.

force since 31st Dec., 1854.

SCHEDULE.

Statute.	Title.
15 Vict. c. 24 ...	"An Act for the amendment of an Act passed in the first year of the reign of Her Majesty Queen Victoria, intituled ' <i>An Act for the Amendment of the Laws with respect to Wills.</i> '"
21 & 22 Vict. c. 47	"An Act to amend the Law of False Pretences."
22 Vict. c. 33 ...	"An Act to enable Coroners in England to admit to Bail persons charged with Manslaughter."

No. XX.

AN ACT to facilitate the Admission in Evidence of certain Official and other Documents.

[27th October, 1860.]

OFFICIAL DOCUMENTS EVIDENCE.

WHEREAS it is expedient to facilitate the admission in evidence of certain official and public documents :

Preamble.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The Short Title of this Act shall be "*The Official Documents Evidence Act, 1860.*"

Short Title.

2. Judicial notice shall be taken by all Courts, Judges, Justices, Commissioners, and other officers and persons judicially acting, of the impression of the Public Seal of the Colony and of the Public Seals of the late Provinces of New Ulster and New Munster respectively, without evidence of such Seal having been impressed or any other evidence relating thereto.

Seal of the Colony.

3. Whenever by any Ordinance of the Legislative Council or by any Act of the General Assembly, or by any Act or Ordinance of the Superintendent and Provincial Council of any Province of New Zealand, now or hereinafter to be in force, any seal or stamp has been or shall be authorized to be used by any Court, officer, body corporate, or any person whomsoever, judicial notice shall be taken of the impression of such seal or stamp without evidence of such seal or stamp having been impressed or any other evidence relating thereto.

Official seals &c. receivable in evidence.

4. All copies of Private and Local and Personal Acts of the General Assembly, not Public Acts, if purporting to be printed under the authority of the New Zealand Government by the Government Printers for the time being, and all copies of the Journals of either House of the General Assembly, and of Proclamations of the Governor, purporting to be printed by such printers, shall be admitted as evidence thereof respectively by all Courts, Judges, Justices, Commissioners, and other officers and persons judicially acting, without any proof being given that such copies were so printed.

Copies of Private Acts &c. printed by Government Printers receivable as evidence.

5. Whenever by any Act or Ordinance aforesaid now in force or hereafter to be in force, any certificate official or public document or document or proceeding of any Corporation or Joint Stock or other Company, or any certified copy of any document by-law entry in any register or other book or of any other proceeding, shall be receivable in evidence of any particular in any Court of Justice, or before any legal tribunal,

Public documents purporting to be duly sealed &c. receivable in evidence.

Official Documents Evidence.

tribunal, or either House of the General Assembly, or any Committee of either House, or in any judicial proceeding, the same shall respectively be admitted in evidence provided they respectively purport to be sealed or impressed with a stamp or sealed and signed or signed alone as required, or impressed with a stamp and signed as directed by the respective Acts made or to be hereafter made, without any proof of the seal or stamp, where a seal or stamp is necessary, or of the signature or of the official character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original record could have been received in evidence.

Courts &c. to take
judicial notice of
signatures of Judges
&c.

6. All Courts, Judges, Justices, Commissioners, and other officers and persons judicially acting shall henceforth take judicial notice of the signature of any of the Judges of the Supreme Court, provided such signature be attached or appended to any decree order certificate or other judicial or official document.

Provincial Laws and
Proclamations of
Superintendents
printed by Govern-
ment Printers ad-
missible in evidence.

7. All copies of Acts or Ordinances heretofore made or ordained or hereafter to be made or ordained by the Superintendent and Provincial Council of any Province now or hereafter to be constituted, and all copies of Proclamations and Notifications under any Act or Ordinance of any Legislature made by the Superintendent of any such Province purporting to be printed under the authority of the Government of such Province by the printers for the time being to such Government, shall be admitted as evidence of such Acts Ordinances Proclamations and Notifications respectively by all Courts, Judges, Justices, Commissioners, and other officers and persons judicially acting, without any proof being given that such copies were so printed.

Offences of forgery
to be felony.

8. If any person is guilty of the following offences or any of them, that is to say,—

- (1.) Forges or procures to be forged or assists in forging any such seal stamp impression or signature as aforesaid.
- (2.) Tenders in evidence any such certificate official or public document or document or proceeding of any Corporation or Joint Stock or other Company, or any certified copy of any document by-law entry in any Register or other book, or of any other proceeding as aforesaid, with a false or counterfeit seal stamp impression or signature thereto, knowing the same to be false or counterfeit, whether such seal stamp impression or signature be those of or relating to any Corporation or Company already established or to any Corporation or Company to be hereafter established, or tenders in evidence any decree order certificate or other judicial or official document with a false or counterfeit signature of any Judge as aforesaid thereto, knowing the same to be false or counterfeit.
- (3.) Stamps or procures to be stamped or assists in stamping any such certificate official or public document or document or proceeding of any Corporation or Joint Stock or other Company, or any certified copy of any document by-law entry in any register or other book, or any proceeding as aforesaid, with any such forged seal or stamp as aforesaid, knowing the same to be forged.
- (4.) Prints or procures to be printed any copy of any Private or Local and Personal Act, or of the Journals of either House of the General Assembly, or of any Proclamation of the Governor, which copy shall falsely purport to have been printed by the Government Printers for the time being.
- (5.) Prints or procures to be printed any copy of any Act or Ordinance of the Superintendent and Provincial Council of

any

Savings Banks Act Amendment.

any Province, or of any Proclamation or Notification made by the Superintendent of any Province, under any Act or Ordinance of any Legislature, which copy shall falsely purport to have been printed, under the authority of the Government of such Province, by the printers for the time being to such Government.

- (6.) Tenders in evidence any such copy as aforesaid, knowing that the same was not printed by the persons by whom it so purports to have been printed.

Such person shall be guilty of felony.

9. Any person convicted of felony under this Act shall be liable, at the discretion of the Court by which he is convicted, to penal servitude for any term not exceeding ten years, or to imprisonment for any term not exceeding two years, with or without hard labour.

Punishment for felony.

10. Whenever any such document as before mentioned shall have been received in evidence by virtue of this Act, the Court, Judge, Justice, Commissioner, or other officer or person judicially acting, who shall have admitted the same, shall, on the request of any party against whom the same is so received, be authorized at its or his own discretion to direct that the same shall be impounded and kept in the custody of some officer of the Court or other proper person until further order touching the same shall be given by such Judge, Justice, Commissioner, officer, or person judicially acting who shall have ordered the same to be impounded, or by some one of the Judges of the Supreme Court, on application being made for that purpose.

Documents may be impounded.

No. XXI.

AN ACT to amend "*The Savings Banks Act, 1858.*"

[27th October, 1860.]

SAVINGS BANKS ACT
AMENDMENT.

WHEREAS by an Act of the General Assembly of New Zealand, intituled "*The Savings Banks Act, 1858,*" the Governor in Council was empowered by clause thirty-two of the said Act, on receiving a petition to that effect signed by not less than two-thirds of the Trustees of any Savings Bank, by writing under his hand directed to the Vice-President of such Bank and published in the Government *Gazette*, to empower the Trustees of the said Bank, not being less than four, attending at any meeting or meetings appointed for that purpose, to discount at a rate of interest not less than eight per centum per annum any bill of exchange or promissory note for any amount not exceeding one hundred pounds, provided the same shall bear the names of not less than two persons, not being Trustees of the said Bank, to be approved by such Trustees so attending as aforesaid or the major part of them, and be payable at a period not exceeding three calendar months from the time when the same shall be discounted: Provided that the total amount of funds invested in such promissory notes or bills of exchange shall at no time exceed one-half of the whole deposits: And whereas the Trustees of the Savings Banks of the Provinces of Taranaki and Canterbury have at various times discounted bills of exchange or promissory notes in accordance with the powers conferred by the said Act: And whereas it is expedient, as regards the Savings Banks in the Provinces of Taranaki and Canterbury, to limit the powers of the Trustees of the said last-named Banks as regards

Preamble.

Sale of Reserves Acts Amendment.

discounting bills of exchange or promissory notes, and absolutely to repeal the aforesaid clause as regards any other Savings Bank in the Colony now existing or hereafter to be established :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The Savings Banks Act Amendment Act, 1860.*"

No Savings Bank other than those of Taranaki and Canterbury to discount bills &c.

2. From and after the passing of this Act no Trustees of any Savings Bank established under the before-mentioned recited Act other than those now existing in the Provinces of Taranaki and Canterbury shall be empowered to discount bills of exchange or promissory notes.

Savings Banks of Taranaki and Canterbury not to discount after 31st December, 1862.

3. From and after the thirty-first day of December, one thousand eight hundred and sixty-two, the power now exercised by the Trustees of the Savings Banks of the Provinces of Taranaki and Canterbury respectively of discounting bills of exchange or promissory notes shall cease and determine.

No Savings Bank to discount after 31st December, 1862.

4. From and after the thirty-first day of December, one thousand eight hundred and sixty-two, the powers conferred under clause thirty-two of the before-mentioned recited Act shall cease and determine, and the said clause shall be and the same is hereby absolutely repealed.

No. XXII.

SALE OF RESERVES
ACTS AMENDMENT.

AN ACT to confirm certain Crown Grants of Allotments sold under "*The Pensioner Villages Sale of Reserves Act, 1858,*" and "*The Auckland Reserves Act, 1858.*" [27th October, 1860.]

Preamble.

WHEREAS by two Acts of the General Assembly of New Zealand, intituled "*The Pensioner Villages Sale of Reserves Act, 1858,*" and "*The Auckland Reserves Act, 1858,*" it was enacted that it should be lawful for the Governor, whenever he should think fit, to sell and dispose of by public auction all or any of the allotments of land specified in the Schedules to the said Acts, and in the name and on behalf of Her Majesty to make and execute, under the Public Seal of the Colony, grants in the usual form to the purchasers thereof: And whereas the said allotments of land were put up for sale by auction and sold to the highest bidders, and Crown Grants have been made to the respective purchasers: And whereas there are mistakes and omissions in the said Schedules to the said Acts, and it is expedient, in order to prevent any doubts as to the validity of any of the said grants, to confirm and make valid the same by an Act of the General Assembly :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The Sale of Reserves Acts Amendment Act, 1860.*"

Certain Crown Grants declared to be valid.

2. Every Crown Grant specified or mentioned in the Schedule to this Act shall be deemed and taken to be valid, and to convey to the person therein named as grantee an estate in fee simple, free from incumbrances, in the allotment of land therein purported to be conveyed to him.

SCHEDULE.

Sale of Reserves Acts Amendment.

SCHEDULE.

Date of Crown Grant.	Name of Grantee.	Description of Allotment Conveyed.
Jan. 22, 1859 ...	Arthur Guyon Purchas ...	Onehunga, Section 5, Allotment 9.
" " ...	Alexander Marshall ...	" " 9, " 5.
" " ...	John Muir Wayland ...	" " 9, " 7.
" " ...	John Kelly ...	" " 9, " 10.
" " ...	Edward Leary ...	" " 16, " 8.
Feb. 17, " ...	Robert Stackpole ...	" " 36, " 7.
Feb. 26, " ...	John Bolton ...	" " 37, " 3.
" " ...	William James Shale ...	" " 37, " 6.
" " ...	John Jermyn Symonds ...	" " 37, " 11.
" " ...	Thomas Russell ...	" " 37, " 12.
" " ...	Thomas Russell ...	" " 37, " 15.
" " ...	Margaret Swan ...	" " 39, " 3.
" " ...	Thomas Russell ...	" " 39, " 8.
Feb. 17, " ...	John Reily ...	" " 40, " 12.
" " ...	John Reily ...	" " 41, " 3.
Jan. 22, " ...	James Hall ...	" " 46, " 4.
" " ...	Bridget May ...	" " 46, " 6.
Feb. 17, " ...	John Stone ...	" " 46, " 8.
July 1, " ...	John Black ...	" " 47, " 10.
Jan. 22, " ...	Francis Tapp ...	" " 48, " 10.
" " ...	John Hoop ...	" " 48, " 17.
" " ...	John Hoop ...	Otahuhu, " 1, " 3.
" " ...	John McAnulty ...	" " 5, " 2.
" " ...	Edward Howard Heywood ...	" " 7, " 6.
" " ...	Hugh Coolahan ...	Panmure, " 5, " 61.
Feb. 26, " ...	Francis Organ ...	Howick, " 2, " 16.
" " ...	Matthew McCormack ...	" " " 22.
" " ...	Matthew McCormack ...	" " " 23.
" " ...	Edmund Hynes ...	" " " 35.
" " ...	Edmund Hynes ...	" " " 42.
Jan. 22, " ...	Joseph Syms ...	" " " 49.
" " ...	John Paton ...	" " " 52.
" " ...	Joseph Syms ...	" " " 57.
" " ...	John Calloway ...	" " " 70.
" " ...	Thomas Finch ...	" " " 75.
" " ...	Charles Arnaboldi ...	" " " 83.
Feb. 26, " ...	Joseph English ...	" " " 99.
Jan. 22, " ...	Robert Evans ...	" " " 101.
" " ...	Charles Hare ...	" " " 110.
Feb. 26, " ...	James FitzPatrick ...	" " " 115.
Jan. 22, " ...	Anthony Conlon ...	" " " 116.
" " ...	Robert Bartley ...	" " " 131.
Feb. 17, " ...	John Crawford ...	" " " 163.
July 1, " ...	Joseph Ralph Crew ...	" " " 175.
Nov. 25, " ...	The Superintendent in Trust ...	" " " 203.
Feb. 26, " ...	Edward McKenna ...	" " " 207.
Feb. 25, " ...	Samuel Jonkers ...	" " " 213.
Feb. 26, " ...	Hannah Halfort Foulkes ...	" " " 219.
Oct. 11, 1860.	John Wallace.	Suburbs of Auckland, Section 6, Allotments 35, 36 58.

Miners' Franchise. New Provinces Amendment.

No. XXIII.

MINERS' FRANCHISE. AN ACT to extend the Franchise to Holders of Miners' Rights in proclaimed Gold Fields.

[2nd November, 1860.]

Preamble.

WHEREAS it is expedient that persons being the holders of miners' rights in gold fields should be capable of voting in the election of Members of the House of Representatives and in the election of the Superintendent and Members of the Provincial Council of the Province in which such gold fields may respectively be situate :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The Miners' Franchise Act, 1860.*"

Holders of miners' rights qualified to be electors.

2. Every man of the age of twenty-one years or upwards being the holder of a miner's right, and who shall have held a miner's right not less than three months before the time of registration, in any gold field constituted or to be constituted under "*The Gold Fields Act, 1858-1860,*" or any other Act for the time being in force for the management of gold fields, shall if duly registered be entitled to vote at the election of Members of the House of Representatives, of the Superintendent of the Province, and of the Members of the Provincial Council for the electoral district or division and the Province respectively in which such gold field is situate.

May vote at elections prior to 1st October, 1861, without being registered.

3. Provided always that every such person holding a miner's right, and who shall have held a miner's right not less than three months before the time of any such election as aforesaid, which shall take place before the first day of October, one thousand eight hundred and sixty-one, shall be entitled to vote at such election without being registered as an elector under "*The Registration of Electors' Act, 1858.*"

No. XXIV.

**NEW PROVINCES
AMENDMENT.**

AN ACT to explain Section Sixteen of "*The New Provinces Act, 1858.*" [2nd November, 1860.]

Preamble.

WHEREAS by section sixteen of "*The New Provinces Act, 1858,*" it was enacted as follows, viz :—“ Upon the establishment of any Province under this Act, all estate and interest of the Superintendent of any Province of which such new Province shall have formed a part, in any lands theretofore granted to the Superintendent of such original Province under the Act of Assembly intituled '*The Public Reserves Act, 1854,*' shall forthwith vest in the Superintendent of such new Province, and shall be deemed and taken to have been granted to him and his successors under the provisions of the said "*Public Reserves Act, 1854 :*" ” And whereas such enactment requires explanation :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The

Nelson and Marlborough Public Debt Apportionment.

1. The Short Title of this Act shall be "*The New Provinces Act* 1858 *Amendment Act, 1860.*" Short Title.

2. Section sixteen of "*The New Provinces Act, 1858,*" shall be construed and shall operate and be deemed to have operated only as if the words "within the limits of such new Province" had been inserted in the said section immediately after the words "in any lands" in the said section. Construction of section 16 of recited Act.

No. XXV.

AN ACT to apportion the Public Debt of the former Province of Nelson between the Provinces of Nelson and Marlborough. [2nd November, 1860.]

NELSON AND
MARLBOROUGH
PUBLIC DEBT
APPORTIONMENT.

WHEREAS the public debt or loan specified in the Schedule to this Act was lawfully incurred or contracted for by the Provincial Government of the Province of Nelson during the time such Province comprised the whole of the territory now constituting the several Provinces of Nelson and Marlborough: And whereas the division of the said territory and the erection of a portion thereof into the separate Province of Marlborough have rendered it necessary that the said public debt should be apportioned between the said Provinces: And whereas it is expedient that the said apportionment should be made by arbitration as hereinafter provided: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Nelson and Marlborough Public Debt Apportionment Act, 1860.*" Short Title.

2. Within ninety days after the passing of this Act the Superintendent of each of the Provinces of Nelson and Marlborough shall, by writing under his hand delivered or forwarded by the post to the Colonial Secretary, appoint an Arbitrator willing to act, and in default of such appointment being made by either of the said Superintendents the Governor of the Colony in lieu of the Superintendent so making default shall appoint an Arbitrator, or if both such Superintendents shall make default, then the Governor shall appoint two Arbitrators. Each of the Superintendents of Nelson and Marlborough to appoint an Arbitrator.

3. The Arbitrators shall appoint an Umpire, by writing under their hands, before they enter on the arbitration, and if they shall fail to do so the Governor shall by writing under his hand appoint an Umpire. Umpire.

4. It is by this Act referred to the said Arbitrators by their award to apportion between the said Provinces of Nelson and Marlborough the principal of the said debt specified in the said Schedule to this Act. Arbitrators to determine proportion of debts to be paid by Marlborough.

5. If the said Arbitrators shall not make and deliver or forward their award, as hereinafter provided, within eight months after the passing of this Act, the matter hereinbefore referred to them shall be determined by the said Umpire alone, who shall make and deliver or forward his award or umpirage in writing within twelve months after the passing of this Act. If Arbitrator's award not made within eight months, matter to be determined by Umpire.

6. The Umpire may make his award or umpirage upon hearing the Arbitrators without rehearing any evidence taken by the Arbitrators: Provided that in his judgment the notes of evidence taken by the Arbitrators Umpire may award without rehearing evidence.

Nelson and Marlborough Public Debt Apportionment.

Arbitrators or their statement of facts be sufficient to enable him to do so.

Arbitrators and
Umpire to be guided
by equity and good
conscience.

7. In the determination of the matter referred to them, the Arbitrators or Umpire shall be guided by equity and good conscience upon consideration of all the circumstances which shall come or be laid before them.

Award to be final.

8. The award of the Arbitrators or Umpire as the case may be shall be final and conclusive, and shall be delivered or forwarded by the post to the Governor, and shall be deposited and kept as a record in the office of the Colonial Secretary.

Evidence may be
given on oath.

9. Evidence may be given on oath before the Arbitrators and Umpire, and they or he may administer oaths to witnesses.

Witnesses may be
summoned.

10. The Arbitrators and Umpire may issue summonses to witnesses to attend, either with or without a clause requiring the production of books deeds papers and writings in their possession or under their control.

Penalty for default
of attendance.

11. Every person who shall have been personally served with any such summons, and who shall without sufficient cause refuse or neglect to appear, or to produce any books deeds papers and writings required by such summons to be produced, and also every person present before such Arbitrator or Umpire who shall be required to give evidence and who shall refuse to be sworn and give evidence, shall forfeit and pay any sum not exceeding fifty pounds, as the Arbitrator or Umpire respectively shall fix.

How payment
enforced.

12. The payment of any fine so imposed may be enforced upon the order of the Arbitrators or Umpire respectively, in like manner as the payment of money is enforced upon an order of a Justice of the Peace.

Witnesses' expenses
may be allowed.

13. It shall be lawful for the Arbitrators and Umpire respectively, by an order in writing, to allow any witness his reasonable expenses, and upon production of such order the amount therein fixed shall be paid by the Colonial Treasurer,

Expenses of
arbitration and award
to be paid equally by
Provinces of Nelson
and Marlborough.

14. All necessary expenses incurred in and about the arbitration umpirage and award shall be paid by the Colonial Treasurer, and one-half thereof charged to the separate account of the Province of Nelson and the other half to the separate account of the Province of Marlborough, and shall be recovered accordingly.

When apportionment
to take effect.

15. The apportionment of the said debt under this Act shall take effect as on and from the first day of November, one thousand eight hundred and fifty-nine, and the respective contributions of the said two Provinces to the principal and interest of the said debt shall be adjusted accordingly.

Interest chargeable to
Marlborough to be
paid by Colonial
Treasurer.

16. All interest chargeable under this Act against the Province of Marlborough shall be paid by the Colonial Treasurer, on account of the said Province, into the Provincial Treasury of the Province of Nelson half-yearly; and such payments being duly made, the Province of Marlborough shall be indemnified by the Province of Nelson against all further liability on account of the interest on the said debt for the periods in respect of which such payments respectively shall have been made.

And to be charged
to separate account
of Province.

17. The payments so made by the Colonial Treasurer on account of the Province of Marlborough shall be charged by him to the separate account of the said Province; and it shall be lawful for the Colonial Treasurer, out of any moneys in his hands payable into the Treasury of the said Province, from time to time to retain and provide a sufficient and reasonable amount to enable him to meet such payments as and when the same become due, or, having made such payments, to recover and repay the same out of any such moneys as aforesaid thereafter coming to his hands.

18. Nothing

Land for Compensation (Nelson and Marlborough.)

18. Nothing in this Act contained shall be deemed or construed to affect or interfere with the operation of "*The New Zealand Loan Act, 1856.*"

This Act not to affect "*The New Zealand Loan Act, 1856.*"

19. The apportionment of the said debt specified in the said Schedule to this Act between the said Provinces of Nelson and Marlborough shall in no way affect or interfere with the security for the said debt created by the Act of the Superintendent and Provincial Council of Nelson, Session V., No. 1, but the said security shall have the same force and effect as regards the holders of debentures issued under the authority of the said Act as if the Province of Marlborough had continued to form a portion of the said Province of Nelson, and "*The New Provinces Act, 1858,*" and this Act had not been passed.

Security given to holders of debentures not to be affected by apportionment.

SCHEDULE.

THE sum of twenty-nine thousand pounds authorized to be raised by an Ordinance of the Superintendent and Provincial Council of the Province of Nelson, (Session V., No. 1.) intituled "*An Act to authorize the Superintendent of the Province of Nelson to raise a Loan not exceeding Twenty-nine thousand Pounds by the issue of Debentures.*"

No. XXVI.

AN ACT to provide Compensation in Land for certain Persons named in "*The Compensation in Land Act, 1858,*" of the Provincial Council of Nelson, on account of Damages arising from Breach of Contract by the New Zealand Company.

LAND FOR
COMPENSATION
(NELSON AND
MARLBOROUGH).

[2nd November, 1860.]

[Reserved for Her Majesty's assent. Assented to, *New Zealand Gazette*, 4th July, 1861, No. 32.]

WHEREAS by a Bill passed by the Provincial Council of Nelson, intituled "*An Act to authorize the Superintendent to purchase Crown Lands for certain Persons as Compensation for Damages sustained by them by reason of the Non-fulfilment of certain Contracts made by the New Zealand Company,*" it was enacted that it should be lawful for the Superintendent to purchase, out of the public revenues of the Province, for and in the name of each of the several persons whose names are inserted in the Schedules to the said Bill annexed, waste land of the Crown in the Province of Nelson to the value of the sums specified in the Schedules wherein such names are included respectively, as compensation for all damages sustained by such persons in consequence of the non-fulfilment of the contracts aforesaid: And whereas the assent of the Governor was withheld from the aforesaid Bill: And whereas it is just that such of the said persons as have valid claims as aforesaid should receive compensation in land in respect of the same out of the Crown lands of the Provinces of Nelson and Marlborough:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Land for Compensation (Nelson and Marlborough) Act, 1860.*"

Short Title.

2. It shall be lawful for the Governor to appoint a Commissioner or Commissioners not exceeding three in number to investigate and report

Power to Governor to appoint Commissioners to investigate and report

Land for Compensation (Nelson and Marlborough).

and report upon the validity of claims for compensation.

report upon the validity of the claims of the persons aforesaid, and every Commissioner so appointed shall have power to summon all necessary witnesses and to examine them on oath on all matters touching the claims aforesaid: Provided always that no such investigation as aforesaid shall take place with respect to the claims of any such persons to compensation in land within the Province of Marlborough until the assent of the Provincial Council and Superintendent thereof to such investigation and compensation as provided by this Act shall have been signified to the Governor, nor shall any such compensation as aforesaid be made in respect of the claim of any such person within either of the Provinces of Nelson or Marlborough until the assent of the Provincial Council and Superintendent of the Province in which such compensation is proposed to be granted shall have been signified to the report of the Commissioner or Commissioners awarding the same: Provided also that it shall not be lawful for the Commissioner or Commissioners to entertain the claim of any person, his heirs or assigns, to compensation under this Act, unless the name of such person is contained in one of the Schedules annexed to the said Bill passed by the Provincial Council of Nelson, intituled "*An Act to authorize the Superintendent to purchase Crown Lands for certain Persons as Compensation for Damages sustained by reason of the Non-fulfilment of certain Contracts made by the New Zealand Company.*"

Power to Governor to make free grants of land to persons entitled to compensation.

3. When the Commissioner or Commissioners shall have reported to the Governor that any one of the said persons was at the time of the passing of the said Bill entitled to compensation, it shall be lawful for the Governor to make a free grant to such person, his heirs or assigns, of a parcel of land out of the Crown lands of the Province either of Nelson or Marlborough aforesaid, within the territory comprised in which such person was at the passing of the said Bill habitually resident: Provided always that the land to be included in any such grant shall in no case exceed in value the amount specified in the Schedule annexed to the aforesaid Bill of the Provincial Council of Nelson in which the name of such person is contained.

Such land to be taken as compensation for all losses or damages sustained in consequence of non-fulfilment of New Zealand Company's contracts.

4. All such lands shall be taken by the persons aforesaid as compensation for all losses or damages sustained by them in consequence of the non-fulfilment by the New Zealand Company of their contracts, and on the terms and conditions (except the single one of payment of the purchase money) upon which Crown lands are sold in the Provinces aforesaid, under the regulations for the sale and disposal of the waste lands of the Crown in force within the said Provinces respectively at the time of the coming into operation of this Act: Provided always that no land shall be granted under the authority hereof which is affected by any contract of the Crown, nor after the expiration of two years from the coming into operation hereof.

No land to be granted affected by any contract of the Crown, nor after the expiration of two years from the passing of this Act.

Commencement of Act.

5. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of her Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor or person administering the Government of New Zealand.

Land Registry.

No. XXVII.

AN ACT to simplify the Law relating to the Transfer of Landed Property in New Zealand. LAND REGISTRY.

[2nd November, 1860.]

WHEREAS it is desirable to facilitate the transfer of property in land by means of a registry of the title thereto: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

I.—PRELIMINARY.

1. The Short Title of this Act shall be “*The Land Registry Act, 1860.*” Short Title.

2. Registration under this Act shall commence in the several Registrars’ districts, to be constituted as hereinafter provided, at such times respectively as the Governor shall from time to time appoint, by warrant under his hand, to be published in the *New Zealand Gazette*, after rules and forms to be made and promulgated under sections seventy-one and seventy-four of this Act shall have been laid on the table of both Houses of the General Assembly for fourteen days during the next Session. Commencement of registration.

II.—ESTABLISHMENT OF REGISTER OFFICE.

3. There shall be established within the Colony an office, to be called the “Land Register Office,” for the purpose of registering the proprietorship of land and for transferring the same by registration. Land Registry Office to be established.

4. It shall be lawful for the Governor, in the name and on behalf of Her Majesty, from time to time, by Commission under the Public Seal of the Colony, to appoint a “Registrar-General of Land:” Provided always that the Registrar-General may be appointed and act as District Registrar of any district. Appointment of Registrar-General.

5. The Governor shall from time to time as he shall think fit, by Proclamation in the *New Zealand Gazette*, constitute throughout the Colony or in any part thereof Registrars’ districts for the purposes of this Act, and such districts abolish and the boundaries of any district define and alter, and also declare by what local name each such district shall be designated. Districts to be constituted.

6. The Governor, in the name and on behalf of Her Majesty, shall from time to time, by warrant under his hand, appoint a fit and proper person to be “District Registrar of Land” of each such district. Appointment of District Registrars.

