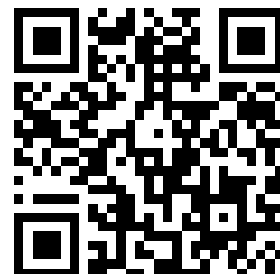


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ACTS

OF THE

PARLIAMENT OF QUEENSLAND,

48<sup>o</sup> VICTORIÆ.

---

SESSION OF 1884.

---

BY THE QUEEN'S MOST EXCELLENT MAJESTY,

WITH THE ADVICE AND CONSENT OF THE

LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY

IN PARLIAMENT ASSEMBLED.



BRISBANE:

BY AUTHORITY: EDMUND GREGORY, ACTING GOVERNMENT PRINTER, WILLIAM STREET.

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Rec. Sept. 30, 1905.

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#### A.

**Acts of 48 Vic. (in order of Chapter), showing their effect on former Acts.**

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#### 48 Vic.

- No. 1.—**THE APPROPRIATION ACT OF 1884-5, No. 1.**
- No. 2.—**THE MARSUPIALS DESTRUCTION ACT CONTINUATION ACT OF 1884—**  
Continues the operation of "The Marsupials Destruction Act of 1881," 45 Vic. No. 4.
- No. 3.—**THE UNITED MUNICIPALITIES ACT OF 1881 AMENDMENT ACT OF 1884—**  
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- No. 4.—**THE REGISTRAR OF TITLES ACT OF 1884—**  
Affects "The Real Property Act of 1861," 25 Vic. No. 14.  
Affects "The Real Property Act of 1877," 41 Vic. No. 18.  
Affects 7 Vic. No. 16.  
Affects 13 Vic. No. 45.  
Affects 20 Vic. No. 27.
- No. 5.—**THE PUBLIC OFFICERS FEES ACT OF 1884.**
- No. 6.—**THE DIVISIONAL BOARDS ENDOWMENTS ACT OF 1884—**  
Affects "The Divisional Boards Act of 1879," 43 Vic. No. 17.  
Affects "The Local Government Act of 1878," 42 Vic. No. 8.
- No. 7.—**THE NEW GUINEA AND PACIFIC JURISDICTION CONTRIBUTION ACT OF 1884.**
- No. 8.—**THE INSANITY ACT OF 1884—**  
Repeals 17 Edw. II., st. I., cc. 9 and 10, and 11 and 12.  
Repeals 2 and 3 Edw. VI., c. 8, sec. 6.  
Repeals 39 and 40 Geo. III., c. 94.  
Repeals 6 Geo. IV., c. 53.  
Repeals 7 Vic. No. 14.  
Repeals 9 Vic. No. 4.  
Repeals 9 Vic. No. 34.  
Repeals 13 Vic. No. 3.  
Repeals 29 Vic. No. 13, ss. 36 and 37.  
Repeals 33 Vic. No. 12.  
Repeals 35 Vic. No. 1.

- No. 9.—THE GRANTS AND LEASES TO DECEASED PERSONS ACT OF 1884.**
- No. 10.—THE BILLS OF EXCHANGE ACT OF 1884—**  
 Repeals "The Bills of Exchange Act of 1867," 31 Vic. No. 15.  
 Repeals "The Bills of Exchange Act of 1879," 43 Vic. No. 10.
- No. 11.—THE SUCCESSION ACT DECLARATORY ACT OF 1884—**  
 Declares the 7th section of 1 Jas. II., c. 17, to be in force in Queensland.
- No. 12.—THE NATIVE BIRDS PROTECTION ACT AMENDMENT ACT OF 1884—**  
 Amends "The Native Birds Protection Act of 1877," 41 Vic. No. 7.
- No. 13.—THE PATENTS, DESIGNS, AND TRADE MARKS ACT, 1884—**  
 Repeals ss. 10, 11, 12 of "The Statute of Monopolies," 21 Jas. I., c. 3.  
 Repeals 16 Vic. No. 24.  
 Repeals 31 Vic. No. 26.  
 Repeals 28 Vic. No. 5, ss. 4, 5, 6, 7.  
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- No. 14.—THE WAGES ACT OF 1884—**  
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- No. 15.—THE LOCAL AUTHORITIES BY-LAWS ACT OF 1884—**  
 Affects "The Local Government Act of 1878," 42 Vic. No. 8.  
 Affects "The Divisional Boards Act of 1879," 43 Vic. No. 17.  
 Affects "The United Municipalities Act of 1881," 45 Vic. No. 11.  
 Affects "The Divisional Boards Act Amendment Act of 1882," 46 Vic. No. 13.
- No. 16.—THE APPROPRIATION ACT OF 1884-5, No. 2.**
- No. 17.—THE HEALTH ACT OF 1884—**  
 Repeals "The Health Act of 1872," 36 Vic. No. 14.  
 Affects and applies "The Local Government Act of 1878," 42 Vic. No. 8.  
 Affects and applies "The Divisional Boards Act of 1879," 43 Vic. No. 17.
- No. 18.—THE IMMIGRATION ACT OF 1882 AMENDMENT ACT OF 1884—**  
 Amends "The Immigration Act of 1882," 46 Vic. No. 7.
- No. 19.—THE OATHS ACT AMENDMENT ACT OF 1884—**  
 Amends "The Oaths Act Amendment Act of 1876," 40 Vic. No. 10.  
 Repeals ss. 1 and 2 of the same Act.
- No. 20.—THE NATIVE LABOURERS PROTECTION ACT OF 1884—**  
 Affects s. 11 of "The Pearl-shell and Bêche-de-mer Fishery Act of 1881," 45 Vic. No. 2, s. 11.
- No. 21.—THE BRANDS ACT OF 1872 AMENDMENT ACT OF 1884—**  
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- No. 22.—THE PHARMACY ACT OF 1884—**  
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- No. 23.—THE DIVISIONAL BOARDS AGRICULTURAL DRAINAGE ACT OF 1884—**  
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 Applies "The Local Works Loans Act of 1880," 44 Vic. No. 9.  
 Applies "The Public Works Lands Resumption Act of 1878," 42 Vic. No. 5.
- No. 24.—THE JURY ACT OF 1884—**  
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- No. 26.—THE APPROPRIATION ACT OF 1884-5, No. 3.**
- No. 27.—THE DEFENCE ACT OF 1884—**  
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 Applies "The Army Act 1881" (Imperial).  
 Applies "The Naval Discipline Act 1866" (Imperial).
- No. 28.—THE CROWN LANDS ACT OF 1884—**  
 Repeals "The Western Railway Act of 1875," 39 Vic. No. 7.  
 Repeals "The Crown Lands Alienation Act of 1876," 40 Vic. No. 15.

No. 28.—THE CROWN LANDS ACT OF 1884—*continued*—

- Repeals "The Settled Districts Pastoral Leases Act of 1876," 40 Vic. No. 16.  
 Repeals "The Railway Reserves Act," 41 Vic. No. 11.  
 Repeals "The Crown Lands Alienation Act of 1876 Amendment Act," 43 Vic. No. 12.  
 Repeals "The Settled Districts Pastoral Leases Act of 1876 Amendment Act,"  
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 Applies "The Fencing Act of 1861," 25 Vic. No. 12.  
 Affects "The Pastoral Leases Act of 1869," 33 Vic. No. 10.  
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2 and 3 Edw. VI., c. 8, s. 6	Of the King's prerogative ... ..	Repealed ... ..	No. 8
21 Jas. I., c. 3, ss. 10, 11, 12	The Statute of Monopolies ... ..	Repealed ... ..	No. 13
39 and 40 Geo. III, c. 94	Lunacy ... ..	Repealed ... ..	No. 8
6 Geo. IV., c. 53	Lunacy ... ..	Repealed ... ..	No. 8
7 Vic. No. 14	Lunatics ... ..	Repealed ... ..	No. 8
7 Vic. No. 16	Registration of Deeds ... ..	Affected ... ..	No. 4
9 Vic. No. 4	Lunatics ... ..	Repealed ... ..	No. 8
9 Vic. No. 34	Lunatics ... ..	Repealed ... ..	No. 8
13 Vic. No. 3	Lunatics ... ..	Repealed ... ..	No. 8
13 Vic. No. 45	Registration of Deeds ... ..	Affected ... ..	No. 4
16 Vic. No. 24	Registration of Inventions ... ..	Repealed ... ..	No. 13
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25 Vic. No. 14	"The Real Property Act of 1861" ... ..	Affected ... ..	No. 4
28 Vic. No. 5, ss. 4, 5, 6, 7	"The Trade Marks Act of 1864" ... ..	Repealed ... ..	No. 13
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33 Vic. No. 12 ...	"The Lunacy Act of 1869" ... ..	Repealed ... ..	No. 8
34 Vic. No. 16 ...	"The Wages Act of 1870" ... ..	Applied ... ..	No. 14
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35 Vic. No. 4 ...	"The Brands Act of 1872" ... ..	Amended ... ..	No. 21
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QUEENSLAND.

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1884.

PUBLIC AND PRIVATE ACTS ASSENTED TO.

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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### No. 1.

An Act to Authorise the Appropriation out of the Consolidated Revenue Fund of Queensland of the Sum of £250,000 towards the Service of the Year ending on the last day of June, 1885.

[ASSENTED TO 25TH JULY, 1884.]

**W**HEREAS we, your Majesty's most dutiful and loyal subjects, *Preamble.*  
the members of the Legislative Assembly of Queensland in Parliament assembled, have in the present Session of Parliament cheerfully granted to your Majesty the sum hereinafter mentioned towards the service of the year ending on the last day of June, One thousand eight hundred and eighty-five: And whereas we desire to make good out of the Consolidated Revenue Fund of Queensland the sum granted to your Majesty as aforesaid: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Out of the Consolidated Revenue Fund of Queensland there *Appropriation.*  
may be issued and applied a sum of Two hundred and fifty thousand pounds for or towards making good the supplies granted to Her Majesty for the service of the year ending on the last day of June, One thousand eight hundred and eighty-five.

2. The

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*Appropriation Act, No. 1.*

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Treasurer to pay  
moneys as directed  
by warrant.

2. The Treasurer of the Colony shall issue and pay the sum above-named for the purpose aforesaid to such persons, upon such days, and in such proportions as the Governor, by any warrant or order in writing under his hand and directed to the said Treasurer, shall from time to time order and direct, and the payments so made shall be charged upon and payable out of the Consolidated Revenue Fund of the Colony.

Treasurer to be  
allowed credit for  
sums paid in pur-  
suance of warrant.

3. The Treasurer shall in his accounts from time to time be allowed credit for any sum or sums of money paid by him in pursuance of such warrant or order in writing as aforesaid, and the receipt or receipts of the respective persons to whom the same shall be so paid shall be a full and valid discharge to the said Treasurer in passing his accounts for any such sum or sums as shall be therein mentioned, and he shall receive credit for the same accordingly.

Short title.

4. This Act may be cited as "*The Appropriation Act of 1884-5, No. 1.*"

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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### No. 2.

An Act to Continue the Operation of "The Marsupials Destruction Act of 1881."

[ASSENTED TO 1ST AUGUST, 1884.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. "*The Marsupials Destruction Act of 1881*" shall remain in force until the thirty-first day of December, one thousand eight hundred and eighty-five, and thereafter until the end of the then next session of Parliament. Continuation of Act 45 Vic., No. 4.

2. This Act may be cited as "*The Marsupials Destruction Act*" Short title.  
*Continuation Act of 1884.*"

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.



No. 3.

An Act to Amend "The United Municipalities Act of 1881."

[ASSENTED TO 1ST AUGUST, 1884.]

*Repealed  
50 Vic. No. 16.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. The sixth section of "*The United Municipalities Act of 1881*" is hereby repealed, and the following enactment is substituted therefor, that is to say:—

The Governing Body of a United Municipality shall be a joint-board, consisting of a representative or representatives of every local authority having jurisdiction within such United Municipality.

Repeal of section 6 of 45 Vic., No. 11.  
Constitution of joint boards.

The number of representatives to be appointed for the several local authorities shall be prescribed by the Governor in Council by the Order in Council constituting the United Municipality, and may from time to time be varied by a further Order in Council.

The



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*United Municipalities Act of 1881 Amendment Act.*

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The number of representatives for each of the several local authorities need not be the same, but the number of representatives for any one local authority shall never be more than one-half of the whole number of members of the joint-board; and if there are more than three component municipalities, shall be less than one-half of such whole number.

In determining the number of representatives for each local authority regard shall be had as far as practicable to the rateable value of the property within the several component municipalities.

The representative or representatives of each local authority shall be elected by it from its own body.

If a local authority refuses or neglects for one month after the constitution of a United Municipality to elect a representative or representatives, the Governor in Council may appoint some ratepayer or ratepayers of the municipality to act as such representative or representatives.

If any person elected or appointed as aforesaid refuses or neglects to act, or to attend any duly convened meeting of the joint-board, all lawful acts and proceedings of the joint-board shall be as valid and effectual as if they had been done or authorised by the full board.

Disposition of  
revenue of joint-  
boards.

2. Whenever any fees or other moneys are received by a joint-board, the same shall be applied in the first instance towards defraying the expenses of the collection thereof and of the carrying out of the public work or administration of the by-law in respect whereof such fees or moneys were received, and the surplus (if any) shall be divided amongst the local authorities of the component municipalities in such proportions as the joint-board determines, and in default of any such determination, shall be divided in proportion to the amount of the rates collected in such component municipalities respectively during the same year in which the fees or moneys were so received by the joint-board.

Short title.

3. This Act may be cited as "*The United Municipalities Act of 1881 Amendment Act of 1884.*"

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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### No. 4.

An Act to provide for the Appointment of a Registrar of Titles, and for transferring to that officer the duties now performed by the Registrar-General under "The Real Property Act of 1861," "The Real Property Act of 1877," and the Acts relating to the Registration of Deeds, and for other purposes.

[ASSENTED TO 8TH AUGUST, 1884.]

**W**HEREAS by "*The Real Property Act of 1861*," and "*The Preamble. Real Property Act of 1877*," and the several Acts relating to the Registration of Deeds, that is to say,—An Act of the Governor and Legislative Council of New South Wales, passed in the seventh year of Her Majesty's reign, entitled "*An Act to Consolidate and Amend the Laws relating to the Registration of Deeds and other instruments in that part of the Colony of New South Wales not comprehending the District of Port Phillip*," and an Act of the Parliament of New South Wales, passed in the twentieth year of Her Majesty's reign, entitled "*An Act for Transferring to the Registrar-General the Duties of the Chief Clerk of the Supreme Court as Registrar of Deeds and other instruments*," and divers other Acts, certain duties are required to be performed

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*Registrar of Titles Act.*

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performed and executed by the Registrar-General or his Deputies, and it is expedient that such duties should hereafter be performed and executed in the manner and by the persons hereinafter declared and provided: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Registrar of Titles may be appointed.

**1.** The Governor in Council may from time to time appoint a fit and proper person to be Registrar of Titles.

Duties of Registrar-General under Real Property Act and Acts relating to Registration of Deeds to be transferred to Registrar of Titles.

**2.** From and after the appointment of a Registrar of Titles all the duties, powers, and authorities which by the said recited Acts, or any of them, or any other Act relating to the registration of deeds or other instruments, are imposed or conferred upon or vested in the Registrar-General, shall be transferred to, and imposed and conferred upon, and vested in, the Registrar of Titles.

The Registrar-General shall deliver up, and the Registrar of Titles shall take and retain the custody of, all deeds, instruments, registers, records, books, documents, and writings which under the said Acts, or any of them, are in the custody of the Registrar-General.

The Registrar of Titles shall and may take and receive the same fees for performing the said duties as may now by law be taken by the Registrar-General for performing the same.

Deputies may be appointed.

**3.** The Governor in Council may appoint one or more persons to be Deputy Registrar or Registrars of Titles, whose acts with respect to the duties aforesaid shall have the same force and effect as if done by the Registrar of Titles.

Real Property Acts and Acts relating to Registration of Deeds to be read as if "Registrar of Titles" were substituted for "Registrar-General" in them.

**4.** From and after the appointment of a Registrar of Titles, the said recited Acts and all other Acts relating to the registration of deeds or other instruments in the office of the Registrar-General shall, so far as relates to anything to be thereafter done by, under, or with regard to the said Acts, or any of them, be read and construed as if the words "Registrar of Titles" were used therein, instead of the words "Registrar-General" whenever the said last-mentioned words are used therein, and as if the words "Office of the Registrar of Titles" were used instead of the words "Office of the Registrar-General," "General Registry Office," "Office of the Registry of Deeds," or other like words, whenever those words or any of them are used therein with respect to any purpose connected with the registration of deeds or other instruments.

**5.** The

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*Registrar of Titles Act.*

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5. The Registrar of Titles shall have and use a seal of office, Registrar of Titles to have seal of office. bearing the impression of the Royal Arms of the United Kingdom, and having inscribed in the margin thereof the words "Registrar of Titles, Queensland," and the imprint of such seal shall be valid, whether impressed or made in wax, ink, or other substance.

6. And whereas at or before the establishment of the Colony of Queensland certain transcripts of deeds or instruments, and transcripts of memorials of deeds or instruments, affecting land within the territory comprised in the said colony, which had theretofore been deposited for registration in the office of the Registrar-General at Sydney, were transmitted to, and are now recorded in, the office of the Registrar-General of Queensland, and it is expedient that office copies of such transcripts of deeds and memorials should be received in evidence: Office copies of transcripts of deeds registered in New South Wales to be admissible in evidence. Be it enacted as follows:—

In all proceedings before any court of justice an office copy of any such transcript shall be received and taken as evidence of the contents of the deed or instrument of which it purports to be a transcript, or of the contents of the deed or instrument of the memorial whereof it purports to be a transcript, as the case may be: Provided always that the party producing the same shall before producing it give reasonable notice in writing to the other party.

7. This Act may be cited as "*The Registrar of Titles Act of* Short title. 1884."



# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.



### No. 5.

**An Act to Amend the Law relating to the Remuneration of Officers of the Public Service by means of Fees.**

[ASSENTED TO 8TH AUGUST, 1884.]

**W**HEREAS under the provisions of divers statutes officers of the Preamble.  
Public Service are in part remunerated by fees collected from the public, and it is expedient that in future that mode of remuneration should be discontinued: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly in Parliament assembled, and by the authority of the same, as follows:—

1. All fees which shall hereafter be received by any officer in the Public Service under the authority of any Act of Parliament, Rule of Court, or Regulation made in pursuance of any Act of Parliament for the performance of any duty as such officer shall hereafter be accounted for by such officer and paid into the Consolidated Revenue, and every such officer shall be deemed to be a public accountant in respect thereof. Fees received by Public Officers to be paid into Consolidated Revenue.

2. This Act does not apply to fees receivable by bailiffs of District Courts or bailiffs of Courts of Petty Sessions for the performance of their duties as such bailiffs. Act not to apply to Bailiffs of District Courts and Courts of Petty Sessions.

3. This Act may be cited as "*The Public Officers Fees Act of 1884.*" Short title.





# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 6.

An Act to Amend the Law relating to Endowments to Divisional Boards.

[ASSENTED TO 15TH AUGUST, 1884.]

**W**HEREAS it is desirable to grant further aid to Divisional Boards: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. The seventy-first section of "*The Divisional Boards Act of 1879*" shall hereafter be read and construed as if the word "ten" were substituted for the word "five" in the eleventh line of that section in the copy of the Act printed by the Government Printer.

Preamble.  
Extension of period for double endowments to Divisional Boards.

2. Whenever the whole or any part of a Division under the said Act has been, or shall hereafter be, constituted a Municipality under the provisions of "*The Local Government Act of 1878*," the amount of endowment payable to such Municipality shall be computed as if such Municipality had still continued to be a Division under the provisions of the said first-mentioned Act.

Provision in case of Division being converted into a Municipality.

3. This Act may be cited as "*The Divisional Boards Endowments Act of 1884.*"

Short title.



# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 7.

**An Act to make provision for the Payment by the Colony of Queensland of a Proportionate Share of the Expenses to be incurred by Her Majesty's Government in giving effect to certain Resolutions adopted by the Convention of Representatives of the Governments of the several Australasian Colonies, held in Sydney in November and December, one thousand eight hundred and eighty-three.**

[ASSENTED TO 26TH AUGUST, 1884.]

**W**HEREAS at a Convention of Representatives of the Govern- Preamble.  
ments of the several Australasian Colonies, held at Sydney,  
in the Colony of New South Wales, in November and December, one  
thousand eight hundred and eighty-three, it was amongst other  
things resolved :—

(1.) That further acquisition of dominion in the Pacific south of the Equator by any Foreign Power would be highly detrimental to the safety and well-being of the British possessions in Australasia, and injurious to the interests of the Empire.

ENDING  
(2.) That

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*New Guinea and Pacific Jurisdiction Contribution Act.*

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- (2.) That having regard to the geographical position of the Island of New Guinea, the rapid extension of British trade and enterprise in Torres Straits, the certainty that the Island will shortly be the resort of many adventurous subjects of Great Britain and other nations, and the absence or inadequacy of any existing laws for regulating their relations with the native tribes, this Convention, while fully recognising that the responsibility of extending the boundaries of the Empire belongs to the Imperial Government, is emphatically of opinion that such steps should be immediately taken as will most conveniently and effectively secure the incorporation with the British Empire of so much of New Guinea and the small islands adjacent thereto as is not claimed by the Government of the Netherlands ;
- (3.) That although the understanding arrived at in the year one thousand eight hundred and seventy-eight, between Great Britain and France, recognising the independence of the New Hebrides, appears to preclude this Convention from making any recommendation inconsistent with that understanding, the Convention urges upon Her Majesty's Government that it is extremely desirable that such understanding should give place to some more definite engagement which shall secure those Islands from falling under any Foreign dominion ; at the same time the Convention trusts that Her Majesty's Government will avail itself of any opportunity that may arise for negotiating with the Government of France with the object of obtaining the control of those Islands in the interests of Australasia ; and
- (4.) That the Governments represented at this Convention undertake to submit and recommend to their respective Legislatures measures of permanent appropriation for defraying in proportion to population such share of the cost incurred in giving effect to the foregoing Resolutions as Her Majesty's Government, having regard to the relative importance of Imperial and Australasian interests, may deem fair and reasonable :

And whereas we, Your Majesty's dutiful and loyal subjects, the members of the Legislative Assembly of Queensland, are desirous of making permanent provision for defraying, out of the Consolidated Revenue Fund of Queensland, a proportionate part of the cost to be incurred by Your Majesty in giving effect to the foregoing Resolutions or any of them: Be it therefore enacted by the Queen's Most

Excellent

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*New Guinea and Pacific Jurisdiction Contribution Act.*

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**E**xcellent Majesty, by and with the advice and consent of the **L**egislative Council and Legislative Assembly of Queensland in **P**arliament assembled, and by the authority of the same, as follows :—

**1.** There shall be issued and paid to Her Majesty out of the Consolidated Revenue Fund, in each and every year during the continuance of this Act, for and towards the expenses incurred in respect of the maintenance of a Naval Force in the Waters of New Guinea, and the exercise of Protection in Her Majesty's name over the Eastern shores of that Island, and over any other Island or Islands in the Western Pacific Ocean over which Her Majesty may be pleased to exercise Protection, a sum bearing the same proportion to the sum of fifteen thousand pounds as the population of the Colony of Queensland bears to the total population of the Australasian Colonies which for the time being contribute towards such expenses.