7. It shall be lawful for the Governor, if he shall think fit, at any time to appoint a fit person to be the Deputy of any District Registrar, to act in case of death illness or absence; and every Deputy, during the time he shall so act, shall have all the powers and privileges and perform all the duties and be subject to all the responsibilities of the District Registrar. Deputy District Registrars may be appointed.

8. In the event of the death of any District Registrar his Deputy shall act from the day of such death until he shall receive, under the hand of the successor of such District Registrar, a certificate to the effect that he has entered on his duties. In case of the absence or illness of any District Registrar his Deputy shall act from such time as he shall receive from the District Registrar a certificate under his hand to the effect that he is about to absent himself or that he is unable from illness to perform his duties; and such Deputy shall cease to act from such time as he shall receive from the District Registrar a certificate When Deputy District Registrar to act.

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under his hand to the effect that he resumes his duties: Provided that in the event of illness incapacitating the District Registrar from certifying his own inability to perform his duties, his medical attendant may so certify in his stead.

When District Registrar not to act.

9. No District Registrar shall have power to act during such time as his Deputy shall be lawfully acting.

Clerks and messengers to be appointed. Governor may remove officers &c.

10. The Governor shall also from time to time appoint a sufficient number of clerks and messengers.

Registrar-General &c. to take oath.

11. It shall be lawful for the Governor, as he shall think fit, from time to time and at any time to remove any person appointed to any office or employment under this Act.

12. Every Registrar-General, District Registrar, and Deputy District Registrar appointed under this Act shall take an oath, before some person specially authorized by the Governor (which oath such person is hereby authorized to administer), faithfully and to the best of his ability to execute and perform the duties of his office.

Officer to give security.

13. Every District Registrar and Deputy District Registrar, and, in case the Governor shall think fit, all or any of the clerks and subordinate officers to be appointed under this Act, shall give security for the due performance of the duties of his or their respective offices, in such manner and to such an amount as the Governor shall direct.

Offices of Registrar-General and District Registrars to have seals.

14. The Registrar-General and each District Registrar shall have a seal for his office, of which judicial notice shall be taken, and every document purporting to be sealed with any such seal shall be admissible in evidence without further proof.

Judicial notice to be taken of signature of Registrar-General and District Registrar.

15. All Courts, Judges, and persons acting judicially shall take judicial notice of the official signature of the Registrar-General and of each District Registrar and Deputy District Registrar appointed under this Act.

"Disqualification Act," 1858.

16. The Registrar-General, and every District Registrar, and every person holding any office of emolument in his and their departments, shall be subject to the provisions of "*The Disqualification Act, 1858*," in the same manner as if the said departments had been included in the Schedule thereto.

III.—PERSONS ENTITLED TO REGISTRATION.

Persons entitled to registration.

17. Any person and any Corporation sole or aggregate entitled absolutely for his or their own benefit to an estate in land in fee simple, at law and in equity, free from trusts and incumbrances, may apply to be registered as proprietor under this Act: Provided always that no transfer or charge of any land granted by the Crown in any district after the commencement in such district of registration under this Act, shall be valid or effectual either at law or in equity unless the grantee or his heirs shall have been first registered under this Act as the proprietor of such land.

Application may be made when land incumbered.

18. An application for registration may be entertained where the applicant admits that the land in respect of which he applies is subject to any specified incumbrance or trust, and the notices given shall be modified accordingly by stating the existence of such incumbrance or trusts, and that the rights of the incumbrancers or *cestui que* trusts will be reserved.

Certain charges not to be deemed incumbrances.

19. The following charges and interests shall not be deemed incumbrances within the meaning of this Act, that is to say,—

(1.) Rights of way watercourses rights of water and other easements.

(2.) Leases or agreements for leases for any term not exceeding seven years, in cases where there is an occupation under such leases or agreements.

And

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And all land shall be deemed to be subject to such of the above charges and interests as may be for the time being subsisting thereon.

IV.—MODE OF REGISTRATION.

20. Applications for registration shall be made in duplicate in such form and manner as shall be from time to time prescribed by the rules hereinafter authorized to be made. Form and manner of application.

21. The applicant shall, at the time of lodging his application, deposit with the District Registrar all deeds and documents in his possession or under his control constituting or in any way affecting his title to the land, and also copies of the same, together with a list of the names of all persons (if any) entitled to any estate or interest in the land, and also, for the more easy identification of the land, a plan thereof, showing the extent boundaries and relative position thereof. Deeds &c. to be deposited when application made.

22. Upon receipt of the application the District Registrar shall transmit one of the duplicate copies of the application, together with the copies of the deeds and documents deposited relating thereto, to the Registrar-General, whose duty it shall be to examine such application deeds and documents, with a view to judge of the propriety of the District Registrar's proceedings. Duplicate copy of application and copies of deeds &c. to be transmitted to Registrar-General.

23. The District Registrar, upon being satisfied that there are grounds for proceeding in the matter of the application, shall give such notices, public and private, as shall be prescribed by the rules hereinafter authorized to be made in that behalf, and such other notices (if any) as he may consider to be necessary in each particular case. Notices to be given.

24. The object of such notices shall be to point out the estate or interest which the applicant claims to have in the land, to call attention to the subject matter of the application, and to invite incumbrancers and others having any interest in the land, capable of being affected by registration, to come before the District Registrar, at a time and place to be fixed by such notices, and establish their right, with a view to having the same reserved or of proving that the applicant is not entitled to the registration applied for. Object of notice.

25. The District Registrar shall at the time and place stated in the notice, or at any subsequent time and place, of which notice may be given by the District Registrar, hear any persons alleging that the applicant is not entitled, in respect of the land specified in his application, to be registered as proprietor under this Act, or is so entitled only subject to certain conditions or with the reservation of certain rights, and the District Registrar may adjourn the hearing from time to time if he thinks fit. Registrar to hear persons appearing.

26. The District Registrar, as soon as conveniently may be after the expiration of the time fixed by such notice as aforesaid, shall proceed to examine the title and the register of deeds kept under any Act for the time being in force for registering deeds applicable to the land in question (for which examination no fee shall be payable to the Registrar of Deeds), and to consider any objections which may have been raised to the title of the applicant. District Registrar to examine titles.

27. If upon such examination it shall clearly appear to the District Registrar that the applicant is entitled to be registered under this Act as the proprietor of the land in respect of which he requires to be registered, the District Registrar shall enter the applicant on the register as the proprietor thereof. If applicant found entitled to registration he shall be entered on register accordingly.

28. If on such examination there shall appear to be any doubt as to the validity of the applicant's title, the District Registrar shall if he think fit, and the applicant desire to proceed, direct such steps to be taken such notices given and such acts done and shall hear such persons as may appear to the District Registrar proper or necessary for investigating the title. Proceedings in case of doubt as to validity of title.

29. If

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If upon further investigation title established, applicant to be registered.

29. If upon such further investigation the applicant's title shall be clearly established as valid, to the satisfaction of the District Registrar, he shall enter the applicant on the register as proprietor of the land.

When any applicant has been registered as proprietor, what deeds and evidences of title to be given up.

30. When any applicant has been registered as proprietor of any land, all such deeds and evidences of title deposited with the District Registrar as relate exclusively to the land and are of no avail, except for the purpose of substantiating the title to the land, shall be retained by the District Registrar.

What returned.

31. All other deeds and evidences of title deposited with the District Registrar shall be returned to the parties entitled to the custody thereof; but previously to their being so returned shall be stamped or otherwise marked in such manner as to give notice to any person inspecting such deeds or evidences of title, that the land or a portion thereof has been placed upon the register.

V.—LAND CERTIFICATES.

Land certificate to be given on registry.

32. On the entry of the name of the proprietor upon the register, the District Registrar shall deliver to him a certificate, hereinafter called a "Land Certificate," authenticated by the seal of his office and signed by the District Registrar, stating the name place of abode addition of such proprietor and containing or having indorsed thereon a description of the land, together with a plan showing the extent boundaries and relative position thereof in respect of which he is registered, and referring to the incumbrances reservations and other matters (if any) of which notice has been entered on the register.

VI.—REGISTERED PROPRIETORS' ESTATE.

Nature of registered proprietors' estate.

33. The registry as proprietor of land of any person shall confer on the person so registered an indefeasible estate in fee simple, subject to the incumbrances reservations and other matters (if any) entered on the register and hereafter included under the term incumbrances, and subject also to such charges and interests (if any) as are hereinbefore declared not to be incumbrances, but free from all other estates incumbrances and interests whatsoever, including estates interests and claims of Her Majesty, her heirs and successors.

Entry of discharge of any incumbrance.

34. When upon the first registration of any land, notice of any incumbrances affecting such land has been entered on the register, the District Registrar shall, on proof of the discharge of such incumbrance and subject to such rules as shall be prescribed by the Governor in Council respecting the mode of proof, enter a memorandum of such discharge on the register, and upon such entry being made the incumbrance shall be deemed to be discharged.

VII.—INCUMBRANCES.

Mortgage deed to be delivered to District Registrar and particulars to be entered or registered.

35. When the registered proprietor of any land shall charge the same by way of mortgage or otherwise, the deed of charge shall be delivered to the District Registrar, who shall retain the same and shall enter on the register the particulars of the charge and the name of the person in whose favour the charge is made as the proprietor of such charge.

Certificate of charge to be given.

36. Upon such entry being completed the District Registrar shall deliver to the proprietor of the charge a certificate of charge containing the particulars of the entry made on the register.

Priority of registered charges.

37. Registered charges on the same land shall take priority of all unregistered charges, and as between themselves shall rank according to the order in which they are entered on the register and not according to the order in which they are created.

38. The

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38. The proprietor of a charge shall have all such remedies for the recovery of the moneys due to him in respect of such charge as shall be contained or implied in the deed or instrument creating the same.

Remedies of proprietors of charge.

39. The proprietor of a charge under a deed or instrument conferring a power of sale may, in exercise of such power, transfer the land or any part thereof in the same manner as if he were registered proprietor of such land; subject, nevertheless, to compliance with any prescribed conditions.

Proprietor of charge with power of sale may transfer land.

40. The District Registrar, on the deposit with him of the discharge of any charge, shall enter a memorandum thereof on the register, and upon such entry being made the land shall be thereby absolutely discharged.

Discharges of charges.

VIII.—TRANSFER OF LAND AND CHARGES.

41. A separate register shall be kept of charges, on which alone transfers of charges shall be entered.

Separate register of charges.

42. Whenever any registered proprietor of land or any charge shall transfer such land or any part thereof or such charge, the transfer shall be delivered to the District Registrar and retained by him.

Deeds of transfer to be deposited with Registrar.

43. The District Registrar, previously to entering the name of the transferee on the register as proprietor of the land or charge, may require the verification of the transfer, by affidavit or otherwise, as he may think fit.

District Registrar may require transfer to be verified.

44. Upon being satisfied of the authenticity of the transfer, the District Registrar shall enter the name of the transferee as proprietor of the land or charge therein comprised.

Registry of transfer.

45. The transferor shall be deemed to remain the proprietor of the land or charge until the name of the transferee is entered on the register in respect thereof.

When transferee to be deemed owner.

46. Upon completion of the registry of the transferee, the District Registrar shall deliver to him a fresh land certificate or certificate of charge, stating, in the case of land, the incumbrances (if any) subsisting on the land. The District Registrar shall also, in cases where part only of the land is sold, deliver to the transferor a fresh land certificate containing or having indorsed thereon a description of the land retained by him.

Land certificate or certificate of charge to be delivered to transferee.

47. A transfer of land made for a valuable consideration shall when registered confer on the proprietor to whom the same is made an indefeasible estate in fee simple in the land transferred, subject to the incumbrances (if any) appearing on the register, and subject also to such charges and interests (if any) as are hereinbefore declared not to be incumbrances, but free from all other estates incumbrances and interests whatsoever, including all estates claims and interests of Her Majesty, her heirs and successors.

Estate of transferee of and for valuable consideration.

48. A transfer of land made without valuable consideration shall when registered confer on the proprietor to whom the same is made an estate in fee simple in the land transferred, but subject as follows, that is to say,—To the incumbrances (if any) appearing on the register, also to such charges and interests (if any) as are hereinbefore declared not to be incumbrances, also to any unregistered estates rights or equities subject to which the transferor held the same, but free from all other estates incumbrances and interests whatsoever, including all estates claims and interests of Her Majesty, her heirs and successors.

Estate of voluntary transferee of land.

IX.—TRANSMISSION OF LAND AND CHARGES.

49. On the death of the sole registered proprietor or of the survivor of several joint registered proprietors of any lands, such person shall be registered in the place of the deceased proprietor or proprietors

Transmission of land on death.

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as may, on the application of any person interested in the land, be proved to the satisfaction of the Registrar-General to be the proprietor of the land in his own right, or to be a fit person capable of protecting and giving effect to the rights of all parties interested, and for the like purpose such inhibitions shall be registered as the Registrar-General shall think fit.

Transmission of charge on death.

50. On the death of the sole registered proprietor or of the survivor of several joint registered proprietors of any charge, the executor or administrator of such sole deceased proprietor or of the survivor of such joint proprietors shall be entitled to be registered in his place.

Fiduciary proprietors

51. Any person registered as aforesaid otherwise than as a proprietor in his own right, or any executor or administrator when registered in the place of any deceased proprietor of any land or charge, shall hold the land or charge in respect of which he is registered in trust for the persons and purposes to which it is applicable by law, but (subject to such inhibitions as aforesaid) he shall for the purpose of any registered dealings with such land in favour of a purchaser for valuable consideration be deemed to be absolute proprietor thereof.

Bankruptcy or insolvency.

52. Upon the bankruptcy or insolvency of any registered proprietor of any land or charge, his assignees shall be entitled to be registered in his place.

Marriage of female proprietors.

53. The husband of any female proprietor of land shall be entitled to be registered as co-proprietor with his wife, but he shall be described on the register as co-proprietor in right of his wife, and on his death the original registry of the wife, with a change if necessary in the name, shall revive and confer the same rights as if her husband had never been registered as co-proprietor with her.

Title of husband and wife.

54. Where land is registered in the joint names of husband and wife, no registered dealings with such land shall take place until the wife has been examined by the District Registrar apart from her husband and has assented to such disposition, after full explanation of her rights on the land and the effect of the proposed disposition: Provided that in such case it shall not be necessary that the deed of transfer of such land be acknowledged as deeds by married women disposing of land are required by law to be acknowledged.

Nature of title of assignee.

55. The assignees of any bankrupt or insolvent proprietor shall hold the land or charge in respect of which they are registered subject to the equities upon and subject to which the bankrupt or insolvent held the same, but they shall, for the purposes of any registered dealings with such land in favour of a purchaser for valuable consideration, be deemed to be absolute proprietors thereof.

Evidence of transmission of registered proprietorship.

56. The fact of any person having become entitled to any land or charge in consequence of the death or bankruptcy or insolvency of any registered proprietor, or of the marriage of any female proprietor, shall be proved in such manner as the general rules hereinafter authorized to be made, or, if such general rules shall make no such provision, the Registrar-General may from time to time direct.

X.—THE EFFECT AND PROTECTION OF UNREGISTERED DISPOSITIONS.

Effect of unregistered dispositions.

57. The registered proprietor alone shall be entitled to transfer or charge property by a registered disposition, but any person, whether the registered proprietor or not, having a sufficient estate or interest in or power over registered land, may by any unregistered lease settlement will or other instrument create the same demises estates for life estates tail or other estates and interests as he might create if the land were not registered; and any lessee or other person entitled to or claiming any right in such estates or interests may protect the same from being impaired

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impaired by any act of the registered owner by entering on the register such notices inhibitions or other restrictions as are hereinafter mentioned, but subject thereto no purchaser for valuable consideration of any registered land or registered interest in land shall be affected by any notice express implied or constructive of an unregistered disposition.

58. Any lessee or other person entitled to or interested in a lease or agreement for a lease of registered land made subsequent to the last transfer of the land on the register, where the term granted exceeds seven years, or where the occupation is not in accordance with such lease or agreement, may apply to the District Registrar to register notice of such lease or agreement, and, when so registered, every registered proprietor of the land and every person deriving title through him, excepting proprietors of charges registered prior to the registration of such notices, shall be deemed to be affected with the notice of such lease or agreement.

Lessee may apply for registry of notice of lease.

59. In order to register notice of a lease or agreement for a lease, the applicant shall deposit the original or a duplicate thereof with the District Registrar, and the District Registrar shall make an entry thereof on the register, identifying the original or duplicate so deposited, and the original or duplicate so deposited shall be deemed to be the instrument of which notice is given.

Manner of registering notice of lease.

60. Any person who shall, subsequent to the last transfer of the land on the register, become interested under any lease settlement deed will contract for sale or other unregistered instrument, or by devolution in law, or as a judgment creditor, or otherwise howsoever in any land or charge registered in the name of any other party, may by inhibition prevent any dealing with the land by the registered proprietor to the prejudice of the person so interested, but not further or otherwise.

Inhibition may be lodged.

61. In order to register such inhibition the applicant shall deposit the same in a form to be from time to time prescribed by the Registrar-General, accompanied by the original written instrument, if there be one, or a copy thereof, and if there be no such instrument, then by a memorial or other document setting forth the nature of the interest, with full particulars thereof, authenticated in such manner as the District Registrar shall require, and thereupon the District Registrar shall make an entry in the register of the land or charge, identifying the inhibition so deposited.

Inhibition to be deposited with written instrument &c. and entry made on registry.

62. Before such entry is cancelled no dealing with such land or charge by the registered proprietor shall be had which may in any way prejudicially affect the rights or interests of any person so interested as aforesaid, unless such dealing be authorized by other power than that conferred by the registered proprietor alone.

No dealing with land or charge except with consent of persons interested.

63. When two or more inhibitions are lodged with respect to the same land or to the same charge, the parties interested thereunder shall, as between themselves, have priority according to the dates at which their inhibitions are lodged and not according to the dates of the creation of the claims in respect of which such inhibitions have been lodged.

Priority of inhibitions.

64. Any inhibition shall be cancelled by the District Registrar with the consent of all the persons interested for the time being therein, or upon its being shown to his satisfaction by the applicant that the interests of such persons have ceased, or that their interests are not such in respect of which equity would prevent a sale or charge of the land in question by the registered proprietor thereof, or any transfer or charge of such registered proprietorship which may at the time be proposed to be made.

Inhibitions may be cancelled.

65. If any person shall lodge an inhibition without reasonable cause he shall be liable to make to any person who may have sustained damage

Penalty for improper lodging of inhibition.

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damage by the lodging of such inhibition such compensation as may be just, and such compensation shall be recoverable as damages in an action at law by the person who has sustained damage from the person who lodged the inhibition.

XI.—INDEMNITY.

Power to Registrar to accept indemnity.

66. When in any proceeding under this Act with respect to any land it shall appear to the District Registrar that the land is subject to uncertain or doubtful claims or subject to any uncertain or doubtful incumbrances, he may, with the approval in writing of the Registrar-General, (upon such amount of money being paid as hereinafter mentioned or secured, to the satisfaction of the Registrar-General, as will in the opinion of the Registrar-General be sufficient compensation for such claims or incumbrances, and for all costs charges and expenses that may be incurred by the claimants or incumbrancers in recovering the moneys due to them,) act in respect of such land without reference to such claims and incumbrances.

Indemnity money to be paid to Colonial Treasurer.

67. Any money payable in respect of such compensation shall be paid to the Colonial Treasurer, to be carried by him to a separate account to the credit of such matter as the Registrar-General shall direct, and a Judge of the Supreme Court may direct such money to be invested as he may think fit, on an application being made to him by any parties interested in such moneys for the investment thereof.

Supreme Court to distribute money.

68. The Supreme Court shall determine the rights and priorities of any claimants or incumbrancers entitled to or interested in any moneys so paid to the Colonial Treasurer under this Act, and shall distribute the moneys among such persons in accordance with such rights and priorities, rendering the surplus (if any) to the parties entitled thereto, their executors, administrators, or assigns.

XII.—INSPECTION AND STATE OF REGISTER.

Persons interested may inspect register and make extracts and copies.

69. Subject to such rules and regulations as may be imposed, and to the payment of such fees as may be fixed, any person registered as proprietor of any land or charge, and any person authorized by any such proprietor, or any person having an interest in any such land or charge, may inspect and make copies of and extracts from any register or document in the custody of the District Registrar relating to such land or charge.

Certificate of state of title.

70. The District Registrar shall, on the request of the registered proprietor of any land or charge, or of any person authorized by him, certify in writing under his hand and under the seal of his office the state of the title of such registered proprietor, specifying the name of such proprietor and the charges inhibitions and other matters (if any) appearing on the register and relating to such land or charge.

XIII.—RULES AND REGULATIONS.

Rules may be made.

71. It shall be lawful for the Governor in Council from time to time to make rules orders and regulations for the following purposes :—

- (1.) For making authenticating and preserving maps and surveys for the purpose of registration under this Act.
- (2.) For regulating the procedure of the Registrar-General's and District Registrar's Offices.
- (3.) For establishing forms books records and indices requisite for the purpose aforesaid.
- (4.) And generally for the regulation of all matters relating to registration under this Act (except the matters in reference to

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to which rules and orders are hereby authorized to be made by the Judges of the Supreme Court);

And from time to time to rescind and to amend or alter the same.

72. All such rules orders and regulations, being published in the *Government Gazette*, shall have the effect of law. Effect of rules.

73. The Registrar-General may from time to time make regulations for the correction of errors and supplying of omissions in entries made in registers under this Act, and any such regulations may vary alter or revoke. Registrar-General may make regulations for correction of errors and omissions in register.

74. The Registrar-General shall cause to be printed and promulgated, as he sees occasion, forms of application and directions indicating the particulars of the information to be furnished to the Registrar when any application is made to him under this Act, and also forms of transfer charges and other instruments, and such other forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act. Registrar-General to frame forms of application &c.

75. It shall be lawful for the Registrar-General, and for the District Registrar of any district, subject to the approval of the Registrar-General, to prescribe such regulations as they may from time to time deem necessary for the orderly transaction of the business of their respective offices. Registrar-General and District Registrar may make regulations.

XIV.—FEES.

76. The fees to be taken under this Act shall be fixed varied and abolished from time to time as the Governor in Council shall direct and appoint: Provided always that all fees shall be prepaid. Governor in Council to fix fees.

77. All fees received by the Registrar-General under this Act shall be paid over to the Colonial Treasurer for the use of Her Majesty for the public uses of the Colony. Registrar-General's fees to be paid over to Colonial Treasurer.

78. All fees received by District Registrars shall be deemed to be ordinary revenue within the meaning of "*The Ordinary Revenue Act, 1858*," and the offices of District Registrars be deemed to be included in the Schedule to "*The Surplus Revenues' Act, 1858*." District Registrar's fees to be ordinary revenue and subject to *Surplus Revenue Act*.

XV.—ASSURANCE FUND.

79. Upon the first registration of any land under this Act, except the applicant be the immediate grantee of such land from the Crown, there shall be paid to the District Registrar the sum of one halfpenny in the one pound sterling, and on every subsequent registration the sum of one farthing in the pound sterling, on the value of such land; such value to be ascertained in such manner as the Registrar-General, from time to time by any general order (which he is hereby authorized to make), shall direct. Halfpenny in the pound on value to be levied.

80. All sums so received shall be paid over to the Colonial Treasurer, and shall be by him carried to a separate account, to be called "*The Land Assurance Fund Account*," and shall be invested from time to time in such securities as he may deem eligible. Sums to be paid to Colonial Treasurer.

XVI.—COMPENSATION.

81. If any person, in consequence of the omission mistake or misfeasance of any officer of the Register Office, shall lose or be deprived of any estate charge incumbrance right or interest, he shall be entitled to recover the estimated value of the same at the time the act matter or thing was done or happened whereby such loss or deprivation was occasioned. Persons losing estates &c. may recover value against Registrar-General.

82. In any action for damage or loss occasioned by any such omission mistake or misfeasance, the plaintiff shall be entitled to recover the amount of damage or loss actually sustained and no more. Actual loss may be recovered.

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Actions to be brought against Registrar-General.

83. Every such action as aforesaid shall be brought against the Registrar-General as the nominal defendant, and no other person, within ten years after the act matter or thing occasioning such loss deprivation or damage shall have been done or happened, and not afterwards: Provided always that notice of every such action and of the cause thereof shall be served upon the Attorney-General of the Colony and upon the Registrar-General one calendar month at least before the commencement of such action.

Registrar-General may compromise claims.

84. It shall be lawful for the Registrar-General, with the consent of the Attorney-General and the Colonial Treasurer, to compromise with any person claiming a right of action as aforesaid.

Registrar-General may bring actions.

85. The Registrar-General, on behalf of Her Majesty, shall be entitled as nominal plaintiff to sue any person whatever and recover damages on account of any wilful misfeasance whereby any loss or damage has been sustained by reason of any compensation paid under this Act, and all sums of money received by the Registrar-General as such nominal plaintiff shall be paid to the Colonial Treasurer, and by him placed to the credit of the "Assurance Fund."

Rules of Supreme Court to apply, and same right of appeal as in ordinary actions.

86. In the conduct of actions under this Act the same rules of procedure and practice shall apply and there shall be the same rights of appeal as are in force or exist for the time being in respect of ordinary actions in the Supreme Court.

"Crown Costs Act, 1858," to apply.

87. An Act of the General Assembly of New Zealand, intituled "*The Crown Costs Act, 1858*," shall apply to all actions under this Act, and all costs received by the Registrar-General shall be paid to the Colonial Treasurer, and by him be placed to the credit of the "Assurance Fund."

Registrar-General not personally liable. How damages &c. to paid.

88. The Registrar-General, as nominal plaintiff or defendant under this Act, shall not be liable in person or property upon any judgment recovered, nor shall any writ of execution whatever issue thereon, but all damages and costs recovered against the Registrar-General, and all costs incurred by him, and all sums paid by way of compromise as aforesaid, shall be paid by the Colonial Treasurer out of the "Assurance Fund," and, if such fund be insufficient for such purpose, then out of the ordinary revenue of the Colony.

XVII.—GENERAL PROVISIONS.

Rules as to registry.

89. The following rules shall be observed with respect to registry:—

- (1.) No notice of any trust implied express or constructive shall be receivable by the District Registrar or entered on the register.
- (2.) Upon the occasion of the registry of two or more persons as proprietors of the same land or of the same charge, an entry may with their consent, certified as the Registrar shall require, be made on the register to the effect that, when the number of such proprietors is reduced below a certain specified number, no registered disposition of such land or charge shall be made except with the sanction of a Judge of the Supreme Court.
- (3.) A Judge of the Supreme Court may, upon the application of any registered proprietor for the time being, or of any person beneficially interested in the land or charge, cause a transfer of the land to be made to any new proprietor or proprietors solely or jointly with or in the place of any existing proprietor, or make such order in the premises as such Judge thinks just.

District Registrar may require proof in

90. The District Registrar may from time to time, until any application

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application is finally disposed of, require any proofs he may think fit in support of or opposition to any application made to him under this Act.

support of or opposition to any application.

91. Evidence required by the District Registrar may be given on oath, either *vivâ voce* or in writing, by affidavit or otherwise, as he shall think fit.

Evidence may be taken on oath.

92. The Registrar-General and every District Registrar, Deputy District Registrar, Solicitor of the Supreme Court, and Justice of the Peace, are hereby authorized to administer oaths for the purposes of this Act.

Registrar-General &c. may administer oath.

93. Every entry on the register of any person as proprietor of any land or charge shall be deemed to have been duly made, and shall not be set aside by reason of any informality error or omission whatever except as is hereinafter provided to the contrary by sections one hundred and seventeen, one hundred and eighteen, or one hundred and nineteen of this Act.

Entry on register conclusive.

94. It shall be lawful for the District Registrar (subject to any regulations to be made under this Act), upon such evidence as to him may appear sufficient, to correct errors in entries and supply entries omitted, but he shall not render illegible an original entry, and shall specify in the margin the day and hour of each correction made or omission supplied.

District Registrar may make corrections and supply omissions.

95. Every correction so made shall be as effectual as if made at the same time as the original entry, and every omitted entry so supplied shall be as effectual as if made at the time when the same ought to have been made, but not so as to invalidate any act done previously to the actual time of the correction or supplying of the omission.

Corrections and omissions supplied to be effectual.

96. Every land certificate and every certificate of charge shall be *primâ facie* evidence of the entry made on the register in respect of the matter mentioned in such certificate.

Certificates *primâ facie* evidence.

97. If any land certificate or certificate of charge is lost mislaid or destroyed, the District Registrar may, on being satisfied of the fact, grant a new certificate in the place of the former one.

New certificates may be granted in place of one lost.

98. The District Registrar may, upon the delivery up to him of a land certificate or certificate of charge, grant a new certificate in the place of the one so delivered up.

Also in place of one delivered up.

99. No official person, acting under the authority of this Act, shall be individually liable to any action suit or proceeding for or in respect of any act or matter *bonâ fide* done or omitted to be done in the exercise or supposed exercise of the powers of this Act.