Colony of Queensland to pay share of £15,000 in proportion to population.

In case of any difference arising as to the amount of such contribution, the same shall be referred to and decided by one of Her Majesty's Principal Secretaries of State.

**2.** The Colonial Treasurer shall issue and pay the amount of such contribution to such person and in such manner as the Governor by any warrant or order under his hand shall direct.

Treasurer to pay contribution as directed by Governor

**3.** The Colonial Treasurer shall in his accounts, from time to time, be allowed credit for any sum or sums of money paid by him in pursuance of any such warrant or order, and the receipt or receipts of the person to whom the same shall be so paid shall be a full and valid discharge to him in passing his accounts for any such sum or sums as shall be therein mentioned, and he shall receive credit for the same accordingly.

Treasurer to be allowed credit for contribution.

**4.** This Act may be cited as "*The New Guinea and Pacific Jurisdiction Contribution Act of 1884.*"

Short title.

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 8.

An Act to Consolidate and Amend the Law relating to the Insane.

[ASSENTED TO 2ND SEPTEMBER, 1884.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in this present Parliament assembled, and by the authority of the same, as follows:—

*Applied to 13  
50 Nov. 1884*

### PART I.—PRELIMINARY.

1. This Act may be cited as "*The Insanity Act of 1884.*" It is divided into eight Parts as follows:— Short title and division.

PART I.—PRELIMINARY;

PART II.—PLACES FOR THE RECEPTION AND TREATMENT OF THE INSANE;

PART III.—PROCEEDINGS BY WHICH PERSONS OF UNSOUND MIND MAY BE PLACED UNDER RESTRAINT;

PART IV.—CRIMINAL INSANE;

PART V.—INSPECTION, TRANSFER, AND DISCHARGE OF PATIENTS;

PART VI.—PROCEEDINGS FOR DECLARING PERSONS INSANE AND FOR THE APPOINTMENT OF COMMITTEES;

PART VII.—MANAGEMENT OF THE ESTATES OF INSANE PERSONS;

PART VIII.—MISCELLANEOUS PROVISIONS.

2. This



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*Insanity Act.*


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Commencement of Act.

**2.** This Act shall commence and take effect on the first day of January, one thousand eight hundred and eighty five, which date is hereinafter referred to as the commencement of this Act.

Repeal of existing Acts.  
Schedule 1.

**3.** The several Acts mentioned in the first Schedule to this Act are hereby repealed to the extent in the said Schedule indicated, but no proceedings or acts or things done or contracts made under any of the said Acts before the commencement of this Act shall be invalidated or affected by such repeal; and all proceedings initiated before the commencement of this Act shall be carried on, as far as practicable, according to the provisions of this Act, and subject thereto, according to the provisions of the said Acts, which shall for that purpose be deemed to continue in force notwithstanding the repeal thereof; and all persons lawfully in custody at the commencement of this Act under the provisions of any of the said repealed Acts shall be deemed to be in lawful custody under the provisions of this Act, and may be dealt with accordingly.

Interpretation of terms.

**4.** In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively:—

- “ Minister ”—The Colonial Secretary or other Minister of the Crown charged with the administration of this Act;
  - “ The Curator ”—The Curator in Insanity;
  - “ Inspector ”—The inspector of asylums for the insane;
  - “ Insane person ”—A person who for the time being is idiotic or of unsound mind, and incapable of managing himself or his affairs, whether found insane by inquisition or otherwise;
  - “ Hospital for the Insane ”—A hospital for the insane appointed under the provisions of this Act;
  - “ Licensed House ”—A house licensed for the reception and treatment of one or more patients under the provisions of this Act;
  - “ Asylum ”—A hospital for the insane or licensed house;
  - “ Reception-house ”—A place appointed for the reception and temporary treatment of persons committed under the provisions of this Act;
  - “ Superintendent ”—The superintendent or assistant superintendent of an asylum or the superintendent of a reception-house;
  - “ Patient ”—An insane person committed to, received into, or detained in, any asylum or reception-house;
  - “ Medical practitioner ”—A legally qualified medical practitioner within the meaning of the laws in force for the time being relating to the qualification of medical practitioners;
- “ Medical

*Insanity Act.*

- “Medical Superintendent”—A superintendent, being a medical practitioner;
- “Medical Officer”—The medical officer appointed by the Governor in Council for any town gaol or reception house, as the case may be;
- “Hospital”—A public hospital or benevolent asylum, or any portion thereof set apart for the temporary reception of the insane;
- “Stock”—A share or other interest in any company, society, or association, and any fund, annuity, or security, transferable in books kept by any company, society, or association, or transferable by deed alone, or by deed accompanied by other formalities, and any money payable in respect thereof, and any share or interest therein;
- “Court”—The Supreme Court of Queensland;
- “Justice”—A justice of the peace;
- “Regulations”—Regulations made by the Governor in Council under this Act;
- “Prescribed”—Prescribed by this Act or by Rules of Court or Regulations as the case may be.

PART II.—PLACES FOR THE RECEPTION AND TREATMENT OF THE  
INSANE.

*Hospitals for the Insane.*

5. The Governor in Council may, by notification in the *Gazette*, Governor in Council may appoint hospitals for the insane. appoint any suitable premises to be a hospital for the insane, and may in such notification assign a name to such hospital.

6. The Lunatic Asylums at Goodna and Sandy Gallop, near Ipswich, shall be deemed to be Hospitals for the Insane under this Act, and all officers, attendants, nurses, and servants there already appointed shall continue to discharge the duties of their respective offices until they are removed or superseded. Continuance of existing asylums at Goodna and Sandy Gallop and the officers thereof till superseded.

7. The Governor in Council may appoint for every hospital for the insane a superintendent, and if necessary an assistant superintendent, who shall be medical practitioners, and such other officers as he deems necessary. Appointment of superintendents, officers, attendants, and nurses.

The superintendent of every hospital for the insane shall, subject to the approval of the Minister, appoint such and so many attendants, nurses, and servants, as he deems necessary for the proper and efficient management thereof.

*Reception-*

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*Insanity Act.*

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*Reception-houses.*

Governor may  
appoint Reception-  
houses.

**8.** The Governor in Council may, by notification in the *Gazette*, appoint from time to time such houses and premises as are requisite for the reception and temporary treatment of persons committed under the provisions of this Act. All Reception-houses already appointed under any of the Acts hereby repealed shall be deemed to be Reception-houses under this Act.

Superintendent and  
assistants for  
Reception-houses.

**9.** The Governor in Council may appoint a superintendent, and the Minister may appoint as many assistants as are necessary for the proper management of every such Reception-house. All officers, attendants, and servants already appointed for any Reception-house shall continue to discharge the duties of their respective offices until they are removed or superseded.

*Licensed Houses for the Reception of the Insane.*

Governor in Council  
may grant licenses for  
houses for reception  
of the insane.

Schedule 2.

**10.** The Governor in Council may, by writing under his hand, in the form in the second Schedule to this Act, grant to any person a License for any period not exceeding three years to keep a house for the reception and treatment of a certain number of patients to be mentioned in such license, and may renew or revoke such license.

Notice of intended  
application for, and  
plans of licensed  
house to be given to  
the Minister.

**11.** A person desiring to obtain any such license must make application to the Minister, setting forth his christian name and surname, place of abode, and occupation, and a true and full description of the house for which a license is desired, and of his estate or interest therein.

The application, when made for a house which has not been previously licensed, must be accompanied by a plan of the house to be drawn upon a scale not less than one-eighth of an inch to a foot, with a description of the situation thereof, and of the length, breadth, and height of every room or apartment therein, and a statement of the quantity of land not covered by any building annexed to such house and to be appropriated to the exclusive use exercise and recreation of the patients proposed to be received therein, and also a statement of the number of patients proposed to be received into such house, and whether the license so applied for is for the reception of male or female patients, or both, and if for the reception of both, of the number of each sex proposed to be received into such house, and of the means by which one sex will be kept distinct and apart from the other.

What may be in-  
cluded in one  
license.

**12.** A license may include two or more houses belonging to one proprietor or two or more joint proprietors, provided that no one of such houses be separated from the other or others of them, otherwise than by land in the occupation of such proprietor or proprietors, and

*Insanity Act.*

and by a road, or in either of such ways, and all houses, buildings, and lands intended to be included in any license shall be specified delineated and described in the plan hereinbefore prescribed.

13. No addition or alteration shall be made to in or about any licensed house or the appurtenances thereof until notice in writing of the proposed addition or alteration, accompanied by a plan of the addition or alteration drawn upon the scale aforesaid, and accompanied by such description as aforesaid, has been given by the person to whom the license has been granted to the Minister, and the consent in writing of the Minister has been given thereto.

Notice of all additions and alterations to be given to the Minister.

14. Any person applying for the renewal of a license shall with such application transmit to the Minister a statement signed by the person so applying, containing the names and number of the patients of either sex then detained in the licensed house.

Every person applying for the renewal of a license to furnish a statement of the number and class of patients detained.

15. If any licensee by sickness or other cause becomes incapable of keeping the licensed house or dies before the expiration of the term of the license, the Minister may by writing indorsed on the license transfer it with all the privileges and obligations annexed thereto, for the term then unexpired, to another person, and thenceforth the license shall remain in force, and have the same effect as if granted to such person; and in case a license is granted to two or more persons, and before the expiration thereof any of such persons dies, leaving the other or others surviving, the license shall remain in force and have the same effect as if it had been granted to such survivors or survivor alone.

Provision in case of the incapacity of the person licensed.

16. If any licensed house is pulled down or taken under the provisions of any Act of Parliament, or is by fire tempest or other accident rendered unfit for the accommodation of patients, or if the person keeping such house desires to transfer the patients to another house, the Minister may grant to the licensee a license to keep another licensed house for any time not exceeding the period for which the current license is then held.

In case of a licensed house being taken for public purposes or accidentally rendered unfit or of the keeper wishing to transfer his patients to a new house.

Provided that a like notice, accompanied by a like plan statement and description, shall be given as to such intended new licensed house as is hereinbefore prescribed when application is first made for a license for any house, and shall be accompanied by a statement in writing of the cause of such change of house.

17. Before the revocation of any license seven clear days' notice in writing shall be given to the licensee or be left at the licensed house.

Notice of revocation of licenses.

18. If after a lapse of two months from the expiration of the license for a licensed house which has not been renewed, or if after the revocation of a license, there is in the house any insane patient, every person keeping such house or having the care and charge of such patient shall be guilty of a misdemeanor.

Detention of patients after expiration or revocation of a license a misdemeanor.

19. Every

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*Insanity Act.*

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Superintendent to reside.

**19.** Every licensed house containing more than twenty patients shall have at all times a medical practitioner resident therein, whose christian and surname shall be given in the notice of application for the license, and who, whether he be the licensee or proprietor or not, shall be the superintendent thereof.

The licensee of any such house may with the approval of the Minister remove such medical practitioner and appoint some other medical practitioner in his stead.

Every licensed house containing not more than twenty patients shall be visited twice a week at least by a medical practitioner.

In all cases where a medical practitioner is not appointed as superintendent the licensee shall be the superintendent of the house named in the license.

When any house is licensed to contain less than ten patients the Minister may permit such house to be visited by a medical practitioner less frequently than twice a week.

*Licenses for the Reception of a Single Insane Person.*

Minister may grant licenses for houses for the reception and treatment of a single insane patient.

**20.** The Minister may grant to any person a license to keep a house for the reception and treatment of a single patient, and may from time to time renew or revoke such license.

*Provisions as to Detention of Insane by Unlicensed Persons.*

Minister may order examination of patient in private houses.

**21.** If the occupier or inmate of any private house keeps or detains an insane person therein, although he is a relative of such occupier or inmate, beyond the period of a year after the malady has become apparent and confirmed, and such insane person during any part of such period has required coercion or restraint, such occupier or inmate, or the medical practitioner attending such insane person, shall notify such detention to the Minister, and shall transmit to the Minister a written certificate signed by a medical practitioner setting forth the condition of the person so detained, and the reasons, if any, which render it desirable that such person should remain under private care.

The Minister may thereupon, or without such notice, authorise the inspector or a justice, accompanied by two medical practitioners, to visit and make such inquiry respecting the treatment of such person as to the inspector or justice and medical practitioners seems fit.

And if upon such inquiry it appears that such person is insane, and has been so for a space exceeding a year, and that restraint or coercion of any kind has been resorted to, and that the circumstances are such as to render the removal of such person to an asylum necessary or expedient, the Minister may order the removal of such person accordingly; and the order of the Minister under his hand shall be sufficient authority to the superintendent to receive such insane person accordingly.

Any

*Insanity Act.*

Any person who, without notice to the Minister, keeps, harbours, or conceals, or aids in keeping, harbouring, or concealing beyond the period aforesaid, an insane person, who has during such period been subjected to coercion or restraint, and any medical practitioner attending on him beyond such period who wilfully neglects to disclose the condition of such person to the Minister, shall for every such offence be liable to a penalty not exceeding two hundred pounds, or to imprisonment for any period not exceeding three months.

**22.** No person, (unless he be a person who derives no profit from the charge, or a committee or person appointed by the Court or otherwise authorised under this Act,) shall receive to board or lodge in any house, or take the care of, any insane person, except for the purpose of the temporary custody of such person during his removal for treatment under this Act, and any person offending against this provision shall be guilty of a misdemeanor.

No unlicensed or unauthorised person deriving profit therefrom to take charge of any insane person.

Misdemeanor.

PART III.—PROCEEDINGS BY WHICH PERSONS OF UNSOUND MIND MAY BE PLACED UNDER RESTRAINT.

**23.** Upon information on oath, preferred to a justice, that a person suspected to be insane—

(1.) Is without sufficient means of support ; or

(2.) Is wandering at large ; or

(3.) Has been discovered under circumstances indicating a purpose of committing some offence against the law ;

such justice may, by order under his hand, require a constable to apprehend and bring such person before two justices.

Any constable finding a person suspected to be insane under any of the circumstances above-mentioned may, without an order, apprehend and bring such person before two justices.

**24.** Any constable who knows that a person suspected to be insane—

(1.) Is not under proper care and control ; or

(2.) Is cruelly treated or neglected by any relation or other person having or assuming the care of him ;

shall forthwith give information thereof upon oath to a justice ; and upon such information, or upon the information on oath of any other person, the justice shall—

(a.) Either himself visit and examine such person, and make inquiry into the case ; or

(b.) By

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- (b.) By order under his hand direct and authorise some medical practitioner to visit and examine such person and make inquiry into the case, and report in writing to the justice his opinion thereon.

And if upon such personal visit or report it appears that the information on oath laid by the constable or other person is true, the justice may by order under his hand require any constable to bring the person so suspected to be insane before two or more justices.

Course to be pursued when insane person is brought before justices.

**25.** The justices before whom any person is brought under the provisions of the two next preceding sections shall call to their assistance two medical practitioners, who shall, after having been furnished by the justices with a written statement of all the information previously obtained with respect to the condition of such person,—

- (1.) Examine him apart from each other; and
- (2.) Severally sign separate certificates with respect to him according to the form in the third Schedule to this Act;

Schedule 3.

and if upon examination of such person and of the medical practitioners, and upon other proof (if any), the justices are satisfied that he is insane, and—

- (a.) Is without sufficient means of support; or
- (b.) Was wandering at large, or discovered under circumstances indicating a purpose of committing some offence against the law; or
- (c.) Is not under proper care and control; or
- (d.) Is cruelly treated or neglected by any person having or assuming the charge of him;

and that such insane person requires to be taken charge of and detained under care and treatment, the justices may, by order under their hands, according to the form in the fourth Schedule to this Act, with a statement of particulars attached thereto, according to the form in the fifth Schedule to this Act, direct such person to be removed into some asylum to be named in the order; and such person shall, subject to the provisions contained in this and the next following section, be forthwith conveyed to and detained in such asylum accordingly, and shall thenceforth be deemed to be a patient thereof.

Schedule 4.

Schedule 5.

Provided that the justices—

- (1.) May suspend the execution of any such order for a period not exceeding thirty days, and in the meantime give such directions or make such arrangements for the proper care and control of such person in a reception-house as they may deem necessary or otherwise;
- (2.) May examine the person suspected to be insane, and any witness in the matter, at any convenient place, and proceed in all respects as if the person were brought before them at a court of petty sessions.

26. If

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**26.** If either of the medical practitioners certifies in writing that such person is not in a fit state to be removed, his removal shall be deferred until the same or some other medical practitioner certifies in writing that he is fit to be removed. Patient's removal may be deferred.

Notwithstanding anything in this Act to the contrary, the justices may, if satisfied that he will be properly taken care of, permit any relation or friend of such person to retain and take charge of him under such conditions as the justices think fit to impose. Patient may be retained by friends.

**27.** The justices causing any person to be examined by medical practitioners under the provisions hereinbefore contained, may grant a certificate for the payment of such remuneration to such medical practitioners, and of all such other expenses incurred in or about the examination of such person, and bringing him before justices, and in or about conveying him to an asylum, reception-house, or other place, or in or about his proper care and control as hereinbefore mentioned, as to such justices seems proper. Power to justices to order payment of fees to medical practitioners and expenses of conveyance to asylum.

Such expenses, where they cannot be obtained from the estate of the person examined, shall be defrayed out of moneys appropriated by Parliament for that purpose: Provided always that the remuneration and expenses so awarded or sanctioned shall in every case be subject to the approval of the Minister.

**28.** Any person may be received and detained as a patient in an asylum on the authority of a request under the hand of some person according to the form in the sixth Schedule to this Act; and every such request shall be— Any person to be received into asylum upon a request in writing according to schedule 6, together with statement according to Schedule 5, and two medical certificates according to Schedule 3.

- (1.) Authenticated by the signature of a justice or a minister of religion registered to celebrate marriages;
- (2.) Accompanied by a statement in writing containing the particulars specified in the fifth Schedule to this Act; and
- (3.) Supported by two medical certificates containing the particulars prescribed in the third Schedule; each of which certificates shall be signed by a medical practitioner who has, not more than fourteen days before the date of admittance, personally and separately examined the person to whom the certificate relates.

Such request may be signed before or after the date of such medical certificates, or either of them.

**29.** Any justice may by order under his hand in the form of the seventh Schedule to this Act direct the reception into, and detention in, any Reception-house, of any person for whose reception into an asylum the necessary order or request certificates and statement have been signed and remain in force. Power of justices to direct detention in Reception-house. Schedule 7.

**30.** Where



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Where no reception house, patient may be lodged in hospital.

**30.** Where there is no convenient Reception-house a person authorised by this Act to be received and detained in a Reception-house may be placed for safe custody or medical treatment in the nearest hospital, gaol, or lockup, until he can be safely conveyed to the asylum to which he is to be admitted; and such place shall be deemed to be a reception-house for the purpose of dealing with such person.

Medical certificates to specify facts upon which opinion of insanity has been formed.

**31.** Every medical practitioner who signs any certificate for the purposes of this Act, shall specify therein the facts upon which he has formed his opinion that the person to whom such certificate relates is an insane person, and shall distinguish in such certificate facts observed by himself from facts communicated to him by others. No person shall be received into an asylum or reception house under any certificate which purports to be founded only upon facts communicated by others.

Who not to sign certificates, &c.

**32.** No medical practitioner whose father, brother, son, partner, or assistant, has signed the order or request, or one of the certificates, for the reception of any person as a patient into an asylum shall sign any certificate for the reception of the same person; and no medical practitioner who, or whose father, brother, son, partner, or assistant, is the medical superintendent of an asylum, shall sign any order, request, or certificate, for the reception of a person into such asylum.

No certificate to be granted without examination.

**33.** If a medical practitioner signs any certificate for the purposes of this Act without having seen and carefully examined the person to whom it relates, at the time and in the manner specified in such certificate, for the purpose of ascertaining the condition of such person to the best of his knowledge and ability, he shall for every such offence be liable to a penalty not exceeding fifty pounds.

If any practitioner wilfully and falsely certifies in writing that a person is insane, knowing him not to be insane, he shall be guilty of a misdemeanor.

No order for reception into an asylum to remain in force after forty days.

**34.** Except as next hereinafter provided, no order for the reception of a person into an asylum shall remain in force as an authority for such reception after forty days from the date of either of the medical certificates given under the provisions hereinbefore contained in respect of such person.

And no request for the reception of a person into an asylum shall remain in force as an authority for such reception longer than fourteen days from the date of either of the medical certificates so given.

Patient not to be detained in reception-house for more than one month.

**35.** No patient shall be detained in a reception-house for a longer period than thirty days, unless the medical officer certifies in writing

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writing that he is not in a fit state to be removed therefrom, or that he would be benefited by remaining therein; in which case the removal of such patient shall be deferred until the medical officer certifies that he is fit to be removed to an asylum.

In any such case any two justices may from time to time extend the operation of the order or request for the reception of the patient into an asylum for periods not exceeding seven days so long as may be necessary.

**36.** On receipt of a certificate from the medical officer that any person confined in a reception-house, gaol, or hospital, under the provisions of this Part of this Act, as an insane person, is of sound mind, or may safely be discharged to the care of a relative or friend of such patient, any justice may, upon such conditions as he thinks fit, order the discharge of such person.

Justice may order discharge of patient from reception-house.

**37.** Where it is satisfactorily proved before two justices that an inmate of a reception-house is possessed of property, the justices may order him, previous to his release, to repay to Her Majesty the expenses of his maintenance, and the justices are hereby authorised to assess the same. In the event of the inmate refusing payment to the superintendent, the expenses so assessed shall be levied forthwith upon the goods and chattels of the inmate by warrant of distress.

Inmates liable for expenses of maintenance.

**38.** If after the reception of an insane person as a patient into an asylum, it appears to the superintendent that any document, being one of the documents upon the authority of which he was received, is in any respect defective or incorrect, such document may be amended by the person who signed the same at any time within twenty-eight days next after the reception of the patient. Provided that every such amendment shall be approved by the Minister.

Orders and medical certificates may be amended.

If any such defective or incorrect document is directed by the Minister to be amended, it may be so amended by the person who signed the same at any time within twenty-eight days after the receipt by the superintendent of a direction in writing from the Minister requiring such amendment, and if it is not amended within that time the Minister may order the inspector to visit the patient to whom such document relates, and such inspector may order the patient's discharge, and the patient shall be discharged accordingly.

**39.** Where a person has been found insane by any proceeding in the Court, an order signed by a judge thereof, or an order signed by the committee appointed by the Court, and having annexed to it an office copy of the order appointing such committee, shall be sufficient authority for the reception of such person into an asylum without any further order or certificate.

Reception of persons found insane by proceedings before the Supreme Court.

40. In

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Provision for cases of emergency.

**40.** In cases where it is impracticable to obtain the certificates of two medical practitioners, a person may be received into a reception-house upon the certificate of one medical practitioner alone, but in every such case one other such certificate, signed after such person was received into the reception-house, shall, before such person shall be received into an asylum, be produced to or lodged with the superintendent of such asylum.

Penalty for receiving person into asylum, &c., without the requisite documents, &c.

**41.** Every person who receives a person into an asylum or reception-house without the production to him of the documents hereby prescribed shall be guilty of a misdemeanor.

Persons received into asylums, &c., may be retained and on escape re-captured.

**42.** Every person lawfully received into an asylum or reception-house shall be detained therein until he is removed or discharged in the manner authorised by this Act, and in case of escape therefrom may be re-taken at any time after his escape by the superintendent of such asylum or reception-house, or by any other officer or any servant belonging thereto, or by any constable, or by any other person authorised in that behalf by such superintendent, and may be conveyed to and again received and detained in such asylum or reception-house.

*General Records, etc.*

A register of patients to be kept.

Schedule 8.

**43.** On the admission of any person as a patient into an asylum or reception-house an entry with respect to such patient shall be made in a book kept for that purpose, called the Register of Patients, according to the form and containing the particulars specified in the eighth Schedule to this Act, or such other form, and containing such other particulars, as the Minister directs.

Such entry shall be made immediately on the admission of the patient, except so much as relates to the form of disorder, the entry as to which shall be made by the superintendent within one month after the admission of the patient, and except so much as relates to the discharge, removal, or death, of the patient, the entry as to which shall be made when the same happens.

Schedule 9.

After the second and before the end of the seventh clear day from the day of admission of the patient, a notice of such admission shall be transmitted to the Minister in the form of the ninth Schedule to this Act, together with a statement, made and signed by the superintendent not sooner than two clear days after such admission, according to the form in that Schedule.

Medical Journal.

Schedule 10.

**44.** In every asylum the superintendent, and in every reception-house the medical officer, shall once at least in every week enter or cause to be entered in a book kept for the purpose, called the Medical Journal, a statement according to the form in the tenth Schedule to this Act, and shall also enter or cause to be entered

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entered in a book to be called the Case Book (to be kept in such form and manner as the Minister directs), as soon as may be after the admission of a patient, the mental state and bodily condition of such patient at the time of his admission, and shall also enter or cause to be entered therein from time to time the history of his case whilst he continues in the asylum or reception-house, together with a correct description of the medicines and other remedies prescribed for the treatment of his disorder, and in case of death an exact account of the autopsy (if any) of such patient.

45. Within forty-eight hours after the discharge, removal, escape, or recapture of any patient, a written notice thereof according to the form in the eleventh Schedule to this Act shall be transmitted to the Minister; and within forty-eight hours after the death, discharge, or removal of any patient an entry thereof shall be made in the said register of patients, and also in a book to be kept for the purpose, according to the form and containing the particulars in the twelfth Schedule to this Act.

46. On the death of a patient in any asylum or reception-house, a notice and statement according to the form in the thirteenth Schedule to this Act shall be drawn up and signed by the medical superintendent, or medical officer, as the case may be, and, within forty-eight hours after the occurrence of such death, shall be by him transmitted to the Minister, and also to a relation (if any) named in the statement of particulars which accompanied the order for admission of the patient, or to the person who signed the request for such admission. And such notice shall be in addition to any notice required by the laws in force for the time being relating to the registration of deaths.

## PART IV.—CRIMINAL INSANE.

47. The Governor in Council may by notification in the *Gazette* appoint any gaol, penal establishment, or asylum, or any part, ward, or cell of either, to be a place for the detention of the criminal insane.

48. If a person indicted for an offence is found to be insane by a jury lawfully impanelled for that purpose, so that he cannot be tried upon such indictment, or if upon the trial of a person so indicted such person is found by the jury to be insane, the Court before which he is brought to be tried shall direct such finding to be recorded, and may thereupon order him to be kept in strict custody, in such place and in such manner as to the Court seems fit, until he is dealt with as next hereinafter provided.

In

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Persons found to be insane before trial to be sent to asylum for the insane.

Schedule 14.

Procedure when persons acquitted on ground of insanity.

Persons detained during the Governor's pleasure may be liberated.

Persons attempting to commit suicide and found insane not to be subsequently tried for the offence. Schedule 3.

In any such case, and whenever any person committed to take his trial for an offence is certified by two medical practitioners to be insane, the Minister may, by order under his hand in the form of the fourteenth Schedule hereto, direct that such person be removed to and detained in an asylum until he is duly certified to be of sound mind; whereupon the Minister may order the removal of the patient to the custody of the governor of the gaol from whence he came, in order to his being tried for such offence.

Such detention for any period shall not operate as a bar to his subsequent indictment and trial for such offence.

**49.** If upon the trial of a person charged with treason, felony, or misdemeanor, it appears that such person was insane at the time of committing the offence, and he is acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of the offence, and to declare whether he was acquitted by them on account of such insanity; and if they find that he was insane at the time of committing the offence, the Court before whom the trial is had shall order him to be kept in strict custody in such place and manner as to the Court seems fit, until Her Majesty's pleasure is known.

In any of the preceding cases the Governor, in the name of Her Majesty, may give such order for the safe custody of such person during his pleasure in such gaol or other place of confinement and in such manner as the Governor in Council may think fit.

**50.** When any person is so ordered to be kept in custody during the Governor's pleasure, the order made by the Governor in relation to the custody of such person may be renewed and varied from time to time. And any person so confined in an asylum, not being a person under conviction and sentence, may be liberated from custody or confinement upon such terms and conditions as the Governor thinks fit. And if any of such conditions are violated, such person may be retaken and dealt with as herein provided in case of an escape.

**51.** Any person committed to take his trial for having attempted to commit suicide, who is certified by two medical practitioners in the form of the third Schedule to this Act to be insane, shall forthwith be sent to an asylum or reception-house; and such person, when certified by the superintendent and inspector, or the superintendent and an official visitor, or, in the case of a person sent to a reception-house, by the medical officer, to be of sound mind, shall be discharged from such asylum or reception-house, and shall not be put upon his trial, or be liable to any charge or indictment for having attempted such act of suicide.

52. The

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**52.** The Minister may direct a ward or cells in any gaol or penal establishment to be set apart for the detention of any prisoner supposed to be insane, or from mental imbecility unfit for penal discipline, in order that such prisoner may be there placed under observation until it is certified by two medical practitioners, one of whom shall be either the inspector or medical officer, that he is of sound mind, or is insane and ought to be detained in an asylum.

Minister to appoint wards or cells for observing supposed insane persons in gaols.

**53.** If any person, while detained in any gaol or penal establishment for debt, or in any gaol, penal establishment, reformatory, or industrial school, or other place of confinement, in consequence of any summary conviction or order by any justice or justices, or in default of bail, appears to be insane, the Minister may, upon the receipt of certificates by two medical practitioners in the form of the third Schedule to this Act, accompanied by a statement of particulars in the form of the fifteenth Schedule to this Act, direct by order under his hand in the form of the fourteenth Schedule to this Act that such person be removed to, and kept in, an asylum until it is duly certified by the medical superintendent thereof and the inspector, or by the said superintendent and two official visitors, that such person has become of sound mind.

Procedure in reference to certain persons under detention appearing insane.

Schedule 3.  
Schedule 15.  
Schedule 14.

The Minister shall thereupon, if such person is still subject to be detained in custody, issue his order to the superintendent directing that such person shall be removed to the gaol, penal establishment, reformatory, industrial school, or other place from whence he was taken, or to some other gaol or place of confinement; or if the period of his imprisonment has expired, then that he be discharged.

**54.** If any person, while imprisoned in any gaol or penal establishment under any sentence of hard labour, or imprisonment imposed otherwise than on the conviction or order of justices, appears to be insane, the visiting justice of such gaol or penal establishment shall direct that such person be placed under observation in the manner hereinbefore provided; and the Minister may, upon the receipt of certificates by two medical practitioners in the form of the third Schedule to this Act, accompanied by a statement of particulars in the form of the fifteenth Schedule to this Act, direct by order under his hand in the form of the fourteenth Schedule to this Act, that such person be removed to, and kept in, an asylum until it is duly certified that such person has become of sound mind.

Procedure on certain prisoners appearing to be insane.

Schedule 3.  
Schedule 15.  
Schedule 14.

The Minister shall thereupon, if such person is still subject to be detained in custody, issue his order to the superintendent directing that such person shall be removed to the gaol or penal establishment from whence he was taken, or to some other gaol or penal establishment; or if the period of his imprisonment has expired, then that he shall be discharged.

**55. If**

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Procedure on prisoner under sentence of death appearing insane.

**55.** If it is made to appear to the Minister that there is good reason to believe that any prisoner in confinement under sentence of death is then insane, the Minister may appoint two or more medical practitioners to inquire into the insanity of such prisoner; and if on such inquiry such prisoner is found to be then insane, the fact shall be certified in writing by such practitioners to the Minister.

On receipt of such certificate the Minister may, by order under his hand, direct that such prisoner be removed to, and kept in, an asylum until it be duly certified by the medical superintendent thereof and by the inspector, or by the said superintendent and two official visitors, that such person has become of sound mind.

The Minister shall thereupon issue his order that such prisoner be removed to any gaol or penal establishment to undergo his sentence of death, or to be dealt with according to law as if no such order for his removal to an asylum had been issued.

**PART V.—THE INSPECTION, TRANSFER, AND DISCHARGE, OF PATIENTS.**

(1.) *Inspection of Asylums for the Insane.*

Governor in Council to appoint inspector of the insane.

**56.** The Governor in Council may appoint an inspector of asylums for the insane, who shall be paid his actual travelling expenses in addition to his salary (if any) as inspector.

Inspector to visit asylums and reception-houses.

**57.** The Inspector shall visit every asylum and reception-house at least once in every six months, with or without previous notice, and at such hour of the day or night as he thinks fit or the Minister directs. He shall, so far as practicable—

- (1.) Inspect every part of the asylum or reception-house, every outhouse and building communicating therewith or detached therefrom, and every part of the grounds or appurtenances held or occupied therewith;
- (2.) See every patient then confined therein;
- (3.) Make such inquiries, examinations, and inspections as are required by this Act; and
- (4.) Enter in the inspector's book hereinafter mentioned a minute of the then condition of the asylum or reception-house, and of the patients therein, and such other remarks as he deems proper.

Inspector to visit gaols, &c.

**58.** Every ward and cell set apart under the provisions of this Act for the reception of insane patients in any hospital, gaol, penal establishment, or other public institution, shall be subject to inspection under the provisions of the last preceding section so far as the same are applicable thereto.

59. The

*Insanity Act.*

**59.** The inspector on his several visits to every asylum, Inquiries to be made by inspector. reception-house, ward, or cell, shall inquire—

- (1.) As to the care, treatment, and mental and bodily health of the patients therein;
- (2.) As to the arrangements for their maintenance and comfort;
- (3.) As to whether any patient is under restraint, or in seclusion, and why;
- (4.) Whether, and at what times, and in the presence of what number of patients, Divine service is performed;
- (5.) What occupations or amusements are provided for the patients;
- (6.) As to the classification and dietary of the patients, and the number of attendants and nurses; and
- (7.) As to the money, if any, paid for the maintenance of any patient;—

and make such further inquiries as to the inspector seems fit.

And the inspector shall examine the several books by this Act required to be kept, and sign the said books as having been produced to him, and shall inspect the orders requests and certificates for the reception of every patient received into such asylum or other place since his last visit thereto.

**60.** The inspector shall in every year make a report in writing to the Minister of the state and condition of the several asylums, reception-houses, and other places, visited by him during the preceding year, and of the care of the patients therein, and of such other particulars as he thinks deserving of notice, and such report shall forthwith be laid before Parliament if it be then sitting, and if not then within ten days after the commencement of the next session thereof. Inspector to make an annual report to Minister.

**61.** All plans for building or enlarging or improving any asylum or reception-house, or any ward or cells for the insane in any gaol or hospital, shall be submitted to the inspector, who shall report thereon in writing to the Minister, and no plan shall be carried into effect without such report being made. Plans, &c., for asylums or hospital to be submitted to inspector.

**62.** There shall be hung up in some conspicuous part of every asylum or reception-house a copy of the plan thereof; and there shall be kept in every asylum or reception-house a copy of this Act bound up in a book, called the Inspector's Book; and the inspector shall at the time of his visits enter therein the result of his inspection and inquiries as hereinbefore directed or authorised to be made by him, with such observations (if any) as he thinks proper. Plan of house and inspector's book to be kept.

**63.** The



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Governor in Council  
to appoint official  
visitors.

**63.** The Governor in Council may appoint for every asylum, reception-house, or other place, where patients certified to be insane, or persons so found by inquisition or otherwise, are detained, two or more official visitors, one at least of whom shall be a medical practitioner and the other or others barristers-at-law, solicitors, or police magistrates, and one of whom shall visit the place to which they are appointed visitors once at least every month, and also at such other times as the Minister directs, and with or without any previous notice, and at such hours of the day or night, and for such length of time as they think fit, and shall after every visit transmit to the Minister a statement of the number of patients admitted and discharged since the date of the last visit, together with a copy of the entry made by them in the Inspector's Book, and any other information they consider necessary.

Any official visitor may be appointed for two or more asylums, reception-houses, or other places, where patients certified to be insane are detained; and every official visitor shall be authorised and empowered to make such and the same inspections and enquiries as are authorised and required to be made by the inspector under the provisions of this Part of this Act.

Official visitor not to  
sign certificate for  
admission of patients.

**64.** No official visitor shall sign a certificate for the admission of a patient to any asylum, reception-house, or other place for the reception of insane patients, of which he is an official visitor.

*(2.) Transfer of Patients.*

Minister may order  
transfer of patients.

**65.** The Minister may, by an order in writing, direct the removal of a patient from one asylum to another, and every such order shall be in duplicate, and one original shall be delivered to the superintendent of each such asylum. And such order shall be a sufficient authority for the removal, reception, and detention of such patient.

Provided that a copy of the order or request and statement upon which the patient was received into the asylum from which he is removed, together with an abstract of his treatment and progress certified by the superintendent of such asylum, shall be delivered with the order of removal to the superintendent of the asylum to which the patient is removed.

Insane persons may  
be taken out of  
Queensland by  
order of the Supreme  
Court.

**66.** If it is made to appear to the Court, that an insane person or patient has relations or friends in any place beyond Queensland who are willing to undertake the care and charge of him, and that it would be for his benefit that he should be removed to such place, or if an insane person or patient is a subject of any Foreign Power, the court may order him to be removed from Queensland, and make such  
further

*Insanity Act.*

further or other order authorising or directing his removal, and touching his safe custody and maintenance, as to the Court seems fit, and may order that security shall be given for the safe custody and maintenance of such insane person or patient in any place beyond Queensland.

Provided that no order shall be made for the removal of such insane person or patient until after fourteen days' notice of the intention to apply for such order has been given to the superintendent or to the person in whose care or custody such insane person or patient is, unless such superintendent or person is himself the person applying for the order.

**67.** The superintendent of an asylum may, with the consent in writing of the inspector or an official visitor, send or take a patient under proper control to some specified place for a time specified in the consent for the benefit of his health, and may also with the like consent permit a patient to be absent from the asylum upon trial for such period as is specified in the consent.

Superintendent with consent of the inspector may send patient to any place for his health or permit his absence upon trial.

Before giving such consent the inspector or official visitor may require the approval in writing of the person who signed the order or request for the reception of the patient, or by whom the last payment on account of his maintenance was made.

If a patient so allowed to be absent for the benefit of his health, or on trial, does not return at the expiration of the specified time, and a medical certificate as to his state of mind certifying his detention as an insane person to be no longer necessary has not been sent to the superintendent, such patient may at any time after the expiration of such time be retaken as in the case of an escape.

In the event of the death of a patient so absent on leave, a certificate thereof shall forthwith be forwarded to the superintendent by the person in whose charge the patient was at the time of his death.

**68.** The person in charge of an insane person or patient during conveyance to an asylum or reception-house must have with him the prescribed documents authorising the admission of such person or patient to the asylum or reception-house, and shall produce the same when required so to do by any justice.

Order for conveyance of patient.

**69.** If the superintendent of an asylum, or, if the superintendent is not a medical practitioner, two medical practitioners, certify or certify in writing that a patient is recovered and is fit to be discharged, the Minister may, by order under his hand, direct him to be discharged accordingly.

Discharge on recovery.

**70.** The inspector or an official visitor of any asylum or reception house may, with the advice in writing of the medical superintendent of the asylum or medical officer of the reception house, as the case may be, order the discharge of any patient detained therein, whether he has recovered or not.

Inspector or official visitor with advice of the superintendent may order discharge.

**71.** Where

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Insane persons may be discharged on friends or relatives undertaking that they shall be taken care of.

71. Where application is made to the Minister by any relative or friend of a patient, requiring that he may be delivered over to the care and custody of such relative or friend, the Minister, with the advice in writing of the superintendent or medical officer, and upon the undertaking in writing of such relative or friend that the patient shall be properly taken care of and shall be prevented from doing injury to himself or others, may discharge the patient.

Allowance to be made to friends for maintenance of patients.

72. In cases where a relative or friend of a patient is willing to take care of him, but is unable owing to indigent circumstances to maintain him, the Minister may, on the recommendation of the inspector or of an official visitor, grant an allowance for maintenance to the relative or friend on the patient being discharged in the manner set forth in the last preceding section. And in such case the allowance for maintenance shall be paid once in every three months, upon the certificate of some medical practitioner in the form of the sixteenth Schedule to this Act.

Schedule 16.

If not properly cared for, practitioner to report to inspector.

73. If it appears that the patient so discharged is not properly cared for by his relative or friend, or that his mental state is such as to render it advisable that he should be no longer entrusted to the care of such relative or friend, the medical practitioner shall report the facts to the inspector, who shall make enquiry into the case, and may thereupon direct that the patient be returned to the asylum from which he was discharged without any further certificate or statement, and he shall be returned thereto and received therein accordingly.

Court may order persons confined as insane to be brought before them for examination.

And if found to be of sound mind may discharge them from confinement.

74. If the Court receives information upon oath, or has reasonable cause to suspect that any person of sound mind is confined in an asylum or reception-house, the Court may order the superintendent to bring the person so confined before it for examination at a time to be specified in the order; and if upon examination it is made to appear to the satisfaction of the Court that such person is of sound mind, the Court may direct such person to be immediately discharged from the asylum or reception-house, unless he is detained therein for some other cause by due process of law.

Inspector or official visitors may recommend the discharge of any patient subject to certain conditions.

75. If the inspector, or official visitors, or the medical superintendent of an asylum, or the medical officer of a reception-house, certifies, or certify, to the Minister that a patient is detained therein without sufficient cause, the Minister may order the discharge of such patient. Provided that if the medical superintendent or medical officer disapproves of such discharge, his reasons in writing shall be forwarded with the certificate by the inspector or official visitors to the Minister.

PART

*Insanity Act.*

## PART VI.—PROCEEDINGS FOR DECLARING PERSONS INSANE, AND FOR THE APPOINTMENT OF COMMITTEES OF THEIR ESTATES, ETC.

**76.** No commission *de lunatico inquirendo* shall hereafter be issued. In any case in which it is proved to the satisfaction of the Court that a person is of unsound mind and incapable of managing his affairs, the Court may—

Application to Supreme Court in lieu of commission *de lunatico inquirendo*.

- (a) Make a declaration to that effect ;
- (b) Direct a reference to the Curator to make inquiries concerning the property of such person ;
- (c) Make all proper orders for rendering the property of such person or the income thereof available for the payment of his debts, and for the maintenance or benefit of himself and his family, and for carrying on his trade or business (if any); and
- (d) If necessary, appoint a committee of his estate, and also, when desirable, a committee of his person.

**77.** If it is proved to the satisfaction of the Court that any person declared to be of unsound mind, or so found by inquisition, has recovered his sanity and is capable of managing his affairs, the Court may make a declaration to that effect and may make all proper orders to give effect to such declaration and for releasing the estate of such person from the control of the Court and discharging the committee of his estate and person.

Superseding orders &c., when person recovered.

**78.** Applications under the last two preceding sections shall be by petition, supported by affidavit. Copies of the petition and affidavits shall be served in the prescribed manner upon the person alleged to be of unsound mind, or, in the case of a petition by a person so declared, upon his committee and the persons on whose application he was so declared; they shall also be served upon the Curator and such other persons as the Court may direct.

Application to be by petition.

**79.** Every deponent may be cross-examined upon his affidavit, either at the hearing or at such time and place as the Court directs, and at such hearing the Court may receive or require the oral evidence of witnesses, and such other proof as it thinks necessary.

Cross-examination on affidavit, &c.

**80.** The Court may in any case, instead of determining whether or not the person whose sanity is the subject of inquiry is of unsound mind and incapable of managing his affairs, order that question to be tried by a jury, and in such order shall direct whether the jury shall be a jury of four or of twelve men, and thereupon the like proceedings for summoning a jury shall be had and taken as are provided by the law for the time being in force for the return of juries for the trial of issues in civil actions in the Supreme Court.

Court may order inquiry before a jury.

**81.** When

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Inquiries before jury.

**81.** When an inquiry before a jury is ordered, the Court shall direct the question to be tried before the Court, or the Curator, or a Commissioner specially appointed, who shall while so acting have for the purposes of the inquiry all the powers of the Supreme Court. And the trial of every such question and the verdict thereon shall be had and dealt with in all respects in accordance with the law for the time being in force relating to the trial of issues in the Supreme Court.

After verdict Court may make declaration, &c.

**82.** When the verdict of the jury has been returned, unless a new trial is granted, the Court may make such declaration and orders as are hereinbefore provided.

Examination of the alleged insane person.

**83.** On the hearing of a petition before the Court or a trial before a jury the person whose sanity is in question shall, if he can be produced in Court, be so produced and be examined in open Court, or in private, as is deemed expedient.

The word commission shall apply to petition and declaration.

**84.** Where in any Act, rule of Court, or instrument, reference is made to a Commission of Insanity, or a writ in the nature of a writ *de lunatico inquirendo*, or to any inquisition thereon, or to a traverse or supersedeas of any inquisition or commission, the proceedings hereby respectively substituted for them shall respectively be taken to be intended by and comprehended in such reference.

Persons found insane in places beyond the colony.

**85.** When the Court is satisfied upon the report of the Curator or otherwise that any person has been found of unsound mind, and incapable of managing himself and his affairs, by any competent Court in the United Kingdom, or in any British colony or Foreign State, the Court may appoint a committee of the insane person's estate or person, or both, and may give such other orders in respect of the management of his estate or person as it may deem expedient, and such committee shall have the same duties, powers, and liabilities as the committee of a person declared insane under this Act.

Court may order costs.

**86.** The Court may make such order as to the costs charges and expenses of and incidental to any proceeding authorised by this Act as the Court thinks proper, and every such order shall have the same effect as orders for the payment of money made by the Court.

Appeal.

**87.** The powers of the Court under this Act may be exercised by a Judge thereof, but an appeal shall lie to the full Court from every order made by a single judge.

PART

*Insanity Act.*

## PART VII.—MANAGEMENT OF THE ESTATES OF INSANE PERSONS.

*General Powers and Duties of Curator in Insanity.*

**88.** The Governor in Council may appoint some fit and proper Curator in Insanity. person to be Curator in Insanity who shall have and execute all the powers and duties hereby or under the authority hereof vested in and imposed upon him.

Subject to the Regulations and Rules of Court, the Curator shall undertake the general care, protection, and management, or supervision of the management, of the estates of all insane persons and patients in Queensland.

He shall also supervise and enforce the performance of the obligations and duties of all committees of insane persons, and receivers of their estates, heretofore or hereafter to be appointed, and shall take care of, collect, and administer under the provisions of this Act the property and estates of patients.