No person acting under this Act liable in respect of Acts done *bonâ fide*.

100. Where a suit is instituted for specific performance of a contract relating to registered land or a registered charge, the Court having cognizance of such suit may, by summons or by such other mode as it deems expedient, cause all or any of the parties who have registered interests in such land, or have entered up notices of leases or agreements for leases or inhibitions against such land, to appear in such suit, and show cause why such contract should not be specifically performed; and any order made by the Court in such suit shall be binding on all parties who shall be by such order declared to be bound.

Power of Court in suits for specific performance.

XVIII.—APPEALS.

101. The District Registrar if he shall think fit may and if requested in writing by the applicant shall refer any case or any question arising thereout at any time to the Registrar-General for his opinion, and the decision of the District Registrar on such application or question shall be in conformity with the opinion of the Registrar-General, certified under his hand.

Applications and questions may be referred to Registrar-General.

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Applicants may require ground of decision to be set forth in writing.

102. If any applicant shall be dissatisfied with any decision of the District Registrar, whether the opinion of the Registrar-General shall have been taken on the matter or not, it shall be lawful for such applicant to require the Registrar-General or District Registrar to set forth in writing the grounds of such decision.

Applicant may appeal.

103. The applicant may appeal against the decision of the District Registrar to a Judge of the Supreme Court in a summary way, by whom the matter shall be heard and determined, and who shall make such orders interlocutory and final as he may think fit; and the District Registrar, upon being served with such order or an official copy thereof, shall obey the same.

Judges may make rules touching appeals.

104. The Judges of the Supreme Court may from time to time make vary and abolish rules and regulations touching such appeals.

Questions of fact may be tried by a jury.

105. Provided always if at any time it shall appear to the Judge that there is in dispute a question of fact of sufficient importance, he may, before making any final order in the case, direct an issue to be tried to determine such fact, and such issue shall be in such form and subject to such terms and shall be tried at such time and place as such Judge may direct.

XIX.—QUESTIONS MAY BE REFERRED TO SUPREME COURT.

Power to Registrar-General to state case for Supreme Court or direct issue to be tried.

106. Whenever in any proceeding under this Act there arises any question of law or fact which, in the opinion of the Registrar-General, cannot be properly disposed of by the District Registrar, the Registrar-General may, if such a question is one of law, direct a case to be stated for the opinion of the Supreme Court, or if such question is one of fact, an issue to be tried before a Judge of the Supreme Court and a special or common jury, for the purpose of determining such question of law or fact. The Registrar-General may also name the parties to such case or issue, and the manner in which the proceedings in relation thereto are to be brought before the Court or jury to which such case or issue is referred.

Effect of opinion of Court or decision of jury.

107. The opinion of the Supreme Court shall be conclusive on all the parties to such case unless the Court authorizes an appeal to be had and the same is duly prosecuted accordingly, and the decision of any jury to whom any issue of fact is referred shall be conclusive on all persons whatsoever unless the Supreme Court grants a new trial.

Application to Court in respect of incapacitated persons.

108. In cases where infants incapable persons or persons yet unborn are or may be interested in the land in respect of the title to which any question of law or fact arises as aforesaid, any parties interested in such land may apply to a Judge of the Supreme Court in Chambers for a direction that the opinion of the Supreme Court to whom any question is referred under this Act upon any question so referred shall be conclusively binding on all parties interested in such land.

Judge may approve or disapprove of directions of Registrar-General.

109. The Judge in Chambers shall hear the allegations of all the parties appearing before him. He may disapprove altogether or may approve, either with or without modification, of the directions of the Registrar-General in respect of any case to be tried as to the title to land. He may also appoint a guardian or other person to appear on behalf of any infants or incapable or unborn persons.

Infants &c. bound in certain cases.

110. If such Judge is satisfied that the interests of such infants or incapable or unborn persons will be sufficiently represented in any case so about to be tried, he shall make an order declaring that all or some of such parties shall be conclusively bound, and thereupon the parties in that behalf named in the order shall be conclusively bound by any decision to the same extent as if they had been parties to the case.

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111. The Supreme Court shall exercise generally jurisdiction over the Registrar-General, District Registrar, and other officers and persons appointed under this Act, as over Courts offices and officers of inferior jurisdiction, and shall have power to make such orders and decrees, applicable to particular cases only, as shall in the judgment of such Supreme Court appear requisite for effectuating the provisions of this Act, for enforcing the execution of their respective duties by the Registrar-General, District Registrar, and the said other officers and persons respectively, and for preserving and giving effect to the rights of parties affected by this Act, all which orders and decrees the Registrar-General, District Registrar, and the said other officers and persons respectively shall obey and give effect to.

Supreme Court to have jurisdiction over Registrar-General and other officers.

112. Any person having or claiming any estate or interest in land or in any charge thereon affected or which may be affected by this Act may apply for relief in a summary way by petition to the Supreme Court, and the Supreme Court may in a summary way hear such petition, either with or without notice to parties interested, and may make and direct such inquiries and the institution of such proceedings as to it shall seem fit, and may by any decree or order upon such petition declare the rights of such parties, and may make such orders and decrees as shall appear requisite for giving effect to such rights so far as the same shall not expressly conflict with the provisions of this Act, all which orders and decrees the Registrar-General and District Registrars respectively shall obey and give effect to.

Supreme Court may give summary relief.

113. The Judges of the Supreme Court shall have power from time to time to make rules and orders for regulating proceedings in the Supreme Court under this Act, and from time to time to rescind alter or add to such rules and orders, and such rules and orders rescissions alterations and additions being published in the Government *Gazette* shall have the effect of law.

Supreme Court may make rules &c.

XX.—COSTS.

114. All costs charges and expenses incurred by any District Registrar in or about any proceedings before the Supreme Court or a Judge thereof shall be paid by the applicant; and all other costs charges and expenses shall be in the discretion of the Judge, Registrar-General, or District Registrar respectively, before whom the same are incurred, regard being had to the fact that every applicant under this Act is liable *primâ facie* to pay all costs charges and expenses incurred by or in consequence of his application, except in cases where parties appear whose rights are sufficiently secured without their appearance, or where costs charges or expenses are unnecessarily or improperly incurred.

Costs.

115. The amount of costs to be paid by any party in respect of any proceedings before the Registrar-General or any District Registrar shall be fixed by him, and an order for payment of the same made by the Registrar-General or District Registrar respectively may be enforced in the same manner as an order made for payment of costs by a Justice of the Peace. At any time during the proceedings on any application the applicant may be required by the Registrar-General or District Registrar to give security for payment of costs and expenses, as he may think fit.

How fixed and enforced. Security for costs may be required.

XXI.—PENALTIES.

116. Every person who, upon examination before any person authorized under this Act to take evidence, wilfully gives false evidence, and every person who wilfully swears falsely in any affidavit authorized

Penalty for false swearing.

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authorized under this Act to be made, shall be liable to the pains and penalties of perjury.

Penalty on suppression of deeds and evidence.

117. If in the course of any proceedings under this Act before the Supreme Court or the Registrar-General or any District Registrar, any person intervening in such proceedings as principal or agent shall, with intent to conceal from the Supreme Court or the Registrar-General or any District Registrar respectively, the title or claim of any person, other than the applicant, to any land the subject of such proceedings, suppress assist in suppressing or be privy to the suppression of any document in his possession or fact within his knowledge, the person so suppressing assisting in suppressing or privy to suppression shall be guilty of a misdemeanour, and any act done in reference to the land the subject of such proceedings shall be void as against all persons guilty of any such misdemeanour.

Penalty on fraudulent alteration &c.

118. If in the course of any proceedings under this Act before the Supreme Court or the Registrar-General or any District Registrar, any person intervening in such proceedings fraudulently alters assists in fraudulently altering or is privy to the fraudulent alteration of any deed will certificate or other document relating to any land the subject of such proceedings, or gives assists in giving or is privy to the giving of any false information to the Supreme Court, the Registrar-General, or any District Registrar in respect of such land, knowing the same to be false, such person shall be guilty of a misdemeanour, and any act done in reference to the land the subject of such proceedings shall be void as against all persons guilty of any such misdemeanour.

Certain fraudulent acts to be misdemeanours.

119. If any person fraudulently procures assists in fraudulently procuring or is privy to the fraudulent procurement of any order of the Supreme Court in relation to registered land, or fraudulently procures assists in fraudulently procuring or is privy to the fraudulent procurement of the entry on the register of any notice of lease or inhibition, or of the erasure from the register or alteration on the register of any notice of lease or inhibition, such person shall be guilty of a misdemeanour, and any order procured by fraud, and any act consequent on such order, and any entry erasure or alteration so made by fraud, shall be void as between all parties or privies to such fraud.

Certain fraudulent acts by District Registrars &c. to be misdemeanour.

120. If any District Registrar or the Deputy of any District Registrar shall fraudulently make or cause to be made any false entry on the register of his district, or shall fraudulently omit to make any entry on such register which by this Act he is authorized or required to make, or shall fraudulently alter suppress erase obliterate or destroy any entry on or from such register, such Registrar or District Registrar shall be guilty of a misdemeanour.

Punishment of misdemeanours.

121. Every person guilty of a misdemeanour under this Act shall upon conviction be liable, at the discretion of the Court by which he is convicted, to be kept in penal servitude for a term not exceeding three years, or to be imprisoned for a term not exceeding two years, with or without hard labour, or to be fined such sum as the Court may award.

Conviction not to affect civil remedy.

122. No proceeding or conviction for any act hereby declared to be a misdemeanour shall affect any remedy which any person aggrieved by such act may be entitled to, either at law or in equity, against the person who has committed such act.

Forgery to be felony.

123. If any person is guilty of the following offences or any of them, that is to say,—

- (1.) Forges or procures to be forged or assists in forging the seal of the office of Registrar-General or of any District Registrar, or the name signature or handwriting of any officer

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officer of any Register Office in cases where such officer is by this Act expressly or impliedly authorized to affix his signature.

- (2.) Stamps or procures to be stamped or assists in stamping any document with any forged seal of the Registrar-General's or District Registrar's Office.
- (3.) Forges or procures to be forged or assists in forging the name signature or handwriting of any person whomsoever to any instrument which is by this Act, or in pursuance of any power contained in this Act, expressly or impliedly authorized to be signed by such person.
- (4.) Uses with an intent to defraud any person whomsoever any document upon which any impression or part of the impression of any seal of the Registrar-General's or District Registrar's Office has been forged, knowing the same to have been forged, or any document the signature to which has been forged, knowing the same to have been forged.

Such person shall be guilty of felony.

124. Any person convicted of felony under this Act shall be liable, at the discretion of the Court by which he is convicted, to penal servitude for the term of his life or any term not less than three years, or to imprisonment for any term not exceeding two years, with or without hard labour.

Punishment of felony.

125. Nothing in this Act contained shall entitle any person to refuse to make a complete discovery in the Supreme Court, or to answer any question or interrogatory in any civil proceeding in any Court of Law or Equity, or in any Court of Bankruptcy or Insolvency; but no such discovery question or interrogatory shall be admissible in evidence against such person in any criminal proceeding under this Act.

Penalty not to exclude obligation to make discovery.

No. XXVIII.

AN ACT to amend the Law relating to the Registration of Deeds in the Colony of New Zealand.

REGISTRATION OF DEEDS AMENDMENT

[2nd November, 1860.]

WHEREAS by an Ordinance passed by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, intituled "*An Ordinance to provide for the Registration of Deeds and Instruments affecting Real Property*," provision was made for the registration of deeds and other instruments in the Colony of New Zealand: And whereas by certain Acts and Ordinances passed by the Superintendents and Provincial Councils of several of the Provinces of the Colony, the respective Superintendents thereof are empowered to do all the acts and exercise all the powers authorized to be done and exercised by the Governor by the said recited Ordinance: And whereas it is expedient that the said several acts and powers should be hereinafter done and exercised solely by the Governor of the Colony:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Registration of Deeds Amendment Act, 1860.*" Short Title.

2. The

Registration of Deeds Amendment.

Definition of
"Instrument."

2. The word "Instrument" shall extend to any Crown Grant deed contract will or any covenant authorized to be registered under the Ordinances and Act herein recited.

All acts and powers
under said Ordinance
to be hereafter done
and exercised by
Governor.

3. All the acts authorized or required to be performed and all the powers conferred upon or given to the Governor by the said recited Ordinance shall henceforth be performed by the Governor of the Colony and by no other person.

Governor to exercise
power given to
Superintendents of
Auckland and New
Plymouth by
Registration Act and
Ordinance of those
Provinces respect-
ively.

4. And whereas by an Act passed by the Superintendent of the Province of Auckland, with the advice and consent of the Provincial Council thereof, intituled "*The Deeds Registration Act, 1856*," and by an Ordinance passed by the Superintendent of the Province of New Plymouth, with the advice and consent of the Provincial Council thereof, intituled "*The Deeds Registration Amendment Ordinance, 1857*," certain acts are authorized or required to be done and certain powers to be exercised by the Superintendents of the said Provinces respectively, and it is expedient that such acts and powers should be hereafter done and exercised by the Governor: Be it therefore enacted that,—

All the acts authorized or required to be done and all the powers conferred upon and given to the Superintendent of the Province of Auckland and the Superintendent of the Province of New Plymouth by the said recited Act and Ordinance of the Superintendents and Provincial Councils thereof respectively, shall henceforth cease to be performed and exercised by the Superintendent of the Province of Auckland and the Superintendent of the Province of New Plymouth, and shall and may be performed and exercised by the Governor and by no other person.

Authenticated copies
of wills may be
registered.

5. And whereas it is expedient to make further provision for the registration of wills under the said recited Ordinances and Act respectively: Be it therefore enacted that,—

Whenever it shall be made to appear to the satisfaction of a Judge of the Supreme Court, upon a summary application, that any will cannot be produced for the purpose of being registered, it shall be lawful for such Judge, on the production of a copy authenticated to his satisfaction, to authorize by writing under his hand, to be indorsed on such copy, that the same may be registered instead of the original will.

Result of such
registration.

6. On such authenticated copy being registered, all the provisions of the said recited Ordinance, Session II., No. 9, and "*The Deeds Registration Act, 1856*," and "*The Deeds Registration Amendment Ordinance, 1857*," respectively, shall apply to the same as though such authenticated copy were the original instrument.

Instruments may be
registered before
issue of Crown
Grants.

7. Instruments relating to waste lands of the Crown purchased of the Crown or of the New Zealand Company or the Canterbury Association for founding a Colony in New Zealand, may be registered pursuant to the provisions of the said Ordinance No. 9, Session II., "*The Deeds Registration Act, 1856*," and "*The Deeds Registration Amendment Ordinance, 1857*," respectively, notwithstanding the non-issue of a Crown Grant or conveyance of such land.

Effect of such
Registration.

8. All instruments which may be so registered and all deeds and instruments heretofore registered, notwithstanding such non-issue as aforesaid, shall have the same force or effect as between the parties to such deeds, and all persons claiming by from through under or in trust for them, but no further or otherwise, as if the Crown Grants or conveyances had been duly issued prior to such registration.

Operation of such
registration.

9. The issue of a Crown Grant of land subsequent to the registration of any instrument relating to such land shall give and be deemed

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deemed to have given to such instrument the like operation and effect, under the said Ordinance No. 9, Session II., and "*The Deeds Registration Act, 1856*," and "*The Deeds Registration Amendment Ordinance, 1857*," respectively, as if such registration had taken place subsequent to the issue of the Crown Grant.

10. Every power of attorney affecting real estate, with the verifications (if any) of the due execution of the same, may be deposited at the Register Office for safe custody and reference.

Powers of attorney may be deposited in Register Office.

11. Any person having possession of any instrument authorized to be registered by the said Ordinance No. 9 of Session II., "*The Deeds Registration Act, 1856*," and "*The Deeds Registration Amendment Ordinance, 1857*," or by this Act, or of any power of attorney, which he or any other person may have covenanted to produce, may deposit such instrument or power of attorney in the Register Office for safe custody and reference, and such deposit shall operate as a release and discharge from every covenant which may have been entered into for the production of the same.

Instruments under covenant for production may be deposited, and covenants thereby released.

12. Any person upon whom it may be incumbent to enter into a covenant for the production of any instrument authorized to be registered by the said Ordinance No 9 of Session II., "*The Deeds Registration Act, 1856*," and "*The Deeds Registration Amendment Ordinance, 1857*," or by this Act, or of any power of attorney, may deposit the same at the Register Office for safe custody and reference in lieu of entering into such covenant for production.

Instruments may be deposited in lieu of entering into covenants for production.

13. Immediately upon any instrument or power of attorney being deposited as aforesaid, the Registrar shall, in the presence of the party depositing the same, number the same and make a note thereon of the day and hour of the receipt thereof, and shall stamp the same at the end of such note with the seal of the Register Office. All instruments and powers of attorney deposited as aforesaid shall be numbered consecutively from one upwards.

Deposited instruments and powers of attorney to be numbered &c.

14. The Registrar shall securely keep in the Register Office, and not permit to be removed therefrom (except in obedience to legal process for the production thereof), all instruments and powers of attorney so deposited as aforesaid, and shall cause the same to be arranged in some convenient manner, and an alphabetical index made thereto for easy reference, which index shall show the number marked by the Registrar, the date of the deposit, and the marks and numbers (if any) on such instruments or power of attorney by which the land comprised therein is designated.

Registrar shall keep instruments and arrange same, and make indices.

15. In respect of instruments and powers of attorney deposited under this Act, receipts shall be given, examinations or searches may be made, certified copies and extracts shall be supplied, and such copies and extracts shall be secondary evidence, registration in certain cases shall be compulsory, and the like fees (except for recording) shall be payable in the same manner as is provided in reference to all such matters in respect of instruments deposited for registration under the authority of the said recited Ordinance No. 9 of Session II., "*The Deeds Registration Act, 1856*," and "*The Deeds Registration Amendment Ordinance, 1857*."

Receipts searches certified copies and fees as under recited Ordinances and Acts.

16. Receipts given in pursuance hereof shall specify, in addition to the particulars required by the said Ordinance No. 9 of Session II., "*The Deeds Registration Act, 1856*," and "*The Deeds Registration Amendment Ordinance, 1857*," respectively, the date of the instrument or power of attorney, the parties thereto, and the marks and numbers therein (if any) by which the land comprised therein is designated. Every such receipt, and also a certified copy of any instrument or power of attorney, shall be admissible as evidence that the instrument

Receipts and certified copies admissible as evidence of deposit.

Indemnity.

or power of attorney to which the same has reference has been deposited in the Register Office in pursuance of the provisions hereof.

Act to be construed
as part of recited
Ordinances and Act.

17. This Act shall be read and construed as part of the said recited Ordinance No. 9 of Session II., "*The Deeds Registration Act, 1856,*" and "*The Deeds Registration Amendment Ordinance, 1857,*" respectively.

Commencement of
Act.

18. The whole of this Act except sections three and four shall come into operation on the passing hereof, and the said sections three and four at the end of the next Session of the General Assembly.

No. XXIX.

INDEMNITY.

AN ACT to Indemnify the Officers of Her Majesty's Forces for all acts done by them under a certain Proclamation of Martial Law.

[2nd November, 1860.]

Preamble.

WHEREAS by a Proclamation bearing date the twenty-fifth day of January, one thousand eight hundred and sixty, the Governor of New Zealand did proclaim and declare that martial law would be exercised in the Province of Taranaki:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Indemnity Act, 1860.*"

Officers and others
indemnified for
acting under
authority of
Proclamation.

2. All and singular the officers of Her Majesty's Forces and others who shall have duly acted under the authority of the said recited Proclamation shall be and they are hereby respectively freed indemnified and discharged of and from all actions and prosecutions which they respectively may have been or may become liable or subject to for or by reason or by means of or in relation to any act matter or thing done by any such officer or person by virtue or under the authority of the said Proclamation before the passing of this Act; and no such act matter or thing done by any such officer or person under or by virtue of such Proclamation shall be questioned in the Supreme Court or in any Court whatsoever within the Colony of New Zealand.

No. XXX.

CENSUS ACT
AMENDMENT.

AN ACT to amend certain Provisions of "*The Census Act, 1858.*" [2nd November, 1860.]

Preamble.

WHEREAS by "*The Census Act, 1858,*" it is provided that the account of the number and condition of the population of New Zealand, and of the live stock and of the cultivations therein respectively, which the said Act directs to be taken in every third year succeeding the year one thousand eight hundred and fifty-eight, shall be taken in the month of December, and that the forms of returns for obtaining

Census Act Amendment.

obtaining the required information shall be delivered by the several Sub-Enumerators at the dwelling-houses in their respective sub-districts between the first and the twenty-fourth days of December (both inclusive) in the years appointed, and that the said forms shall be demanded and received by such Sub-Enumerators on the twenty-sixth day of December, or as soon after as practicable: And whereas it is expedient to authorize the alteration from time to time of the month or the days so appointed should any such alteration be found advisable, and also to make certain amendments in the said Act with a view to the more convenient and efficient attainment of the objects of the census:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for the Governor in Council to appoint any other month or any other day or days for the purposes above cited, in the ensuing year one thousand eight hundred and sixty-one, and in any or every third year after, instead of the month or the day or days appointed by "*The Census Act, 1858*," and the time or times so appointed by the Governor in Council shall be declared by Proclamation in the *New Zealand Gazette*; and all the provisions of "*The Census Act, 1858*," relating to taking an account of the population of New Zealand, and of the live stock and of the cultivations therein, shall except as hereinafter provided be deemed and taken to apply to such time or times as fully as if such month or day or days had been specified in the said Act.

Governor may alter days for taking census.

2. The fourth section of the said "*Census Act, 1858*," is hereby repealed, and the followning provision shall, with regard to every future census, stand in the place thereof:—

Master or keeper of gaols &c. to be deemed the occupier.

For the purposes of this Act the master, keeper, chief officer, or other person in actual charge of any gaol prison house of correction hospital lunatic asylum or public or charitable establishment or institution respectively shall be deemed the occupier of such building establishment or institution, and be bound to conform to the provisions of the Census Act accordingly.

3. The provisions of the fifth section of the said "*Census Act, 1858*," (by which Enumerators and Sub-Enumerators are required respectively to make a certain declaration on entering upon the duties of either of the said offices) together with Schedule C of the said Act, are hereby repealed; but the provisions of the said Act respecting an affirmation to be made by every Enumerator and Sub-Enumerator respectively at the close of the performance of his duties, as contained in the ninth and the twelfth sections, together with such portion of the thirteenth section as is applicable to the case of a false affirmation, shall continue in force.

Declaration need not be made by Enumerators before entering on their duties.

4. The Short Title of this Act shall be "*The Census Act Amendment Act, 1860*."

Short Title.

Naturalization.

No. XXXI.

NATURALIZATION.

AN ACT for the Naturalization of certain Persons in the Colony of New Zealand. [2nd November, 1860.]

Preamble.

WHEREAS by an Act of the General Assembly of New Zealand, intituled "*The Naturalization Act, 1858*," it was amongst other things enacted that every person who should be declared to come within the operation of the said Act, by any Proclamation to be issued in that behalf by the Governor, should from the time in such Proclamation specified be deemed and taken, until the termination of the then next Session of the General Assembly, to be and to have been from such specified time a natural born subject of Her Majesty within the said Colony: And whereas the persons particularly described in the Schedule hereunto annexed have from time to time been so declared to come within the operation of the said Act, and the persons particularly described in the Schedule marked B hereunto annexed have settled in the said Colony and are desirous of being declared to be natural born subjects of Her Majesty within the said Colony, and it is expedient that there should be removed from all such persons as aforesaid within the said Colony the disabilities to which aliens are by law subjected:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Naturalization Act, 1860*."

Persons named in Schedules A and B naturalized.

2. The persons who are particularly described in the Schedules A and B to this Act annexed shall, to all intents and purposes whatsoever within the said Colony, be deemed and taken to be and to have been, from the dates set opposite their respective names, natural born subjects of Her Majesty, as if they had been respectively born within the realm of England.

Persons may be naturalized by Proclamation.

3. And whereas there may from time to time be other persons resident within the Colony whom it may be expedient to relieve, before the next Session of the General Assembly, from the disabilities to which aliens are by law subject: Be it therefore further enacted that every person who shall be declared to come within the operation of this Act by any Proclamation to be issued in that behalf by the Governor shall, from the time in such Proclamation specified, be deemed and taken, until the termination of the next Session of the General Assembly, to be and to have been from such specified time a natural born subject of Her Majesty within the said Colony, as fully to all intents and purposes as if his name had been inserted in the Schedules hereunto annexed: Provided always that every such Proclamation shall contain the description occupation or calling of every person therein named, and his place of residence at the date of such Proclamation.

Naturalization.

SCHEDULES.

SCHEDULE A.
PERSONS PROCLAIMED.

Date of Proclamation.	Name.	Native of	Occupation.	Residence.	Date from which Naturalization is to take effect.
1858.					
Oct. 1 ...	Khronenberg Lazarus	Poland	Dealer	Auckland	Sept. 20, 1858.
Nov. 15 ...	Henry Nathan	Germany	General Dealer	Auckland	Nov. 1, 1858.
Nov. 15 ...	Bernhardt Levy	Prussia	General Dealer	Auckland	Nov. 1, 1858.
Dec. 10 ...	Louis Dihars	Libourne in France	Dealer Settler	Matamata	Jan. 1, 1850.
Dec. 10 ...	Jose Carlos Gomes	Cape de Verd Islands	Seaman	Auckland	Jan. 1, 1857.
1859.					
Jan. 1 ...	Henri Lambret	Belgium	Brickmaker	Auckland	Jan. 1, 1856.
Jan. 1 ...	John Johnson	Norway	Settler	Pukekohe, Province of Auckland	Dec. 1, 1858.
Jan. 19 ...	Jacques Ribbet	France	Settler	Wakefield, Province of Nelson	Jan. 19, 1858.
Jan. 19 ...	Gaston Charon	France	Settler	Auckland	Jan. 1, 1856.
Mar. 29 ...	Henri Zeigler	Switzerland	Settler	Auckland	Jan. 1, 1857.
Mar. 29 ...	Frederick Ohlson	Denmark	Mariner	Auckland	June 1, 1858.
Apr. 14 ...	Pierre Collette	France	Carter	Auckland	Jan. 1, 1842.
Apr. 26 ...	Edward Thomas Dam	Denmark	Mariner	Auckland	Jan. 1, 1856.
June 22 ...	Pierre Darmandaritz	France	Master Mariner	Auckland	Jan. 30, 1840.
June 30 ...	Peter Miller	Denmark	Boatman	Auckland	Jan. 1, 1851.
Aug. 6 ...	Christian Lauritzen Thystrup ...	Denmark	Builder	Invercargill, Otago	Nov. 1, 1858.
Sept. 12 ...	Thomas Topp	Germany	Farmer	Nelson	Feb. 10, 1858.
Sept. 12 ...	Nicholas Paul Balthasar Von Tunzelmann	Russia	Settler	Napier	May 19, 1859.
Sept. 12 ...	Walter Pilliet	France	Surveyor	Napier	Jan. 1, 1859.
Sept. 12 ...	Euloge Reignier	France	Roman Catholic Priest	Napier	Jan. 1, 1857.
Sept. 15 ...	Adolph Bing	Germany	Merchant	Wellington	Jan. 1, 1859.
Sept. 15 ...	John Frederick Schöttler	Prussia	Cabinetmaker	Auckland	July 1, 1859.
Sept. 15 ...	Auguste Schöttler (wife).				
Sept. 15 ...	Ernest Charles Schöttler (son)	Prussia	Cabinetmaker	Auckland	July 1, 1859.
Oct. 4 ...	Alcide Vilcoq	France	Settler	North Shore, Auckland	Jan. 1, 1859.
Oct. 28 ...	William Horace Smith	Prussia	Mariner	Dunedin	Jan. 1, 1857.
Oct. 28 ...	Abraham Honore	Denmark	Assistant Missionary	Jacobs River, Otago	Oct. 10, 1859.
Oct. 28 ...	Carsten Heinrich Hormann ...	Germany	Sawyer	Invercargill, Otago	Oct. 10, 1859.
Oct. 28 ...	Johann George Gohl	Germany	Sawyer	Invercargill, Otago	Oct. 10, 1859.
Oct. 28 ...	Jacob Ott	Germany	Shoemaker	Invercargill, Otago	Oct. 10, 1859.
Nov. 3 ...	Simon Aronson	Holland	Watchmaker	Napier	Jan. 1, 1859.
1860.					
Jan. 19 ...	Joseph Noyer	Portugal	Mariner	Auckland	Jan. 1, 1860.
Jan. 19 ...	Christoph Kasten	Hanover	Musician	Auckland	Jan. 1, 1860.
Apr. 21 ...	Christian Eggers	Mecklenburg	Master Mariner	Wellington	April 19, 1860.
June 13 ...	Manuel De Castro	Madeira	Farmer	New Plymouth	Jan. 1, 1853.
June 13 ...	William Lechner	Saxony	Clerk	Napier	Jan. 1, 1856.
June 13 ...	Marques Thomas Belden ...	Massachusetts, U.S.	Farmer	Mongonui	Sept. 1, 1857.
June 13 ...	Prince Edward Shermann ...	Massachusetts, U.S.	Lumberer	Wangaroa, Auckland	Jan. 1, 1859.
June 13 ...	Diederich Wilkens	Germany	Sawyer	Moutere, Nelson	Jan. 1, 1860.
June 13 ...	Remach Rach	Belgium	Sawyer	Titirangi, Auckland	Jan. 1, 1860.
June 13 ...	Nicholas Rach	Belgium	Sawyer	Auckland	Jan. 1, 1860.
June 13 ...	Jean Mattier Marichal	Belgium	Sawyer	Auckland	Jan. 1, 1860.
June 13 ...	Giacomo Testa	Sardinia	Designer and Carver	Auckland	May 22, 1860.
June 13 ...	Henry Zions	Poland	Tailor	Auckland	May 16, 1860.
June 13 ...	Charles Hermann Weber ...	Germany	Surveyor	Waipawa, Hawke's Bay	Jan. 17, 1860.