**89.** For the purpose of giving effect to any order made under this Act, the Court may order any real or personal property of the insane person mentioned in such order to be sold, mortgaged, charged, or otherwise disposed of, and a conveyance, transfer, mortgage, charge, or other disposition, thereof to be executed or made by any person on his behalf, and may order the proceeds of any such sale, mortgage, charge, or other disposition, or the dividends or income of such real or personal property to be paid to any relative of the insane person, or to some other fit and proper person, to be by such relative or other person applied to the payment of the debts, or to the maintenance or for the benefit of the insane person or his family, or for carrying on his trade or business, either at the discretion of such relative or person, or in such manner and subject to such control or supervision of the Curator, and with or without such security for such application as the Court directs.

**90.** Where on the trial of an information or indictment any person has been acquitted on the ground of insanity, or upon arraignment upon a criminal charge has been found to be insane, the Sheriff shall report the fact to the Curator, who shall thereupon make inquiry respecting the property of such person, and the Court may, on being satisfied by the report of the Curator, or by affidavit or otherwise, of the continued insanity of such person, and of his being still in confinement, make any such orders with respect to the property of such person and the application thereof for the payment of his debts, or for his maintenance or benefit, or that of his family, or for carrying on his trade or business, as are mentioned in the last preceding section.

**91. All**

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Expenses incurred to be paid out of estate.

**91.** All expenses incurred by or on behalf of the Curator or the Minister in the care, protection, and management, or in the supervision of the management, under this Act, of the estate of any insane person or patient, shall be charged against and paid out of such estate, and shall be recoverable therefrom by the Curator.

Curator to have all necessary powers of inquiry.

**92.** The Curator may for the purposes of this Act obtain from the Court writs of subpoena requiring the attendance of any person before him, and may administer oaths, and take evidence either *virâ voce* or by affidavit, and take recognizances, and require the production of books, papers, accounts, and documents; and every person so summoned shall be bound to attend as required by the subpoena, and give evidence before the Curator in the same manner as persons summoned before the Court are bound to attend and to give evidence, and any persons disobeying any such summons shall be guilty of a contempt of Court and be dealt with accordingly.

Court may refer matters to Curator.

**93.** The Court may by any order (either general or special) refer to the Curator any inquiries under the provisions of this Act relating to the person and estate of any insane person or patient.

Witnesses may be cross-examined orally.

**94.** Every person giving evidence by affidavit shall be liable to oral cross-examination by or before the Curator upon his affidavit, and after cross-examination may be re-examined orally by or on behalf of the person filing the affidavit.

How expenses to be paid.

Every person giving evidence by affidavit shall be bound to attend before the Curator to be cross-examined and re-examined, upon receiving due and proper notice and payment or tender of his reasonable expenses, in the same manner as if he had been duly served with a writ of subpoena.

The expenses attending such cross-examination and re-examination shall be paid in such manner, and by such person, as the Curator directs.

Curator may issue advertisements.

**95.** The Curator may cause to be published such advertisements as to him seem expedient with respect to the subject matter of a reference or inquiry, or with a view to the efficient discharge of his duties as Curator under this Act.

Curator to approve of and to enforce security to be given by committee of estate.

**96.** The Curator shall be the person to approve on behalf of Her Majesty of the security to be given by the committee of the estate of any insane person under order of the Court.

It shall be the duty of the Curator to report to the Court any breach or non-performance of the conditions of any bonds and recognizances heretofore or hereafter given or entered into by the committee of any such estate or other persons in the matter of the estate.

And

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And thereupon the Court may cause such bond or recognizance to be forfeited or estreated, and such forfeiture or estreat shall be enforced and effected in the manner provided by the law for the time being in force relating to the estreat of recognizances entered into to Her Majesty.

**97.** Where the Curator reports that more persons than one ought to be appointed the committees of the estate or person, and that it is expedient that one or more of such persons should continue to be the committee or committees after the death or discharge of the others or other of them, and that such person or persons is or are willing so to continue, the committees of the estate shall, on confirmation of such report by the Court, perfect their securities in such form as to extend to the acts and defaults of one or more of them in accordance with the report, and thereupon the grant of the custody of the estate or of the person (as the case may be) shall be made conformably with the order of custody, and the continuing or surviving committee or committees to whom separately the grant extends shall continue, until further order, to act after the death or discharge of the others or other of them with all the like powers, authorities, and discretions, and subject to all the like liabilities as the original committees.

Grant of custody may be extended to surviving or continuing committees in certain cases.

**98.** The Curator's allowance of the account of a committee or receiver shall be signified under his hand, and be written under the account, but no certificate shall be made except where it is specially required with a view to payment of money into Court, or for some other purpose.

Form of allowance of accounts.

**99.** Where the Curator is of opinion that any small expenses included in the committee's or receiver's account have been properly and reasonably incurred for the benefit or enjoyment of the insane person, or the improvement, security, or advantage of his estate, and there is no opposition to the allowance thereof, but it may not be competent to him to allow the same to the committee or receiver without the sanction of the Court, he shall distinguish the items by some mark in his allowance of the account, which shall be made subject to the approval of the Court, and the account as passed by the Curator shall be submitted by him to the Court without petition, for its allowance or disallowance in respect of the items so distinguished by him.

Curator to distinguish items in account which he cannot allow and the account to be submitted to Court.

**100.** The Curator may, without an order or reference, receive any proposal and conduct any inquiry respecting the managing, repairing, or letting of the estate of an insane person, and report thereon.

Curator to receive proposals in certain cases.

**101.** Where



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Curator may certify as to propriety of proposal with regard to costs.

**101.** Where the Curator, without an order of reference, receives and proceeds on a proposal, or conducts an inquiry, but arrives at the opinion that the proposal ought not to be adopted, or that the inquiry was unnecessary, he may certify whether or not, under the circumstances, the proposal or inquiry was proper to be made; and if he certifies in the affirmative, usual and proper costs of the proposal or inquiry and proceedings thereon shall be allowed on taxation by virtue of his certificate, but if he certifies in the negative the Court shall direct by whom and in what manner the costs shall be paid and borne.

Persons insisting on report liable to costs.

**102.** Where any person requires the Curator to report on a proposal which he has received and proceeded on without an order of reference, notwithstanding his opinion that it should not be adopted, the Curator shall report on the proposal, and the report shall be brought before the Court by petition and the Court may make such order upon the report and respecting the costs as it thinks fit.

On application not being made to Curator the costs may be ordered to be paid.

**103.** Where an application is made by petition to the Court, either concerning a matter which might have been brought before the Curator in the first instance, or in consequence of the Curator receiving any proposal or proceeding in any inquiry relating to the estate or the person, the Court may make such order respecting the costs of the application and of the consequent proceedings as it thinks fit.

Curator to inquire as to next of kin, who are to have notice of proceedings.

**104.** Subject to the provisions hereinafter contained, the Curator shall as soon as possible inquire and certify who are the next of kin of every insane person and patient, and subject as aforesaid, due notice of attending on the proceedings in the matter shall be given to the persons for the time being found to be next of kin.

Court may dispense with or limit inquiry as to next of kin.

**105.** The Court may in any case by order defer an inquiry respecting next of kin, or direct that the inquiry shall be carried on to such limited extent only and under such restrictions and provisions and in such manner as it thinks expedient; and may order that persons alleging themselves to be next of kin be left to make out their claim at their own expense, and may in any case by reason of the smallness of the property of the insane person wholly dispense with the inquiry.

Curator to report where inquiry as to next of kin inexpedient.

**106.** Where the Curator is of opinion that by reason of the smallness of the property of an insane person, or for any other reason, an inquiry, or a subsequent inquiry (as the case may be) respecting next of kin should be dispensed with, or deferred, or be carried on to a limited extent only, he shall report accordingly.

**107.** The

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**107.** The Curator in conducting an inquiry respecting next of kin, without any special direction of the Court concerning the mode of conducting the same, may dispense with strict proof of pedigree and may require and receive such evidence only as appears to him sufficient and satisfactory respecting the family and the next of kin, and shall certify the mode in which he has conducted the inquiry.

Curator may dispense with strict proof of pedigree in certain cases.

**108.** The Court may by order dispense with or disallow the attendance on any proceedings of all or some of the next of kin, either wholly or except at their own expense, or except upon special leave first obtained, and such notice only of the proceedings shall be given as is conformable with the order of the Court.

Court may dispense with attendance of next of kin.

**109.** Subject to the provisions hereinbefore contained, the Curator shall once in the matter of each insane person, and may from time to time, determine whether any and which of the next of kin are to attend on the proceedings, or on any particular proceeding, before him in the matter, and no other persons save those so allowed shall, unless otherwise ordered by the Court, be entitled to notice of, or shall be allowed to attend at the cost of the estate, on any proceedings, or on such particular proceeding as aforesaid, except on the special leave of the Curator or the Court first obtained, and no other person, save as aforesaid, shall be entitled to notice of, or shall be allowed to attend at the cost of the estate on, any proceeding before the Court, and for that purpose the Curator shall from time to time certify who are the persons so allowed to attend on the proceedings before him in the matter.

Curator to determine which of next of kin to attend before him and to certify, and the same only to attend before the Court.

**110.** Where an infant, being one of the next of kin, and being so allowed to attend on the proceedings, has no guardian, the Curator may appoint a fit person to be his guardian for the purposes of the insanity, and such person shall thereupon for such purposes only, and not otherwise, have all the same powers, authority, and discretion, as if he had been duly constituted guardian by the Court.

Curator may appoint guardian for infant for purposes of insanity.

**111.** The Curator may consolidate or carry on together similar proceedings before him in the matters of several persons being members of the same family, and may in all cases use, in the matter of one member of a family, evidence filed or taken in the matter of another member or other members of the same family, when and so far as it is applicable.

In cases of members of same family proceedings may be consolidated and evidence interchanged.

**112.** The Curator may, on being satisfied of the death of an insane person, open and read without order any paper writing deposited with him, and purporting or alleged to be the will of such person, for the purpose of ascertaining who is therein nominated executor thereof, and also whether or not there is any and what direction therein contained

Curator may open and deliver out will.

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contained concerning his funeral or place of interment, and shall then deliver the same to the executor or one of the executors therein named, or some other proper person, to the intent that the same may be proved in the usual course, and dealt with according to law, and shall certify the death and the opening and delivering out of the paper writing accordingly.

Curator may inquire as to insane persons residing out of jurisdiction.

**113.** The Curator may, without order of reference, inquire and report whether or not any person residing out of Queensland has been declared of unsound mind, and whether or not his estate has been vested in a curator, or some other and what person appointed for the management thereof, according to the laws of the place where the person is residing.

Curator may direct times, &c., of proceeding before him.

**114.** Subject to the provisions of this Act, and to the General Rules of Court for the time being in force, and to any order of the Court, the Curator may dispense with any notice in the course of the proceedings before him, or may require any party attending before him to give notice to any other person for a particular purpose, or within a particular time, and fix the time for which any notice shall be given, or at or within which any proceeding necessary or proper to be taken before him shall be taken, and may proceed *de die in diem* or adjourn the proceedings before him.

Curator to inquire into delays.

**115.** The Curator shall inquire into the circumstances of any delay in the conduct of proceedings before him, or in proceeding upon his reports, certificates, or decisions, and for that purpose may call before him all parties concerned, and may report accordingly.

Curator may disallow costs.

**116.** The Curator may, by certificate, disallow wholly or in part the costs of any proceeding before him, and also of any affidavits, petitions, or other documents used for the purpose of this Act which contain unnecessary recitals or statements of proceedings or any documents previously taken or used in the same matter, or are improper in whole or in part or of unnecessary length.

Curator may report decision pending inquiry.

**117.** The Curator may report specially to the Court any decision at which he arrives, or any other matter relating to any inquiry or proposal pending before or under consideration by him, in order to obtain a decision or direction by or from the Court for his guidance in the further prosecution of the inquiry, or consideration of the proposal.

Form of reports.

**118.** The Curator's report shall be divided into paragraphs numbered consecutively, and respectively confined as nearly as may be to distinct portions of the subject matter, and with appropriate headings prefixed to the paragraphs.

**119.** Any

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**119.** Any person objecting to a draft report of the Curator and desiring to prosecute the objection shall bring in before the Curator a statement of objections in writing, and thereupon the Curator may review the draft objected to, and after review, or the refusal of the Curator to review, the person objecting may bring in before the Curator a notice in writing stating that he insists on the objections or any one or more of them, and all the objections not so insisted on shall be considered as abandoned.

Objection to draft report may be brought in.

**120.** The reports of the Curator regarding the person or estate of any insane person shall be brought before the Court for confirmation by petition in each of the cases following:—

Cases in which reports shall not be confirmed without petition.

- (1.) Where the Court on referring a matter to the Curator to inquire and report so directs;
- (2.) Where a statement of objections is brought in and all the objections are not abandoned;
- (3.) Where the Curator, having regard to the special nature or circumstances of the case as hereinbefore provided, so directs;
- (4.) Where no order is made on the report being submitted for confirmation without petition;

and in such other cases as are herein mentioned, and as the Court from time to time by general order directs.

**121.** No person shall, except upon special leave of the Court first obtained, present a petition against the confirmation of a report; but in every case, on the hearing of the petition for confirmation of the report, any objections insisted on as aforesaid may be brought forward in opposition to the confirmation of the report, without any exceptions or petition.

No petition against confirmation, but objections to be brought forward on petition for confirmation.

**122.** Where no statement of objections is brought in, or all the objections contained in a statement brought in are abandoned, the report shall be submitted to the Court for confirmation without petition, and without the attendance of parties, except where from the special nature or circumstances of the case the Curator is of opinion that the report ought to be brought before the Court by petition, and by endorsement on the report under his hand shall so direct.

Reports not objected to may be confirmed without petition.

**123.** Where a report is to be submitted for confirmation without petition, it shall contain the directions consequent on the confirmation thereof, and the order of the Court on the report shall give it the operation of an order of the Court made upon petition, subject to such other directions and provisions (if any) as the Court may think fit.

Such reports to contain consequential directions and order of the Court to give them operation of orders.

124. The

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Expenses and  
accounts of Curator.

**124.** The Curator shall give such security for the due performance of his duties as the Governor in Council requires. All expenses incurred with the authority of the Court or of the Minister by the Curator in carrying this Act into execution, and not chargeable to the estate of any insane person or patient, shall be paid out of moneys appropriated by Parliament for that purpose. The general accounts of the Curator shall be reviewed and audited in the manner provided, and by virtue and in exercise of the powers conferred, by any law for the time being in force relating to the audit of the public accounts.

*Management of the Estates of Insane Persons.*

Committee may  
surrender lease and  
accept renewal.

**125.** Where an insane person is entitled to a lease for life or for lives, or for a term of years, either absolute or determinable on a death or otherwise, the committee of his estate may in his name, and on his behalf, under an order of the Court, surrender the lease; and in the name and on behalf, and for the benefit of the insane person, accept a new lease of the premises comprised in the lease surrendered, for such number of lives or for such term of years, either absolute or determinable as aforesaid, as was mentioned or contained in the lease surrendered at the making thereof, or otherwise, as is ordered by the Court.

Charges of renewal  
to be charged on  
estates.

**126.** Every sum of money, and other consideration, paid by a committee or other person upon renewal of a lease, and all reasonable charges incident thereto, may be paid out of the estate of the insane person, or may with interest be made a charge upon the leasehold premises, as is ordered by the Court.

New leases to be to  
the same uses.

**127.** Every leaser renewed shall operate, and be to the same uses and be subject to the same trusts, charges, and encumbrances, dispositions, devises, and conditions, as the lease surrendered was subject to, or would have been subject to if the surrender had not been made.

Property of insane  
may be sold, mort-  
gaged, &c., for debts,  
maintenance, &c.

**128.** Where it appears to the Court to be just and reasonable, or for the benefit of the insane person, it may order any estate or interest of the insane person in real or personal property, either in possession, reversion, remainder, contingency, or expectancy, and either existing, or which may exist at any future time, to be sold, mortgaged, charged, or otherwise disposed of, as to it seems most expedient for the purpose of raising money, or for securing any moneys (and either with or without interest thereon) advanced or to be advanced by or due or to become due to any person, for or towards all or any of the purposes following:—

- (1.) The payment of debts or engagements of the insane person;
- (2.) The discharge of any encumbrance on his estates;
- (3.) The

*Insanity Act.*

- (3.) The payment of any debt or expenditure incurred or made after the declaration of his insanity, or authorised by the Court to be incurred or made for his maintenance, or otherwise for his benefit ;
- (4.) The payment of or provision for the expenses of his past or future maintenance ;
- (5.) The payment of the costs of applying for, obtaining, and executing the inquiry or of opposing the same ;
- (6.) The payment of the costs of any proceeding under or consequent on any petition, or incurred under order of the Court ; and
- (7.) The payment of the costs of any sale, mortgage, charge, or other disposition by this Act authorised to be made.

**129.** The committee of the estate shall, in the name and on behalf of the insane person, execute, make, and do all such conveyances, deeds, transfers, and things relative to any such sale, mortgage, charge, or other disposition, as aforesaid, and for effectuating the provisions contained in the last preceding section, as may be ordered by the Court.

Committee to execute deeds, &c.

**130.** In case of a charge or mortgage being made under this Act upon an interest in contingency or in reversion, remainder, or expectancy, or which may exist at a future time, for the expenses of future maintenance, the Court may direct the same to be payable and paid, either—

Modes in which future maintenance may be charged when interest not in possession.

- (a) Contingently if the interest charged is a contingent one ; or
- (b) Upon the happening of the event if the interest is depending on an event which must happen ; or
- (c) If it is an interest which may come into existence at some future time, then when it comes into existence ;

and either in a gross sum, or in annual or other periodical sums, and at such times, in such manner, and either with or without interest, as the Court deems expedient.

**131.** The Court may order that any moneys expended under its order for the permanent improvement, security, or advantage, of the land of an insane person, or of any particular part thereof, shall, with interest, be a charge upon and be raisable out of his estate and interest in the land or such particular part thereof as aforesaid, but so that no right of sale or foreclosure during the lifetime of the insane person shall be given or acquired under or by virtue of the charge ; and the interest shall be kept down during his lifetime out of the income of his general estate as far as the same is sufficient to bear it.

Expenses of improvements may be charged on estate.

The

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The committee of the estate shall, in the name and on behalf of the insane person, execute and do all such conveyances, mortgages, and other things for effectuating this provision as the Court orders. Any such charge may be made either to the person advancing the money, or, if the money is paid out of the general property of the insane person, to some person as a trustee for him as part of his personal estate.

Surplus of moneys to be of the same nature as the estate.

**132.** On any moneys being raised by sale, mortgage, charge, or other disposition, of land, made in pursuance of any of the foregoing provisions, the person whose estate is sold, mortgaged, charged, or otherwise disposed of, and his next of kin, devisees, legatees, executors, administrators, and assigns, shall have such and the same interest in the surplus money remaining after the purposes for which the moneys were raised have been answered, as he or they would have had in the estate if no sale, mortgage, charge, or other disposition thereof, had been made, and the surplus moneys shall be of the same nature and character as the estate sold, mortgaged, charged, or otherwise disposed of; and the Court may make such orders, and direct such conveyances, deeds, and things to be executed and done, as are necessary for effectuating this provision, and for the due application of the surplus moneys.

Where property very small the Court may apply same directly for insane person's or patient's maintenance.

**133.** Where it appears that the net amount, or net estimated value, of the property of any insane person or patient does not exceed the sum of five hundred pounds sterling, and it appears expedient that the amount or value of his property should be made available for his maintenance in a direct and inexpensive manner, and that the same can be safely and properly done, the Court may order the amount of the property, or the produce thereof when realized, to be paid or transferred to some fit person, to be by him applied to the maintenance of the insane person or patient, either at discretion, or in such manner and subject to such control as the Court directs; and for the purpose of giving effect to any such order the Court may direct any real estate or other property whatsoever of the insane person or patient to be sold, and a valid conveyance or transfer thereof to be executed or made by such person as it directs.

Where insanity temporary the Court may apply cash arising from income for temporary maintenance.

**134.** Where it appears to the Court, upon a report of the Curator or otherwise, that there is reason to believe the unsoundness of mind of an insane person to be temporary, and that it is expedient that provision should be made for the maintenance for the time being of such insane person and his family, and that any sum of money belonging to him is readily available, and may be safely and properly applied in that behalf, the Court may allow thereof such amount as it thinks proper for such temporary maintenance; and may order the payment to some fit person of any such sum of money as aforesaid, or any part thereof, and its application towards such temporary maintenance

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tenance as aforesaid; and the receipts in writing of the person named in the order for any moneys payable to him by virtue thereof shall effectually discharge any banker, agent, or other person paying the same from the moneys therein respectively expressed to be received. And the person so receiving any moneys by virtue of this provision shall pass an account thereof before the Curator when required.

**135.** Where a person, having contracted to sell, mortgage, let, divide, exchange, or otherwise dispose of any land, afterwards becomes insane, and the contract is not disputed, and is such as the Court thinks ought to be performed; or where a specific performance of the contract, either wholly, or so far as the same remains to be performed, has been decreed or ordered by the Court, either before or after the insanity, the committee of the estate may, in the name and on behalf of the insane person, under an order of the Court made on the application of the party claiming the benefit of the contract, or of any plaintiff in the suit, receive and give an effectual discharge for the money payable to the insane person, or so much thereof as remains unpaid, and make such conveyance of the land to such person and in such manner as is ordered by the Court.

Committee may convey land in performance of contracts.

**136.** Where a person, being a member of a co-partnership firm becomes insane the Court may, by order made on the application of the partner or partners of the insane person, or of such other person or persons as the Court thinks entitled to ask for the same, dissolve the partnership, and thereupon, or upon a dissolution of the partnership by due course of law, the committee of the estate, in the name and on behalf of the insane person, may join and concur with such other person or persons in disposing of the partnership property, as well real as personal; and shall execute and do such conveyances and things for effectuating this provision, and apply the moneys payable to the insane person in respect of his share and interest in the co-partnership, in such manner as is ordered by the Court.

The Curator may dissolve partnership and committee may convey partnership property.

**137.** Where an insane person is entitled or has a right to renew, and either it would be for his benefit to renew or he is compelled to renew a lease made for a life or lives, or for a term of years, either absolute or determinable on a death or otherwise, the committee of such person's estate may in his name under an order of the Court made upon the application of the committee, or of any person entitled to the renewal, accept a surrender of the lease and make and execute a new lease of the premises comprised in the lease surrendered, for such number of lives, or for such term or terms of years absolute, as was mentioned or contained in the lease surrendered at the making thereof, or otherwise as is ordered by the Court; but so that no renewed lease shall be executed by virtue of this Act, in pursuance of any covenant or agreement, unless such sum of money or other consideration

Committee may accept surrender, and make new lease.]



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ation (if any) as ought to be paid on renewal, in pursuance of the covenant or agreement by the lessee or tenant, is first paid, and such things as ought to be performed in pursuance of such covenant or agreement are first performed, and a counterpart is duly executed by the lessee.

Appropriation  
of moneys received  
upon renewal.

**138.** All sums of money and other considerations received upon renewal of a lease shall, after deduction of all necessary incidental charges and expenses, be paid to the committee of the estate, and be applied for the benefit of the insane person as the Court orders; but upon the death of the insane person all moneys that have been so received, or so much thereof as then remains unapplied for his benefit, shall, as between the representatives of his real and personal estate, be considered as real estate, unless the insane person is tenant for life only, and then the same shall be considered as personal estate.