Public Domains.

SCHEDULE B.

Name.	Native of	Occupation, &c.	Residence.	Date from which Naturalization is to take effect.
John Gerken	Hanover	Farmer	Christchurch	January 1, 1860.
John George Denne	Germany	Cabinetmaker	Nelson	Dec. 16, 1859.
Joseph Gerrish Barron	Maine, U.S. America	Master Mariner	Auckland	March 16, 1860.
Friederich Heinrich Geisow	Germany	Surveyor	Invercargill, Otago	January 18, 1860.
Gerhard Müller	Germany	Surveyor	Invercargill, Otago	January 18, 1860.
Martin Krippner	Bohemia	Settler	Auckland	April 10, 1860.
Johann George Hanneke	Hamburg	Watchmaker	Wellington	July 31, 1855.
Francis Freitas	Azores	Mariner	Auckland	August 1, 1860.
Manuel Inas	Azores	Mariner	Auckland	August 1, 1860.
Erick Orr	Sweden	Settler	Wanganui	July 25, 1860.
John Frederick Henry Wohlers	Germany	Officiating Minister	Stewart's Island	January 1, 1849.
August Carl Ferdinandt Koch	Prussia	Draftsman	Napier	August 1, 1860.
George Ott	Germany	Tailor	Dunedin	January 11, 1858.
Louis Bidois	France	Trader	Tauranga	Feb. 17, 1840.
Stephen Halum	France	Roman Catholic Priest	Auckland	October 1, 1860.
Carlo Landsberg	Stettin, Prussia	Carpenter	Mongonui	Feb. 24, 1859.

No. XXXII.

PUBLIC DOMAINS. AN ACT to provide for the Management of the Public Domains. [2nd November, 1860.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

- Short Title.** 1. The Short Title of this Act shall be "*The Public Domains Act, 1860.*"
- Interpretation.** 2. In the interpretation of this Act the word "Lands" shall mean lands tenements and hereditaments of any tenure or nature.

Subject of Act.

DEFINITION OF CROWN LANDS SUBJECT TO ACT.

Certain lands subject to Act.

3. The lands specified in the Schedule to this Act, and lands which may hereafter with lawful authority be set apart by Her Majesty, or by the Governor in the name of Her Majesty, for the purposes of this Act, are hereby declared to be Crown lands subject to the provisions of this Act, and to be managed administered and dealt with by the Governor in manner hereinafter set forth.

Lands derelict subject to Act.

4. All land derelict on the borders of or within the boundaries of the said lands or any of them shall from time to time be and shall remain Crown lands, subject to the provisions of this Act, as fully and effectually as if the same had been mentioned in the Schedule to this Act.

Powers of Governor.

POWERS OF THE GOVERNOR UNDER ACT.

May manage and administer lands.

5. The Governor may manage and administer all such lands, and may exercise all or any of the powers following:—

Lay out lands.

(1.) Lay out inclose and plant the same or any of them, and build any lodge museum or other ornamental building therein, and in such manner as he may think fit.

Make by-laws.

(2.) By Order in Council from time to time make and enforce any

Public Domains.

- any such by-laws orders and regulations for the management preservation disposition and care of the said lands or any of them, and the government of all persons using or frequenting the same, and the depasturing of cattle therein, as shall be in accordance with the conditions of the grant (if any) and the provisions of this Act, and impose a penalty not exceeding five pounds for each breach of every such by-law order or regulation.
- (3.) From time to time set apart and dedicate any part of the said lands for any specific purpose of public amusement or recreation, and annul any such setting apart and dedication. *Dedicate ground for specific purposes.*
- (4.) Treat and agree for the purchase or for the lease of any tenements and hereditaments which he may deem necessary for the purposes of this Act or for the improvement of the said lands, and enter into any contract which he may think fit; and all tenements and hereditaments so agreed to be purchased shall be conveyed to Her Majesty, to be subject to the provisions of this Act. *Treat for purchase of any lands.*
- (5.) When and as he shall think fit, in the name and on behalf of Her Majesty, by deed, demise and lease any of the said lands for such consideration in money or otherwise to such persons for such period not exceeding twenty-one years, subject to such rents or conditions and in such manner and form as he shall from time to time think fit. *Make leases.*
- (6.) Accept any surrender of any lease granted. *Accept release.*
- (7.) Appropriate any part of the said lands for squares gardens or open places, and leave any part thereof for yards or courts to be attached to any houses agreed to be leased as he may think fit. *Set apart land for squares &c.*
- (8.) Cause such parts of the said lands to be laid out for carriage-ways and such parts thereof for footways as he may think proper. *Lay out foot and carriage ways.*
- (9.) From time to time make stop up divert widen or alter any bridges ways or watercourses in upon through across or over any part of the said lands. *Stop up and alter roads and make approaches.*
- (10.) In the name and on behalf of Her Majesty execute all deeds and assurances that may be necessary for effectually executing the powers by this Act conferred upon him or any of them, and such deeds and assurances shall be valid and effectual against Her Majesty and all persons claiming under her. *Execute deeds.*
- (11.) Do any other thing which may be requisite for the proper and beneficial management and administration of the said lands or any part thereof. *General powers.*

APPLICATION OF MONEYS.

6. All sums of money which shall be received under or by virtue of this Act, or by vote of the General Assembly or of any Provincial Government, or in any other manner howsoever, in respect of the lands from time to time subject to the provisions of this Act, may be applied, after the payment of costs and expenses of the transaction from whence any money may have arisen, in managing administering and improving the lands in respect of which the money may have been received, and generally towards carrying into execution the purposes and objects of this Act. *Moneys. Application of moneys.*

ACCOUNTS.

7. In the month of January in every year there shall be rendered and given an account to the Auditor of Public Accounts of the amount of *Accounts. Account to the Treasury to be rendered.*

Public Domains.

of all moneys which shall have been received during the year ending on the thirty-first of December preceding under or by virtue of the authority of this Act, or by vote of the General Assembly or of any Provincial Council, or otherwise howsoever, and of the application of all such moneys for the purposes of this Act, with the vouchers thereof respectively.

Audit of same.

8. The Auditor of Public Accounts shall examine every such account in like manner as the receipt and expenditure of public money are examined under "*The Audit Act, 1858,*" and the same when so examined shall be published in the *Government Gazette*.

Offences.

OFFENCES.

Offences.

9. Whoever shall do or attempt to do any of the following things upon or within the boundaries of the said lands or any of them, without the license of the Governor, shall be liable to a penalty over and above the damage done not exceeding twenty pounds :—

Light a fire.

Wilfully break a fence or any part of a fence.

Wilfully break or cut any tree or plant.

Wilfully dig or cut the sod.

Shoot at any bird or animal with a gun or other instrument.

Wilfully take away destroy or injure any bird or animal

being upon the said lands, or any egg of any bird.

Take away any wood shrub plant or other thing

Recovery and application of penalties.

10. All penalties and forfeitures under this Act may be recovered in a summary way, and shall be applied as other moneys under this Act are directed to be applied.

Governor may delegate powers.

11. The Governor by Order in Council may from time to time delegate all or any of the powers hereby conferred to any person for any period and subject to such stipulations as may be specified in such Order, and every such delegation may from time to time in like manner be altered or revoked: Provided that such alteration or revocation shall not destroy or affect the validity of instruments executed or acts done during the subsistence of such delegation.

SCHEDULE.

1. All that piece or parcel of land situated in the Parish of Waitemata, in the County of Eden, containing 196 acres more or less, and known as the Government Domain or Auckland Park, bounded towards the North-east by Suburban Section No. 95, 120 links, 300 links, 310 links, 306 links, 306 links, 304 links, and 300 links, and by a stream; towards the South-east by a road 1,876 links and by a road 960 links and 560 links; towards the South by a road 569 links and by a road 1,187 links; towards the South-west by a road 1,612 links; towards the West by the Provincial Hospital grounds, 299 links, 520 links, 824 links, and 220 links, by a stream dividing it from Suburban Section No. 18, to a marked Puriri tree, and by the said Suburban Section No. 18, 691 links and 396 links; towards the North-west and North by a mill-race, by a line 175 links, and again by the mill-race, and by a line 423 links and 405 links, to where the boundary commenced.

2. All that piece or parcel of land situated in the City of Auckland, containing 8 acres 3 roods and 5 perches, more or less, and known as the Government House grounds; bounded towards the North-east by Waterloo Quadrant, 950 links, and by a curved line connecting that street with Symonds Street; on the East by the said curved line and by Symonds Street, 970 links; towards the South-west by the wall of the Albert Barracks, 175 links, 23 links, 212 links, 23 links, 198 links, 197 links, 23 links, 213 links, 22 links, 230 links, 174 links, 43 links, and 70 links; towards the West by the Military Road, 558 links, and by a curved line about 456 links; and towards the North by a line 99 links.

3. All that piece or parcel of land situated in the City of Wellington, containing 5 acres 2 roods and 16 perches, more or less, and known as the Government House Domain; bounded towards the North by Sydney Street, 834 links; towards the North-east by Charlotte Street, 528 links; towards the South-east by Lambton Quay, 283 links; towards the South by Kumutoto Street, 818 links; and towards the West by Town Section No. 505, 556 links.

No. XXXIII.

Half-caste Disability Removal.

No. XXXIII.

AN ACT to Legitimatize in certain cases the Issue of Mixed Blood born before Marriage of Parents of the European and Maori Race respectively subsequently Married. [3rd November, 1860.]

HALF-CASTE
DISABILITY
REMOVAL.

WHEREAS there are within the Colony many persons the children before marriage of parents whereof one is of the European and the other of the Maori race, which parents have subsequently intermarried and such children are according to law illegitimate and incapable of inheriting property: And whereas it is expedient to legitimatize such children as aforesaid: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Half-caste Disability Removal Act, 1860.*" Short Title.

2. In the interpretation of this Act the word "Maori" shall include Half-castes and all persons of mixed blood of the European and aboriginal races, unless there be something in the context repugnant to such construction. Interpretation.

3. In all cases in which children have been born out of wedlock of parents whereof one is of the European race and the other of the Maori race, and in which such parents have subsequently intermarried according to any law for the time being in force for regulating marriages, or shall within twelve months from the passing of this Act so intermarry, such children shall be deemed to be the lawful issue of such parents and shall be capable of inheriting property, and shall have to all intents and purposes such and the same rights as they would have had if such parents had been legally intermarried before the birth of such children: Provided always that this Act shall not affect the inheritance of any hereditaments which before the passing of this Act may have descended to any person to the exclusion of any child or children legitimized by this Act. Children of mixed blood born before wedlock of parents subsequently marrying legitimized.

No. XXXIV.

AN ACT to amend "*The Militia Act, 1858.*"

[3rd November, 1860.]

MILITIA ACT
AMENDMENT.

WHEREAS it is expedient to amend "*The Militia Act, 1858.*" Preamble.
BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Militia Act Amendment Act, 1860.*" Short Title.

2. Regulations to be made by the Governor under section five of the said Act shall contain provisions as follows, or to the like effect, that is to say,— Regulations to be made under section 5 of "*The Militia Act, 1860.*"

Every Militia District shall be divided into so many divisions as the Governor shall think fit, and the Militiamen
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resident in such division shall be formed into a battalion or company.

Each battalion or company shall be divided into three classes. The first class shall consist of all unmarried men and all widowers without children, between the ages of sixteen years and forty years, both inclusive, who shall be called "First Class" service men; the second class shall consist of all married men and widowers with children, between the same ages, who shall be called "Second Class" service men; and the third class shall consist of all men between the ages of forty years and fifty-five years, who shall be called the "Reserve" men.

Section 8 of "*Militia Act, 1858*," repealed.

3. Section eight of the said "*Militia Act, 1858*," is hereby repealed, and in lieu thereof, be it enacted that,—

When a portion of the Militia of a division to be drawn out, order in which to be taken.

Whenever the Governor or his Deputy shall think fit to draw out a portion only of the Militia of any division of a Militia District, the men to be first taken shall be volunteers from the whole Militiamen, and if a sufficient number do not volunteer, then the first class service men, and if they be not sufficient, then the second class service men, and if they be not sufficient, then the reserve men shall be taken.

If all men of a class be not required, those required to be taken by ballot.

4. If all the men of any class be not required, the men to be drawn out shall be taken by ballot, according to such rules as the Governor shall from time to time make for that purpose.

Substitute may be found.

5. When any man so drawn by ballot shall produce for his substitute a man who shall be approved of as fit and able to serve by the Commanding Officer of the battalion or company, such person shall be accepted accordingly, and the balloted man for whom such substitute shall be so accepted shall be exempt from service for one year unless the whole of the Militia of that class to which he belongs be drawn out for actual service during such year, and such substitute shall serve as if he had been himself balloted or chosen.

Who liable to serve as Militiamen.

6. Section ten of "*The Militia Act, 1858*," is hereby repealed, and in lieu thereof, be it enacted that,—

Every man except as hereinafter excepted between the ages of sixteen years and fifty-five years, being a British subject and not an aboriginal native, who shall reside within the Colony, shall be liable to serve in the Militia: Provided that the Judges of the Supreme Court, the Executive Council of the Colony, Members of the General Assembly, Superintendents of Provinces, Members of Provincial Councils during Session, Clergymen, Priests, Ministers of Religion, Catechists, and also persons afflicted with lunacy or unsoundness of mind, deafness blindness or with any other disease or infirmity that may render them unfit for service (such disease or infirmity being duly certified by a medical practitioner appointed by the Governor), shall be exempt from serving on such Militia.

Sections 11, 12, 13, and 14 of "*The Militia Act, 1858*," repealed.

7. Sections eleven, twelve, thirteen, and fourteen of the said Militia Act are hereby repealed, and in lieu thereof, be it enacted that,—

Senior commissioned officer of company to enrol men.

The Senior Officer of every battalion or company, or any other commissioned officer appointed by him, shall enrol all the men liable to serve therein, and any man who shall not within three months after his becoming liable to serve give in his name age and place of residence to such officer in order to be enrolled, shall forfeit any sum not exceeding five pounds.

Men removing into division to give notice.

8. Any man liable to serve or actually serving, who may desire to remove without the limits of the division in which he resides, shall have the liberty of so removing provided that he shall within one month

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month thereafter give in his name age and place of residence to the enrolling officer of the division into which he shall have removed, for the purpose of being enrolled therein, and in default of his so doing shall forfeit any sum not exceeding five pounds.

9. If any difference shall arise between the enrolling officer and any man as to his liability to serve or as to the class to which he should belong, it shall be competent for the officer to require him to make a declaration in the matter in dispute before a Magistrate.

If difference as to age, man to prove his age.

10. Section twenty-three of the said Act is hereby repealed, and in lieu thereof be it enacted that,—

Section 23 of "*Militia Act*, 1858," repealed.

During the time that any such Militia shall be on actual service, all things contained in any Act of Parliament which shall then be in force for punishing mutiny and desertion and for the better payment of the army and their quarters, and in the Articles of War made in pursuance of such Act, shall be in force with respect to such Militia, and to all the officers, non-commissioned officers, drummers, and privates of the same in all cases whatsoever.

Mutiny Act and Articles of War in force on actual service.

11. Every commissioned officer, non-commissioned officer, or man, who shall commit any one of the offences following, shall, on being convicted thereof, pay a penalty not exceeding five pounds, viz. :—

Offences while on training and exercise.

- (1.) Who, while being trained and exercised, shall refuse or neglect to obey any lawful order of his superior officer.
- (2.) Who shall be guilty of any insolent or disorderly behaviour towards such officer when the latter shall be in the execution of his duty.
- (3.) Who shall fail to keep any arms or accoutrements intrusted to him in proper order.

12. Provided always that it shall be lawful for the Commanding Officer of the battalion to which any such offender may belong to impose any such fine if such offender shall consent to such officer instead of a Justice of the Peace adjudicating on the offence, and such fine may be enforced in the same manner as a fine imposed by a Justice of the Peace.

Commanding Officer may adjudicate if offender consent.

13. And be it further enacted that every volunteer enrolled under this Act or "*The Militia Act*, 1858," or any regulations made in pursuance thereof, shall, during such time as he shall be liable to serve as such volunteer, be exempt from serving on juries if he shall plead such exemption either in Court or at the time of receiving a summons to attend on a jury.

Volunteers not liable to serve on juries.

14. It shall be lawful for the majority of any company of volunteers from time to time to recommend to the Governor persons to be appointed officers in such company.

Companies of Volunteers may recommend officers.

15. The members of any company of Volunteer Firemen embodied with the approval of the Governor for the purpose, shall be exempted from serving in the Militia.

Volunteer Firemen to be exempt from Militia duty.

16. No Militia District hereafter to be declared shall exceed thirty miles in its greatest diameter.

Militia District limited.

17. Provided always that nothing in this Act contained shall apply to any battalion or company of Militia already enrolled under the said "*Militia Act*, 1858," until the Governor shall by warrant under his hand have declared the same to be applicable, and such warrant shall have been published in a newspaper circulating in the Militia District to which such company belongs.

This Act not to apply to Militia already enrolled until so declared by Governor by warrant under his hand.

18. All fines and penalties imposed by this Act shall be recoverable in a summary way before any Justice of the Peace.

Fines &c. recoverable in a summary way.

Naval and Military Settlers.

No. XXXV.

NAVAL AND MILITARY SETTLERS ACT.

AN ACT to confirm certain Applications made by Naval and Military Settlers for Free Grants of Land, and to enlarge the time for making such Applications.

[3rd November, 1860.]

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette*, 4th July, 1861.]

Preamble.

WHEREAS by an Act passed by the Superintendent and Provincial Council of the Province of Auckland, Session VIII. No. 2, intituled "*The Auckland Waste Lands Act, 1858*," certain enactments were made for free grants of land for naval and military settlers, and it was thereby provided that all applications for land orders entitling such settlers to land under the said enactment should be made within twelve calendar months after the retirement or discharge of the applicant, or within three months from the passing of the said Act, by those who had then retired or been discharged: And whereas by an Act of the General Assembly of New Zealand, intituled "*The Waste Lands Act, 1858*," provision was made for free grants of land to naval and military settlers in the Provinces of Wellington and New Plymouth, in like manner and upon the same terms and conditions as naval and military settlers were entitled to land under the said "*Auckland Waste Lands Act, 1858*:" And whereas the said Act of the General Assembly was reserved for the signification of Her Majesty's pleasure thereon: And whereas before the said lastly-mentioned Act had received Her Majesty's assent the said period of three months prescribed by the said *Auckland Waste Lands Act* had elapsed: And whereas several applications for free grants of land have been made in the Provinces of Wellington and Taranaki, by naval and military settlers, in conformity with the provisions of the said recited Acts except in respect of the said period of three months so prescribed as aforesaid: And whereas it is desirable to give validity to the said applications, and to extend the time for further making such applications:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Naval and Military Settlers' Act, 1860*."

Applications heretofore made confirmed.

2. That all applications which have been made by naval and military settlers for free grants of land in the Provinces of Wellington and Taranaki respectively, otherwise in conformity with the provisions of the said recited Acts but not within the three months aforesaid, shall be valid and effectual to entitle the applicants to all the privileges and advantages conferred by the said Acts, as fully as if such applications had been made within the said period.

Further time for applications.

3. That all such officers, non-commissioned officers, and privates, marines, and seamen, as mentioned in the said recited Acts, who have resided in the several Provinces of Wellington and Taranaki for twelve months previous to the passing of this Act, shall be entitled to land free of cost in the said Provinces respectively upon the same conditions as prescribed by the said Acts: Provided that all applications for land made under the provisions of this Act shall be made within three months from Proclamation of Her Majesty's confirmation of this Act having been given shall have been made by the Governor.

4. And

Taranaki Settlers' Relief.

4. And whereas certain Regulations for the sale and disposal of waste lands of the Crown in the Province of Nelson were brought into operation on the first of July, one thousand eight hundred and fifty-six, and it was by the said Regulations provided that money certificates of the amounts therein specified to be taken in payment for waste land of the Crown should be given upon certain terms and conditions to naval and military settlers who should retire or obtain their discharge for the purpose of settling in New Zealand after the first day of July, one thousand eight hundred and fifty-six, and it is expedient that such persons who had settled prior to that date in the said Province should receive the like gratuities in land: Be it therefore enacted that all military or naval settlers now resident in the Province of Nelson, who shall have belonged to Her Majesty's service or that of the East India Company, and who shall have retired or obtained their discharge prior to the first day of July, one thousand eight hundred and fifty-six, for the purpose of settling in New Zealand, shall be entitled to money certificates, to be taken in payment for Crown land, of the same amounts respectively as they would have been entitled to under the aforesaid Regulations of the first of July, one thousand eight hundred and fifty-six, had they settled since that date in the said Province: Provided always that all the conditions required by the said Regulations of the first of July, one thousand eight hundred and fifty-six, except so far as relates to the date of their retirement or discharge, shall be fulfilled by the naval and military settlers who shall become entitled to such money certificates under this Act: Provided also that no money certificate shall be given to any person who shall have obtained a free grant of land or money certificate in any other Province.

Regulations as to naval and military settlers in the Province of Nelson prior to 1st July, 1856.

5. Provided that this Act, except so far as it relates to the Province of Nelson, shall not be held to apply to the case of any military or naval settler unless he shall have actually served in Her Majesty's Forces in the Colony.

Applicant to have served in the Colony.

6. This Act shall not come into operation till Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of her Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor.

Commencement of Act.

No. XXXVI.

AN ACT for the Relief of Settlers and others who have sustained Injuries in the Taranaki War.

TARANAKI SETTLERS' RELIEF.

[3rd November, 1860.]

[Reserved for the signification of Her Majesty's pleasure. Assented to, *Gazette* 4th July, 1862.]

WHEREAS sundry persons have sustained losses or injuries in the recent Native insurrection at Taranaki, and it is just and expedient that relief should be afforded to such persons:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Taranaki Settlers' Relief Act, 1860.*"

Short Title.

2. Any person qualified as hereinafter enacted may apply in writing to the Governor of the Colony for relief under this Act, subject to the conditions hereinafter mentioned.

Person qualified may apply to Governor for relief.

Taranaki Settlers' Relief.

Declaration of particulars of qualification to accompany application.

3. Every such application shall be made on or before the first day of January, one thousand eight hundred and sixty-two, and shall be accompanied by a declaration, to be made before some Justice of the Peace for the Colony, in the form appointed for declarations authorized by law, stating the following particulars of qualification:—

- (a.) That such person is an adult male person of the age of twenty-one years, having been a resident inhabitant of Taranaki on the fifth day of April, one thousand eight hundred and sixty, or a widow having been so resident, or being the widow of some person having been so resident.
- (b.) Or that the applicant (whether such applicant shall be a settler or shall be or have been in Her Majesty's military or naval service) has sustained some grievous bodily injury in the said war.
- (c.) That the applicant has left or immediately intends leaving Taranaki and settling in some other Province, to be specified in such application.

Person making false declaration guilty of misdemeanour.

4. Any person guilty of making a false declaration under this Act shall be deemed to be guilty of a misdemeanour, and shall be punishable accordingly.

Governor to make inquiry into truth of declaration.

5. The Governor shall make such inquiries as to him shall seem fit for ascertaining the truth of such declaration.

Governor may issue order for waste land to applicant.

6. It shall be lawful for the Governor, after being satisfied of the truth of such declaration, to issue to such applicant an order entitling such applicant to select from the waste lands of the Crown within the Province specified in such declaration land of the value of forty pounds, estimated at the fixed or upset price of lands in such Province, and subject to the conditions hereinafter mentioned: Provided always that no such order shall be issued for any greater quantity of land than forty acres unless to applicants under sub-section (b), clause three, when such larger grant shall be made as shall be recommended by the Provincial Council and Superintendent of the Province in which such grant shall be applied for: Provided that no such order shall be issued with respect to any Province until the Superintendent thereof shall have declared by Proclamation in the Government *Gazette* of the said Province that this Act is in force in such Province.

To be selected according to local regulations.

7. Such lands shall be selected by the applicant at his own cost, within six months after the issue of such order, out of any lands open for sale as ordinary rural lands only within any Province, as nearly as may be subject to the regulation applicable in such Province to the selection of lands with reference to shape and other local particulars.

Crown Grant not to issue until death or five years' residence.

8. No Crown Grant of such land shall be issued until either the death of the party or until he or she shall have completed the full term of five years' residence within the Province in which the land shall be selected.

Occupants may purchase selected land within the five years.

9. Provided that any person who may have selected land under the provisions of this Act may, at any time before the expiration of such term of five years, purchase the land so selected at the original fixed price of such land, or, where such land would by the regulations in force respecting it be saleable by auction, then at the original upset price thereof.

When conditions complied with grant may issue.

10. Upon the conditions contained in the last section being complied with, the Governor shall issue a Crown Grant of the selected lands to the party entitled to the same, or his or her heirs, as the case may require.

Crown Grant to be valid and effectual.

11. Every Crown Grant so issued shall be valid and effectual, any law or regulation to the contrary notwithstanding.

Commencement of Act.

12. This Act shall not come into operation until Her Majesty's pleasure

Wellington, Hawke's Bay, and Taranaki Land Regulations.

pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice and consent of her Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor.

No. XXXVII.

AN ACT to enable the Superintendents of Wellington, Hawke's Bay, and Taranaki to make certain additions to the Land Regulations of those Provinces.

[3rd November, 1860.]

WELLINGTON,
HAWKE'S BAY, AND
TARANAKI LAND
REGULATIONS.

WHEREAS by the fifteenth section of "*The Waste Lands Act, 1858*," the provisions of "*The Auckland Waste Lands Act, 1858*," with respect to military settlers, were extended to the Provinces of Wellington (then including Hawke's Bay) and Taranaki: And whereas it is expedient to empower the Superintendents of the said Provinces to make certain regulations for the purpose of carrying out the said fifteenth section of "*The Waste Lands Act, 1858*," according to the true intent thereof:

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Wellington, Hawke's Bay, and Taranaki Land Regulations Act, 1860*."

2. It shall be lawful for the Superintendent, with the advice and consent of the Provincial Council of the several Provinces of Wellington, Hawke's Bay, and Taranaki, to divide such portions of the rural lands of such Provinces respectively as are about to be offered for sale into the following classes, that is to say,—

- (1.) General country land,
- (2.) Suburban land,

and from time to time to vary alter and annul such division and to make a new division in lieu thereof: Provided that if no such division shall have been made before any such portion of rural land shall be offered for sale, the whole of such land shall, for the purposes of the said "*Waste Lands Act, 1858*," be held to be general country land.

No. XXXVIII.

AN ACT to regulate the Importation Sale and other Disposition of Arms Gunpowder and Warlike Stores. [5th November, 1860.]

ARMS.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Arms Act, 1860*."

2. In the construction of this Act the words and phrases following shall have the meanings hereby assigned to them respectively unless there

Short Title.

Interpretation of terms.

Arms.

there be something in the subject or context repugnant to such construction :—

The word "Ship" shall include vessels of any description, whether employed on the high seas or on the coasts, and any boat barge punt or canoe.

The word "Dealer" shall include a person whose occupation or trade is wholly or in part to manufacture repair and mend or render serviceable any arms gunpowder or warlike stores, as well as a person whose occupation or trade is wholly or in part to sell or deal in arms gunpowder or warlike stores.

The word "Possession" shall include custody power or control.

The word "Arms" or "Arm" shall include any gun pistol or other firearm, and any sword cutlass pike bayonet or other instrument of war.

The expression "Aboriginal Native" shall include Half-castes and other persons of mixed race living as members of any Native tribe, and all aboriginal inhabitants of any of the islands of the Pacific Ocean.

The expression "Master of a Ship" and the word "Master" shall include the master of any ship foreign-going or coasting, and the person for the time being in charge and the principal officer on board of any such ship.