Committee may make  
sale, partition, or  
exchange.

**139.** When an insane person is seized of or entitled to an undivided share of land, and it appears to the Court expedient that a sale of the land or part thereof, or a partition of the land, should be made, and where an insane person is seized of or entitled to land and it appears to the Court expedient that an exchange thereof, or of part thereof, for other land should be made, the committee of the estate, in the name and on behalf of the insane person under an order of the Court, may concur with such other person in making such sale or partition, or may make such exchange, and may receive such moneys payable on the sale, and may give and receive such moneys for equality of partition or exchange or otherwise in relation thereto, as the order may direct.

And all moneys received by the committee of the estate upon any such sale partition or exchange as aforesaid shall be applied and disposed of in manner hereinbefore directed respecting the sums of money and other consideration received on renewal of a lease, and the land taken in exchange shall be held and assured (as nearly as may be) to the same uses and upon the same trusts, and subject to the same powers and provisions (if any), to upon and subject to which the land given in exchange was held, and the committee of the estate shall, in the name and on behalf of the insane person, execute and do all such conveyances and things for effectuating this provision as may be ordered by the Court.

Committee may sell  
land for building  
purposes.

**140.** Where an insane person is seized of or entitled to land in fee simple, and it appears to the Court expedient that the same or any part thereof should be made available for building purposes, and that the same should in lieu of being demised for long terms of years be absolutely sold, it may order the same to be sold accordingly, to such persons, in such quantities, upon such terms, and in such manner, as to it may seem expedient, and the moneys arising thereby shall be

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be applied and disposed of in such manner, and the committee of the estate shall in the name and on behalf of the insane person execute and do such conveyances and things for effectuating this provision, as is ordered by the Court.

**141.** Where an insane person has been engaged in a trade or business and it appears to the Court expedient that the business premises should be disposed of, the committee of the estate may, in the name and on behalf of the insane person, and under order of the Court, make such conveyance of the messuage, buildings, or hereditaments, of or belonging to the trade or business, or used in connection therewith, according to the estate or interest of the insane person in the same, to such person, and upon such terms, and shall apply the moneys arising thereby in such manner, as is ordered by the Court.

Committee may assign business premises.

**142.** Where an insane person is entitled to a lease for a life or lives, or for a term of years, either absolute or determinable on a death or otherwise, or to an under-lease of whatsoever nature, and it appears to the Court expedient that the lease or under-lease should be disposed of, the committee of the estate may, in the name and on behalf of the insane person, and under order of the Court, surrender, assign, or otherwise dispose of the lease or under-lease to such person, and upon such terms, and shall apply the moneys arising thereby in such manner, as may be ordered by the Court.

Committee may dispose of undesirable lease.

**143.** Where an insane person is seized or possessed of or entitled to land in fee or in tail, or to leasehold land for an absolute interest, and it appears to the Court expedient that a lease or under-lease should be made thereof for a term or terms of years, for encouraging the erection of buildings thereon, or for repairing buildings actually being thereon, or otherwise improving the same, or for farming or other purposes, the committee of the estate may in the name and on behalf of the insane person under order of the Court make such lease of the land, or any part thereof, according to the estate and interest of the insane person therein and to the nature of the tenure thereof, for such term or terms of years and subject to such rents and covenants as may be ordered by the Court.

Committee may make building and other leases subject to such covenants as the Court shall order.

**144.** Where an insane person has only a limited estate in land and any power whatsoever of leasing the same is vested in him, the committee of his estate may, in the name and on behalf of the insane person, and under order of the Court, execute the power to such extent and in such manner as the order directs; and all sums of money or other consideration (if any) received for or upon the granting of any lease under this provision, shall be applied and disposed of in manner hereinbefore directed respecting the sums of money and other consideration received upon the renewal of a lease.

Committee may execute leasing powers of insane having limited estate.

**145.** Where

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Committee may exercise power vested in insane for his own benefit or give consent.

And power vested in insane in character of guardian, &c.

**145.** Where a power is vested in an insane person for his own benefit, or the consent of an insane person is necessary to the exercise of a power, and such power or consent is in the nature of a beneficial interest in the insane person, or where a power is vested in an insane person in the character of a trustee or guardian, or the consent of an insane person to the exercise of a power is necessary in the like character, or as a check upon the undue exercise of the power, and it appears to the Court to be expedient that the power should be exercised, or the consent given (as the case may be), the committee of the estate in the name and on behalf of the insane person, under an order of the Court made upon the application of any person interested in the exercise thereof, may exercise the power, or give the consent (as the case may be), in such manner as the order directs.

Appointment of new trustees under power to have effect of appointments by Court, and like orders may be made as under any law relating to trusts.

**146.** Where under this Act the committee of the estate under order of the Court exercises in the name and on behalf of the insane person a power of appointing new trustees vested in him, the persons who after and in consequence of the exercise of the power are the trustees shall have all the same rights and powers as they would have had if the order had also been made by the Court under any law for the time being in force relating to trusts, or if they had been appointed by a decree of the Court in a suit duly instituted; and the Court may, where expedient, make such order respecting the real or personal property or choses in action subject to the trust, as might have been made in the same case, under the provisions of any such law as aforesaid, on the appointment thereunder of new trustees.

Stock belonging to insane may be ordered to be transferred.

**147.** Where any stock is standing in the name of, or is vested in, an insane person beneficially entitled thereto, or a committee of the estate of an insane person in trust for him, or as part of his property, and the committee dies intestate or himself becomes insane, or is out of the jurisdiction of or not amenable to the process of the Court, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock, and to receive and pay over the dividends or income thereof to a new committee, for the space of fourteen days after a request in writing for that purpose made by a new committee, then the Court may order some fit person to transfer the stock to the name of a new committee or otherwise, and also to receive and pay over the dividends or income thereof, or such sum or sums of money and in such manner as may be ordered by the Court.

Stock in name of insane residing out of the colony may be ordered to be transferred.

**148.** Where any stock is standing in the name of or vested in a person residing out of Queensland, the Court, upon proof to its satisfaction that such person has been declared insane according to the laws of the place where the insane person is residing, and that his personal estate has been vested in a curator or other person appointed

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appointed for the management thereof according to the laws of that place, may order some fit person to make such transfer of the stock to the name of such curator or other person appointed as aforesaid, or otherwise, and also to receive and pay over the dividends or income thereof, as may be ordered by the Court.

**149.** Where an order is made under this Act for the transfer of stock, the person to be named in the order for making the transfer shall be some proper officer of the company or society in whose books the transfer is to be made.

Who shall be appointed to make transfer.

**150.** The Court may order the costs and expenses of and relating to the petitions, applications, orders, directions, conveyances, and transfers, presented or made in pursuance of this Part of this Act, to be paid and raised out of or from the real or personal property or the rents, income, or profits in respect of which the same respectively is presented or made in such manner as it thinks proper.

Costs and remuneration may be paid out of estate.

The Court may order such sum to be paid out of the estate to the committee of any insane person by way of remuneration as the Court on the report of the Curator approves.

**151.** Every conveyance, lease, surrender, transfer, charge, or other disposition, made or accepted or executed by virtue of or under the authority of this Act, and every payment made in pursuance or under the authority of this Act, shall be valid to all intents, and binding upon all persons whomsoever, and this Act shall be a full indemnity and discharge for all acts and things done or permitted to be done in pursuance thereof, or of any order of the Court made or purporting to be made under this Act.

All deeds, transfers, payments, &c., made in pursuance of this Act to be valid and binding.

**152.** Nothing in this Act contained shall extend, save as therein expressed, to subject any part of the property of an insane person to the debts or demands of his creditors further or otherwise than as the same is now subject thereto by due course of law.

Act not to subject insane's property to debts.

*Powers and Duties of Curator in respect to Estates of Patients.*

**153.** The Curator shall have in respect of the property and estate of any insane patient, in addition to the general powers conferred upon him by this Part of this Act, all the like powers and authorities, and subject to the like limitations, as are by the preceding provisions of this Part of this Act given to the committee of the estate of an insane person.

Power of Curator in respect of estates of insane patients.

**154.** If any real or personal property of an insane patient is wrongfully held, detained, converted, or injured, or if any sum of money is due and owing to such patient by any person, the Curator

Summary proceedings for protection of property of insane patients.

may

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may claim and recover possession of such property or damages for the conversion or injury thereof, or payment of the said sum by summary proceeding, on complaint before any judge of the Court, who is hereby authorised and required, on proof to his satisfaction of the cause of complaint, to make an order requiring the person complained against to give up possession of such property, or to pay reasonable damages, to be fixed by the order, for the conversion or injury thereof, or to pay the sum due, and, in default of compliance by such person, to order that he be committed to prison for any period not exceeding six months; or the judge may direct an action to be brought in respect of the matter of the complaint.

The judge may on any complaint under this section make such order as to costs as he thinks fit, and every order under this section shall have the same effect, and may be enforced in the same manner, as any judgment of the Court.

Payments to Consolidated Revenue and trust fund.

**155.** The Curator shall collect and pay into the Consolidated Revenue, for the use and benefit thereof, all moneys of the estate of any patient that are payable to him under any order of the Court by way of commission, or that are payable to the Treasury on account of the maintenance of the patient, or on account of expenses incurred or otherwise under this Act, or under any order of the Court, or the regulations herein mentioned. And the Curator shall pay into the Treasury, to the credit of a Trust Fund, all the surplus moneys, proceeds, and income, belonging to the estate of all insane patients not applied or disposed of as aforesaid; and all or any part of such moneys standing to the credit of any such estate in the Trust Fund may be paid at any time before the expiration of the six years hereinafter mentioned, upon the order of the Court, to the patient, or to any person authorised by such order to receive the same, and so much of the said moneys as are not so paid out of the Trust Fund shall, notwithstanding any law for the time being in force relating to the collection and management of public moneys, remain to the credit of the Trust Fund for a period of six years after the death of such patient, and shall, at the end of such period, be carried to and form part of the Consolidated Revenue; but no time during which the person applying for any such order of the Court has been an infant, or *femme covert*, or of unsound mind, or beyond the seas, shall be taken into account in estimating the said period of six years.

Curator may pay maintenance.

**156.** The Curator may, out of the estate of a patient, pay such sum or sums for the maintenance of such patient, and his wife or other near relative, and for the maintenance and education of his children, as the Curator thinks expedient and reasonable and the Minister approves. The Curator may also take such steps for the management and care of the property of the patient and for the sale, letting,

And manage property of patients.

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letting, and disposal thereof, and for the application thereof, or any part thereof, to the payment of the debts of the patient, as to the Curator seems expedient.

Provided that the Curator may report to and apply for the order or advice of the Court upon any of the matters aforesaid, and the Court may, on the application of the patient, or of any relative, friend, or creditor, of the patient, make orders as to any of the matters aforesaid, or as to any other matter whatsoever upon which the Court may lawfully make an order respecting the estate of an insane person.

**157.** The Curator may agree with any relative, guardian, or friend, of a patient for his maintenance while detained in an asylum, and such relative, guardian, or friend, shall be entitled to be reimbursed all necessary sums expended in such maintenance, with interest thereon, out of any real or personal property of the patient.

**158.** The Court may direct the Curator to personally examine a patient, and take evidence and call for information as to his insanity or otherwise, and report thereon to the Court; and the Court may make orders for the appointment of a guardian or otherwise for the protection, care, and management, of the person, or of the estate, or both, of a patient, who is by any such report as last aforesaid found to be insane; and such guardian shall, according to the nature of his appointment, have the same powers and authorities, and shall be subject to the same control and liabilities, as a committee of the person and estate of an insane person appointed under this Act.

The Court may also make orders for the appointment of a receiver for the protection, care, and management of the estate of a patient; and such receiver shall have the same powers and authorities, and shall be subject to the same control and liabilities, as a committee of the estate of an insane person appointed under this Act.

The Court may further make orders for the application of the income of a patient, or a sufficient part thereof, for his maintenance and support, and in payment of the costs, charges, and expenses, attending the protection, care, and management, of his person and estate, and of or in connection with any examination by the Curator, or the obtaining of any order of the Court; and also as to the investment or other application, for the purpose of accumulation or otherwise, of the overplus (if any) of such income, for the use of such insane patient, his wife, or children, as to the Court seems fit,

**159. If**

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Justices may make an order upon relations of patient for his support.

**159.** If it appears to the Curator, that any patient has not an estate or any sufficient estate applicable to his maintenance, he may make an application in writing—

- (a) To the father of the patient; or
- (b) If the father is dead, to his mother; or
- (c) If the patient is a married woman, to her husband; or
- (d) In other cases to one or more of his or her children being of the age of twenty-one years or upwards;

for the payment of a reasonable sum weekly or monthly, or otherwise, for or towards the maintenance, clothing, medicine, and care, of such patient.

And if such sum is not paid pursuant to such application, the patient, if a wife, or a child of a living father or mother (whatever the age of such child may be), shall be deemed on complaint made by the Curator before any two justices a deserted wife or child within the meaning of the law for the time being in force relating to the maintenance of destitute or deserted wives and children.

And if the patient is a father or mother, with one or more than one child of age and ability to maintain or contribute towards the maintenance of the patient, the Curator shall on such complaint as aforesaid be entitled to such order for maintenance and the enforcement thereof as against such child or children, as the case may be, as by law a deserted child is entitled to as against its father. Provided that if the father of the patient is dead, and his mother living, the mother shall be deemed for the purposes of this enactment to be liable in the same manner as the father of a deserted child is made liable.

Every such sum so applied for, or ordered to be paid, shall be paid to the Curator, whose receipt shall be sufficient discharge for such payments.

## PART VIII.—MISCELLANEOUS PROVISIONS.

Power to Judges of Supreme Court to make general orders.

**160.** The Judges of the Supreme Court, or any three of them, of whom the Chief Justice shall be one, may make general rules for regulating the form and mode of proceedings before the Court, and before and by the Curator, for carrying into effect the several objects of Parts VI. and VII. of this Act so far as the same relate to the powers or duties of the Court, or of the Curator, and for regulating the practice and forms in all matters in Insanity.

Governor in Council may make regulations.

**161.** The Governor in Council may make Regulations for carrying into effect the purposes of this Act in all respects other than as hereinbefore provided for.

**162.** Any

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**162.** Any superintendent, officer, servant, or other person employed in an asylum, reception-house, public hospital, gaol, or penal establishment, who strikes, wounds, ill-treats, or wilfully neglects, any insane person or patient confined or detained therein, shall, for every such offence, be liable to a penalty not exceeding twenty pounds, or to imprisonment for any period not exceeding six months. Provided that nothing in this section contained shall prejudice or affect the civil or criminal responsibility (if any) of the offender at common law, or under any statute.

Penalties on officers or servants ill-treating the insane.

**163.** Any person who rescues an insane person during his conveyance to an asylum, reception-house, gaol, or penal establishment, or his confinement therein, and the superintendent, or any officer, servant, or other person, employed in any such asylum, reception-house, gaol, or penal establishment, who through wilful neglect or connivance permits any person so confined to escape therefrom, or secretes him, or abets or connives at such escape, shall be guilty of a misdemeanor, and be liable to imprisonment for any term not exceeding three years with or without hard labour.

Penalties for aiding or permitting escape.

**164.** Any superintendent or other person employed in an asylum, reception-house, gaol, or penal establishment, who carelessly permits any insane patient to escape, or to be at large without such order as in this Act mentioned (save in the case of temporary absence hereinbefore authorised), or secretes, or abets or connives at the escape of, any such patient, shall for every such offence be liable to a penalty not exceeding twenty pounds.

Penalty on officers, &c., allowing patients to escape or be at large without permission.

**165.** Any superintendent who fails to keep any of the books or make any of the entries by this Act required to be kept or made, or to furnish any of the returns, lists, extracts, or other documents, by this Act required to be furnished, shall for every such offence be liable to a penalty not exceeding one hundred pounds.

Penalty for not keeping books, etc.

**166.** The superintendent of the Asylums at Goodna and Sandy Gallop shall forward to the Curator, within one month after the commencement of this Act, a true list of the names and ages of all persons detained as patients in such Asylum, together with a true and particular account, so far as the same is known or can be ascertained, of the property of every such patient, and of the name and residence of the relatives of any such patient known or supposed to be able to maintain or contribute to his maintenance; and afterwards, within fourteen days from the reception of a patient into any asylum, the superintendent thereof shall forward to the said Curator—

Reports to be made to the Curator, and in certain cases to the Minister, as to property of insane patients.

- (1.) The name of such patient and his age;
- (2.) A true and particular account of his property; and
- (3.) The names and residences of his relatives as aforesaid.

Every superintendent, inspector, and official visitor, shall communicate to the Curator all particulars that may come to his knowledge



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knowledge respecting the property of any patient, and if any such superintendent, inspector, or official visitor has reason to believe that the property of any patient is not duly protected, or that the income thereof is not duly applied for his maintenance, such superintendent, inspector, or official visitor shall report thereon to the Minister, as well as to the Curator.

Curator to furnish superintendent with statements of payments for maintenance of patients.

**167.** The Curator shall from time to time furnish to the superintendent a statement of the sums paid by him out of the estate of any patient towards his maintenance while an inmate of the asylum, and shall from time to time inform such superintendent of any change in the amount of such payments, or of their discontinuance, and the reasons therefor.

Superintendents of asylums, &c., to show to inspector and official visitors the whole of the house and answer questions.

**168.** The superintendent or other officer in charge of any asylum, reception-house, or other place officially visited under this Act, shall—

- (1.) Show to the inspector, or official visitor, every part thereof, and every person detained therein ;
- (2.) Give full and true answers, to the best of his knowledge, to all questions which the inspector or official visitor asks in reference to the said asylum, reception-house, or other place, and to the patients confined therein ;
- (3.) Produce to the inspector and official visitors respectively the several books by this Act required to be kept ; and
- (4.) Produce all such returns as are required by the inspector or an official visitor.

Every such superintendent, or other officer, and every servant of such superintendent or other officer who—

- (a) Conceals, or attempts to conceal, or refuses or wilfully neglects to show, any part of the asylum, reception-house, or other place, or any appurtenances or building belonging thereto, or any person detained therein, from or to any inspector or official visitor ; or
- (b) Does not give true and full answers to the best of his knowledge to all questions asked by the inspector or an official visitor in reference to the matters aforesaid ; or
- (c) Neglects or refuses to produce to the inspector or official visitor the several books required by this Act to be kept ; and also all orders relating to patients admitted since the last visit of the inspector or official visitor, and such other documents relating to any patient as the inspector or official visitor requires or require to be produced, or to produce such returns as aforesaid ;

shall be guilty of a misdemeanor.

Letters of patients to be forwarded, or if not to be laid before inspector, &c.

**169.** Every letter written by a patient in any asylum or other place officially visited under this Act, and addressed to the inspector or an official visitor, shall be forthwith forwarded unopened.

**And**

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And every letter written by any such patient, and addressed to any person other than those above-mentioned, shall be forwarded to the person to whom it is addressed, unless the superintendent, or in the case of a single patient the person having charge of him, upon reading the same prohibits the forwarding of such letter by endorsement to that effect under his hand on the letter; and in such case he shall lay the letter so endorsed before the inspector or official visitor or visitors on his or their next visit.

The superintendent, or person in charge as aforesaid, who fails to comply with any of the requirements of this section, shall be liable to a penalty not exceeding ten pounds in respect of every such offence. Penalty.

**170.** Every person who, for the purposes of this Act—

- (a) Signs or describes himself in any statement or certificate as a medical practitioner, not being such within the meaning of this Act; or
- (b) Wilfully makes or is privy to the making of an untrue entry in any book required by this Act to be kept; or
- (c) Wilfully makes an untrue statement in any report or with reference to anything by this Act required to be made or done;

shall be guilty of a misdemeanor. Misdemeanors, medical practitioner making untrue entry or untrue statement.

**171.** The inspector or official visitors visiting any asylum, reception-house, or other place officially visited under this Act, may require by summons according to the form in the seventeenth Schedule to this Act, any person to appear before him or them to testify on oath the truth touching any of the matters respecting which such inspector or official visitors is or are by this Act authorised to inquire. Power to inspector and official visitors to summon witnesses. Schedule 17.

And every person who, having had his reasonable expenses paid or tendered to him at the time of service of such summons, does not appear pursuant to such summons, or does not assign some reasonable excuse for not so appearing, or who appears and after tender of such reasonable expenses refuses to be sworn or examined, shall for every such neglect or refusal be liable to a penalty not exceeding ten pounds. Penalty.

And such inspector or official visitors may also examine, on oath, any person appearing as a witness or present at the time of any such inquiry, touching any of the matters aforesaid, although no such summons as aforesaid has been served upon him. Also to examine persons not summoned.

**172.** All offences against this Act, not hereby declared to be misdemeanors, may be prosecuted in a summary way before any two justices under the provisions of the law in force for the time being regulating proceedings on summary convictions, and if any such **penalty** Penalties may be sued for summarily.

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Appeal.

penalty is not paid either immediately after the conviction or order, or within the time appointed by such conviction or order, the same shall be levied by distress and sale of the offender's goods and chattels, and in failure of distress shall be enforced in manner directed by law. And all persons aggrieved by any such conviction or order may appeal therefrom in the manner and subject to the conditions prescribed by the Acts regulating appeals to the District Court.

## SCHEDULES.

## SCHEDULE 1.

Section 2.

Date of Act.	Title of Act.	Extent of Repeal.
17 Edw. II. st. I. cc. 9 and 10, and 11 and 12 (Ruffhead's edition)	Of the King's Prerogative ... ..	So far as the same are in force in Queensland.
2 and 3 Edw. VI. c. 8 s. 6	Of the King's Prerogative ... ..	
39 and 40 Geo. III. c. 94	An Act for the Safe Custody of Insane Persons charged with offences ... ..	
6 Geo. IV. c. 53 ...	An Act for limiting the time within which Inquisitions of Lunacy Idiocy and <i>Non compos Mentis</i> may be traversed and for making other Regulations in the proceedings pending a traverse ... ..	
7 Vic. No. 14 ...	An Act 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	So much as has not been already repealed.
9 Vic. No. 4 ...	An Act to alter and amend an Act intituled "An Act 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"	The whole.
9 Vic. No. 34 ...	An Act to amend an Act intituled "An Act 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"	The whole.
13 Vic. No. 3 ...	An Act to amend the Law in respect to the Safe Custody of Persons dangerously Insane and the Care and Maintenance of Persons of Unsound Mind	The whole.
29 Vic. No. 13 ...	An Act for further improving the Administration of Criminal Justice.	Sections 36 and 37.
33 Vic. No. 12 ...	An Act to amend the Law for the Care and Treatment of the Insane	The whole.
35 Vic. No. 1 ...	An Act for extending "The Lunacy Act of 1869."	The whole.

SCHEDULE

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## SCHEDULE 2.

Section 10.

*Form of License to keep a Licensed House.*

I, Sir A.M. Governor of the Colony of Queensland and its Dependencies, do hereby, in pursuance of "*The Insanity Act of 1884*," authorise of \_\_\_\_\_, for the period of three years from the date hereof, to keep for the reception of \_\_\_\_\_ insane persons of the male (or female) sex (or of both sexes) the house the particulars of which are hereunder written.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

Governor.