APPLICATION OF ACT.

Act to be brought into force throughout the Colony by Order in Council.

3. It shall be lawful for the Governor in Council from time to time to declare, by Order in Council to be published in the *New Zealand Gazette*, that from and after a day to be named in such Order this Act shall be in force in any Province within the Colony, and the same shall be in force accordingly: Provided always that the same shall be brought into force within every Province of the Colony before the first day of March, one thousand eight hundred and sixty-one.

LICENSES.

Licenses may be made and issued.

4. It shall be lawful for the Governor, by warrant under his hand, from time to time to appoint persons to make and issue licenses in the forms or to the effect respectively set forth in the Schedule to this Act (which persons are hereinafter designated and referred to as Licensing Officers), and any such persons at his pleasure to remove. And every such license may be granted subject to any special conditions or stipulations.

Licenses may be revoked.

5. It shall be lawful for the Governor or any person appointed by him for that purpose, by notice in writing given to the licensee or left at his last known or usual place of abode, to revoke any such license, and after notice so given or left the license thereby referred to shall cease and determine.

Lost license may be replaced.

6. Any such license which may be proved to the satisfaction of a Resident Magistrate, to be testified by writing under his hand, to have been accidentally destroyed or lost may be replaced by a Licensing Officer.

Forgery of license felony.

7. If any person shall forge counterfeit or alter, or cause to be forged counterfeited or altered, any such license or any signature to any license, or shall use or tender in evidence any such forged counterfeited or altered license or signature knowing the same to be forged counterfeited or altered, he shall be guilty of felony, and any accessory before or after the fact to any such felony shall be liable to the same punishment as the principal.

REGISTRATION

Arms.

REGISTRATION OF IMPORTATION AND SALE OF ARMS.

8. It shall be lawful for the Governor in Council, by Order in Council to be published in the *New Zealand Gazette*, from time to time to make and issue regulations for the stamping and marking of arms upon the first importation thereof into the Colony, and also of arms in the possession of any dealer, and also for the stamping and marking of arms previously unstamped upon the sale or transfer thereof, and also to make and issue regulations for the registration of the sale and transfer of arms. Every such Order in Council shall be in force from and after a day to be named therein, and every person who shall contravene any regulation made by any such Order in Council shall be liable to a penalty not exceeding five hundred pounds.

Governor in Council may order arms to be registered.

PROVISIONS AFFECTING DEALERS ONLY.

9. No person shall act or pretend to act as a dealer without a license in the form B in the said Schedule.

No person to act as a dealer without a license.

10. Any person who shall offend against the foregoing provision shall be guilty of a misdemeanour.

Offence against such provision a misdemeanour.

11. Previously to the issue to any dealer of a license as aforesaid he shall make application in writing for such license to a Licensing Officer, and shall accompany such application with a true and full statement of all arms gunpowder and other warlike stores then in his possession.

Person desiring to have a dealer's license to make application to Licensing Officer with statement of arms &c.

12. Any Licensing Officer or any person authorized by him in writing may enter into the house and premises of such applicant and may search the same for the purpose of comparing such statement with the actual stock of arms gunpowder and other warlike stores in the possession of such applicant.

Licensing Officer or person authorized by him may enter and search house &c. of applicant.

13. If any such statement made by any dealer shall be untrue or incorrect he shall be liable to a penalty not exceeding one hundred pounds.

Penalty for incorrectness of applicant's statement.

14. Every such dealer shall keep a book in the form C in the said Schedule, and shall, on the day to be named for the registration of arms gunpowder and warlike stores as aforesaid, enter therein a statement of all arms gunpowder and warlike stores then in his possession, and shall always thereafter truly and punctually enter therein a statement of all arms gunpowder and warlike stores received by him or coming into his possession, and of all arms gunpowder and other warlike stores sold and delivered or in any way disposed of by him or in any way going out of his possession.

Dealer to keep a record of arms &c.

15. For every breach of the foregoing provision or any part thereof any such dealer shall be liable to a penalty not exceeding one hundred pounds, and in addition thereto, for every wilful breach of such provision or any part thereof, such dealer shall be guilty of a misdemeanour.

Penalty for breach of foregoing provisions.

Wilful breach thereof a misdemeanour.

16. Any such book shall be producible in any Court in any legal proceeding and may be used in evidence either for or against any dealer.

Dealer's book producible in Court.

17. Every Licensing Officer shall keep a book containing a separate heading for each person to whom a license to deal shall be issued, and shall enter therein under the proper heading an account of all arms gunpowder and other warlike stores from time to time lawfully receivable and deliverable by each such dealer.

The issuer of licenses to keep a book containing a statement of contents of licenses issued to dealers.

18. The book to be kept as hereinbefore provided by every dealer shall be examined at the expiration of every three months by a Licensing Officer or by some person appointed by him for this purpose, and shall be compared with the book to be kept by the person making

Dealer's book to be compared with such book and with licenses and with stock of arms &c.

and

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and issuing licenses and with the several licenses, and the stock of arms gunpowder and warlike stores in the possession of such dealer shall be at the same time examined and compared with such books and licenses.

If stock of arms &c. defective, dealer guilty of misdemeanour.

19. If upon any such examination and comparison, or upon any examination and comparison under the general power hereinafter conferred upon Licensing Officers, any deficiency shall be found in the stock of arms gunpowder and warlike stores lawfully in the possession of any such dealer, or if the same shall not correspond with the said books and licenses, such dealer shall be guilty of a misdemeanour.

Licensing Officer to make a minute of result of search.

20. A minute shall be made in each of the said books of the result of every such examination and comparison.

Power to Licensing Officer to examine stock of arms &c. at any time.

21. Any such examination and comparison may in like manner be made as often and at such times as any Licensing Officer may think proper.

Lending or borrowing arms for purposes of production a misdemeanour.

22. Every person who shall, with intent to deceive any Licensing Officer or any other person, lend or borrow any arms gunpowder or warlike stores for the purpose of being produced at any such examination as aforesaid of the stock of any dealer, shall be guilty of a misdemeanour.

OFFENCES.

Counterfeiting mark on arm.

23. Any person other than the officers duly appointed for the purpose who shall stamp or mark, or cause or procure to be stamped or marked, any arm with any mark or number resembling or intended to resemble, either wholly or in part, any mark or number made or impressed upon any arm pursuant to any regulations in that behalf made by the Governor in Council, shall be guilty of felony.

Deceitfully marking arm.

24. Any person who shall stamp or mark, or cause or procure to be stamped or marked, or aid in stamping or marking, any arm with any mark or number with the view to induce in any person the belief that such arm has been registered and marked as provided by this Act, or for the purpose of deceiving any person in any manner, shall be guilty of felony.

Having in possession arms so marked.

25. Any person who shall knowingly and without lawful excuse (the proof whereof shall be on the person accused) have in his possession any such arm so marked or stamped as stated in the two last preceding sections, shall be guilty of a misdemeanour.

Importation &c of arms &c.

26. Every person who shall import or bring into the Colony or any part thereof any arms gunpowder or warlike stores without a license in the form D set forth in the said Schedule, shall be guilty of a misdemeanour.

Landing arms &c. from a vessel.

27. Every person who shall, with or without price or reward, land from on board a ship, or dispose of from a ship on the seas within the limits of the jurisdiction of the Government of New Zealand, any arms gunpowder or warlike stores without a license in the form D set forth in the said Schedule, shall be guilty of a misdemeanour.

Selling &c. arms &c.

28. Every person who shall sell or dispose of, with or without price or reward, any arms gunpowder or warlike stores to any person whomsoever without a license in the form A in the said Schedule, shall be guilty of felony.

Selling one sort of arm &c. under a license for a different sort.

29. Every person who, possessing a license to sell or dispose of one sort or description of arms gunpowder or warlike stores, shall sell or dispose of another sort or description of arms gunpowder or warlike stores, making or pretending to make such sale or disposition by virtue of or in pursuance of such license, shall be guilty of a misdemeanour.

Removing &c. arms &c.

30. Every person who shall remove or cause to be removed, or attempt

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attempt to remove or assist in removing, from one place in the Colony to any other place in the Colony, either by inland carriage or coast-ways, any arms gunpowder or warlike stores without a license in the form A set forth in the said Schedule, shall be guilty of a misdemeanour: Provided that this provision shall not extend to any person carrying arms for the defence of his person or for sporting.

31. Every person who shall make construct amend repair or render serviceable any arms gunpowder or warlike stores without a license in the form C in the said Schedule, or at any place other than the place mentioned in such license as his place of business, shall be guilty of a misdemeanour.

Making repairing &c. arms &c.

32. Any person who, without a license in the form A in the said Schedule, being a dealer, shall have or keep at any one time more than fifty pounds weight of gunpowder, and, not being a dealer, shall have or keep more than ten pounds weight of gunpowder in any place other than some public powder magazine, shall be guilty of a misdemeanour.

Dealer keeping excessive quantity of gunpowder.

33. Every person who, being a dealer, shall have in his possession a greater number of arms than he shall be authorized to have by licenses proving legal possession by him, shall be guilty of a misdemeanour.

Dealer having in possession excessive number of arms.

34. In all cases in which a license has been or may hereafter be issued by the authority of the Governor authorizing the sale of arms to or the purchase or importation of arms by a person named in such license, upon condition that such arms be retained for the personal defence or otherwise for the personal use of such person, it shall be lawful for any two Justices of the Peace, upon the application in that behalf of a Licensing Officer, to summon such person to attend before them at a time and place to be named in the summons, and there and then either to produce such arms or a proper license authorizing him to sell or dispose of such arms, or otherwise to account for his non-possession of such arms to the satisfaction of such Justices, and in case such person shall fail so to attend and to produce such arms, or otherwise to account as aforesaid for his non-possession of the same, he shall be liable to a penalty not exceeding one hundred pounds.

Persons holding arms under license failing to account for the same.

35. Any person who shall make do or practice or be concerned in any fraudulent act contrivance or device whatsoever not specially provided for in this Act, with intent or design to evade or render inoperative any of the provisions of this Act, shall be guilty of a misdemeanour.

Fraudulently evading provisions of Act a misdemeanour.

PROVISIONS RESPECTING SHIPS.

36. Every person who, being the master of or a person on board of any coasting ship or ship on a coasting voyage, shall knowingly receive on board such ship from another ship, either at sea within the limits of the jurisdiction of the Government of New Zealand or in harbour, any arms gunpowder or warlike stores without a license in the form D in the said Schedule, shall be guilty of a misdemeanour.

Receiving arms &c. on board of a ship from another ship.

37. The master of every ship arriving in any port or place in the Colony from across the seas, or from any other port or place in the Colony, shall deliver to the officer of Customs who shall first visit such ship after such arrival a statement in writing, signed by such master, containing a true account of all arms gunpowder and warlike stores on board such vessel, and if no officer of Customs shall, within two hours after such arrival, visit such ship, the master shall, within twenty-four hours after such arrival, deliver such statement to an officer of Customs on shore at such port or place, and if there be no officer of Customs at such port or place the master shall, within such period of

Master to report arms &c. on arrival.

twenty-four

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twenty-four hours, deliver such statement to a Justice of the Peace if there be one accessible.

Breach of foregoing provision a misdemeanour.

38. If the master shall wilfully fail to make such report, or if he shall wilfully make a false report of such arms gunpowder and warlike stores, he shall be guilty of a misdemeanour.

Ship found with less quantity of arms &c. master to forfeit five hundred pounds.

39. If any ship shall be found, within the limits of the jurisdiction of the Government of the Colony, with a smaller or a different quantity or description of arms gunpowder or warlike stores on board than may be proved by any such statement or otherwise to have been on board such ship at any time previously within the said limits, and the master shall be unable to give an account of the disposal according to law of such deficient or different arms gunpowder and warlike stores, such master shall be liable to a penalty not exceeding five hundred pounds.

Ships may be searched.

40. Any officer of Customs, and any Justice of the Peace, and any officer of the Navy on full pay, either alone or with other persons employed by him respectively, may at any time and at any place within the limits aforesaid go on board any ship and rummage and search the cabin and all other parts of such ship for arms gunpowder and warlike stores.

Penalty on person impeding officers searching ship.

41. Any master or other person preventing or impeding any officer of Customs, or Justice of the Peace, or any officer of the Navy on full pay, or other person employed by either of them in the execution of the powers conferred by the foregoing provision, shall be liable to a penalty not exceeding one hundred pounds.

Copy of Act to be delivered to master of ship arriving from abroad.

42. The chief officer of Customs at any port shall, as soon as may be after the arrival at such port of any ship from across the seas, deliver or cause to be delivered to the master of such ship a copy of this Act for which the master shall give a receipt in writing, and if default be made in such delivery or if the master shall refuse to give such receipt the chief officer so neglecting or the master so refusing shall be respectively liable to a penalty not exceeding fifty pounds.

Proviso with respect to ships trading to Australian Colonies.

43. Provided that it shall not be incumbent upon such chief officer to deliver or cause to be delivered such copy more than once to the master of any ship known to be a regular trader between this Colony and the Australian Colonies so long as she shall continue in such trade.

GENERAL PROVISIONS.

Power to Justice of Peace or person with warrant of a Justice of the Peace to enter and search houses.

44. It shall be lawful for any Justice of the Peace, upon information on oath, to enter and search or to grant a warrant to any person to enter and search any ship house or place where such Justice shall have reasonable grounds to suspect any arms gunpowder or warlike stores to be deposited for any purpose contrary to this Act, and to seize and detain any such arms gunpowder or warlike stores until a Resident Magistrate or two Justices of the Peace shall have decided whether the same are the subject of any offence under this Act.

Arms &c. removed may be seized.

45. It shall be lawful for any Justice of the Peace, upon information on oath, to grant a warrant to any person to search for and seize, and for any officer of the Army or Navy on full pay, harbour master, officer of Customs, police officer, constable, or peace officer, or for any other person acting in his or their aid or assistance, to search for and seize all arms gunpowder and warlike stores which shall be in progress of removal without such license as aforesaid, or without such license being produced on demand of any such person as aforesaid.

Houses &c. may be entered for the purpose of searching.

46. Any Justice of the Peace who may have reasonable ground for making such search as aforesaid, and any person holding a warrant from a Justice of the Peace directing a search to be made, and any person

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person acting in his aid or assistance, may enter into any house or place at any time in order to effect such search ; and in case admittance shall be refused to such Justice of the Peace or other person, or shall not be obtained by them within a reasonable time after it shall have been first demanded, then may enter by force into such house or place in order to effect such search.

47. It shall be lawful for any person whomsoever to seize and apprehend any person in the act of committing any of the offences hereinbefore declared to be felony or a misdemeanour.

Person committing a felony under this Act may be apprehended.

48. It shall be lawful for the Governor, by Proclamation published in the *New Zealand Gazette*, from time to time to declare what articles shall be considered as warlike stores for the purposes of this Act, and also for the purposes of an Ordinance of the Lieutenant-Governor and Legislative Council of New Zealand, passed in the sixth Session of the said Council, intituled "*An Ordinance to empower the Governor of New Zealand to regulate the Importation and Sale of Arms Gunpowder and other Warlike Stores.*"

Governor empowered to declare what shall be deemed warlike stores.

FORFEITURES.

49. All arms gunpowder and warlike stores which may be the subject of any offence hereinbefore created described or mentioned shall be forfeited to Her Majesty.

Arms &c. the subject of an offence under this Act forfeited.

50. All questions respecting forfeitures under this Act may be heard and decided by the Court where the proceedings of which they shall have been the subject shall have been heard and determined, or by two Justices of the Peace.

Questions about forfeitures how to be decided.

51. All forfeitures under this Act shall be applied and disposed of for the public uses of the Colony as the Governor may direct.

Forfeitures to be at the disposal of the Governor.

LEGAL PROCEEDINGS.

52. All penalties under this Act shall be payable to Her Majesty, her heirs and successors, for the public uses of the Colony, and shall be recoverable by action in the Supreme Court, or in a summary way before any two Justices of the Peace: Provided that it shall not be lawful for any such Justices of the Peace to impose or adjudge a penalty exceeding one hundred pounds for any offence against the provisions of this Act, notwithstanding that such offence may by the provisions of this Act be punishable by a penalty exceeding one hundred pounds.

Penalties how to be recoverable.

53. No proceeding under this Act for any penalty before any Justice of the Peace may be removed into the Supreme Court by writ of *certiorari* or otherwise.

Proceedings not to be removable by *certiorari*.

54. In all informations and other legal proceedings under sections thirty and thirty-six, it shall be sufficient to allege and to prove that such transhipment was from one ship to another ship on a coasting voyage without naming or identifying the first named ship, and to aver and prove that such removal or attempted removal was from one place in the Colony to another place in the Colony without naming or identifying such places or either of them.

Specification of ship or place not necessary in legal proceedings.

55. The issue of any license for the importation sale or purchase of arms and the contents of such license may be proved by the production of a duplicate of such license, verified by the signature of the Commissioner of Customs or of a Licensing Officer, or by the production of any register of arms kept in pursuance of any Order in Council made under the authority of this Act, or of any extract from any such register, certified by the officer charged with the duty of keeping such register.

License may be proved by production of verified duplicate or production of register.

56. All prosecutions in a summary way under this Act for any offence against the provisions thereof, or for any act or neglect by this

Penalties may be sued for by any person.

Arms.

Act declared to be an offence, may be commenced prosecuted and completed by any person whomsoever.

No limitation of actions.

57. There shall be no limitation of time for the prosecution or commencement of any proceedings under or by virtue of the provisions of this Act.

Attorney-General may enter a *nolle pros.*

58. It shall be lawful for the Attorney-General, at any step of any proceedings for an offence under this Act, to enter a *nolle prosequi* or to discontinue any proceedings in any Court or before any Justice of the Peace, and thereupon all further proceedings shall be stayed in such prosecution.

Provision respecting aboriginal natives.

59. No aboriginal native shall be convicted of any offence under this Act except on the information or complaint of some officer duly authorized in that behalf by the Governor by writing under his hand.

Prosecutions for felony or misdemeanour to be by authorized person.

60. No indictment or information shall be preferred or proceedings instituted against any person for an offence declared by this Act to be a felony or a misdemeanour except by or at the instance of a person duly authorized, either generally or specially in this behalf, by the Governor by writing under his hand.

PUNISHMENTS.

For felony.

61. Every person convicted of felony under the provisions of this Act shall be liable to penal servitude for any term not exceeding six years and not less than three years.

For misdemeanour.

62. Every person convicted of a misdemeanour under this Act shall be liable to imprisonment, with or without hard labour, for any term not exceeding three years, and to a fine not exceeding five hundred pounds, at the discretion of the Judge.

FEES.

Fees to be paid.

63. There shall be paid to the Licensing Officer the fees set forth in the said Schedule, to be paid by him to the Colonial Treasurer for the public uses of the Colony.

EXPENSES OF PROSECUTIONS.

Expenses of prosecutions.

64. In case any person shall have incurred any expense or loss of time in or about the procuring of the conviction of any person for an offence declared by this Act to be a felony or a misdemeanour, it shall be lawful for the Governor to award to such person, out of the ordinary revenue of the Colony, his reasonable costs and expenses incurred as aforesaid not exceeding in amount one hundred pounds.

Expenses of obtaining conviction.

HER MAJESTY'S FORCES.

Act not to apply to arms &c. belonging to Her Majesty &c.

and lawfully borne or possessed.

65. Nothing herein contained shall be deemed to apply to any arms gunpowder or warlike stores the property of Her Majesty or of the General or any Provincial Government of the Colony, and lawfully borne or possessed by or on account of Her Majesty's land or sea forces, or by or on account of the New Zealand Police Force, or by or on account of any person acting under or by virtue of any law for the time being in force for the regulation of Militia or Volunteers within the Colony, or to any person importing having bearing removing making repairing or dealing with or disposing of the same or any of them under proper authority.

Act not to extend to powder magazines.

66. Nothing herein contained shall extend to the keeping of gunpowder at any public powder magazine.

Duration of Act.

67. This Act shall only continue in force until the end of the next Session of the General Assembly: Provided always that all persons having committed offences under this Act during the time that the

same

Arms.

same shall be in force shall and may be prosecuted convicted and punished notwithstanding the repeal or expiration of this Act.

SCHEDULE.

FORM A.—“ARMS ACT, 1860.”

ORDINARY LICENSE.

Colony of New Zealand.

Mark and number of arms (if any).

THIS is to authorize A.B., of _____, settler, within _____ days from the date hereof, to sell or dispose of to C.D., of _____, settler, [or to remove, or have in possession, or otherwise, as the case may require], the undermentioned arms, gunpowder, or warlike stores, viz., [two pounds of sporting gunpowder, one double barrel gun, No. _____ in Registry].

Dated the _____ day of _____, one thousand eight hundred and seventy _____ E.F.

N.B.—This license will be void and may not be exercised after the expiration of seven days from the date thereof.

If the license is to “have in possession,” the limitation of time must be omitted.

FORM B.—“ARMS ACT, 1860.”

DEALER’S LICENSE.

Colony of New Zealand.

THIS is to authorize A.B., of _____, settler, to make, repair, amend, and deal in arms, gunpowder, and other warlike stores at [Describe his place of business], in _____, but not elsewhere, for the period of one year.

Dated the _____ day of _____, one thousand eight hundred and seventy _____ E.F.

FORM C.—“ARMS ACT, 1860.”

FORM OF BOOK FOR RECORD OF ARMS, GUNPOWDER, AND WARLIKE STORES TO BE KEPT BY A DEALER.

Colony of New Zealand.

Kept by A.B. (signature), Licensed Dealer.

Number of Entry.	Date of Receipt.	Date of License.	Description and Quantity of Arms, Gunpowder, and Warlike Stores received.	From whom received.	Objects for which received.	Date of sale or disposal.	Date of License.	Description and Quantity of Arms, Gunpowder, and Warlike Stores sold or parted with.	To whom delivered.	Object of delivery.	Reference to previous No. of Entry among Receipts.

FORM D.—“ARMS ACT, 1860.”

LICENSE TO IMPORT.

Colony of New Zealand, Port of _____

THIS is to authorize A.B., of _____, merchant, within _____ days from the date hereof, to import, tranship, land, or dispose of, from the ship [or receive on board the ship _____], from the ship _____, the under-mentioned arms, gunpowder, and warlike stores, viz.—

Dated this _____ day of _____, one thousand eight hundred and seventy _____ E.F.

TABLE OF FEES.

	£	s.	d.
For registration or registration and marking of any arm, each time	...	0	2 6
For License, Form A, Form D., each	...	0	1 0
For License, Form B.	...	5	0 0

*Loan Expenditure Confirmation.***No. XXXIX.**

LOAN EXPENDITURE
CONFIRMATION.

AN ACT to confirm the Expenditure of the Sum of One hundred and eight thousand five hundred and thirty-three pounds fourteen shillings and twopence halfpenny, part of the Sum of One hundred and twenty thousand pounds, raised under "*The New Zealand Loan Act, 1856.*" [5th November, 1860.]

Preamble.

WHEREAS by virtue and in pursuance of the powers of "*The New Zealand Loan Act, 1856,*" the sum of five hundred thousand pounds has been borrowed and raised as therein mentioned: And whereas it was provided by the said Act that any sum not exceeding one hundred and twenty thousand pounds, part of the said sum of five hundred thousand pounds, should be applied in payment of any public debt of the Colony which should be due on the first day of January, one thousand eight hundred and fifty-eight: And whereas a portion of the said sum of one hundred and twenty thousand pounds has, in pursuance of the said recited provision, been expended and applied in the payment and discharge of the several debts specified in the Schedule to this Act annexed, and it is expedient that such expenditure should be confirmed by an Act of Assembly:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Loan Expenditure Confirmation Act, 1860.*"

Expenditure of
£108,533 14s. 2½d.
out of the loan
confirmed.

2. The several debts specified in the Schedule to this Act annexed, and amounting in the whole to the sum of one hundred and eight thousand five hundred and thirty-three pounds fourteen shillings and twopence halfpenny, shall be deemed and taken to have been public debts of the Colony of New Zealand properly payable out of the said sum of one hundred and twenty thousand pounds in the Schedule to the said recited Act mentioned, and the sum of one hundred and eight thousand five hundred and thirty-three pounds fourteen shillings and twopence halfpenny is hereby specifically appropriated to the payment of the said debts accordingly.

SCHEDULE.

FIRST PERIOD, TO 30TH SEPTEMBER, 1858.

	£	s.	d.	£	s.	d.	£	s.	d.
Expenditure on account of period ended 30th June, 1856, per printed statement of accounts ...	...			32,716	2	6½			
Expenditure during the period ended 30th September, 1857, per printed statement of accounts, viz.,—									
General Assembly ...	612	2	9						
Miscellaneous ...	1,227	1	8						
On account of proposed Government House ...	75	12	0						
Interest on Overdrawn Account ...	1,285	5	4						
				3,200	1	9			
Special Scrip redeemed ...	100	0	0						
Land Purchases, Canterbury ...	312	2	6						
Do. do. New Plymouth ...	3	12	6						
				415	15	0			

FIRST

Loan Expenditure Confirmation.

FIRST PERIOD, TO 30TH SEPTEMBER, 1858—*continued.*

	£	s.	d.	£	s.	d.	£	s.	d.
Expenditure to Sept. 30, 1857— <i>continued.</i>									
Survey of Native Reserves, Nelson...	163	5	0						
Purchase of Adele and Fisherman's Islands, Nelson	292	8	11						
Land Purchase and Contingencies, Canterbury	270	8	11						
				726	2	10			
Allowed for Land Purchases under Resolution of the House of Representatives of 16th August, 1858:—									
Auckland	18,555	0	0						
Wellington and Hawke's Bay	12,735	0	0						
				31,590	0	0			
Debentures redeemed under " <i>Debenture Security Ordinance</i> ," Session VIII., No. 2:—									
Special Debentures	3,103	14	4						
Debentures issued previous to Notice of 24th November, 1845	1,150	0	0						
Debentures issued in terms of Notice of 24th November, 1845	22,949	17	6						
				27,203	11	10			
Total First Period							95,851	13	11½

SECOND PERIOD, TO 30TH SEPTEMBER, 1859.

	£	s.	d.	£	s.	d.	£	s.	d.
Province of Auckland, Refund				9,690	11	5½			
New Ulster Land Claims, 5 per cents.				866	8	9			
Debenture Certificate redeemed	9	19	4						
Do. do. do. bearing 8 per cent. interest	50	0	0						
				59	19	4			
Amount promised by Sir G. Grey in aid of Industrial School, New Plymouth...	318	15	0						
Amount payable to Province of Canterbury for use of Maps by General Government, under Resolution of House of Representatives of the 9th August, 1858	800	0	0						
Balance of advances to late Canterbury Association in April and May, 1853, for Survey and Land Expenses	191	16	9						
Expenses of Resident Magistrate's Department, Akaroa, from 1st July to 31st December, 1855	85	0	0						
Travelling Expenses of Judge on Circuit in the Years 1854, 1855, and 1856, in excess of provision	174	11	10						
Balance due from late Collector, Nelson, after realization of Estate	1,243	11	6½						
Balance due from late Clerk in Post Office, Auckland, Estate Insolvent	59	5	9						
	£2,873	0	10½						
Less amount held in deposit, in January, 1853, under the head General Post Office, London	1,248	8	2				1,624	12	8¼
Expense of cutting Boundary Lines of Native Reserves, Pelorus Valley, Nelson				20	8	0			
Advances to J. Mackay, junior, Assistant Native Secretary, for Land Purchases at Kaikoura and Arahaura				420	0	0			
Total, Second Period							12,682	0	3
Grand Total							£108,533	14	2¼

Debentures.

No. XL.

DEBENTURES.

AN ACT to enable the Governor of New Zealand to raise a Loan not exceeding Thirty-seven thousand seven hundred and eighty-nine pounds fifteen shillings and fivepence by Debentures.

[5th November, 1860.]

Preamble.

WHEREAS it is expedient to raise a temporary loan of thirty-seven thousand seven hundred and eighty-nine pounds fifteen shillings and fivepence for the public service of the Colony of New Zealand :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The Debentures Act, 1860.*"

Governor may borrow not exceeding £37,789 15s. 5d. on debentures.

2. It shall be lawful for the Governor of New Zealand to borrow any sum or sums of money not exceeding in the whole the sum of thirty-seven thousand seven hundred and eighty-nine pounds fifteen shillings and fivepence, and to take up the same on debentures from time to time as he may deem expedient.

Debentures to be in the form set forth in the Schedule.

3. Such debentures shall be in the form or to the effect set forth in the Schedule to this Act annexed, and shall on the face thereof bear the signatures of the Governor, the Colonial Secretary, and the Colonial Treasurer : Provided always that no debenture shall be issued for a sum less than ten pounds, nor for any fractional part of ten pounds.

To bear interest not exceeding 6 per cent. per annum.