## SCHEDULE 3.

Sections 25, 28, 51  
53, 54.*Form of Medical Certificate to accompany Order or Request for reception into an Asylum or Reception-House, as the case may be.*

I, the undersigned, being a Medical Practitioner, hereby certify that I, on the day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_, at (here insert the particulars of the place of examination, as the street, number of the house, or other particulars) separately from any other Medical Practitioner personally examined \_\_\_\_\_ of \_\_\_\_\_ (insert residence and profession or occupation if any), and that the said \_\_\_\_\_ is of unsound mind, and a proper person to be taken charge of and detained under care and treatment, and that I have formed this opinion upon the following grounds, viz. :—

1. Facts indicating insanity observed by myself (here state the facts).
2. Other facts (if any) indicating insanity communicated to me by others (here state the information and from whom).

Dated this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

(Signed)  
Place of abode

## SCHEDULE 4.

Section 25.

*Order for Conveyance of an Insane Person to an Asylum or Reception-House, as the case may be.*

We the undersigned Justices, having called to our assistance \_\_\_\_\_ and \_\_\_\_\_ Medical Practitioners, and having examined \_\_\_\_\_ of (insert residence and occupation, if any) who has been brought before us as being suspected to be insane, as also the said Medical Practitioners, and having made such inquiry relative to the said \_\_\_\_\_ as we have deemed necessary, and being upon such examination (if other evidence of the insanity add "with other proof") satisfied that the said \_\_\_\_\_ is insane and is without sufficient means of support [or and was wandering at large] [or and was discovered under circumstances indicating a purpose of committing some offence against the law] [or and is not under proper care and control] [or and is cruelly treated or neglected by \_\_\_\_\_ a relative or a person having the care or charge of him], and that he is a proper person to be taken charge of and detained under care and treatment, do hereby direct you \_\_\_\_\_ the Superintendent of the asylum (or reception-house, as the case may be) at \_\_\_\_\_ to receive into the said asylum (or reception-house, as the case may be) the said \_\_\_\_\_

Given under our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

(Signed) J.P.  
J.P.

To  
may be) at

Superintendent of the asylum (or reception-house, as the case

Attached is a statement respecting the said \_\_\_\_\_

## SCHEDULE



*Insanity Act.*

SCHEDULE 7.

Section 29.

*Certificate of Emergency.*

I, the undersigned [A.B.], a Justice of the Peace, certify that the case of [C.D.], a person certified by two Medical Practitioners (or one Medical Practitioner) to be insane, is one of emergency, and do order his reception into a reception-house, gaol, or hospital for immediate treatment pending his removal to an asylum.

Dated this \_\_\_\_\_

J.P.

SCHEDULE 8.

Section 43.

*Register of Patients and Admission Book.*

Date of last previous admission (if any). No. on Register.	No. for the year.	Date of admission.	Name at length.	M. F.	Sex.	Age.	Married. Single. Widowed.	Social condition.	No. of children.	Occupation.	Nativity.	Residence.	Profession of religion.	How sent.	Date of medical certificates and by whom signed.	Form of mental disorder.	Supposed cause of insanity.	Insane relations.	No. of previous attacks.	Years. Months. Weeks.	Duration of existing attack.	Age at first attack.	Date of discharge.	Recovered.	Believed.	Not improved.	Died.	Time in asylum.	Observations.

SCHEDULE 9.

Section 48.

*Notice of Admission.*

I hereby give you notice that [A.B.] was admitted into this asylum on the \_\_\_\_\_ day of \_\_\_\_\_, and I hereby transmit a copy of the order and statement and medical certificates on which he was received. Below is a statement with respect to the mental and bodily condition of the above-named patient.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_  
(Signed) \_\_\_\_\_ Superintendent of the Asylum.

*Statement.*

I have this day seen and examined [A.B.] the patient mentioned in the above notice, and hereby certify that with respect to mental state he (or she) \_\_\_\_\_, and that with respect to bodily health and condition he (or she) \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_  
(Signed) \_\_\_\_\_ Superintendent of Asylum.

SCHEDULE

*Insanity Act.*

Section 44.

SCHEDULE 10.

*Form of Medical Journal.*

Date.	Number of Patients.		Patients who are or since the last entry have been under restraint or in seclusion when and for what period, and reasons and in cases of restraint by what means.				Number of Patients under medical treatment.		Deaths, injuries, and violence to Patients since the last entry.	General observations.
	Males.	Females.	Restraint.		Seclusion.		Males.	Females.		
			Males.	Females.	Males.	Females.				

Section 45.

SCHEDULE 11.

*Form of Notice of Discharge or Removal or Escape or Recapture.*

I hereby give you notice that \_\_\_\_\_ a patient admitted into this asylum [or reception house] on the \_\_\_\_\_ day of \_\_\_\_\_, was discharged therefrom recovered (or relieved or not improved) [or was removed to (mentioning the place to which removed) relieved or not improved], by the authority of \_\_\_\_\_ [or escaped therefrom or was recaptured] on the \_\_\_\_\_ day of \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_  
 (Signed) \_\_\_\_\_ Superintendent of the Asylum  
 [or Reception House.]

Section 45.

SCHEDULE 12.

*Register of Discharges, Removals, and Deaths.*

Date of Discharge Removal or Death.	Date of last Admission.	No. in Register of Patients.	Christian and Surname at length.	Discharged.						Removed to some other Asylum.				Died.	Assigned Cause of Death.	Age at Death.	Observations.
				Reco- vered.		Re- lieved.		Not im- proved.		Re- lieved.		Not im- proved.					
				M.	F.	M.	F.	M.	F.	M.	F.	M.	F.				

*Insanity Act.*

## SCHEDULE 13.

Section 46.

*Form of Notice of Death.*

I, the undersigned, hereby give you notice that \_\_\_\_\_ a patient admitted into this asylum [or reception house] on the \_\_\_\_\_ day of \_\_\_\_\_, died therein on the \_\_\_\_\_ day of \_\_\_\_\_, and I, the undersigned, hereby certify that the apparent cause of such death [as ascertained by *post-mortem* examination (if so)] was \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and \_\_\_\_\_

(Signed)

Medical Superintendent of the Asylum.  
[or Medical Officer to Reception House.]

## SCHEDULE 14.

Section 48, 53, 54.

WHEREAS it hath been duly certified under section \_\_\_\_\_ of "*The Insanity Act of 1884*" that [A.B.] a prisoner in \_\_\_\_\_ Gaol is insane, I hereby order the said [A.B.] to be removed to the Asylum at \_\_\_\_\_, there to remain until he has become of sound mind, or until he is otherwise discharged by due course of law.

Colonial Secretary [or other Minister.]

Dated this \_\_\_\_\_

## SCHEDULE 15.

Section 53, 54.

*Statement respecting the Criminal Insane.*

(If any particulars in this statement be not known, the fact is to be so stated.)

Name in full:

Age:

Married, single, or widowed:

Number of children:

Age of youngest child:

Previous occupation:

Native place:

From whence brought:

Religious persuasion:

Supposed cause of insanity:

How long has the attack lasted?

Has \_\_\_\_\_ been insane before?

State number of attacks:

Age if known at first attack:

Has \_\_\_\_\_ any insane relations?

Has \_\_\_\_\_ ever been an inmate of any institution for the Insane:

Is \_\_\_\_\_ subject to fits?

Is \_\_\_\_\_ dangerous to others?

Crime or offence:

Verdict of Jury:

Sentence:

Name and address of nearest relations and friends:}

## SCHEDULE 16.

Section 72.

I [A.B.], a medical practitioner, have this day examined [C.D.], residing at \_\_\_\_\_, and hereby certify that he is still insane, and that he appears to be kindly treated by the persons under whose care he is living.

(Signed)

(Address)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

SCHEDULE



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*Insanity Act.*


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Section 171.

## SCHEDULE 17.

I [A.B.] the Inspector [or we official visitors of the asylum situate at ] appointed under and by virtue of "The Insanity Act of 1884," hereby summon and require you personally to appear before me [or us] at on next the day of , at the hour of in the noon of the same day, and then and there to be examined, and to testify the truth concerning certain matters relating to the execution of the said statute.

Dated this day of one thousand eight hundred and  
(Signature)

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

No. 9.

**An Act to Authorise the Issue of Deeds of Grant and Leases in the names  
of Deceased Persons in certain cases.**

[ASSENTED TO 2ND SEPTEMBER, 1884.]

**W**HEREAS it frequently happens that persons, who would, if Preamble. they had continued to live, have become entitled to have Deeds of Grant or Leases of Crown Lands issued to them upon the performance of conditions or otherwise, die before the happening of the event on which they would have become so entitled, or that persons entitled to Deeds of Grant or Leases die before the same are actually issued to them, and great inconvenience is consequently occasioned, by reason that such persons have disposed of the land by Will to several persons, or for successive estates, or that the beneficial interest in the land otherwise passes to several persons in such manner that a Deed of Grant or Lease cannot conveniently be issued to all the persons entitled to it, and it is expedient to make provision for remedying such inconvenience: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent

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*Grants and Leases to Deceased Persons Act.*

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sent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows :—

**Grants and Leases may issue in names of deceased persons in certain cases.**

1. In any case in which a person who is entitled, or if he had longer lived would have become entitled, to have a Deed of Grant or Lease of Crown Lands issued to him, dies before such Deed of Grant or Lease is actually issued, or before his right to have the Deed of Grant or Lease issued has accrued, the Governor in Council may nevertheless (and in the latter case upon the happening of the event on which the right to have the Deed of Grant or Lease so issued accrues) issue a Deed of Grant or Lease of the land to and in the name of such deceased person as if he were still alive.

Every Deed of Grant and Lease so issued shall be as valid as if the person in whose name it is issued had been living at the time of the issue thereof, and shall have the same effect, as between the several persons entitled to the land comprised therein, as if the deceased person had died immediately after the issue thereof.

**Act to apply to past Grants and Leases.**

2. Any Deed of Grant or Lease heretofore issued which would have been valid if this Act had been in force at the time of such issue shall be deemed to have been issued under the authority of this Act.

**Short title.**

3. This Act may be cited as "*The Grants and Leases to Deceased Persons Act of 1884.*"

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*H. P. Riley.*

## Queensland.



ANNO QUADRAGESIMO OCTAVO

# VICTORIÆ REGINÆ.

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No. 10.

**An Act to Codify the Law relating to Bills of Exchange, Cheques, and Promissory Notes.**

[ASSENTED TO 30TH SEPTEMBER, 1884.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I.—PRELIMINARY.

1. This Act may be cited as "*The Bills of Exchange Act of* Short title. 1884."
2. This Act shall come into operation on the first day of Commencement. January, one thousand eight hundred and eighty-five.
3. In this Act, unless the context otherwise requires,—  
"Acceptance" means an acceptance completed by delivery Interpretation of terms.  
or notification;  
"Action"

*Bills of Exchange Act.*

- “Action” includes counter-claim and set-off;
- “Banker” or “bank” includes a person or body of persons, whether incorporated or not, carrying on the business of banking;
- “Bearer” means the person in possession of a bill or note which is payable to bearer;
- “Bill” means bill of exchange, and “note” means promissory note;
- “Australasia” means and includes Australia, Tasmania, New Zealand, and the Fiji Islands;
- “Colony” means the Colony of Queensland;
- “Delivery” means transfer of possession, actual or constructive, from one person to another;
- “Holder” means the payee, or indorsee, of a bill or note who is in possession of it, or the bearer thereof;
- “Indorsement” means an indorsement completed by delivery;
- “Insolvent” includes any person whose estate is vested in a trustee or assignee under the law for the time being in force relating to insolvency;
- “Issue” means the first delivery of a bill or note, complete in form, to a person who takes it as a holder;
- “Person” includes a body of persons whether incorporated or not;
- “Value” means valuable consideration;
- “Written” includes printed, and “writing” includes print.

## PART II.—BILLS OF EXCHANGE.

*Form and Interpretation.*

Bill of exchange defined.

4. (1.) A bill of exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person or to bearer.

(2.) An instrument which does not comply with these conditions, or which orders any act to be done in addition to the payment of money, is not a bill of exchange.

(3.) An order to pay out of a particular fund is not unconditional within the meaning of this section; but an unqualified order to pay, coupled with (a) an indication of a particular fund out of which the drawee is to reimburse himself or a particular account to be debited with the amount, or (b) a statement of the transaction which gives rise to the bill, is unconditional.

(4.) A

- vide also s. 7 sub. (2)  
- also s. 11

*Bills of Exchange Act.*

(4.) A bill is not invalid by reason—

- (a.) That it is not dated;
- (b.) That it does not specify the value given, or that any value has been given therefor;
- (c.) That it does not specify the place where it is drawn or the place where it is payable.

5. (1.) An inland bill is a bill which is, or on the face of it purports to be, (a) both drawn and payable within Australasia, or (b) drawn within Australasia, upon some person resident therein. Any other bill is a foreign bill.

Inland bill.

Foreign bill.

(2.) Unless the contrary appear on the face of the bill the holder may treat it as an inland bill.

6. (1.) A bill may be drawn payable to, or to the order of, the drawer; or it may be drawn payable to, or to the order of, the drawee.

Effect where different parties to bill are the same person.

(2.) Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or as a promissory note.

7. (1.) The drawee must be named or otherwise indicated in bill with reasonable certainty.

Address to drawee.

(2.) A bill may be addressed to two or more drawees whether they are partners or not, but an order addressed to two drawees in the alternative or to two or more drawees in succession is not a bill of exchange.

8. (1.) Where a bill is not payable to bearer the payee must be named or otherwise indicated therein with reasonable certainty.

Certainty required as to payee.

(2.) A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two or one or some of several payees; a bill may also be made payable to the holder of an office for the time being.

(3.) Where the payee is a fictitious or non-existing person, the bill may be treated as payable to bearer.

9. (1.) When a bill contains words prohibiting transfer, or indicating an intention that it should not be transferable, it is valid as between the parties thereto but is not negotiable.

What bills are negotiable.

(2.) A negotiable bill may be payable either to order or to bearer.

(3.) A bill is payable to bearer which is expressed to be so payable, or on which the only or last indorsement is an indorsement in blank, *or where payee is fictitious or non-existing person.*

(4.) A

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*Bills of Exchange Act.*


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(4.) A bill is payable to order which is expressed to be so payable, or which is expressed to be payable to a particular person and does not contain words prohibiting transfer or indicating an intention that it should not be transferable.

(5.) Where a bill, either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.

Sum payable.

**10.** (1.) The sum payable by a bill is a sum certain within the meaning of this Act, although it is required to be paid—

- (a.) With interest;
- (b.) By stated instalments;
- (c.) By stated instalments, with a provision that upon default in payment of any instalment the whole shall become due;
- (d.) According to an indicated rate of exchange, or according to a rate of exchange to be ascertained as directed by the bill.

(2.) Where the sum payable is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable.

(3.) Where a bill is expressed to be payable, with interest, unless the instrument otherwise provides, interest runs from the date of the bill, and if the bill is undated from the issue thereof.

Bill payable on demand.

**11.** (1.) A bill is payable on demand—

- (a.) Which is expressed to be payable on demand, or at sight, or on presentation; or
- (b.) In which no time for payment is expressed.

(2.) Where a bill is accepted or indorsed when it is overdue, it shall, as regards the acceptor who so accepts, or any indorser who so indorses it, be deemed a bill payable on demand.

Bill payable at a future time.

**12.** A bill is payable at a determinable future time within the meaning of this Act which is expressed to be payable—

- (1.) At a fixed period after date or sight;
- (2.) On or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening may be uncertain.

An instrument expressed to be payable on a contingency is not a bill, and the happening of the event does not cure the defect.

**13.** Where

*Bills of Exchange Act.*

**13.** Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly. Omission of date in bill payable after date.

Provided that (1) where the holder in good faith and by mistake inserts a wrong date, and (2) in every case where a wrong date is inserted, if the bill subsequently comes into the hands of a holder in due course the bill shall not be avoided thereby, but shall operate and be payable as if the date so inserted had been the true date.

**14.** (1.) Where a bill or an acceptance or any indorsement on a bill is dated, the date shall, unless the contrary be proved, be deemed to be the true date of the drawing, acceptance, or indorsement, as the case may be. Ante-dating and post-dating.

(2.) A bill is not invalid by reason only that it is ante-dated or post-dated, or that it bears date on a Sunday.

**15.** Where a bill is not payable on demand the day on which it falls due is determined as follows:— Computation of time of payment.

(1.) Three days, called days of grace, are in every case, where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace: Provided that when the last day of grace is a Sunday or a bank holiday under "*The Bank Holidays Act of 1877*," or any Act amending or in substitution for it, the bill is due and payable on the succeeding business day:

(2.) Where a bill is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run and by including the day of payment:

(3.) Where a bill is payable at a fixed period after sight, the time begins to run from the date of the acceptance if the bill be accepted, and from the date of noting or protest if the bill be noted or protested for non-acceptance or for non-delivery:

(4.) The term "month" in a bill means calendar month.

**16.** The drawer of a bill and any indorser may insert therein the name of a person to whom the holder may resort in case of need; that is to say, in case the bill is dishonoured by non-acceptance or non-payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not, as he may think fit. Case of need.

17. The



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*Bills of Exchange Act.*


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Optional stipulations  
by drawer or  
indorser.

**17.** The drawer of a bill, and any indorser, may insert therein an express stipulation—

- (1.) Negating or limiting his own liability to the holder;
- (2.) Waiving as regards himself some or all of the holder's duties.

Definition and  
requisites of  
acceptance.

**18.** (1.) The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer.

(2.) An acceptance is invalid unless it complies with the following conditions; namely:—

- (a.) It must be written on the bill, and be signed by the drawee: The mere signature of the drawee without additional words is sufficient;
- (b.) It must not express that the drawee will perform his promise by any other means than the payment of money.

Time for acceptance.

**19.** A bill may be accepted—

- (1.) Before it has been signed by the drawer or while otherwise incomplete;
- (2.) When it is overdue, or after it has been dishonoured by a previous refusal to accept or by non-payment;
- (3.) When a bill payable after sight is dishonoured by non-acceptance, and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance.

General and qualified  
acceptances.

**20.** (1.) An acceptance is either (a) general or (b) qualified.

(2.) A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

In particular an acceptance is qualified which is—

- (a.) conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated;
- (b.) partial; that is to say, an acceptance to pay part only of the amount for which the bill is drawn;
- (c.) local; that is to say, an acceptance to pay only at a particular specified place;

An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere;

- (d.) qualified as to time;
- (e.) the acceptance of some one or more of the drawees, but not of all.

**21.** (1.)

*Bills of Exchange Act.*

**21.** (1.) Where a simple signature, on a blank stamped paper, stamped with an impressed stamp, is delivered by the signer in order that it may be converted into a bill, it operates as a *prima facie* authority to fill it up as a complete bill for any amount the stamp will cover, using the signature for that of the drawer, or the acceptor, or an indorser. Inchoate instruments.

(2.) When a simple signature, on unstamped paper, or paper stamped with an adhesive stamp only, is delivered by the signer in order that it may be converted into a bill, it operates as a *prima facie* authority to fill it up as a complete bill for any amount not exceeding the amount (if any) written thereon as the maximum, using the signature for that of the drawer, or the acceptor, or an indorser.

(3.) In like manner, when a bill is wanting in any material particular, the person in possession of it has a *prima facie* authority to fill up the omission in any way he thinks fit.

(4.) In order that any such instrument when completed may be enforceable against any person who became a party thereto prior to its completion, it must be filled up within a reasonable time, and strictly in accordance with the authority given. Reasonable time for this purpose is a question of fact.

Provided that if any such instrument after completion is negotiated to a holder in due course, it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given.

**22.** (1.) Every contract on a bill, whether it be the drawer's, the acceptor's, or an indorser's, is incomplete and revocable, until delivery of the instrument in order to give effect thereto. Delivery.

Provided that where an acceptance is written on a bill, and the drawee gives notice to, or according to the directions of, the person entitled to the bill that he has accepted it, the acceptance then becomes complete and irrevocable.

(2.) As between immediate parties, and as regards a remote party other than a holder in due course, the delivery—

(a.) in order to be effectual must be made either by or under the authority of the party drawing, accepting, or indorsing, as the case may be;

(b.) may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the bill.

But if the bill be in the hands of a holder in due course, a valid delivery of the bill by all parties prior to him so as to make them liable to him is conclusively presumed.

(3.) Where a bill is no longer in the possession of a party who has signed it as drawer, acceptor, or indorser, a valid and unconditional delivery by him is presumed until the contrary is proved.

*Capacity*

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*Bills of Exchange Act.*

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*Capacity and Authority of Parties.*

Capacity of parties.

**23. (1.)** Capacity to incur liability as a party to a bill is co-extensive with capacity to contract.

Provided that nothing in this section shall enable a corporation to make itself liable as drawer, acceptor, or indorser of a bill unless it is competent to it so to do under the law for the time being in force relating to corporations.

(2.) Where a bill is drawn or indorsed by an infant, minor, or corporation having no capacity or power to incur liability on a bill, the drawing or indorsement entitles the holder to receive payment of the bill, and to enforce it against any other party thereto.

Signature essential to liability.

**24.** No person is liable as drawer, indorser, or acceptor of a bill who has not signed it as such: Provided that—

- (1.) Where a person signs a bill in a trade or assumed name, he is liable thereon as if he had signed it in his own name;
- (2.) The signature of the name of a firm is equivalent to the signature by the person so signing of the names of all persons liable as partners in that firm.

Forged or unauthorised signature.

**25.** Subject to the provisions of this Act, where a signature on a bill is forged or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorised signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority.

Provided that nothing in this section shall affect the ratification of an unauthorised signature not amounting to a forgery.

**26.** A signature by procuration operates as notice that the agent has but a limited authority to sign, and the principal is only bound by such signature if the agent in so signing was acting within the actual limits of his authority.

Procuration signatures.

Person signing as agent or in representative capacity.

**27. (1.)** Where a person signs a bill as drawer, indorser, or acceptor, and adds words to his signature indicating that he signs for or on behalf of a principal or in a representative character, he is not personally liable thereon; but the mere addition to his signature of words describing him as an agent or as filling a representative character does not exempt him from personal liability.

(2.) In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted.

*The*

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*Bills of Exchange Act.*


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*The Consideration for a Bill.*

by— **28.** (1.) Valuable consideration for a bill may be constituted <sup>Value and holder for value.</sup>

(a.) Any consideration sufficient to support a simple contract;

(b.) An antecedent debt or liability. Such a debt or liability is deemed valuable consideration whether the bill is payable on demand or at a future time.

(2.) Where value has at any time been given for a bill the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

(3.) Where the holder of a bill has a lien on it, arising either from contract or by implication of law, he is deemed to be a holder for value to the extent of the sum for which he has a lien.

**29.** (1.) An accommodation party to a bill is a person who has signed a bill as drawer, acceptor, or indorser without receiving value therefor, and for the purpose of lending his name to some other person. <sup>Accommodation bill or party.</sup>

(2.) An accommodation party is liable on the bill to a holder for value, and it is immaterial whether, when such holder took the bill, he knew such party to be an accommodation party or not.