4. Every such debenture shall be dated on the day on which the same shall be issued, and shall bear interest from that day not exceeding the rate of six pounds for every one hundred pounds by the year, payable half-yearly on the first days of January and July in every year at such place in New Zealand or elsewhere as shall be therein named : Provided always that it shall be lawful for the Governor, if he shall think fit, to direct that coupons in such form as he shall approve shall be appended to all or any of such debentures, and such coupons shall be sufficient warrants or authorities for the payment of the interest therein specified as the same shall from time to time become due.

Coupons may be appended.

Principal and interest charged on revenue from Customs.

5. The principal and interest of such debentures are hereby charged upon and made payable out of the revenue arising in the Colony of New Zealand from the duties of import and export, and from all taxes duties rates and imposts levied or to be levied under any Act or Acts of the said General Assembly.

No priority among debenture holders.

6. The holder of any debenture issued under this Act shall not have any preference over any other such holder by reason of priority of date of such debenture or otherwise.

Principal sums payable not later than the 31st day of December, 1863.

7. The principal sum secured by any such debenture shall be payable on some day certain to be named in such debentures, not later than the thirty-first day of December, one thousand eight hundred and sixty-three.

Interest to cease to be payable after day fixed for payment of principal.

8. Interest shall cease to be payable on any debenture issued under this Act on the day next after the day fixed for the payment thereof.

Governor to cause debentures to be sold for best prices to be obtained for same.

9. The Governor shall cause every such debenture issued under the authority of this Act to be sold, either in New Zealand or elsewhere, by public competition or otherwise, for the best price that can be obtained for the same.

10. In

New Zealand Loan.

10. In order to provide ways and means for the liquidation of the principal moneys secured by the debentures to be issued under this Act, the whole of the surplus ordinary revenue of the Colony, as defined by section six of "*The Surplus Revenues Act, 1858*," in excess of a sum equal to three-eighth parts of the revenue arising from duties of import and export, shall from and after the first day of July, one thousand eight hundred and sixty, and until the liquidation of the said principal moneys, be applicable and applied to the discharge of the same moneys.

Provision for liquidation of principal.

11. Nothing in this Act contained shall prejudice vary or affect any security granted under or by virtue of "*The New Zealand Loan Act, 1856*," and an Act of the Imperial Parliament passed in the twentieth and twenty-first year of the reign of Her present Majesty, intituled "*An Act to guarantee a Loan for the Service of New Zealand*," or either of them.

Saving of securities of "*The Loan Act, 1856*."

SCHEDULE.

NEW ZEALAND DEBENTURE.

No. in words } and figures. } Amount in words } and figures. }	Date.	{ No. in words and figures. { Amount in words and figures.
DEBENTURE for the sum of (pounds) sterling, issued under the authority of an Act of the General Assembly of New Zealand, intituled " <i>The Debentures Act, 1860</i> ."		

On presentation at the Colonial Treasury in New Zealand, on the day of , 18 , the bearer of this debenture will be entitled to receive the sum of £ Sterling. Interest in the meantime after the rate of per centum per annum will be payable to the bearer of this debenture on the first days of and in every year, at the [Colonial Treasury, Auckland, or at the Bank of Sydney, or elsewhere, as the case may be].

Dated at Government House, this day of 18 .
 A.B., Governor.
 C.D., Colonial Secretary.

Entered at the Colonial Treasury, New Zealand, and issued at this day of , 18 .

Colonial Treasurer.

NOTES.—The principal and interest of this debenture are charged upon and payable out of the revenue arising from the duties of import and export, and all taxes duties rates and imposts levied by the General Assembly.

No interest will be paid on this debenture after the day therein fixed for the payment of the same.

No. XLI.

AN ACT for raising a Loan of One hundred and fifty thousand pounds for the Public Service of the Colony of New Zealand. [5th November, 1860.]

NEW ZEALAND LOAN.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows:—

1. The Short Title of this Act shall be "*The New Zealand Loan Act, 1860*." Short Title.

2. It

New Zealand Loan.

The Governor may appoint Agents to raise and manage a loan.

2. It shall be lawful for the Governor of New Zealand to appoint one or more person or persons to be an Agent or Agents in England for the purpose of raising and managing the loan or loans proposed to be raised under and by virtue of this Act.

Such Agent or Agents shall have power to raise any sums not exceeding £150,000.

3. Such Agent or Agents shall have full power and authority to borrow and raise in Great Britain, by bonds debentures or otherwise, such sums, not exceeding in the whole the sum of one hundred and fifty thousand pounds sterling, as the Governor of the Colony shall from time to time determine and direct.

Bonds &c. to be for sums and in form and to be negotiable as prescribed by Agents.

4. Every bond debenture or other security granted under this Act shall bear interest after a rate not exceeding six pounds for every one hundred pounds by the year, shall be for such sum and in such form, shall be signed on behalf of the said Colony, and shall be transferable and negotiable in such manner, as such Agent or Agents shall prescribe.

Interest payable in London.

5. The interest on every such bond debenture or other security shall be payable at such times and place in London as shall be fixed and named for that purpose in such bond debenture or other security.

Principal and interest charged on the general revenue of the Colony of New Zealand.

6. All sums of money borrowed and raised under the authority of this Act, and interest thereon, shall be a charge upon the general revenue of New Zealand.

Money raised to be applied to purposes set forth in Schedule.

7. The money to be borrowed under the authority of this Act shall be applied, in such manner as the Governor shall from time to time direct and appoint, to the several purposes specified and set forth in the Schedule to this Act.

Principal to be repaid at the expiration of thirty years.

8. The principal sums so to be borrowed and raised as aforesaid shall be made payable and repaid at the expiration of thirty years from the several days on which they shall respectively be borrowed and raised as aforesaid.

Eight per cent. to be paid annually to pay interest and provide a sinking fund.

9. For the purpose of paying the said interest and providing a sinking fund for the liquidation of the principal, there shall be paid yearly out of the general revenue of the Colony, to such persons as the Governor shall appoint, such sum as shall be equal to eight per centum per annum on the total of the principal from time to time borrowed, and after paying the interest thereout as the same shall from time to time become due, the balance thereof shall be set apart as a sinking fund, and shall be invested by such person or persons in such manner as the Governor shall from time to time direct, and shall be increased by accumulation in the way of compound interest or otherwise.

Definition of the general revenue of New Zealand.

10. For the purposes of this Act the general revenue of the Colony of New Zealand shall be deemed and taken to include all the revenue which shall arise from duties of import or export, from Post Office receipts and Supreme Court fees, and from all taxes duties rates and imposts levied or to be levied by virtue of any Act of the General Assembly of New Zealand.

This Act not in any way to prejudice vary or affect "The Loan Act, 1856," or "Imperial Guarantee Act."

11. Nothing in this Act contained shall prejudice vary or affect any security granted under or by virtue of "The New Zealand Loan Act, 1856," and an Act of the Imperial Parliament passed in the twentieth and twenty-first years of the reign of Her present Majesty, intituled "An Act to Guarantee a Loan for the Service of New Zealand," or either of them.

Appropriation.

SCHEDULE.

APPROPRIATION OF LOAN.

1. For defraying the past and future expense of providing arms and accoutrements for the Militia and Volunteer Forces of the Colony, a sum not exceeding	£ 30,000
2. For the relief of the inhabitants of the Province of Taranaki	25,000
3. For defraying the past and future expenditure arising out of the Native insurrection, a sum not exceeding	40,000
4. For defraying the expenses of and incident to the holding of conferences of Native Chiefs with the Governor in 1860 and 1861	6,750
5. Repairs of barracks and new barrack accommodation	5,000
6. Bonus to Militia and Volunteer Forces called out for actual service, special duty, or extra training, to be expended under regulations to be made by the Governor in Council; allowances to officers and crews of Her Majesty's ships on service in the Colony	29,000
7. Purchase of ammunition for rifle practice by Militia and Volunteers	2,000
8. Balance open to future appropriation	12,250
	£150,000

No. XLII.

AN ACT to apply a Sum out of the Ordinary Revenue to the Service of the Year ending the Thirtieth day of June, One thousand eight hundred and sixty-one, and to appropriate Sums to be raised by "*The Debentures Act, 1860,*" and "*The New Zealand Loan Act, 1856.*"

APPROPRIATION.

[5th November, 1860.]

No. XLIII.

AN ACT to establish a Council to assist in the Administration of Native Affairs. [5th November, 1860.]

NATIVE COUNCIL.

[Reserved for the signification of Her Majesty's pleasure, 5th November, 1860. Assent withheld.]

WHEREAS it is expedient that a Council, to be composed of duly qualified persons, should be established on a constitutional basis, to whom the Governor and his Responsible Advisers may have recourse for advice and assistance in the administration of Native affairs, and that, subject to the provisions of this Act, the management of Native affairs should be placed on the same basis as other departments of Government: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Native Council Act,* 1860." Short Title.

ESTABLISHMENT OF COUNCIL.

2. There shall be established a Council to be styled "*The Native Council of New Zealand,*" hereinafter called the Council. Council established.

Native Council.

- Number of Members.** **3.** The Council shall be appointed by Her Majesty, and shall consist of not less than three or more than five members: Provided always that no minister of any religious denomination, Member of the General Assembly, nor any Superintendent, nor any Member of any Provincial Council, shall be a Member of the said Council.
- Her Majesty to appoint Secretary and one paid Member.** **4.** Her Majesty may appoint one of the Members of the Council to be the Secretary thereof, and two other Members of the Council to receive fixed salaries; and every such appointment shall remain in force until the person holding the same shall resign or cease to be a Member of the Council.
- Tenure of office.** **5.** Every Member of the Council shall hold his office during good behaviour: Provided that if at any time hereafter the Council shall be abolished, no Member thereof shall have any claim to compensation on account of such abolition.
- Removal from office.** **6.** It shall be lawful for Her Majesty to remove any Member of the Council from his office upon an address of both Houses of the General Assembly of New Zealand.
- Suspension from office.** **7.** It shall also be lawful for Her Majesty, at any time when the General Assembly shall not be in Session, to suspend any Member of the Council from his office; and such suspension, unless previously revoked, shall continue in force until the end of the next Session of the General Assembly and no longer.
- Expense of Council.** **8.** For the maintenance of the said Council there shall be payable to Her Majesty every year out of the ordinary revenue of the Colony the sums specified in the Schedule hereunto annexed, for the period of seven years: Provided that at the expiration of seven years from the coming into operation of this Act such sums shall cease to be payable unless continued by Act of the General Assembly.

MEETINGS OF THE COUNCIL.

- Three Members to constitute meeting.** **9.** All business shall be transacted at meetings of the Council, at which three Members at least shall be present.
- Questions to be decided by majority.** **10.** All questions shall be decided by a majority of Members present at any such meeting, the Member presiding having a casting vote in addition to his vote as a Member, and the decision of the majority at any such meeting shall be the decision of the Council, and the opinions of the minority may be recorded in the minutes of the Council.
- Council may make rules.** **11.** The Council may from time to time make vary and abolish rules for all or any of the purposes following:—
- (1.) For regulating the holding and adjournment of meetings.
 - (2.) For determining under whose presidency such meetings shall be held.
 - (3.) For the due and orderly conduct of the deliberations and proceedings of such meetings.
 - (4.) For recording the decisions of the Council.
 - (5.) And generally for promoting the effective despatch of the business of the Council.
- Provided that full and exact minutes shall be kept of all proceedings votes and resolutions of the Council, and such minutes shall be open at all reasonable times to the inspection and examination of the Government.

DUTIES OF THE COUNCIL.

- Duties of Council.** **12.** It shall be the duty of the Council—
- (1.) To advise upon all matters relating to Native affairs upon which they shall be consulted by the Government.
 - (2.) To

Native Council.

- (2.) To submit for the consideration of the Government such measures as may appear to the Council desirable for promoting the civilization of the Natives ; for establishing law and order amongst them ; for preparing them for the exercise of political power ; and generally for promoting the good government welfare and advancement of the native people.
- (3.) To assist, when called upon, in the preparation of the drafts of any laws regulations or other legislative measures which it may be deemed desirable to submit for the consideration of the General Assembly for the purpose of effecting any of the before-mentioned objects: Provided that it shall be competent for the Council from time to time to act in special cases in an administrative capacity at the instance of the Governor in Council.

DUTY OF THE GOVERNMENT.

13. It shall be the duty of the Government of New Zealand to consult the Council on all important questions relating to the management of Native affairs.

Government to consult Council.

DELEGATION.

14. It shall be lawful for Her Majesty from time to time to delegate to the Governor all or any of the powers conferred on Her Majesty by this Act, and any such delegation at any time to alter or revoke.

Her Majesty may delegate powers to Governor.

COMMENCEMENT OF ACT.

15. This Act shall not come into operation until the same shall have been confirmed by Her Majesty, with the advice of her Privy Council, and Proclamation of such conformation shall have been made by the Governor in the *New Zealand Gazette*.

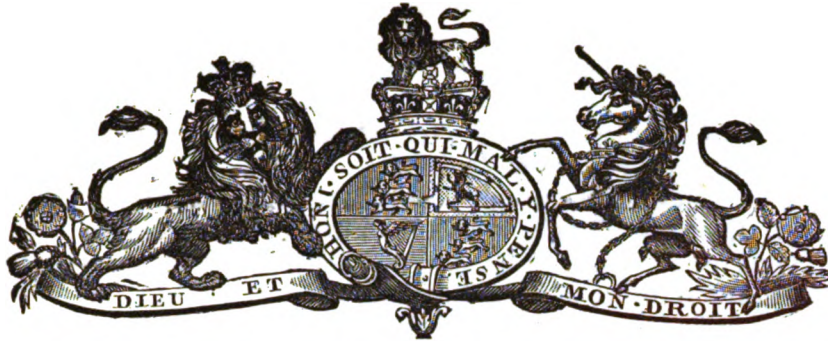
Duration of Act.

SCHEDULE.

							£
1. Secretary of Council	...	...	...	...	...	...	700
2. Member of Council with Salary	...	...	...	...	...	...	500
3. Member of Council with Salary	...	...	...	...	...	...	500
4. Fees and expenses for attendance of other Members of Council, and establishment	...	...	...	...	...	...	650
							<u>£2,350</u>

LOCAL AND PERSONAL ORDINANCES.

New Zealand.



ANNO VICESIMO QUARTO

VICTORIÆ REGINÆ.

[Local and Personal.]

SESSION III. No. I.

AN ACT to enable the Superintendent of the Province of Canterbury to construct a Railway between the Towns of Lyttelton and Christchurch, in the said Province. [28th September, 1860.]

LYTTELTON AND CHRISTCHURCH RAILWAY.

WHEREAS it is expedient to construct a railway between the towns of Lyttelton and Christchurch, in the Province of Canterbury: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. A railway shall be constructed and maintained between the towns of Lyttelton and Christchurch, in the said Province, according to the description and along the line set forth in the Schedule to this Act and the several maps and plans thereto annexed, or within a distance of ten chains on either side of such line. Railway to be made.

2. It shall be lawful for the Superintendent of the said Province of Canterbury to take all steps necessary for the construction of the said railway, and to enter upon and cause to be entered upon all lands within the said Province for the purpose of making such surveys as may be necessary, and to take possession of all the lands required for the use of the said railway along the line so set forth and described, or within the distance of ten chains on either side thereof, and also temporarily to occupy and use such lands as may be necessary on either side of the line of the said railway during the construction thereof. Superintendent to construct railway and take lands required.

3. All persons being owners of or having any lesser estate or interest in any lands so taken under authority of this Act, or which may be damaged by the construction of the said railway, shall be entitled How compensation to be awarded, and certain sections of "The Lands Clauses Consolidation Act" incorporated.

entitled to receive compensation for such land or damage, the amount whereof shall be ascertained in the manner set forth in an Act of the Imperial Parliament, intituled "*The Lands Clauses Consolidation Act, 1845*," and the said Act shall, so far as may be necessary for the settlement of all questions arising in respect of any such compensation, be incorporated into and shall form part of this Act: Provided that wherever in the said Act the following words are used they shall mean the words hereinafter severally set opposite to them, that is to say, the words—

"Commissioners of Her Majesty's Treasury" shall mean the Governor of New Zealand.

"Superior Courts," "The Court of Chancery," "The Court of Queen's Bench," "The Court of Exchequer," "General Quarter Sessions," "Quarter Sessions," shall mean severally the Supreme Court of New Zealand.

"The promoters of the undertaking" shall mean the Superintendent of the Province of Canterbury for the time being.

"The United Kingdom," "The Kingdom," "The County," shall mean the Province of Canterbury.

"The Bank" shall mean the Union Bank of Australia at Christchurch or Lyttelton.

"Board of Trade" shall mean the Resident Magistrate at Christchurch.

"Clerk of the Peace," "One of the Masters of the Court of Queen's Bench," "Accountant-General of the Court of Chancery in England," "Accountant-General of the Court of Exchequer in Ireland," "Taxing-Master of the Court of Chancery," "Master in Chancery," shall mean severally the Registrar of the Supreme Court of the Southern District of New Zealand, Province of Canterbury.

A copy of the clauses of the said "*Lands Clauses Consolidation Act*" which relate to the subject of compensation for land, shall be served or left at the last usual place of abode of every person whose land shall be required for the purposes of this Act, if such person shall be resident in the Colony, or if not, then on the agent of such person, or if there be no such agent, by affixing the same on some conspicuous part of the said land.

4. Provided that section twenty-two of the said Act shall apply to cases where the compensation offered shall not exceed fifty pounds, as well as to cases where the compensation claimed shall not exceed that amount.

5. The Superintendent is hereby authorized and required to cause all sums which may be agreed upon or awarded under the provisions of this Act as compensation for land taken or for damage done in the construction of the said railway, to be paid to the several persons entitled to receive the same out of the public revenues of the Province of Canterbury.

6. The Superintendent shall, so soon as possible after the passing of this Act, execute a deed poll, and shall cause the same to be sealed with the Public Seal of the Province, and to be registered under the provisions of an Ordinance of the Governor and Legislative Council of New Zealand, intituled "*The Land Registration Ordinance*," Session II., No. 9, and to be deposited amongst the public records of the Province; and the said deed shall contain a description of all the lands so taken under the authority of this Act, and the names of the persons from whom they shall have been so taken, and thereupon all estate and interest in such lands of any persons who may theretofore have had any estate or interest in the same shall absolutely

cease

Alteration in section
22 of said Act.

Compensation to be
paid out of public
revenues.

Superintendent to
execute a deed poll.

Purchas and Ninnis Flax Patent.

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cease and determine: Provided always that no such deed poll shall include any land in respect of which the compensation to be paid shall not have been ascertained and paid to the parties entitled to receive the same, or deposited, as provided in the Act of the Imperial Parliament, intituled "*The Lands Clauses Consolidation Act, 1845.*"

7. All the lands described in the deed poll as aforesaid, and all property real or personal of what description soever belonging or appertaining to the said railway, shall be and are hereby declared to be vested in and shall be deemed to be the property of the Superintendent for the time being of the said Province, and shall be held by him in trust for the public service of the said Province.

Property of railway to be vested in Superintendent.

8. The Short Title of this Act shall be "*The Lyttelton and Christchurch Railway Act, 1860.*"

Short Title.

SCHEDULE.

DESCRIPTION OF PROPOSED LINE OF RAILWAY.

THE proposed line of railway commences at the south side of the Town of Christchurch, at a point 5 chains south and 55·50 chains west of the south-eastern corner of the Town Reserve; thence passing in an easterly direction 24·46 chains parallel to the Town Belt; thence curving to the right at a radius of 40 chains for a distance of 25·35 chains; thence in a straight line 3 miles 26·19 chains; thence curving to the right at a radius of 80 chains for a distance of 51·25 chains; thence in a straight line to Norwich Quay, Lyttelton, a distance of 1 mile 52·60 chains, passing through a tunnel under the Port Hills, 2,838 yards in length; thence on a curve to the left at a radius of 10 chains for a distance of 9·15 chains; and thence in a straight line 11·50 chains to the Government Jetty at Lyttelton; the whole length of line, inclusive of stations, being 6 miles 40·50 chains.

No. II.

AN ACT to enable the Governor to grant a Patent to Arthur Guyon Purchas and James Ninnis for an Invention for the Preparation of various Fibres.

PURCHAS AND NINNIS FLAX PATENT.

[28th September, 1860.]

WHEREAS Arthur Guyon Purchas, of Onehunga, in the Province of Auckland, Clerk, and James Ninnis, of the same place, Mining Engineer, claim to have discovered or to be in possession of an invention for the preparation of the fibre of the *Phormium tenax* and other plants for manufacturing purposes, and it is expedient to enable the Governor to grant Letters Patent for securing to them the sole use benefit and advantage of the said invention as hereinafter mentioned:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Purchas and Ninnis Flax Patent Act, 1860.*"

Short Title.

2. In the construction of this Act the word "Person" shall include Bodies Corporate and Companies as well as individuals, unless the context be repugnant thereto.

Interpretation.

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Governor to appoint Commissioners to investigate and report on invention.

3. As soon as may be after the passing of this Act the Governor may, by writing under his hand, appoint not less than three nor more than six persons to be Commissioners, whose duty shall be to inquire and report to the Governor upon the questions and in manner herein-after mentioned.

Act of the majority binding.

4. Any act of the majority of the Commissioners, or of the majority of the survivors of them, shall be the act of the Commissioners.

Petition description &c. of invention to be presented.

5. At any time within three months from the passing of this Act the said Arthur Guyon Purchas and James Ninnis may leave at the office of the Colonial Secretary a petition addressed to the Governor, representing that they are in the possession of an invention for the preparation of the fibre of the *Phormium tenax* and other plants for manufacturing purposes, which they conceive will be of great public utility; that they are the true and first inventors thereof, and that the same is not in use by any other person to the best of their knowledge and belief; and stating clearly and succinctly the object to be attained by the said invention, and praying that Letters Patent may be granted to them for the exclusive use thereof in the Colony of New Zealand; and they shall deposit with such petition a written specification signed by them of their said invention, and of the manner and process of making constructing and using the same, in such terms, avoiding unnecessary prolixity, as to enable any person skilled in the scheme or manufacture to which it appertains or with which it is most nearly connected, to make construct and use the same; and in case of any machine, a statement of the principle and the several modes in which they have contemplated the application of that principle or character by which it may be distinguished from other inventions, and shall in the said specification particularly point out and specify the improvement or combination which they claim as their own invention or discovery. They shall also send a drawing and written references thereto, if the nature of the case admits of drawings, and specimens of the produce or manufactured article resulting from the invention. They shall also send a declaration made before some Justice of the Peace that they are, as they believe, the first and true originators or discoverers of the said invention.

Interim protection for invention.

6. After the delivery of the said petition and deposit of the said specification descriptions and other matters as aforesaid, the said Arthur Guyon Purchas and James Ninnis shall have, during the term of twelve months thence next ensuing, the like protection rights powers and privileges as could be conferred upon them by Letters Patent for the said invention issued under this Act; and during the continuance of such protection rights powers and privileges under this provision, such invention may be used and published without prejudice to any Letters Patent to be granted for the same.

To be advertised.

7. The Colonial Secretary shall cause such provisional protection to be advertised in the *New Zealand Gazette* and in one newspaper (if such there be) published in each Province of New Zealand.

Notice of application to be advertised.

8. As soon as may be after the delivery of the said petition and deposit of the said specification descriptions and other matters as aforesaid, the Colonial Secretary shall cause notice of such application to be inserted in the *Government Gazette*, and shall thereby require any person who may conceive that he would be prejudiced by the granting of Letters Patent for the said invention, to send to the Colonial Secretary, within four months of the said publication, a statement in writing setting forth the grounds of such objection, subscribed with his proper name and address.

Objections to be

9. After the expiration of such last-mentioned period the Colonial Secretary

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Secretary shall refer all such objections which he may have received, together with the original petition and other documents mentioned in section five, to the Commissioners.

referred to Commissioners.

10. The Commissioners shall then appoint a time and place for investigating the said petition and hearing the objections (if any), and shall give notice thereof in the *Government Gazette*, and shall forthwith send a copy of such *Gazette* by post addressed to each objector.

Commissioners to appoint hearing.

11. The Commissioners may adjourn their sittings from time to time.

May adjourn.

12. The said Arthur Guyon Purchas and James Ninnis may appear before the said Commissioners, by themselves, their counsel, and witnesses, in support of their petition, and any such objector may appear in like manner in opposition thereto: Provided always that any such objector shall, previously to being heard, deposit with the Commissioners the sum of twenty pounds.

Parties may appear.

13. The Commissioners shall thereupon investigate the said matter, and shall be at liberty to call to their aid such scientific or other witnesses as they may think fit, and may cause to be paid to such witnesses by the said Arthur Guyon Purchas and James Ninnis such remuneration as they may direct.

Commissioners to hear.

14. The Commissioners shall report to the Governor whether the said Arthur Guyon Purchas and James Ninnis were the true and first inventors of the said invention, and whether the same is likely to be of public utility, and whether any Letters Patent or instrument in the nature of Letters Patent have or has been issued or granted therefor, and whether in their opinion Letters Patent as aforesaid should be issued therefor to the said Arthur Guyon Purchas and James Ninnis.

Commissioners to report.

15. If any such objection as aforesaid shall be sustained, the specifications drawings and other matters shall be returned to the said Arthur Guyon Purchas and James Ninnis, and the sum of twenty pounds shall be paid by them to the Colonial Treasurer, to be applied as ordinary revenue, and the deposits shall be returned to the several objectors.

Proceedings if objections sustained.

16. It shall be lawful for the Commissioners if they see fit, by writing under their hands, to determine the amount of the costs of any hearing or inquiry upon any such objection, and to order by and to whom such costs shall be paid; and if any such costs are so ordered to be paid by any such objector, the said deposit of twenty pounds shall be applied thereto or in part liquidation thereof, and the balance (if any) returned to the objector.

Costs of inquiry.

17. If any costs so ordered to be paid as aforesaid be not paid within seven days after the date of such order, any such order may be made a rule of the Supreme Court.

Order for costs may be made a rule of Court.

18. The Commissioners shall, within the period of nine months from the passing of this Act, deliver their report, together with the said petition specification descriptions and drawings, and all objections and other papers and things which shall have come into their hands in consequence of or in relation to the said investigation, to the Colonial Secretary.

Report of Commissioners and other papers to be delivered to Colonial Secretary.

19. In case the Commissioners shall report that Letters Patent should be issued to the said Arthur Guyon Purchas and James Ninnis, the Governor may direct that such Letters Patent shall be issued by the Colonial Secretary or other proper officer.

If Commissioners report favourably, Governor may direct issue of Letters Patent.

20. The said Arthur Guyon Purchas and James Ninnis shall, within one month after the issuing of such direction, pay to the Colonial Treasurer and obtain a receipt for the sum of twenty pounds, to be applied as ordinary revenue of the Colony.

Fee for adjudication.

21. The

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Letters Patent to issue.

21. The Colonial Secretary or other proper officer, upon such direction as aforesaid, and production to him of the said receipt of the Colonial Treasurer, shall forthwith cause Letters Patent to be prepared in the form in the Schedule hereunto annexed, and the Governor may sign the same and cause the Public Seal of the Colony to be affixed thereto, and deliver the same to the said Arthur Guyon Purchas and James Ninnis, their agent or legal representative, and the said Letters Patent shall be operative from the time of such delivery.

Assignment of Patent and record thereof.

22. Such Letters Patent shall be assignable in law either as to the whole interest or any undivided part thereof, or as to any part of the said invention, by deed, which assignment, and also any grant or conveyance of the exclusive right thereunder to make and use, and to grant to others the right to make and use, the thing patented therein or any part thereof, shall be recorded in the office of the Colonial Secretary within six months from the execution thereof, upon payment by the assignee or grantee to the Colonial Treasurer of the sum of five pounds to be applied as aforesaid.

Injunction &c.

23. In any action in the Supreme Court for the infringement of such Letters Patent it shall be lawful for the Court, as well in its common law as in its equity jurisdiction, or for any Judge of the Court, on the application of the plaintiff or the defendant respectively, to make such order for an injunction inspection or account, or to give such direction respecting such action injunction inspection or account, and the proceedings therein respectively, as to such Court or Judge shall seem fit.

Patent may be repealed by *scire facias*.

24. Such Letters Patent may be repealed by writ of *scire facias* for the same causes and in the same manner as any grants of the Crown are liable to be repealed.

Specification &c. to be enrolled.

25. From and after the commencement of protection under section six, all persons whosoever shall have access to the said specification statement description and drawings, and also any corrected or additional specification or description as hereinafter mentioned (if any) to be permanently kept in his office,* and all persons whosoever may have access thereto, and may inspect and may have copies of or extracts from the same upon payment of reasonable expenses, and such copies or extracts and copies or extracts of or from the record of the said Letters Patent, certified by the Colonial Secretary to be true copies or extracts, shall be received as evidence of the contents of the said Letters Patent specification or other things respectively in all proceedings whatsoever.

**Sic.*

Specification may be corrected.

26. If during the term of such Letters Patent they shall be found to be inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the said Arthur Guyon Purchas and James Ninnis claiming as their invention more than they have or shall have a right to claim as new, and if the error shall arise by accident inadvertency or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Governor, upon the surrender of such Letters Patent and the payment to the Colonial Treasurer of the sum of ten pounds, to cause new Letters Patent to be issued to the said Arthur Guyon Purchas and James Ninnis for the same invention for the residue then unexpired of the said term in accordance with their corrected description and specification; and in case of their death, or of any assignment by them, a similar right shall vest in their executors, administrators, or assigns; and the Letters Patent so re-issued, together with the corrected description and specification, shall have the same effect and operation in law on the trial of all actions commenced for causes subsequently accruing, as though the same had been originally filed or

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or deposited in such corrected form before the issuing out of the original Letters Patent; and whenever the said Arthur Guyon Purchas and James Ninnis, or their assigns, shall be desirous of adding the specification and description of any new improvement of the said invention which shall be originated or discovered by them subsequently to the date of the Letters Patent to be issued under this Act, they may, like proceedings being had in all respects as in the case of original application, and on the further payment of twenty pounds in manner hereinbefore provided, have the same annexed to the original description and specification, and the Colonial Secretary shall certify on the margin of such annexed description and specification the time of its being annexed and recorded, and the same shall thereafter have the same effect in law to all intents and purposes as though it had been embraced in the original description and specification.

27. The said Arthur Guyon Purchas and James Ninnis, their executors, administrators, or assigns, may, if they think fit, enter with the Colonial Secretary a disclaimer of any part of the specification, stating the reason for such disclaimer, or may with such permission* enter a memorandum of any alteration in the said specification, not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and such disclaimer or memorandum being deposited with the Colonial Secretary shall be deemed and taken as part of such Letters Patent or such specification, and subject to the several incidents thereof in all Courts of Justice in the Colony: Provided that no such disclaimer or alteration shall be receivable as evidence in any action (save and except in any proceeding by *scire facias*) pending at the time when such disclaimer or alteration was enrolled, but in every such action the original specification alone shall be deemed and taken to be the specification of the invention for which Letters Patent shall have been granted.

Disclaimer may be entered.

*Sic.

28. The said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, shall have within the Colony, for a term of fourteen years next after the date of the said Letters Patent, the exclusive enjoyment and advantage in the said Colony of such invention, and such and the same protection and such and the same remedies at law and in equity against any person in the said Colony infringing the said Letters Patent, and generally such and the same rights powers and privileges throughout the said Colony with respect to the said invention, as any person to whom Letters Patent for a new invention have been granted under the Great Seal of England has by the law of England in and throughout the realm of England.

Effect of Patent.

29. Any of the penalties recoverable by any person holding Letters Patent under the Great Seal of England in any Court in Great Britain, under the Act of the Imperial Parliament passed in the Session of the fifth and sixth years of the reign of His late Majesty King William the Fourth, intituled "*An Act to amend the Law touching Letters Patent for Inventions,*" for any unauthorized person using or imitating the name of any patentee, or using the word "Patent" or the like words, or counterfeiting the mark of any such patentee, may be recoverable and recovered in the Supreme Court by the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, for similar injuries to them or any of them.

Penalties of 5 and 6 Will. IV. c. 83, may be enforced.

30. If any person shall wilfully make or forge, or cause to be made or forged, any false writing or drawing purporting to be a copy of or extract from the said Letters Patent specification statement descriptions or drawings respectively, or shall produce or tender, or cause to be produced or tendered, in evidence any such writing or drawing

Punishment for falsification of specification &c.

drawing knowing the same to be false or forged, he shall be guilty of a misdemeanour, and on conviction thereof shall be punished by fine and imprisonment, at the discretion of the Court, not exceeding two years and five hundred pounds respectively.

SCHEDULE.

His Excellency Governor and Commander-in-Chief in and over the Colony of New Zealand and its Dependencies, to all whom these presents shall come, greeting :

WHEREAS Arthur Guyon Purchas, of Onehunga, in the Province of Auckland, Clerk, and James Ninnis, of the same place, Mining Engineer, have by their petition humbly represented unto me that they are in possession of an invention for the preparation of the fibre of the *Phormium tenax* and other plants for manufacturing purposes, which they conceive will be of great public utility; that they are the true and first inventors thereof, and that the same is not in use by any other person or persons to the best of their knowledge and belief; and the petitioners therefore humbly prayed that I would be pleased to grant unto them, their executors, administrators, and assigns, Letters Patent for the sole use benefit and advantage of their said invention within the Colony of New Zealand for the term of fourteen years, pursuant to "*The Purchas and Ninnis Flax Patent Act, 1860:*" And whereas the said Arthur Guyon Purchas and James Ninnis have particularly described the nature of the said invention, and in what manner the same is to be performed, by instruments, in writing, in the manner prescribed by the said Act.

Now know ye that I, the said _____, the Governor as aforesaid, in pursuance and exercise of the power and authority for this purpose given to me under and by virtue of the said Act, do hereby grant unto the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, the sole privilege and special license, full power and authority, that they the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, and every of them, by himself and themselves, or by his and their deputy or deputies, servants, or agents, or such others as they the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, or assigns, shall at any time agree with, and no others, from time to time and at all times hereafter during the term of years herein expressed shall and lawfully may make use exercise and vend the said invention within the said Colony in such manner as to them the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, or any of them, shall seem meet: And that they the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, shall and may lawfully have and enjoy the whole profit benefit commodity and advantage from time to time growing accruing and arising by reason of the said invention for and during the term of years herein mentioned, to have hold exercise and enjoy the said licenses powers privileges and advantages hereinbefore granted unto the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, for during and until the full end and term of fourteen years from the date of these presents next immediately ensuing: And to the end that the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention as hereinbefore declared, I do by these presents advise all and every person and persons, bodies politic and corporate, in the said Colony, of what estate quality degree name and condition soever they be within the said Colony, that neither they or any of them, at any time during the continuance of the said term of fourteen years hereby granted, either directly or indirectly do make use or put in practice the said invention or any part of the same so attained unto by the said Arthur Guyon Purchas and James Ninnis as aforesaid, nor in any wise counterfeit imitate or resemble the same, nor make or cause to be made any addition thereunto or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors deviser or devisers thereof, without the consent license or agreement of the said Arthur Guyon Purchas and James Ninnis, their executors, administrators or assigns, in writing under his or their hands and seals first had and obtained in that behalf, lest by so doing they make themselves answerable to the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, according to law, for his and their damages thereby occasioned: Provided always and these Letters Patent are and shall be upon this condition, that if at any time during the said term hereby granted it shall be made appear unto Her Majesty Queen Victoria, her heirs or successors, or to the Governor of the said Colony, that this grant is contrary to law or prejudicial or inconvenient to her subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said Arthur Guyon Purchas and James Ninnis are not the true and first inventors, these Letters Patent shall forthwith cease determine and be utterly void to all intents and purposes: Provided also that these Letters Patent, or anything herein contained, shall not extend or be construed to extend to give privilege to the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, or assigns, or any of them, to use or imitate any invention or work whatsoever which

Nelson Roman Catholic Endowments Sale.

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which hath heretofore been found out or invented by any other person, and publicly used or exercised, unto whom Letters Patent or privileges have been already granted for the sole use exercise and benefit thereof: And lastly, I do by these presents grant unto the said Arthur Guyon Purchas and James Ninnis, their executors, administrators, and assigns, that these Letters Patent shall be in and by all things good firm valid sufficient and effectual in the law according to the true intent and meaning thereof, notwithstanding the not full and certain describing herein of the nature or quality of the said invention, or of the materials thereunto conducing and belonging.

In witness whereof, I have hereto subscribed my name, and have caused these Letters Patent to be sealed with the Public Seal of the Colony of New Zealand, this day of _____, one thousand eight hundred and _____.

No. III.

AN ACT to authorize the Sale or Exchange of certain Lands, held in Trust for Religious Purposes, vested in the Roman Catholic Bishop, situate in the City of Nelson, and to provide for the vesting of the Proceeds in Trustees upon similar Trusts.

NELSON ROMAN
CATHOLIC
ENDOWMENTS SALE.

[27th October, 1860.]

WHEREAS by a deed bearing date on or about the thirtieth day of December, in the year one thousand eight hundred and fifty-seven, and made between the Right Honorable William Bernard Lord Petre, of Thorndon Hall, in the County of Essex, in England, of the one part, and the Right Reverend Philip Joseph Viard, in the Colony of New Zealand, Bishop of Orthosio and Apostolic Administrator of the Roman Catholic Diocese of Wellington in the said Colony, of the other part; the said William Bernard Lord Petre, for the consideration therein mentioned, did convey and assure unto the said Philip Joseph Viard and his heirs and assigns all that allotment or parcel of land, containing one acre more or less, situate in the Town (now City) of Nelson, in the said Colony, and which is numbered as four hundred and twenty-six on the plan of the said city, together with all the appurtenances thereunto belonging, to hold the same unto the said Philip Joseph Viard and his heirs and assigns for ever in trust as and for an endowment for the maintenance and support of the Roman Catholic Mission and Religion in the City of Nelson aforesaid, and to for or upon no other use trust intent or purpose whatsoever: And whereas the said acre of land is inconveniently situated for the objects of the said Roman Catholic Mission in the said City of Nelson, and therefore it is desirable that the said Philip Joseph Viard should be empowered to sell or exchange the said acre, and invest the proceeds of sale in the purchase of other land in the said City of Nelson, or to exchange the same for other land lying nearer to the present Roman Catholic Church in the said City of Nelson, and to have the same conveyed to Trustees as hereinafter mentioned:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Nelson Roman Catholic Endowments Sale Act, 1860.*" Short Title.

2. It shall be lawful for the said Philip Joseph Viard, his heirs or assigns, at any time or times after the passing of this Act, absolutely to sell and dispose of or to exchange the said trust premises in such manner Power to sell or exchange.

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Nelson Wesleyan Schoolmaster's Land Sale.

manner as he or they shall think fit, and to convey the fee simple and inheritance of the same trust premises when sold or exchanged to the person or persons who shall agree to become the purchaser or purchasers thereof, or who may agree to exchange other lands in the said City of Nelson for the said allotment or parcel of land; and no purchaser or other person paying money to the said Philip Joseph Viard, his heirs or assigns, shall be afterwards answerable or accountable for such money, or be bound to see to the application thereof.

Lands purchased or exchanged to be vested in Trustees to the use of the Mission.

3. The moneys to be received on any such sale or exchange shall, so soon as may be, be invested in the purchase of such other land as to the said Philip Joseph Viard, his heirs or assigns, shall appear more conveniently situated for the objects of the trusts hereinbefore mentioned, which land or any land to be taken in exchange for the said trust property shall be vested in the said Philip Joseph Viard, Henry Redwood the elder, and Henry Redwood the younger, both of the district of Waimea West, in the said Province of Nelson, farmers; William O'Dwyer, of Waimea East, in the said Province of Nelson, farmer; John William Gay Beauchamp, of the said City of Nelson, surveyor; and John Armstrong, of the same City, innkeeper, their heirs and assigns, and shall be held in trust as and for an endowment for the maintenance and support of the Roman Catholic Mission and Religion in the City of Nelson aforesaid, and to for and upon no other use trust intent or purpose whatsoever.

Saving of rights.

4. Nothing in this Act contained shall be deemed to prejudice or affect the rights of Her Majesty, her heirs and successors, or of any body politic or corporate, or of any other persons excepting the said Philip Joseph Viard, and all persons claiming or to claim or beneficially interested by from through or under him.

No. IV.

NELSON WESLEYAN
SCHOOLMASTER'S
LAND SALE.

AN ACT to authorize the Sale of certain Land and Buildings thereon in the City of Nelson, held in Trust for the use of the Schoolmaster for the time being attached to the School belonging to the people called Wesleyan Methodists, and to provide for the Investment of the Proceeds of such Sale in the Purchase of other Lands and the Erection of a Minister's Dwelling-house and School-house thereon. [27th October, 1860.]

Preamble.

WHEREAS by a certain deed of grant bearing date the fifth day of January, one thousand eight hundred and fifty-five, under the Seal of the Colony of New Zealand, all that piece or parcel of land situate in the City of Nelson, in the Province of Nelson, in the said Colony, containing one acre more or less, bounded on the North by Washington Road, on the East by land granted to Daniel Dixon, and on the South and West by land granted to John Burns, with all the rights and appurtenances whatsoever thereto belonging, was granted unto James Watkin, of the Settlement of Wellington, Wesleyan Minister; Samuel Ironside, of the Settlement of Nelson, Wesleyan Minister;

Nelson Wesleyan Schoolmaster's Land Sale.

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Minister; John Aldred, of the Settlement of Wellington, Wesleyan Minister; William Hough, of the Settlement of Nelson, storekeeper; Adam Jackson, also of Nelson, carter; John Riley, also of Nelson, carpenter; and Richard Wallis, of the district of Waimea East, in the district of Nelson, schoolmaster; to hold unto the same James Watkin, Samuel Ironside, John Aldred, William Hough, Adam Jackson, John Riley, and Richard Wallis, and the survivors of them, and the heirs and assigns of such survivor, upon trust to permit the said land and all buildings thereon erected or to be erected to be for ever appropriated to the use of the schoolmaster for the time being attached to the school belonging to the people call Methodists, in the connexion established by the late Reverend John Wesley: And whereas the Wesleyan Methodists in the said City of Nelson, in the connexion aforesaid, since the date of the before recited grant, with the consent of the Trustees therein named, have erected a substantial dwelling-house on the said land: And whereas the Government system of education in the said Province of Nelson provides for the objects sought to be attained under the trusts of the said recited deed of grant: And whereas it would be expedient that the said trust premises should be appropriated for the purposes of a minister's dwelling-house and a school-house; but, on account of the distance of the said piece of land from the present Methodist Church, the situation thereof is inconvenient and not suitable for such purposes, and it is therefore expedient that such trust premises should be sold and other lands purchased in lieu thereof: And whereas the said James Watkin, Samuel Ironside, John Aldred, and Adam Jackson, have left the Province, and are unable to act in the execution of the trusts of the said deed of grant, and it is expedient to appoint new Trustees thereunder:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Nelson Wesleyan Schoolmaster's Land Sale Act, 1860.*" Short Title.

2. It shall be lawful for the said William Hough, John Riley, and Richard Wallis, hereinafter called the resident Trustees, or the survivors of them, at any time after the passing of this Act, absolutely to make sale and dispose of the said trust premises, either by public auction or by private contract, and in such manner as the said Trustees or the survivors of them shall think fit, and to convey the said trust premises when sold to the person or persons who shall agree to become the purchaser or purchasers thereof; and every conveyance made under the authority of this Act shall be deemed to convey an estate in fee simple. Power to sell land.

3. The receipts of the said resident Trustees, or the survivors of them, for the purchase money of the hereditaments hereby authorized to be sold shall be good valid and sufficient acquittances for the same, and every contract for sale which shall be entered into and every conveyance which shall be executed by the said resident Trustees, or the survivors of them, under the authority of this Act, shall be binding and conclusive on all persons claiming any legal or equitable estate benefit or interest under the trusts of the said deed of grant. Trustees' receipts to be sufficient discharge.

4. The moneys to arise from the sale hereby authorized to be made shall be paid by the said resident Trustees to the Reverend Jonathan Innis, Thomas Foy, Robert Burn, Martin Wales Lightband, Benjamin Crisp, William Jenkins, and the said William Hough, who are the present Minister and office-bearers of the said Wesleyan Methodists in the said City of Nelson, together with the said John Riley and Richard Wallis, or the survivors of them (hereinafter called Money to be paid by Trustees under grant to Trustees under Act.

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“ the Trustees under this Act ”), whose receipt shall be a good valid and sufficient acquittance for the same, and shall discharge the said resident Trustees or the survivors of them from all liability respecting the application or misapplication thereof.

Trustees under this Act to invest proceeds in purchase of other land, and to erect buildings and hold same upon trusts.

5. After defraying the expenses of passing and obtaining this Act the Trustees under this Act shall lay out and invest such moneys in the purchase of an appropriate site within the said City of Nelson and in the erection thereupon of a minister’s dwelling-house and school-house ; and the Trustees under this Act, and the heirs and assigns of the survivor of them, shall stand and be seized of the hereditaments so to be purchased as aforesaid, and of the dwelling-house and school-house to be erected and built thereon as aforesaid, upon trust to permit the same to be for ever appropriated and used as and for a dwelling-house for the minister for the time being, and for a school-house for the use of the people called Methodists, in the connexion established by the late Reverend John Wesley, and worshipping in the chapel lately erected and built in the said City of Nelson.

Disposal of surplus moneys (if any).

6. If there shall be any portion of such moneys remaining unexpended after the completion of such purchase and the erection of such buildings as hereinbefore mentioned, the same shall be applied by the Trustees under this Act to such purposes, for the benefit of the said connexion in Nelson, as any Judge of the Supreme Court may on summary application direct.

Saving of rights.

7. Nothing in this Act contained shall be deemed to affect the rights of Her Majesty, her heirs and successors, or of any bodies politic or corporate, or of any persons excepting the said James Watkin, Samuel Ironside, John Aldred, William Hough, Adam Jackson, John Riley, and Richard Wallis, and any persons claiming or to claim or beneficially interested by from through or under them.

No. V.

ANDERSON PIPE PATENT.

AN ACT to enable the Governor to grant a Patent to William Acland Douglas Anderson, for an Invention for Improvements in the Manufacture of Pipes. [2nd November, 1860.]

Preamble.

WHEREAS Alfred Fauvin Jaloureau, of Paris, in the French Empire, manufacturer, claiming to have discovered or to be in possession of an invention for improvements in the manufacture of pipes, did by an instrument in writing bearing date the eleventh day of January, one thousand eight hundred and sixty, for the considerations therein expressed, grant and assign unto the said William Acland Douglas Anderson, his executors, administrators, and assigns, all and singular the said invention and the full and exclusive benefit and advantage thereof, so far as relates to the Colonies or British dependencies in Australasia and New Zealand or any of them, together with full power for the said William Acland Douglas Anderson, his executors, administrators, or assigns, for obtaining the full benefit of the said grant and assignment thereinbefore expressed to be made, and for all purposes connected therewith, and, if he or they should think fit, to apply for and take grants of any Letters of Registration, Letters Patent, and other grants of privileges or licenses from the authorities in any of the said Colonies or dependencies empowered to grant the same,

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same, and to prepare execute and do all necessary specifications and other documents acts and things necessary or expedient for the purposes aforesaid or any of them, and also all other acts necessary or expedient for effectuating the said grant and assignment in the name or names of or as the agent or agents for the said Alfred Fauvin Jaloureau, his executors or administrators, or in the name or names of the said William Acland Douglas Anderson, his executors, administrators, or assigns, or otherwise: And whereas the said William Acland Douglas Anderson is desirous of obtaining a Patent for the protection of the said invention within the Colony of New Zealand, and he has deposited at the office of the Colonial Secretary a petition signed by him, or by an agent acting on his behalf, and addressed to the Governor, representing that he is in possession of an invention for improvements in the manufacture of pipes which he conceives will be of great public utility, that the said Alfred Fauvin Jaloureau is the true and first inventor thereof, and that all the right and interest thereto or therein within the said Colony has been duly assigned and transferred to the said William Acland Douglas Anderson as before recited, and that the same invention is not in use by any other person within the said Colony, to the best of his knowledge and belief, and stating clearly and succinctly the object to be attained by the said invention, and praying that Letters Patent should be granted to him for the exclusive use thereof in the said Colony. And he has deposited with the said petition a written specification, signed by him or by an agent acting on his behalf, of the said invention, and of the manner and process of making constructing and using the same, in such terms as to enable any person skilled in the scheme or manufacture to which it appertains to make construct and use the same; and in case of the machine, part of the said invention, a statement of the principle and the several modes in which the said inventor has contemplated the application of that principle or character by which it may be distinguished from other inventions, and has in the said specification particularly pointed out and specified the improvement or combination which the said inventor claims as his own invention and discovery, and has also deposited a drawing thereof and written references thereto: And whereas it is expedient to enable the Governor to grant to the said William Acland Douglas Anderson Letters Patent for securing to him the sole use benefit and advantage of the said invention in the Colony of New Zealand in manner hereinafter provided:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Anderson Pipe Patent Act, 1860.*" Short Title.

2. In the construction of this Act the word "Person" shall include bodies corporate and companies as well as individuals, unless the context be repugnant to such construction. Interpretation.

3. It shall be lawful for the Governor to grant Letters Patent for the said invention to the said William Acland Douglas Anderson in manner hereinafter provided. Governor may grant Letters Patent.

4. The said William Acland Douglas Anderson shall, prior to the issue of such Letters Patent, pay to the Colonial Treasurer the sum of five pounds, to be applied as ordinary revenue of the Colony. Fee payable.

5. Immediately after the passing of this Act the said William Acland Douglas Anderson, during the term of twelve months thence next ensuing, shall by virtue hereof have the like protection rights powers and privileges as could be conferred upon him by Letters Patent Interim protection for invention.

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Patent for the said invention issued under this Act; and during the continuance of such protection rights powers and privileges under this provision, such invention may be used and published without prejudice to the Letters Patent to be granted for the same.

To be advertised.

6. Such interim protection shall, if required by the said William Acland Douglas Anderson, his executors, administrators, or assigns, be advertised by the Colonial Secretary in such manner as he shall think fit.

Assignment of Patent and record thereof.

7. The Letters Patent to be granted as aforesaid shall be assignable in law either as to the whole interest therein or any undivided part thereof, or as to any part of the said invention, by an instrument in writing, which assignment, and also any grant or conveyance of the exclusive right thereunder to make and use and to grant to others the right to make and use the thing patented therein or any part thereof, shall be recorded in the office of the Colonial Secretary within twelve months from the execution thereof, upon payment by the assignee or grantee to the Colonial Treasurer of the sum of ten shillings, to be applied as aforesaid.

Specification &c. to be enrolled.

8. The Colonial Secretary shall cause the said specification statement description and drawings, and also any such corrected or additional specification and description as hereinafter mentioned, to be permanently kept in his office, and all persons whosoever may have access thereto and may inspect and may have copies of or extracts from the same upon payment of reasonable expenses, and such copies or extracts, and copies or extracts of or from the record of the said Letters Patent, certified by the Colonial Secretary to be true copies or extracts, shall be received as evidence in all proceedings whatsoever.

Specification may be corrected.

9. If the said Letters Patent shall be found to be inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the said William Acland Douglas Anderson claiming as the invention of the said inventor more than he has a right to claim as new, if the error shall arise by accident inadvertency or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Governor, upon the surrender of such Letters Patent and the payment to the Colonial Treasurer of the sum of ten pounds, to cause new Letters Patent to be issued to the said William Acland Douglas Anderson for the same invention for the residue then unexpired of the said term in accordance with the corrected specification and description; and in case of the death of the said William Acland Douglas Anderson, or any assignment by him, a similar right shall vest in his executors, administrators, or assigns; and the Letters Patent so re-issued, together with the corrected description and specification, shall have the same effect and operation in law on the trial of all actions commenced for causes subsequently accruing as though the same had been originally filed or deposited in such corrected form before the issuing of the original Letters Patent.

Disclaimer may be entered.

10. The said William Acland Douglas Anderson, his executors, administrators, or assigns, may, if he or they think fit, enter with the Colonial Secretary (having first obtained the permission in writing of the Governor) a disclaimer of any part of the specification, stating the reason for such disclaimer, and may with such permission enter a memorandum of any alteration in the said specification not being such disclaimer or such alteration as shall extend the exclusive right granted by the said Letters Patent; and such disclaimer or memorandum being deposited with the Colonial Secretary shall be deemed and taken as part of such Letters Patent or such specification, and subject to the several incidents thereof in all Courts of Justice in the Colony: Provided that no such disclaimer or alteration shall be receivable as evidence

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evidence in any action (save and except in any proceeding by *scire facias*) pending at the time when such disclaimer or alteration was enrolled, but in every such action the original specification alone shall be deemed and taken to be the specification of the invention for which Letters Patent shall have been granted.

11. The said William Acland Douglas Anderson, his executors, administrators, and assigns, shall have within the Colony for a term of fourteen years, to be computed from the twenty-third day of September, one thousand eight hundred and fifty-eight, the date of the Letters Patent granted to the said Alfred Fauvin Jaloureau, under the Great Seal of England, for the use of the said inventor, in the United Kingdom of Great Britain and Ireland and elsewhere, the exclusive enjoyment and advantage in the said Colony of such invention, and such and the same protection and such and the same remedies at law and in equity against any person in the said Colony infringing the Letters Patent to be granted under this Act, and generally such and the same rights powers and privileges throughout the said Colony with respect to the said invention, as any person to whom Letters Patent for a new invention have been granted in England has by the law of England in and throughout the realm of England. Effect of Patent.

12. In any action in the Supreme Court for the infringement of the Letters Patent to be granted under this Act it shall be lawful for the Court, as well in its common law as in its equity jurisdiction, or for any Judge of the Court, on the application of the plaintiff or of the defendant respectively, to make such order for an injunction inspection or account, or to give such direction respecting such action injunction inspection or account, and the proceedings therein respectively, as to such Court or Judge shall seem fit. Injunction &c.

13. Any of the penalties recoverable by any person holding Letters Patent under the Great Seal of England in any Court in Great Britain, under the Act of the Imperial Parliament passed in the Session of the fifth and sixth years of the reign of His late Majesty King William the Fourth, intituled "*An Act to amend the Law touching Letters Patent for Inventions,*" for any unauthorized person using or imitating the name of any such patentee, or using the word "Patent," or the like words, or counterfeiting the mark of any such patentee, may be recoverable and recovered in similar Courts in the Colony by the said William Acland Douglas Anderson, his executors, administrators, and assigns, for similar injuries to him them or any of them respectively. Penalties of 5 and 6 Will. IV. cap. 83, may be enforced.

14. If any person shall wilfully make or forge, or cause to be made or forged, any false writing or drawing purporting to be a copy of or extract from the Letters Patent specification statement description or drawings to be granted and deposited under this Act respectively, or shall produce or tender, or cause to be produced or tendered, in evidence any such writing or drawing, knowing the same to be false or forged, he shall be guilty of a misdemeanour, and on conviction thereof shall be punished, at the discretion of the Court, by fine not exceeding five hundred pounds, or by imprisonment not exceeding two years, or by both. Punishment for falsification of specification &c.

15. The Letters Patent to be granted under or by virtue of this Act may be repealed by writ of *scire facias* for the same causes and in the same manner as any grant of the Crown is liable to be repealed. Patent may be repealed by *scire facias*.

No. VI.

AUCKLAND
WATERWORKS.

AN ACT to make provision for enabling certain Persons to make and maintain Waterworks for the Supply of the City and Neighbourhood of Auckland with Water. [3rd November, 1860.]

Preamble.

WHEREAS the construction of waterworks to furnish a constant supply of water to the town and neighbourhood of Auckland, and to such localities as may be in the vicinity of the proposed line of such waterworks, would be productive of great benefit to the inhabitants of such places and to the community at large, and it is therefore advisable to make provision for the making and maintenance of such waterworks :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

Short Title.

1. The Short Title of this Act shall be "*The Auckland Waterworks Act, 1860.*"

Interpretation.

INTERPRETATION OF THIS AND INCORPORATED ACTS.

Interpretation in
Acts.

2. The following words and expressions in this Act and any Act incorporated herewith shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say,—

Person.

The word "Person" shall include a Corporation whether aggregate or sole.

Lands.

The word "Lands" shall include messuages lands tenements and hereditaments of any tenure.

Streams.

The word "Streams" shall include springs brooks and other running waters.

Street.

The word "Street" shall include any wharf quay jetty square court alley highway lane road thoroughfare or public passage or place within the limits of this Act, or projecting from any part thereof into the sea.

Waterworks.

The expression "the Waterworks" shall mean the waterworks and the works connected therewith authorized to be constructed by this Act and by an Act of the Superintendent and Provincial Council of the Province of Auckland to be passed as hereinafter mentioned.

Water-rate.

The expression "Water-rate" shall include any rent reward or payment to be made to the undertakers for a supply of water.

Two Justices.

The expression "Two Justices" shall mean two or more Justices met and acting together, or a Resident Magistrate.

Superintendent.

The word "Superintendent" shall mean the Superintendent for the time being of the Province of Auckland.

Inspector.

The word "Inspector" shall mean an officer appointed under any local Act relating to the district supplied with water under this Act, for the purpose of inspecting or superintending works connected with the paving drainage or supply of water of such district or any part thereof, or an officer appointed under any general Act for executing the like duties with respect to such district together with other districts, and until such officer be appointed shall mean the Inspector of Public Works for the time being.

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The word "Undertakers" shall mean the Superintendent alone or along with other persons, as the case may be, undertaking the making and maintenance of the waterworks under this Act and an Act of the said Superintendent and Provincial Council to be passed as hereinafter mentioned.