**30.** (1.) A holder in due course is a holder who has taken a bill, complete and regular on the face of it, under the following conditions; namely,— <sup>Holder in due course.</sup>

(a.) That he became the holder of it before it was overdue, and without notice that it had been previously dishonoured, if such was the fact;

(b.) That he took the bill in good faith, and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

(2.) In particular the title of a person who negotiates a bill is defective within the meaning of this Act when he obtained the bill, or the acceptance thereof, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

(3.) A holder (whether for value or not) who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it, has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder.

**31.** (1.)

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Presumption of value  
and good faith.

**31.** (1.) Every party whose signature appears on a bill is *primâ facie* deemed to have become a party thereto for value.

(2.) Every holder of a bill is *primâ facie* deemed to be a holder in due course; but if in an action on a bill it is admitted, or proved, that the acceptance, issue, or subsequent negotiation of the bill is affected with fraud, duress, or force and fear, or illegality, the burden of proof is shifted, unless and until the holder proves that subsequent to the alleged fraud or illegality value has in good faith been given for the bill.

*Negotiation of Bills.*

Negotiation of bill.

**32.** (1.) A bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill.

(2.) A bill payable to bearer is negotiated by delivery.

(3.) A bill payable to order is negotiated by the indorsement of the holder completed by delivery.

(4.) Where the holder of a bill payable to his order transfers it for value without indorsing it, the transfer gives the transferee such title as the transferrer had in the bill, and the transferee in addition acquires the right to have the indorsement of the transferrer.

(5.) Where any person is under obligation to indorse a bill in a representative capacity, he may indorse the bill in such terms as to negative personal liability.

Requisites of a valid  
indorsement.

**33.** An indorsement in order to operate as a negotiation must comply with the following conditions namely—

(1.) It must be written on the bill itself and be signed by the indorser: The simple signature of the indorser on the bill, without additional words, is sufficient:

An indorsement written on an allonge, or on a "copy" of a bill issued or negotiated in a country where "copies" are recognised, is deemed to be written on the bill itself:

(2.) It must be an indorsement of the entire bill: A partial indorsement, that is to say, an indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the bill to two or more indorsees severally, does not operate as a negotiation of the bill:

(3.) Where a bill is payable to the order of two or more payees or indorsees who are not partners all must indorse, unless the one indorsing has authority to indorse for the others:

(4.) Where,

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*Bills of Exchange Act.*

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- (4.) Where, in a bill payable to order, the payee or indorsee is wrongly designated, or his name is mis-spelt, he may indorse the bill as therein described, adding, if he think fit, his proper signature :
- (5.) Where there are two or more indorsements on a bill, each indorsement is deemed to have been made in the order in which it appears on the bill until the contrary is proved :
- (6.) An indorsement may be made in blank or special : It may also contain terms making it restrictive.

**34.** Where a bill purports to be indorsed conditionally, the condition may be disregarded by the payer, and payment to the indorsee is valid whether the condition has been fulfilled or not. Conditional indorsement.

**35.** (1.) An indorsement in blank specifies no indorsee, and a bill so indorsed becomes payable to bearer. Indorsement in blank and special indorsement.

(2.) A special indorsement specifies the person to whom, or to whose order, the bill is to be payable.

(3.) The provisions of this Act relating to a payee apply, with the necessary modifications, to an indorsee under a special indorsement.

(4.) When a bill has been indorsed in blank, any holder may convert the blank indorsement into a special indorsement by writing above the indorser's signature a direction to pay the bill to or to the order of himself or some other person.

**36.** (1.) An indorsement is restrictive which prohibits the further negotiation of the bill, or which expresses that it is a mere authority to deal with the bill as thereby directed and not a transfer of the ownership thereof; as, for example, if a bill be indorsed "Pay D. only," or "Pay D. for the account of X.," or "Pay D. or order for collection." Restrictive indorsement. //

(2.) A restrictive indorsement gives the indorsee the right to receive payment of the bill and to sue any party thereto that his indorser could have sued, but gives him no power to transfer his rights as indorsee unless it expressly authorise him to do so.

(3.) Where a restrictive indorsement authorises further transfer, all subsequent indorsees take the bill with the same rights and subject to the same liabilities as the first indorsee under the restrictive indorsement.

**37.** (1.) Where a bill is negotiable in its origin, it continues to be negotiable until it has been (a) restrictively indorsed, or (b) discharged by payment or otherwise. Negotiation of overdue or dishonoured bill.

(2.) Where

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*Bills of Exchange Act.*

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(2.) Where an overdue bill is negotiated, it can only be negotiated subject to any defect of title affecting it at its maturity, and thenceforward no person who takes it can acquire or give a better title than that which the person from whom he took it had.

(3.) A bill, payable on demand, is deemed to be overdue within the meaning and for the purposes of this section, when it appears on the face of it to have been in circulation for an unreasonable length of time. What is an unreasonable length of time for this purpose is a question of fact.

(4.) Except where an indorsement bears date after the maturity of the bill, every negotiation is *prima facie* deemed to have been effected before the bill was overdue.

(5.) Where a bill which is not overdue has been dishonoured, any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour, but nothing in this subsection shall affect the rights of a holder in due course.

Negotiation of bill to party already liable thereon.

**38.** Where a bill is negotiated back to the drawer, or to a prior indorser, or to the acceptor, such party may, subject to the provisions of this Act, re-issue and further negotiate the bill, but he is not entitled to enforce payment of the bill against any intervening party to whom he was previously liable.

Rights of the holder.

**39.** The rights and powers of the holder of a bill are as follows:—

- (1.) He may sue on the bill in his own name:
- (2.) Where he is a holder in due course, he holds the bill free from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill:
- (3.) Where his title is defective, (a) if he negotiates the bill to a holder in due course, that holder obtains a good and complete title to the bill, and (b) if he obtains payment of the bill, the person who pays him in due course gets a valid discharge for the bill.

*General Duties of the Holder.*

When presentment for acceptance is necessary.

**40.** (1.) Where a bill is payable after sight, presentment for acceptance is necessary, in order to fix the maturity of the instrument.

(2.) Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee, it must be presented for acceptance before it can be presented for payment.

(3.) In

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(3.) In no other case is presentment for acceptance necessary in order to render liable any party to the bill.

(4.) Where the holder of a bill drawn payable elsewhere than at the place of business or residence of the drawee has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawer and indorsers.

41. (1.) Subject to the provisions of this Act, when a bill payable after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time. Time for presenting bill payable after sight.

(2.) If he do not do so, the drawer and all indorsers prior to that holder are discharged.

(3.) In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill, the usage of trade with respect to similar bills, and the facts of the particular case.

42. (1.) A bill is duly presented for acceptance which is presented in accordance with the following rules:— Rules as to presentation for acceptance and excuses for non-presentation.

(a.) The presentment must be made by or on behalf of the holder to the drawee, or to some person authorised to accept or refuse acceptance on his behalf, at a reasonable hour on a business day, and before the bill is overdue:

(b.) Where a bill is addressed to two or more drawees, who are not partners, presentment must be made to them all, unless one has authority to accept for all, then presentment may be made to him only:

(c.) Where the drawee is dead, presentment may be made to his personal representative:

(d.) Where the drawee is insolvent, presentment may be made to him or to his trustee:

(e.) Where authorised by agreement or usage, a presentment through the post office is sufficient.

(2.) Presentment in accordance with these rules is excused, and a bill may be treated as dishonoured by non-acceptance—

(a.) Where the drawee is dead or insolvent, or is a fictitious person, or a person not having capacity to contract by bill;

(b.) Where, after the exercise of reasonable diligence, such presentment cannot be effected;

(c.) Where, although the presentment has been irregular, acceptance has been refused on some other ground.

(3.) The fact that the holder has reason to believe that the bill, on presentment, will be dishonoured, does not excuse presentment.

43. When



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Non-acceptance.

**43.** When a bill is duly presented for acceptance, and is not accepted within the customary time, the person presenting it must treat it as dishonoured by non-acceptance. If he do not, the holder shall lose his right of recourse against the drawer and indorsers.

Dishonour by non-acceptance, and its consequences.

**44.** (1.) A bill is dishonoured by non-acceptance—

- (a.) When it is duly presented for acceptance, and such an acceptance as is prescribed by this Act is refused or cannot be obtained; or
- (b.) When presentment for acceptance is excused and the bill is not accepted.

(2.) Subject to the provisions of this Act, when a bill is dishonoured by non-acceptance, an immediate right of recourse against the drawer and indorsers accrues to the holder, and no presentment for payment is necessary.

Duties as to qualified acceptances.

**45.** (1.) The holder of a bill may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance may treat the bill as dishonoured by non-acceptance.

(2.) Where a qualified acceptance is taken, and the drawer or an indorser has not expressly or impliedly authorised the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer or indorser is discharged from his liability on the bill. The provisions of this subsection do not apply to a partial acceptance whereof due notice has been given. Where a foreign bill has been accepted as to part, it must be protested as to the balance.

(3.) When the drawer or indorser of a bill receives notice of a qualified acceptance, and does not within a reasonable time express his dissent to the holder, he shall be deemed to have assented thereto.

Rules as to presentment for payment.

**46.** Subject to the provisions of this Act, a bill must be duly presented for payment. If it be not so presented the drawer and indorsers shall be discharged.

A bill is duly presented for payment, which is presented in accordance with the following rules:—

- (1.) Where the bill is not payable on demand, presentment must be made on the day it falls due:
- (2.) Where the bill is payable on demand, then, subject to the provisions of this Act, presentment must be made within a reasonable time after its issue in order to render the drawer liable, and within a reasonable time after its indorsement in order to render the indorser liable:

In determining what is a reasonable time, regard shall be had to the nature of the bill, the usage of trade with regard to similar bills, and the facts of the particular case:

(3.) Presentment

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- (3.) Presentment must be made by the holder or by some person authorised to receive payment on his behalf at a reasonable hour on a business day, at the proper place as hereinafter defined, either to the person designated by the bill as payer, or to some person authorised to pay or refuse payment on his behalf, if with the exercise of reasonable diligence such person can there be found :
- (4.) A bill is presented at the proper place—
- (a.) Where a place of payment is specified in the bill and the bill is there presented :
- (b.) Where no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented :
- (c.) Where no place of payment is specified and no address given and the bill is presented at the drawee's or acceptor's place of business, if known, and if not, at his ordinary residence, if known :
- (d.) In any other case, if presented to the drawee or acceptor, wherever he can be found, or if presented at his last known place of business or residence :
- (5.) Where a bill is presented at the proper place, and after the exercise of reasonable diligence no person authorised to pay or refuse payment can be found there, no further presentment to the drawee or acceptor is required :
- (6.) Where a bill is drawn upon, or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all :
- (7.) Where the drawee or acceptor of a bill is dead, and no place of payment is specified, presentment must be made to a personal representative, if such there be, and with the exercise of reasonable diligence he can found :
- (8.) Where authorised by agreement or usage, a presentment through the post office is sufficient.

**47.** (1.) Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence.

Excuses for delay or non-presentment for payment.

- (2.) Presentment for payment is dispensed with—
- (a.) Where, after the exercise of reasonable diligence, presentment as required by this Act cannot be effected ;
- The fact that the holder has reason to believe that the bill will on presentment be dishonoured, does not dispense with the necessity for presentment ;
- (b.) Where

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- (b.) Where the drawee is a fictitious person ;
- (c.) As regards the drawer, where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented ;
- (d.) As regards an indorser, where the bill was accepted or made for the accommodation of that indorser, and he has no reason to expect that the bill would be paid if presented ;
- (e.) By waiver of presentment, express or implied.

Dishonour by non-payment.

**48.** (1.) A bill is dishonoured by non-payment (*a*) when it is duly presented for payment and payment is refused or cannot be obtained, or (*b*) when presentment is excused and the bill is overdue and unpaid.

(2.) Subject to the provisions of this Act, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer and indorsers accrues to the holder.

Notice of dishonour and effect of non-notice.

**49.** Subject to the provisions of this Act, when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer and each indorser, and any drawer or indorser to whom such notice is not given is discharged: Provided that—

- (1.) Where a bill is dishonoured by non-acceptance, and notice of dishonour is not given, the rights of a holder in due course subsequent to the omission shall not be prejudiced by the omission ;
- (2.) Where a bill is dishonoured by non-acceptance, and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment unless the bill shall in the meantime have been accepted.

Rules as to notice of dishonour.

**50.** Notice of dishonour, in order to be valid and effectual, must be given in accordance with the following rules :—

- (1.) The notice must be given by or on behalf of the holder, or by or on behalf of an indorser, who at the time of giving it is himself liable on the bill :
- (2.) Notice of dishonour may be given by an agent, either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not :
- (3.) Where the notice is given by or on behalf of the holder, it enures for the benefit of all subsequent holders and all prior indorsers who have a right of recourse against the party to whom it is given :

(4.) Where

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- (4.) Where notice is given by or on behalf of an indorser entitled to give notice as hereinbefore provided, it enures for the benefit of the holder and all indorsers subsequent to the party to whom notice is given :
  - (5.) The notice may be given in writing or by personal communication, and may be given in any terms which sufficiently identify the bill, and intimate that the bill has been dishonoured by non-acceptance or non-payment :
  - (6.) The return of a dishonoured bill to the drawer or an indorser is in point of form deemed a sufficient notice of dishonour :
  - (7.) A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication : A misdescription of the bill shall not vitiate the notice unless the party to whom the notice is given is in fact misled thereby :
  - (8.) Where notice of dishonour is required to be given to any person, it may be given either to the party himself or to his agent in that behalf :
  - (9.) Where the drawer or indorser is dead, and the party giving notice knows it, the notice must be given to a personal representative if such there be, and with the exercise of reasonable diligence he can be found :
  - (10.) Where the drawer or indorser is insolvent, notice may be given either to the party himself or to the trustee :
  - (11.) Where there are two or more drawers or indorsers who are not partners, notice must be given to each of them, unless one of them has authority to receive such notice for the others :
  - (12.) The notice may be given as soon as the bill is dishonoured, and must be given within a reasonable time thereafter :
- In the absence of special circumstances notice is not deemed to have been given within a reasonable time, unless—
- (a.) where the person giving and the person to receive notice reside in the same place, the notice is given or sent off in time to reach the latter on the day after the dishonour of the bill ;
  - (b.) where the person giving and the person to receive notice reside in different places, the notice is sent off on the day after the dishonour of the bill, if there be a post at a convenient hour on that day, and if there be no such post on that day then by the next post thereafter :
- (13.) Where

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- (13.) Where a bill when dishonoured is in the hands of an agent, he may either himself give notice to the parties liable on the bill, or he may give notice to his principal: If he give notice to his principal he must do so within the same time as if he were the holder, and the principal, upon receipt of such notice, has himself the same time for giving notice as if the agent had been an independent holder:
- (14.) Where a party to a bill receives due notice of dishonour, he has after the receipt of such notice the same period of time for giving notice to antecedent parties that the holder has after the dishonour:
- (15.) Where a notice of dishonour is duly addressed and posted the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the post office.

Excuses for non-notice and delay.

**51.** (1.) Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate the notice must be given with reasonable diligence.

(2.) Notice of dishonour is dispensed with—

- (a.) When, after the exercise of reasonable diligence, notice as required by this Act cannot be given to, or does not reach, the drawer or indorser sought to be charged;
- (b.) By waiver express or implied; Notice of dishonour may be waived before the time of giving notice has arrived, or after the omission to give due notice;
- (c.) As regards the drawer in the following cases namely,—
1. where drawer and drawee are the same person;
  2. where the drawee is a fictitious person or a person not having capacity to contract;
  3. where the drawer is the person to whom the bill is presented for payment;
  4. where the drawee or acceptor is as between himself and the drawer under no obligation to accept or pay the bill; or
  5. where the drawer has countermanded payment;
- (d.) As regards the indorser in the following cases, namely,—
1. where the drawee is a fictitious person or a person not having capacity to contract and the indorser was aware of the fact at the time he endorsed the bill;

2. where

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2. where the indorser is the person to whom the bill is presented for payment ;
3. where the bill was accepted or made for his accommodation.

**52.** (1.) Where an inland bill has been dishonoured it may, if <sup>Noting or protest of bill.</sup> the holder think fit, be noted for non-acceptance or non-payment, as the case may be; but it shall not be necessary to note or protest any such bill in order to preserve the recourse against the drawer or indorser.

(2.) Where a foreign bill appearing on the face of it to be such has been dishonoured by non-acceptance, it must be duly protested for non-acceptance, and where such a bill, which has not been previously dishonoured by non-acceptance, is dishonoured by non-payment, it must be duly protested for non-payment. If it be not so protested the drawer and indorsers are discharged. Where a bill does not appear on the face of it to be a foreign bill, protest thereof in case of dishonour is unnecessary.

(3.) A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

(4.) Subject to the provisions of this Act, when a bill is noted or protested it must be noted on the day of its dishonour. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

(5.) Where the acceptor of a bill becomes insolvent or suspends payment before it matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

(6.) A bill must be protested at the place where it is dishonoured; Provided that—

(a.) When a bill is presented through the post office, and returned by post dishonoured, it may be protested at the place to which it is returned and on the day of its return, if received during business hours; and if not received during business hours, then not later than the next business day;

(b.) When a bill, drawn payable at the place of business or residence of some person other than the drawee, has been dishonoured by non-acceptance, it must be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to or demand on the drawee is necessary.

(7.) A protest must contain a copy of the bill, and must be signed by the notary making it, and must specify—

(a.) The person at whose request the bill is protested;

(b.) The

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(b.) The place and date of protest, the cause or reason for protesting the bill, the demand made, and the answer given if any, or the fact that the drawee or acceptor could not be found.

(8.) Where a bill is lost or destroyed, or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

(9.) Protest is dispensed with by any circumstance which would dispense with notice of dishonour. Delay in noting or protesting is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct, or negligence. When the cause of delay ceases to operate the bill must be noted or protested with reasonable diligence.

Duties of holder as regards drawee or acceptor.

**53.** (1.) When a bill is accepted generally, presentment for payment is not necessary in order to render the acceptor liable.

(2.) When by the terms of a qualified acceptance presentment for payment is required, the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures.

(3.) In order to render the acceptor of a bill liable it is not necessary to protest it, or that notice of dishonour should be given to him.

(4.) Where the holder of a bill presents it for payment, he shall exhibit the bill to the person from whom he demands payment, and when a bill is paid the holder shall forthwith deliver it up to the party paying it.

*Liabilities of Parties.*

Funds in hand of drawee.

**54.** A bill of itself does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Act is not liable on the instrument.

Liability of acceptor.

**55.** The acceptor of a bill, by accepting it—

(1.) Engages that he will pay it according to the tenor of his acceptance ;

(2.) Is precluded from denying to a holder in due course—

(a.) The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the bill ;

(b.) In the case of a bill payable to drawer's order, the then capacity of the drawer to indorse, but not the genuineness or validity of his indorsement ;

(c.) In

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- (c.) In the case of a bill payable to the order of a third person, the existence of the payee and his then capacity to indorse, but not the genuineness or validity of his indorsement;

**56. (1.)** The drawer of a bill by drawing it—

Liability of drawer or indorser. //

- (a.) Engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or any indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken;

- (b.) Is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

**(2.)** The indorser of a bill by indorsing it—

- (a.) Engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or a subsequent indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken;

- (b.) Is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature and all previous indorsements;

- (c.) Is precluded from denying to his immediate or a subsequent indorsee that the bill was, at the time of his indorsement, a valid and subsisting bill, and that he had then a good title thereto.

**57.** Where a person signs a bill otherwise than as drawer or acceptor, he thereby incurs the liabilities of an indorser to a holder in due course. Stranger signing bill liable as indorser.

**58.** Where a bill is dishonoured, the measure of damages, Measure of damages against parties to dishonoured bill. which shall be deemed to be liquidated damages, shall be as follows;

- (1.) The holder may recover from any party liable on the bill, and the drawer who has been compelled to pay the bill may recover from the acceptor, and an indorser who has been compelled to pay the bill may recover from the acceptor or from the drawer, or from a prior indorser—

(a.) The amount of the bill;

(b.) Interest thereon from the time of presentment for payment if the bill is payable on demand, and from the maturity of the bill in any other case;

(c.) The



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(c.) The expenses of noting, or, when protest is necessary, and the protest has been extended, the expenses of protest :

- (2.) In the case of a bill which has been dishonoured abroad, in lieu of the above damages the holder may recover from the drawer or an indorser, and the drawer or an indorser who has been compelled to pay the bill may recover from any party liable to him, the amount of the re-exchange, with interest thereon until the time of payment :
- (3.) Where by this Act interest may be recovered as damages, such interest may, if justice require it, be withheld wholly or in part, and where a bill is expressed to be payable with interest at a given rate, interest as damages may or may not be given at the same rate as interest proper.

Transferrer by  
delivery and  
transferee.

**59.** (1.) Where the holder of a bill payable to bearer negotiates it by delivery without indorsing it, he is called a "transferrer by delivery."

(2.) A transferrer by delivery is not liable on the instrument.

(3.) A transferrer by delivery who negotiates a bill thereby warrants to his immediate transferee, being a holder for value, that the bill is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any fact which renders it valueless.

*Discharge of Bill.*

Payment in due  
course.

**60.** (1.) A bill is discharged by payment in due course by or on behalf of the drawee or acceptor.

"Payment in due course" means payment made at or after the maturity of the bill to the holder thereof, in good faith and without notice that his title to the bill is defective.

(2.) Subject to the provisions hereinafter contained, when a bill is paid by the drawer or an indorser it is not discharged ; but

(a.) Where a bill payable to, or to the order of, a third party is paid by the drawer, the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill ;

(b.) Where a bill is paid by an indorser, or where a bill payable to drawer's order is paid by the drawer, the party paying it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and subsequent indorsements, and again negotiate the bill.

(3.) Where an accommodation bill is paid in due course by the party accommodated, the bill is discharged.

61. When

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**61.** When a bill payable to order on demand is drawn on a banker, and the banker on whom it is drawn pays the bill in good faith and in the ordinary course of business, it is not incumbent on the banker to show that the indorsement of the payee or any subsequent indorsement was made by or under the authority of the person whose indorsement it purports to be, and the banker is deemed to have paid the bill in due course, although such indorsement has been forged or made without authority.

Banker paying demand draft whereon indorsement is forged. ✓

**62.** When the acceptor of a bill is or becomes the holder of it at or after its maturity, in his own right, the bill is discharged.

Acceptor the holder at maturity.

**63.** (1.) When the holder of a bill at or after its maturity absolutely and unconditionally renounces his rights against the acceptor, the bill is discharged.

Express waiver.

The renunciation must be in writing, unless the bill is delivered up to the acceptor.

(2.) The liabilities of any party to a bill may in like manner be renounced by the holder before, at, or after its maturity; but nothing in this section shall affect the rights of a holder in due course without notice of the renunciation.

**64.** (1.) Where a bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged.

Cancellation.

(2.) In like manner any party liable on a bill may be discharged by the intentional cancellation of his signature by the holder or his agent. In such case, any indorser who would have had a right of recourse against the party whose signature is cancelled is also discharged.

(3.) A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative; but where a bill or any signature thereon appears to have been cancelled, the burden of proof lies on the party who alleges that the cancellation was made unintentionally or under a mistake or without authority.

**65.** (1.) Where a bill or acceptance is materially altered without the assent of all parties liable on the bill, the bill is avoided except as against a party who has himself made, authorised, or assented to the alteration and subsequent indorsers.

Alteration of bill.