Undertakers
incorporated.

The word "Directors" shall mean the persons duly charged with the direction and management of the waterworks.

Directors.

The expression "Limits of this Act" shall mean the district included within a line starting from the junction of Karangahape Road with Symonds Street, thence westward along the said road to its junction with Pitt Street, thence along the said street to its junction with Wellington Street, thence westward along Wellington Street to its junction with Union Street, thence along Union Street to the sea at Freeman's Bay at the west end of Drake Street, thence along the coast to Mechanic's Bay at the foot of Stanley Street, and thence westward along the road leading to the Presbyterian Church at the foot of Symonds Street and southward along the same street to the starting point; together with such district as may from time to time be declared by the Governor in Council, in manner hereinafter mentioned, to be placed within the operation of this Act.

Limits of this Act.

The expression "Secretary" shall mean the Secretary of the undertakers for the time being, and shall include the word "Clerk."

Secretary.

3. The Supreme Court shall have and exercise, in the execution of any Imperial Act incorporated herewith, the same jurisdiction as the Court of Chancery or any superior Court in England is empowered or directed to have or exercise in any section of such Acts; and whenever any sum of money shall be payable by the said undertakers under this Act or any Act incorporated herewith in virtue of any purchase or other transaction for the purposes hereof, and the same is directed by any of the Acts herewith incorporated to be paid into the Bank, or into the Bank of England, with the privity or consent of the Accountant-General of the Court of Chancery, it shall be lawful in any such case for the undertakers, with the privity and consent of the Registrar of the Supreme Court in the Northern District, to pay such sum of money into the Savings Bank in Auckland aforesaid to the account of the undertakers and to the credit of the person interested therein, if any such be known, and the receipt of the proper officer of such Savings Bank shall be of the same validity as the receipt of the Cashier of the Bank of England has in England; and the words "United Kingdom" and the word "England" and the word "Kingdom" shall be taken to mean and apply to the Colony of New Zealand; and the expression "General Quarter Sessions of the Peace" shall be taken to mean the Supreme Court; and the expression "Clerk of the Peace" shall be construed to mean the Registrar of the Supreme Court for the Northern District.

Interpretation of
Acts incorporated
with this Act.

4. The sections and schedules of the Imperial Acts incorporated with this Act, wherever the words of the same would, from their being framed with reference to the Kingdom of England, be inapplicable to the circumstances of the Colony of New Zealand, are to be read and interpreted so as to make them applicable to the circumstances of this Colony, and so as to insure that the operation of the said Imperial Acts shall be secured by this Act for the benefit of the said undertaking, and also for the controlling of the same to the full extent and meaning of this Act.

Further
interpretation.

5. For the purposes of interpretation, any Act of the Superintendent

Interpretation of
Provincial Acts.

tendent and Provincial Council as hereinafter mentioned shall be deemed to be incorporated with and to form part of this Act.

Powers of Undertakers.

Undertakers incorporated.

GENERAL POWERS AND DUTIES OF THE UNDERTAKERS.

6. It shall be lawful for the Superintendent, either alone or in connection with any other persons who shall hereafter become subscribers to the said undertaking, and their several and respective successors, executors, administrators, and assigns, upon such terms and conditions as shall be sanctioned and specified in an Act to be passed by the said Superintendent and Provincial Council, to make construct complete and maintain such waterworks for the supply of the town and neighbourhood of Auckland with water as may be specified in such Provincial Act, and for that purpose and for the other purposes of this Act and of such Provincial Act the undertakers of such waterworks shall be one Body Corporate by the name and style of the "Undertakers of the Auckland Waterworks," and by that name shall have perpetual succession, and shall have a common Seal, and by that name shall and may sue and be sued plead and be impleaded defend and be defended in all Courts and places whatsoever: Provided that no such Act of the Superintendent and Provincial Council of Auckland shall be passed except after compliance with such rules and orders of the said Provincial Council as are applicable to Private Bills of that class.

Power to take and hold land and streams and construct works.

7. Subject to the provisions restrictions and conditions contained in this Act, or in any Act wholly or in part incorporated herewith, or contained in such Provincial Act as aforesaid, the undertakers may exercise any of the following powers and execute any of the following works, that is to say,—

They may, without any previous agreement with the owner or occupier of such lands, enter upon any lands or other places in the County of Eden, and take the levels of the same.

They may enter upon take and hold any such lands for the purposes of this Act.

They may from time to time sink such wells or shafts, and make maintain alter or discontinue such reservoirs waterworks cisterns tanks aqueducts drains cuts sluices pipes culverts engines and other works, and erect such buildings upon the lands and streams authorized to be taken by them, as they shall think proper for supplying with water the district within the limits of this Act.

They may from time to time divert impound and take such water as may be found in and under or on the lands to be taken under the powers of this Act, and may alter the course of any streams.

They may, without previous payment tender or deposit, enter upon and use any land within the County of Eden for the purpose of taking earth or clay therefrom, and they may as aforesaid enter upon and use any lands adjacent for making temporary roads or approaches thereto or to the works: Provided always that before they make such temporary use of any such lands they shall give twenty-one days' notice of such their intention to the owners and occupiers of such lands, except in the case of accident to the works requiring immediate reparation: Provided also that the undertakers shall, until any land taken by them for temporary use be given up to the owner, pay to the owner half-yearly reasonable compensation for the use of such land, and for any damage or injury done to the crop or to the surface of the land or otherwise, and such compensation shall

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shall be settled, if they cannot agree with the owner, as in cases of disputed compensation.

Provided that if the undertakers shall obtain the whole or any portion of the water from the springs at Onehunga, commonly known as Bycroft's Springs, allotments six, eight, and ten of section fourteen, and shall by so doing either altogether prevent or materially interfere with the working of the flour mill now belonging to Mr. John Bycroft, as the same has been accustomed to be worked, such compensation shall be paid to the owner for the time being of such flour mill as may be determined upon under the terms of "*The Lands Clauses Consolidation Act, 1845*:" And provided further that if the undertakers shall obtain the whole or any portion of the water from the springs at Onehunga, they shall erect in some convenient place near the main works and keep in repair a stand pipe of not less than half-inch bore, for the free supply of water to the inhabitants of Onehunga aforesaid, and shall also supply and keep in repair a trough of not less than two yards long, two feet wide, and two feet deep, through which water shall be constantly kept running for the free supply of water to the cattle and horses of such inhabitants.

8. Provided always that in the exercise of the said powers the undertakers shall do as little damage as can be, and in all cases where it can be done shall provide other watering-places drains and channels for the use of adjoining lands in place of any such as shall be taken away or interrupted by them.

Undertakers to make compensation.

9. In exercising the powers of compulsory taking of lands and streams hereinbefore conferred upon them, the undertakers shall make to the owners and occupiers of, and all other parties interested in, any lands or streams taken or used for the purposes of this Act, or injuriously affected by the construction or maintenance of the waterworks, or otherwise by the execution of the powers hereby conferred, full compensation for the value of the lands and streams so taken or used, and for all damages sustained by such owners occupiers and other persons by reason of the exercise as to such lands or streams of the powers vested in the undertakers by this Act or any Act incorporated herewith.

Compensation to be made by undertakers for lands taken or injuriously affected.

10. Nothing herein contained shall prevent the owners and occupiers for the time being of any lands through or by which such streams shall flow from using the water thereof in such manner and to such extent as they might have done before the passing of this Act, unless they shall have received compensation in respect of their right of so using such water.

Reservation of existing rights.

PURCHASE OF LANDS BY AGREEMENT.

11. With respect to the purchase of lands by agreement, the sections of the Act of the Imperial Parliament, called "*The Lands Clauses Consolidation Act, 1845*," numbered respectively from six to fourteen, both inclusive, shall be incorporated with this Act.

Purchase of lands by agreement.

Certain sections of "*Lands Clauses Consolidation Act, 1845*," incorporated.

PURCHASE AND TAKING OF LANDS OTHERWISE THAN BY AGREEMENT.

12. The sections of the said "*Lands Clauses Consolidation Act, 1845*," marked respectively eighteen to sixty-eight, both inclusive, shall be incorporated in this Act.

Compulsory taking of lands.

Certain sections of "*Lands Clauses Consolidation Act, 1845*," incorporated.

13. Provided that section twenty-two of such Act shall apply to cases where no claim is made as well as to cases where the compensation claimed shall not exceed fifty pounds.

Alteration in section twenty-two thereof.

14. Subject to the provisions of this Act, the following sections of the said "*Lands Clauses Consolidation Act, 1845*," shall be incorporated with this Act, *mutatis mutandis* :—

Certain other clauses of said Act incorporated.

With respect to the purchase money or compensation coming to parties having limited interests or prevented from treating or making title, sections numbered respectively sixty-nine to eighty, both inclusive.

With respect to conveyances of land, sections numbered respectively eighty-one to eighty-three.

With respect to entry upon lands by the promoters of the undertaking, sections numbered respectively eighty-four to eighty-seven both inclusive, and eighty-nine to ninety-two, both inclusive.

With respect to lands subject to mortgage, sections numbered respectively one hundred and eight to one hundred and fourteen, both inclusive.

With respect to lands subject to leases, sections numbered respectively one hundred and nineteen to one hundred and twenty-two, both inclusive; and

With respect to interests omitted to be purchased, sections numbered respectively one hundred and twenty-four to one hundred and twenty-six, both inclusive.

Laying of pipes.

Power to break up streets &c under superintendence and to open drains.

BREAKING UP STREETS FOR THE PURPOSE OF LAYING PIPES.

15. The undertakers, under such superintendence as is herein after specified, may open and break up the soil and pavement of the several streets and bridges within the limits of this Act, and may open and break up any sewers drains or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes conduit service pipes and other works and engines, and from time to time repair alter or remove the same, and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges, and do all other acts which the undertakers shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits, doing as little damage as can be in the execution of the powers hereby granted, and making compensation for any damages which may be done in the execution of such powers.

Not to enter private lands without consent.

16. Nothing herein contained shall authorize or empower the undertakers to lay down or place any pipe conduit service pipe or other work in any land not included in the land to be defined and specified in and by such Provincial Act as aforesaid, or not dedicated to public use, or not being waste lands of the Crown, without the consent of the owners and occupiers thereof, except that the undertakers may at any time enter upon and lay or place any new pipes in the place of an existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down.

Notice to be served on persons having control &c. before breaking up streets or opening drains.

17. Before the undertakers open or break up any street bridge sewer drain or tunnel they shall give to the superintendent, or to the persons under whose control or management the same may be, or to his or their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same not less than three clear days before beginning such works, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

Streets or drains not to be broken up except under superintendence of persons having control of the same.

18. No such street bridge sewer drain or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved
of

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of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two Justices; and such Justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any sewer or drain: Provided always that if the persons having such control or management as aforesaid and their officer fail to attend at the time fixed for the opening of any such street bridge sewer drain or tunnel, after having had such notice of the intention of the undertakers as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons or their officer.

If persons having the control &c. fail to superintend, undertakers may perform the work without them.

19. When the undertakers open or break up the road or pavement of any street or bridge, or any sewer drain or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the road or pavement or the sewer drain or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road or pavement shall be so opened or broken up cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept there throughout every night during which such road or pavement shall be continued open or broken up, and shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for three months thereafter, and such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Streets &c. broken up to be reinstated without delay.

20. If the undertakers open or break up any street or bridge, or any sewer drain or tunnel, without giving such notice aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid when so required, except in the cases in which the undertakers are authorized to perform such works without any superintendence or notice, or if the undertakers make any unnecessary delay in completing any such work or in filling in the ground or reinstating and making good the road or pavement or the sewer drain or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced guarded and lighted, or neglect to keep the road or pavement in repair for the space of six months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street bridge sewer drain or tunnel in respect of which such default is made a sum not exceeding five pounds for every such offence, and an additional sum of five pounds for every day during which any such delay as aforesaid shall continue after they shall have received notice hereof.

Penalty for delay in reinstating streets &c.

21. If any such delay or omission as aforesaid shall take place, the persons having the control or management of the street bridge sewer drain or tunnel in respect of which such delay or omission shall take place may cause to be executed the works so delayed or omitted, and the expense of executing the same shall be repaid to such persons by the undertakers, and such expenses may be recovered in the same way as damages are recoverable under this Act or any Act incorporated herewith.

In case of delay other parties may reinstate and recover expenses.

PENALTIES.

Penalties.

Penalty for obstructing construction of works.

Penalty for illegally diverting water.

Recovery of damages and penalties.

"*Railways Clauses Consolidation Act, 1845,*" as to damages &c. to be incorporated with this Act.

Persons giving false evidence liable to penalties of perjury.

Tender.

Tender of amends.

Undertakers not exempt from pro-

PENALTIES.

22. Every person who shall wilfully obstruct any person acting under the authority of the undertakers in setting out the line of the works, or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works, or deface or destroy any works made for the same purpose, shall be liable to a penalty not exceeding one hundred pounds for every such offence.

23. After the streams or supplies of water hereby authorized to be taken by the undertakers shall have been so taken, every person who shall illegally divert or take the waters supplying or flowing into the streams so taken or any part thereof, or who shall do any unlawful act whereby the said streams or supplies of water may be drawn off or diminished in quantity, and who shall not immediately repair the injury done by him on being required so to do by the undertakers, so as to restore the said waters to the state in which they were before such act, shall forfeit to the undertakers any sum which shall be awarded by two Justices not exceeding one hundred pounds for every day during which the said supply of water shall be diverted or diminished by reason of any act done by or by the authority of such person, and any sum so forfeited shall be in addition to the sum which he may be lawfully adjudged liable to pay to the undertakers for any damage which they may sustain by reason of their supply of water being diminished, and the payment of the sum so forfeited shall not bar or affect the right of the undertakers to bring an action at law against such person for the damage so committed.

RECOVERY OF DAMAGES NOT SPECIALLY PROVIDED FOR, AND OF PENALTIES, AND THE DETERMINATION OF ANY OTHER MATTER REFERRED TO JUSTICES.

24. Subject to the provisions of this Act the sections of the Act of the Imperial Parliament, called "*The Railways Clauses Consolidation Act, 1845,*" with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matters referred to Justices, sections one hundred and forty to one hundred and fifty-eight, both inclusive, shall be incorporated with this Act, and such selections shall apply to the waterworks and to the undertakers respectively, *mutatis mutandis.*

25. Every person who, upon any examination upon oath under the provisions of this Act or any Act incorporated herewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

TENDER OF AMENDS.

26. If any person shall have committed any irregularity trespass or other wrongful proceeding in the execution of this Act or any Act incorporated herewith, or by virtue of any power or authority hereby or thereby given, and if, before action brought in respect thereof, such person make tender of sufficient amends to the person injured, such last-mentioned person shall not recover costs in any such action; and if no such tender shall have been made, the defendant may, by leave of the Court where such action is pending, at any time before issue joined or before the trial, if in a Resident Magistrate's Court, pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

MISCELLANEOUS PROVISIONS.

27. Nothing herein contained shall be deemed to exempt the undertakers

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undertakers from any general Act of any Legislature to be passed for improving the sanitary condition of towns and populous districts.

28. It shall be lawful for the Governor in Council, on the application of the undertakers, from time to time, by Order in Council, to extend the limits of this Act to any part of the County of Eden, but not less than fourteen days previous to such order being made, notice of the application shall be advertised in the *Gazette* of the Provincial Government of Auckland, and twice in two newspapers published in the City of Auckland.

visions of any future general Act as to health of towns. Limits of Act may be extended.

No. VII.

AN ACT to enable the Superintendent of the Province of Auckland to raise Money by way of Debentures on security of the Harbour Endowments of the City and Port of Auckland. [5th November, 1860.]

AUCKLAND HARBOUR DEBENTURE.

WHEREAS large sums of money have at various times been voted by the Provincial Legislature of the Province of Auckland, and advanced from the Provincial Treasury of the said Province, for the purpose of carrying on works and making improvements in the harbour of Auckland: And of such sums twenty-five thousand pounds at least were specifically voted on the security of the harbour endowments granted to the Superintendent of the said Province under the authority of "*The Public Reserves Act, 1854*," and on the understanding that the amount should be repaid to the said Provincial Treasury: And whereas the Provincial Government of the Province of Auckland is indebted to the Oriental Bank Corporation, and it is expedient that it should be enabled to repay the said sum so due to the said Bank without forcing a lease or sale of the said harbour endowments, in exercise of the powers vested in the said Superintendent in that behalf by an Act of the Provincial Council of the Province of Auckland, Session XI., No. 2: And whereas the said Provincial Legislature, in its ninth Session, passed an Act authorizing the said Superintendent to raise a sum not exceeding twenty-five thousand pounds by the issue of debentures to be a charge on the said harbour endowments, but which Act was disallowed:

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows, that is to say:—

1. The Short Title of this Act shall be "*The Auckland Harbour Debenture Act, 1860.*"

Short Title.

2. It shall be lawful for the Superintendent of the said Province to raise from time to time, in the manner hereinafter prescribed, by the sale of debentures, a sum of money, not exceeding the sum of twenty-five thousand pounds, for the purpose of paying off the sum due by the Provincial Government of the Province of Auckland to the Oriental Bank Corporation, and of repaying any moneys now due or hereafter to be found due to the general revenue of the said Province, for or on account of such works and improvements as aforesaid.

Superintendent may raise £25,000 upon debentures.

LOCAL AND PERSONAL

Auckland Harbour Debenture.

Debentures to be sold by tender and not to be sold at less than par.

3. The sale of such debentures by the said Superintendent shall be effected by means of public tender and not otherwise: Provided that it shall not be lawful for the said Superintendent to sell any such debentures for any sum of money which shall be less than the sum for which such debenture shall be issued.

Form of debenture.

4. Every such debenture shall be in the form contained in the Schedule to this Act, or to the like effect, and shall bear the respective signatures of the said Superintendent and of the Treasurer of the said Province, and shall be numbered consecutively, and shall have interest coupons attached.

Debentures when payable.

5. Every such debenture shall be made redeemable on some day to be named in the debenture, being on or before the first day of January, one thousand eight hundred and seventy-six.

Debentures to be payable to bearer.

6. All such debentures and coupons shall be made payable to the bearer thereof, and shall pass by delivery only, and without any conveyance assignment or indorsement.

Place of payment.

7. The said Superintendent may from time to time make all such arrangements for the payment of any debentures or coupons at any office or banking establishment in London or elsewhere as to the said Superintendent may seem desirable.

Notice to be given of sale.

8. No sale of debentures shall take place unless due public notice thereof shall have been given.

Interest how and at what rate payable.

9. Every such debenture shall be for one hundred pounds, and shall bear interest after a rate to be therein fixed, which interest shall be payable half-yearly from the date thereof: Provided always that such interest shall not exceed eight pounds per centum per annum.

Debentures to be secured on the harbour endowments.

10. The said debentures shall be a first charge upon the several allotments or parcels of land comprised in the deed of grant of the twenty-third day of March, one thousand eight hundred and fifty-eight, particularly described in the Schedule A to this Act annexed; and it shall be lawful for the holder of any such debenture, in case the money advanced upon the same shall not be paid at the time fixed in the said debenture for the payment thereof, or in case any interest due in respect thereof shall be in arrear for the space of six calendar months, to make a written demand of payment thereof on the Superintendent for the time being of the said Province by leaving the same at his usual office, and if default shall be made in payment of the said money for the space of one month from the service of such demand, then at any time after the expiration of the said last-mentioned period it shall be lawful for any such debenture holder to apply summarily by petition to the Supreme Court of New Zealand, praying a decree to the effect that the said lands or a sufficient part thereof may be sold and the moneys arising from such sale may be paid into the said Court to be administered for the benefit of all the holders of the said debentures; and it shall be lawful for the said Court to make such order upon such petition as to the Court shall seem fit, and in particular to make such order for sale of the said lands, or a sufficient part thereof, to raise money for payment of all unpaid debentures issued under this Act, and all costs and arrears of interest thereon, and such sale shall be altogether and in one lot or in parcels and several lots, and either by auction or private contract, and generally in such manner as to the Court shall seem fit, with liberty for the Court to order the same to be brought in and resold in like manner, and to direct the Registrar of the said Court, or such other person as the Court may direct, to convey the lands sold to the purchaser or purchasers thereof in fee-simple or for such less estate as the Court shall direct, which conveyance shall be binding and conclusive on the said Superintendent and all other persons whomsoever, and to direct the payment of the purchase money of the lands sold into the said

Auckland Harbour Debenture.

said Court (the receipt of the Registrar of the said Court being a sufficient discharge to the purchaser for the same), and out of the proceeds of the lands sold to direct payment of all costs and expenses attending the sale, or in any manner incident thereto or to such proceedings as aforesaid, and also the costs of the petitioner in the matter of the petition, and all such other costs as the Court shall direct, and subject thereto to direct that the proceeds of such sale shall be carried to the account of a fund in the said Court, to be called "The Auckland Harbour Debenture Fund," and from time to time to make such order upon petition, as to the Court shall seem fit, for payment out of the said fund to any holder of a debenture issued under this Act of all money due on such debenture for principal and interest, and of all costs incident to the petition or incurred by reason of the non-payment of such money; and it shall be lawful for any holder of any such debenture to apply summarily, by petition, to the said Court for payment out of the said fund of the amount due on such debenture, with interest and costs as aforesaid, and that without regard to the rights or interests of other persons interested in such moneys; and the said Court may, upon application by petition of any party, make such order and decree in the premises for relief of such party, without regard to the rights and interests of other parties, as to the Court shall seem fit, and generally may make such order as to it shall seem fit for securing and giving effect to the rights and interests of all parties interested in the said debentures; and after satisfaction of all moneys due upon such debentures, and interest and costs as aforesaid, the Court shall, upon application of the Superintendent of the Province of Auckland, direct that the balance of the said fund shall be paid to the said Superintendent, to be applied for the purposes expressed in the said Act or Ordinance, Session XI., No. 2.

11. Nothing in this Act contained shall prevent the said Superintendent from exercising the powers vested in him by the said Act, Session XI., No. 2, hereinbefore referred to, of granting by way of lease the said lands or any part thereof, without the concurrence of the debenture holders, in like manner as if this Act had not been passed. But all sums of money received by the said Superintendent upon any such grant or lease, by way of purchase money fine premium or foregift, shall (till a fund be realized, sufficient in the judgment of the Court to cover the outstanding debenture debt, with interest and costs) be paid into the Supreme Court to the credit of the said fund, called "The Auckland Harbour Debenture Fund;" and all such moneys shall be from time to time disposed of and invested as the Court shall order and direct; and the same and all investments thereof shall be held subject to the direction of the Court in the first place as a security to the debenture holders for all money due or which may become due to them for principal interest and costs respectively; and after satisfaction thereof, then the balance of the said fund (if any) shall be paid over to the said Superintendent for the purposes of the said Act, Session XI., No. 2; and the said Court shall from time to time make such order in the premises as to it shall seem fit.

12. If the Superintendent of the said Province shall at any time be desirous of discharging the said lands from liability in respect of the debentures authorized to be issued by this Act, he may apply to the said Court for liberty to pay into Court, to the credit of the said fund, a sum sufficient in the judgment of the Court to satisfy all liability in respect of outstanding debentures interest and costs and of all incidental charges, and the Court shall, if it shall so think fit, order such payment to be made accordingly, and such payments may be made accordingly (the receipt of the Registrar for the same being sufficient),

Power to Superintendent to grant leases.

Power to pay money into Court in discharge of debenture debt.

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sufficient), and upon such payment being so made the said lands shall be discharged from the said debentures interest and costs, and the said fund shall be applied in the first place towards satisfaction of the said debentures interest and costs, on the days and times and at the places appointed for payment thereof, and after payment of such debentures interest and costs, any surplus of the said fund shall be paid over to the said Superintendent, to be applied for the purposes expressed in the said recited Act, Session XI., No. 2, and the said Court shall from time to time make such order in the premises as to it shall seem fit for effectuating the objects hereinbefore mentioned.

Sinking fund.

13. The said Superintendent shall in each and every year, until payment of the debentures issued under authority of this Act, invest on the security of debentures issued by the General Government, or upon security of real property within the Province of Auckland, or in the re-purchase of any debentures issued under this Act, a sum of money out of the annual income or proceeds from the lands comprised in the deed of grant of the twenty-third day of March, one thousand eight hundred and fifty-eight, hereinbefore referred to, equal to two pounds per centum on the amount of the said debentures unpaid at the time of such investment, for the purpose of forming a sinking fund to pay off the said debentures, and the interest to accrue upon all moneys so invested shall from time to time be re-invested in the like manner for the like purpose.

Application of moneys raised.

14. All moneys received by the Superintendent under authority of this Act shall, after defraying all necessary expenses of raising the same, be applied in the first place in payment of the sum due to the Oriental Bank Corporation, and then in refunding to the general revenue of the Province the moneys due or owing or which may have been advanced from such general revenue on account of the said harbour improvements, and the balance (if any) shall be applied for the purpose expressed in the said recited deed of grant.

Commencement of Act.

15. This Act shall have no force or effect until a day to be fixed by the Governor, by Proclamation in the *New Zealand Gazette*, after he shall have been requested by the Superintendent and Provincial Council of the Province of Auckland to bring this Act into operation.

SCHEDULES.

SCHEDULE A.

ALL that portion of Section No. 2 of the City of Auckland, in the Parish of Waitemata, in the County of Eden, containing by admeasurement four acres and three roods, more or less, bounded on the North by Custom House Street, one thousand one hundred and eighty links; on the East-south-east and South by Fore Street, two hundred and sixteen links, six hundred and thirty-nine links, and five hundred and fifty-three links; and on the West by allotments Nos. 1, 2, 3, 4, and 5 of the same section No. 2, five hundred and ten links. Also, all that piece or parcel of land in *our said Colony, situated below high water-mark in the harbour of the Waitemata, in the said Province of Auckland, bounded on the West by a line from Acheron Point bearing north to its intersection with another line drawn between the Watchman and the Bastion; on the North by the last-mentioned straight line drawn between the Watchman and Bastion to its intersection with another line bearing south to Resolution Point; on the East by the said line bearing south to Resolution Point; and on the South from Resolution Point by the seaward boundary of Sections Nos. 2 and 1 of the Suburbs of Auckland, and by the seaward termination of all roads in the said Suburban Sections to the west of Resolution Point; by the seaward boundaries of lot No. 1 of Section No. 31 of the City of Auckland; thence by the stream or watercourse to the strand in Mechanic's Bay; by the seaward boundary of Sections Nos. 12 and 8 of the City of Auckland, and by the seaward terminations of the streets in the said Sections, by the seaward boundary of the Ordnance ground known as Point Britomart, by Custom House Street, by the seaward boundary of Sections Nos. 18, 25, 20, and 19 in the City of Auckland, and by the seaward terminations of all streets thereon; by Drake Street,
by

* Sic.

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by the seaward boundary of a Government Reserve in Freeman's Bay ; thence crossing the mouth of the Western Creek in the said Bay by the seaward boundary of Section No. 8 of the Suburbs of Auckland to Acheron Point above named. Except out of the said portion of Section No. 2 of the City of Auckland aforesaid hereinbefore described, all such subsections allotments or parcels of land as have been heretofore granted or demised or agreed to be granted or demised to any person or persons by virtue of the said Act of the Superintendent and Provincial Council of Auckland, Session XI., No. 2.

SCHEDULE B.

No. } £100. }	Province of Auckland.	{	No. £100.
Debenture			

Transferable by delivery.

Under the authority of "*The Auckland Harbour Debenture Act, 1860.*"

THIS Debenture entitles the bearer, at the office of the Superintendent of the Province of Auckland, or at the _____, at the option of the bearer, to payment of the sum of one hundred pounds sterling, on the _____ day of _____, one thousand eight hundred and _____, which, with interest thereon at the rate of _____ pounds per centum per annum, is hereby charged and secured upon all the lands, messuages, tenements, and hereditaments mentioned and described in Schedule A to the said Act annexed, or any of them, and the revenue thereof, which interest is payable half-yearly on the _____ day of _____, and the _____ day of _____, in each year (dividend coupons for which are annexed).

Dated this _____ day of _____, one thousand eight hundred and _____, and signed the same day in the City of _____.

N.B.—Any change which it may be desired to make in respect of the place of payment of either principal or interest must be previously registered at the office of the said Superintendent in Auckland, and the substitution of the one place for the other indorsed hereon.

NEW ZEALAND.—PROVINCE OF AUCKLAND.

(Coupon.)

("*Auckland Harbour Debenture Act, 1860.*")

Debenture No. _____ £100.	Debenture No. _____ £100.
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ON presentation at the _____ at _____, on or after the first day of _____, one thousand eight hundred and _____, the bearer will be entitled to receive _____ pounds shillings, being the half-year's interest on that date on Debenture No. _____, for one hundred pounds.

Superintendent of the Province of Auckland.

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