Provided that where a bill has been materially altered, but the alteration is not apparent, and the bill is in the hands of a holder in due course, such holder may avail himself of the bill as if it had not been altered, and may enforce payment of it according to its original tenor.

Provided

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*Bills of Exchange Act.*

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Provided that nothing in this section shall affect the provisions of "*The Stamp Duties Act of 1866*," and Acts amending or in substitution for it.

(2.) In particular the following alterations are material—namely, any alteration of the date, the sum payable, the time of payment, the place of payment, and where a bill has been accepted generally the addition of a place of payment without the acceptor's assent.

*Acceptance and Payment for Honour.*

Acceptance for  
honour *suprà* protest.

**66.** (1.) Where a bill of exchange has been protested for dishonour by non-acceptance, or protested for better security and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder, intervene and accept the bill *suprà* protest, for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

(2.) A bill may be accepted for honour for part only of the sum for which it is drawn.

(3.) An acceptance for honour *suprà* protest in order to be valid must—

(a.) be written on the bill, and indicate that it is an acceptance for honour;

(b.) be signed by the acceptor for honour.

(4.) Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer.

(5.) Where a bill payable after sight is accepted for honour, its maturity is calculated from the date of the noting for non-acceptance, and not from the date of the acceptance for honour.

Liability of acceptor  
for honour.

**67.** (1.) The acceptor for honour of a bill by accepting it engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawee, provided it has been duly presented for payment and protested for non-payment, and that he receives notice of these facts.

(2.) The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted.

Presentment to  
acceptor for honour

**68.** (1.) Where a dishonoured bill has been accepted for honour *suprà* protest, or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honour, or referee in case of need.

(2.) Where

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*Bills of Exchange Act.*

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(2.) Where the address of the acceptor for honour is in the same place where the bill is protested for non-payment, the bill must be presented to him not later than the day following its maturity; and where the address of the acceptor for honour is in some place other than the place where it was protested for non-payment, the bill must be forwarded not later than the day following its maturity for presentment to him.

(3.) Delay in presentment or non-presentment is excused by any circumstance which would excuse delay in presentment for payment or non-presentment for payment.

(4.) When a bill of exchange is dishonoured by the acceptor for honour it must be protested for non-payment by him.

**69.** (1.) Where a bill has been protested for non-payment, any person may intervene and pay it *suprà* protest for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn. Payment for honour  
*suprà* protest.

(2.) Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill shall have the preference.

(3.) Payment for honour *suprà* protest, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honour, which may be appended to the protest or form an extension of it.

(4.) The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays.

(5.) Where a bill has been paid for honour all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is subrogated for, and succeeds to both the rights and duties of, the holder as regards the party for whose honour he pays, and all parties liable to that party.

(6.) The payer for honour, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour, is entitled to receive both the bill itself and the protest. If the holder do not on demand deliver them up he shall be liable to the payer for honour in damages.

(7.) Where the holder of a bill refuses to receive payment *suprà* protest he shall lose his right of recourse against any party who would have been discharged by such payment.

*Lost Instruments.*

**70.** Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer if required to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again. Holder's right to  
duplicate of lost bill.

If

*Bills of Exchange Act.*

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.

Action on lost bill.

71. In any action or proceeding upon a bill, the court or a judge may order that the loss of the instrument shall not be set up, provided an indemnity be given to the satisfaction of the court or judge against the claims of any other person upon the instrument in question.

*Bill in a Set.*

Rules as to sets.

72. (1.) Where a bill is drawn in a set, each part of the set being numbered, and containing a reference to the other parts, the whole of the parts constitute one bill.

(2.) Where the holder of a set indorses two or more parts to different persons, he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed as if the said parts were separate bills.

(3.) Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is, as between such holders, deemed the true owner of the bill; but nothing in this subsection shall affect the rights of a person who in due course accepts or pays the part first presented to him.

(4.) The acceptance may be written on any part, and it must be written on one part only.

If the drawee accepts more than one part, and such accepted part gets into the hands of different holders in due course, he is liable on every such part as if it were a separate bill.

(5.) When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof.

(6.) Subject to the preceding rules, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged.

*Conflict of Laws.*

Rules where laws conflict.

73. Where a bill drawn in one country is negotiated, accepted, or payable in another, the rights, duties, and liabilities of the parties thereto are determined as follows:—

(1.) The validity of a bill as regards requisites in form is determined by the law of the place of issue, and the validity as regards requisites in form of the supervening contracts, such as acceptance, or indorsement, or acceptance *suprà* protest, is determined by the law of the place where such contract was made:

Provided

*Bills of Exchange Act.*

Provided that—

- (a.) where a bill is issued out of the colony it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue;
  - (b.) where a bill issued out of the colony conforms, as regards requisites, in form to the law of this colony, it may, for the purpose of enforcing payment thereof, be treated as valid as between all persons who negotiate, hold, or become parties to it in Queensland:
- (2.) Subject to the provisions of this Act, the interpretation of the drawing, indorsement, acceptance, or acceptance *suprà* protest of a bill, is determined by the law of the place where such contract is made;

Provided that where an inland bill is indorsed out of the colony the indorsement shall as regards the payer be interpreted according to the law of Queensland:

- (3.) The duties of the holder with respect to presentment for acceptance or payment, and the necessity for or sufficiency of a protest or notice of dishonour or otherwise, are determined by the law of the place where the act is done or the bill is dishonoured:
- (4.) Where a bill is drawn out of but payable in Queensland, and the sum payable is not expressed in the currency of the United Kingdom, the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable:
- (5.) Where a bill is drawn in one country and is payable in another, the due date thereof is determined according to the law of the place where it is payable.

PART III.—CHEQUES ON A BANKER.

74. A cheque is a bill of exchange drawn on a banker payable Cheque defined. ) on demand.

Except as otherwise provided in this part, the provisions of this Act applicable to a bill of exchange payable on demand apply to a cheque.

75. Subject to the provisions of this Act—

- (1.) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or the person on whose account it is drawn had the right at the time of such presentment as between him and the banker

Presentment of  
cheque for payment.

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*Bills of Exchange Act.*

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banker to have the cheque paid, and suffers actual damage through the delay, he is discharged to the extent of such damage—that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger amount than he would have been had such cheque been paid ;

*(i.e. to the extent of the amt of the cheque.)*

- (2.) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case ;
- (3.) The holder of such cheque as to which such drawer or person is discharged shall be a creditor in lieu of such drawer or person of such banker to the extent of such discharge, and entitled to recover the amount from him.

Revocation of  
banker's authority.

**76.** The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by—

- (1.) Countermand of payment ;
- (2.) Notice of the customer's death.

*Crossed Cheques.*

General and special  
crossings defined.

- 77.** (1.) Where a cheque bears across its face an addition of—
- (a.) The word "bank" or the words "and company," or any abbreviation thereof respectively, between two parallel transverse lines either with or without the words "not negotiable"; or,
  - (b.) Two parallel transverse lines simply, either with or without the words "not negotiable";

that addition constitutes a crossing, and the cheque is crossed generally.

- (2.) Where a cheque bears across its face an addition of—
  - (a.) The name of a bank, either with or without the words "not negotiable"; or,
  - (b.) The word "credit," or any abbreviation thereof, followed by the name of some individual or firm, either with or without the words "not negotiable";

that addition constitutes a crossing, and the cheque is crossed specially, and to that bank, or to that individual or firm, as the case may be.

(3.) But where a cheque crossed specially to an individual or firm also bears across its face, either before or after the name of the individual or firm, the name of a bank, the cheque is, so far as regards the duties and liabilities of the bank on which it is drawn, a cheque crossed specially to the bank whose name it so bears across its face.

78. (1.)

*Bills of Exchange Act.*

**78.** (1.) A cheque may be crossed generally or specially by the **drawer**. Crossing by drawer or after issue.

(2.) Where a cheque is uncrossed, the holder may cross it generally or specially.

(3.) Where a cheque is crossed generally, the holder may cross it specially.

(4.) Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

(5.) When a cheque is crossed specially to an individual or firm, that individual or firm may again cross it specially to a bank.

(6.) Where a cheque is crossed specially to a bank, the bank to which it is crossed may again cross it specially to another bank, for collection.

(7.) Where an uncrossed cheque or a cheque crossed generally is sent to a bank for collection, such bank may cross it specially to itself.

**79.** A crossing authorised by this Act is a material part of the cheque; it shall not be lawful for any person to obliterate or, except as authorised by this Act, to add to or alter the crossing. Crossing a material part of cheque.

**80.** (1.) Where a cheque is crossed specially to more than one bank, (except when crossed to an agent for collection, being a bank), the bank on which it is drawn shall refuse payment thereof. Duties of bank as to crossed cheques. //

(2.) Where the bank on which a cheque is drawn—

(a.) If the cheque is crossed specially to more than one bank (except when crossed to an agent for collection, being a bank), pays the cheque; or,

(b.) If the cheque is crossed generally, or is crossed specially to an individual or firm and is not also crossed specially to a bank, pays it otherwise than to a bank; or,

(c.) If the cheque is crossed specially to a bank, pays it otherwise than to the bank to which it is crossed, or its agent for collection, being a bank;

such bank is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

(3.) When a bank receiving payment of a cheque crossed specially to an individual or firm pays the amount thereof otherwise than to the credit of such individual or firm, such bank is liable to such individual or firm for any loss he or they may sustain owing to the amount having been so paid.

(4.) Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to



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*Bills of Exchange Act.*


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to or altered otherwise than as authorised by this Act, the bank paying or receiving payment of the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned, by reason of the cheque having been crossed, or of the crossing having been obliterated or having been added to or altered otherwise than as authorised by this Act, and of payment having been made otherwise than to a bank or to the bank to which the cheque is or was crossed, or to its agent for collection, being a bank, or of the amount of the cheque having been paid otherwise than to the credit of the individual or firm to whom it was crossed, as the case may be.

Protection to bank and drawer where cheque is crossed.

**81.** Where the bank, on which a crossed cheque is drawn, in good faith and without negligence—

- (a.) If it is crossed generally, or is crossed specially to an individual or firm and is not also crossed specially to a bank, pays it to a bank; and,
- (b.) If it is crossed specially to a bank, pays it to the bank to which it is crossed, or its agent for collection, being a bank;

the bank paying the cheque, and, if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

Effect of crossing on holder.

**82.** Where a person takes a crossed cheque which bears on it the words “not negotiable,” he shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

Protection to collecting bank.

**83.** Where a bank in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to itself, and the customer has no title or a defective title thereto, the bank shall not incur any liability to the true owner of the cheque by reason only of having received such payment.

PART IV.—PROMISSORY NOTES.

Promissory note defined.

**84.** (1.) A promissory note is an unconditional promise in writing made by one person to another signed by the maker, engaging to pay on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person or to bearer.

(2.) An instrument in the form of a note payable to maker's order is not a note within the meaning of this section unless and until it is indorsed by the maker.

(3.) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof.

(4.) A

*Bills of Exchange Act.*

(4.) A note which is, or on the face of it purports to be, both made and payable within Australasia, is an inland note. Any other note is a foreign note.

**85.** A promissory note is inchoate and incomplete until Delivery necessary. delivery thereof to the payee or bearer.

**86.** (1.) A promissory note may be made by two or more Joint and several notes. makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor.

(2.) Where a note runs, "I promise to pay," and is signed by two or more persons, it is deemed to be their joint and several note.

**87.** (1.) Where a note payable on demand has been indorsed Note payable on demand. it must be presented for payment within a reasonable time of the indorsement. If it be not so presented the indorser is discharged.

(2.) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case.

(3.) Where a note payable on demand is negotiated, it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue.

**88.** (1.) Where a promissory note is in the body of it made Presentation of note for payment. payable at a particular place, it must be presented for payment at that place in order to render the maker liable. In any other case, presentment for payment is not necessary in order to render the maker liable.

(2.) Presentment for payment is necessary in order to render the indorser of a note liable.

(3.) Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an indorser liable; but when a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the indorser liable, but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice.

**89.** The maker of a promissory note, by making it—

Liability of maker.

(1.) Engages that he will pay it according to its tenour;

(2.) Is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

90. (1.)

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*Bills of Exchange Act.*

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Application of Part  
II. to notes.

**90.** (1.) Subject to the provisions in this part and except as by this section provided, the provisions of this Act relating to bills of exchange apply with the necessary modifications to promissory notes.

(2.) In applying those provisions the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first indorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

(3.) The following provisions as to bills do not apply to notes; namely, provisions relating to—

- (a.) Presentment for acceptance;
- (b.) Acceptance;
- (c.) Acceptance *suprà* protest;
- (d.) Bills in a set.

(4.) Where a foreign note is dishonoured protest thereof is unnecessary.

PART V.—SUPPLEMENTARY.

Good faith.

**91.** A thing is deemed to be done in good faith, within the meaning of this Act, where it is in fact done honestly, whether it is done negligently or not.

Signature.

**92.** (1.) Where, by this Act, any instrument or writing is required to be signed by any person, it is not necessary that he should sign it with his own hand, but it shall be sufficient if his signature is written thereon by some other person by or under his authority.

(2.) In the case of a corporation, where, by this Act, any instrument or writing is required to be signed, it is sufficient if the instrument or writing be sealed with the corporate seal.

But nothing in this section shall be construed as requiring the bill or note of a corporation to be under seal.

Computation of time.

**93.** Where by this Act the time limited for doing any act or thing is less than three days, in reckoning time, non-business days are excluded.

“Non-business days” for the purposes of this Act mean—

- (a.) Sunday, Good Friday, Christmas Day;
- (b.) A bank holiday under “*The Bank Holidays Act of 1877*,” or Acts amending or in substitution for it.

Any other day is a business day.

When noting  
equivalent to protest

**94.** For the purposes of this Act, where a bill or note is required to be protested within a specified time, or before some further proceeding is taken, it is sufficient that the bill has been noted

*Bills of Exchange Act.*

noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting.

**95.** Where a dishonoured bill or note is authorised or required to be protested, and the services of a notary cannot be obtained at the place where the bill is dishonoured, any householder or substantial resident of the place may, in the presence of two witnesses, give a certificate, signed by them, attesting the dishonour of the bill, and the certificate shall in all respects operate as if it were a formal protest of the bill. Protest when notary not accessible.

The form given in the Schedule to this Act may be used with necessary modifications, and, if used, shall be sufficient.

**96.** The provisions of this Act as to crossed cheques shall apply to a warrant for payment of dividend. Dividend warrants may be crossed.

**97.** (1.) A negotiable bill, other than a cheque, and a negotiable note, other than a postal note, shall not be drawn or made for any sum less than twenty shillings. Bills and notes under twenty shillings.

(2.) An instrument which contravenes this rule shall be void, and any person who issues or negotiates it shall be liable, on summary conviction before two justices in petty sessions, to a penalty not exceeding twenty pounds, and not less than twenty shillings.

(3.) Provided that no complaint under this section shall be entertained if made after the expiration of thirty days from the commission of the offence.

**98.** "*The Bills of Exchange Act of 1867*" and "*The Bills of Exchange Act of 1879*" shall be and the same are hereby repealed. Repeal.

Provided that such repeal shall not affect anything done or suffered, or any right, title, or interest acquired or accrued before the commencement of this Act, or any legal proceeding or remedy in respect of any such thing, right, title, or interest.

**99.** (1.) The rules in insolvency relating to bills of exchange, promissory notes, and cheques shall continue to apply thereto notwithstanding anything in this Act contained. Savings.

(2.) The rules of common law including the law-merchant, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to bills of exchange, promissory notes, and cheques.

(3.) Nothing

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*Bills of Exchange Act.*


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(3.) Nothing in this Act, or in any repeal effected thereby, shall affect—

(a.) The provisions of “*The Stamp Duties Act of 1866*,” or Acts amending or in substitution for it, or any law or enactment for the time being in force relating to the revenue;

(b.) The provisions of “*The Companies Act, 1863*,” or Acts amending it, or any Act relating to joint stock banks or companies.

Construction with  
other Acts, &c.

**100.** Where any Act or document refers to any enactment repealed by this Act, the Act or document shall be construed, and shall operate, as if it referred to the corresponding provisions of this Act.

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THE SCHEDULE.

*Form of protest which may be used when the services of a notary cannot be obtained.*

Know all men that I, A.B. (householder), of \_\_\_\_\_ in the Colony of Queensland, at the request of C.D., there being no notary public available, did, on the \_\_\_\_\_ day of \_\_\_\_\_ 188\_\_\_\_, at \_\_\_\_\_ (aforesaid, or in the said colony), demand payment (or acceptance) of the bill of exchange (hereunto annexed or hereunder written) from E.F., to which demand he made answer (state answer, if any); wherefore I now, in the presence of G.H. and J.K., do protest the said bill of exchange.

(Signed)

A. B.  
G. H., } Witnesses.  
J. K., }

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N.B.—The bill itself should be annexed, or a copy of the bill, and all that is written thereon should be underwritten.

# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 11.

**An Act to Explain certain Provisions of "The Succession Act of 1867."**

[ASSENTED TO 30TH SEPTEMBER, 1884.]

**W**HEREAS doubts have arisen whether the provisions of the Preamble. seventh section of the Act of the first year of King James the Second, entitled "*An Act for reviving and continuance of several Acts of Parliament therein mentioned,*" have been repealed by "*The Succession Act of 1867,*" and it is expedient to remove such doubts: Be it therefore declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. The provisions of the seventh section of the said first-mentioned Act are, and have always been in force in the Colony of Queensland, so that if after the death of a father any of his children shall die, or shall have died intestate, without wife and children,

7th Section 1 Jas. 2  
c. 17 in force.

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*Succession Act Declaratory Act.*

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children, in the lifetime of the mother, every brother and sister, and the representatives of them, shall have, and shall be deemed to have had an equal share with her in the surplusage of the estate of such intestate.

Provided always that nothing herein contained shall of itself invalidate or disturb the distribution of the estate of any intestate person heretofore made upon the assumption that the mother was entitled to the whole of the surplusage thereof.

Short title.

**2.** This Act may be cited as “ *The Succession Act Declaratory Act of 1884.*”

# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 12.

An Act to Amend "The Native Birds Protection Act of 1877."

[ASSENTED TO 13TH OCTOBER, 1884.]

**W**HEREAS it is desirable to further amend "*The Native Birds Protection Act of 1877*": Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. The Governor in Council may by proclamation declare any Crown Lands, and, with the consent of the owner or occupier thereof, any other lands, as Reserves for the protection and preservation of such Native Birds as are specified in such proclamation, and from time to time may amend, vary, or annul the same.

2. There shall be set up at convenient and conspicuous places on the boundaries of every such Reserve, not more than half-a-mile apart, notices legibly written or printed, stating that the Reserve has been so proclaimed, and indicating in a concise manner the extent of the Reserve.

3. If



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*Native Birds Protection Act Amendment Act.*

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Penalty.

**3.** If any person wilfully kills, destroys, or captures any such bird, or uses any instrument, net, or any other means whatever, for the purpose of killing, destroying, or capturing any such bird while such bird is within or flying over a Reserve, whether such person is or is not within the boundaries of the Reserve, he shall be liable upon conviction, to forfeit and pay a fine of not less than one pound or more than five pounds, and in default of payment to imprisonment for any term not exceeding three months.

Section 7 of "*The Native Birds Protection Act of 1877*" to apply.

**4.** The provisions of section seven of "*The Native Birds Protection Act of 1877*" shall apply to persons found upon any such reserve offending against the provisions of this Act.

Interpretation.

**5.** In this Act the term "lands" shall be construed to include any land covered by water or any waters within the territorial jurisdiction of Queensland.

Power to appoint Rangers.

**6.** The Governor in Council may from time to time appoint such persons as he shall think fit to be Rangers of such Reserves, who shall do all necessary acts for carrying into effect the provisions of this Act, and for preventing and punishing any breach thereof.

Short title.

**7.** This Act shall be read and construed with, and as an amendment of, "*The Native Birds Protection Act of 1877*," and shall be called and may be cited as "*The Native Birds Protection Act Amendment Act of 1884*."

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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### No. 13.

An Act to amend and consolidate the Law relating to Patents for Inventions, and the Registration of Designs and Trade Marks.

[ASSENTED TO 13TH OCTOBER, 1884.]

*Amended  
50 No. 130 6.*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

#### PART I.

##### PRELIMINARY.

1. This Act may be cited as "*The Patents, Designs, and Trade Marks Act, 1884.*"

Short title.  
46 and 47 Vic., c. 57,  
s. 1.

2. This Act is divided into parts, as follows:—

- Part I.—PRELIMINARY;
- Part II.—PATENTS;
- Part III.—DESIGNS;
- Part IV.—TRADE MARKS;
- Part V.—INTERNATIONAL AND INTERCOLONIAL ARRANGEMENTS;
- Part VI.—GENERAL.

Division of Act into parts.  
*Id.* s. 2.

*General*

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*Patents, Designs, and Trade Marks Act.*

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*General Definitions.*

General definitions.  
Ib. ss. 46, 60, 117.

**3. (1.)** In and for the purposes of this Act, unless the context otherwise requires,—

“Examiner” includes examiners if more than one;

“The Court” means the Supreme Court of Queensland;

“Law officer” means Her Majesty’s Attorney-General for Queensland;

“The Minister” means the Colonial Secretary or other Minister charged with the execution of this Act;

“Registrar” means the Registrar of Patents, Designs, and Trade Marks;

“Prescribed” means prescribed by any of the Schedules to this Act, or by general rules under or within the meaning of this Act;

“Patent” means letters patent for an invention;

“Patentee” means the person for the time being entitled to the benefit of a patent;

“Invention” means any manner of new manufacture the subject of letters patent and grant of privilege within section six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intituled “*An Act concerning Monopolies and Dispensations with Penal Laws and the forfeiture thereof*”), and includes an alleged invention;

“Design” means any design applicable to any article of manufacture, or to any substance artificial or natural, or partly artificial and partly natural, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined, not being a design for a sculpture, or other thing within the protection of “*The Sculpture Copyright Act*” of the year 1814 (fifty-fourth George the Third, chapter fifty-six);

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

“British possession” means any territory or place situate within Her Majesty’s dominions, and not being or forming part of the United Kingdom, or of the Channel Islands, or of the Isle of Man, and all territories and places under one legislature, as hereinafter defined, are deemed to be one British possession for the purposes of this Act;

“Legislature” includes any person or persons who exercise legislative authority in the British possession; and where there are local legislatures as well as a central legislature, means the central legislature only;

“Summary

*3rd 23 Jan. I. c. 3 v  
1120. Rev. 17th page 374.*

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*Patents, Designs, and Trade Marks Act.*

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“Summary conviction” means a conviction under the Summary Jurisdiction Acts, that is to say the Acts regulating the duties of justices of the peace and any Acts amending or in substitution for them.

*Transitional Provisions.*

4. The Acts mentioned in the First Schedule to this Act are hereby repealed to the extent in the said Schedule indicated. But this repeal shall not—

Repeal and saving  
for past operation of  
repealed enactments  
&c.  
*Ib.* s. 113.

- (a.) Affect the past operation of any of those enactments, or any patent or copyright or right to use a trade mark granted or acquired, or application pending, or appointment made, or compensation granted, or order or direction made or given, or right, privilege, obligation, or liability acquired, accrued, or incurred, or anything duly done or suffered under or by any of those enactments before or at the commencement of this Act; or
- (b.) Interfere with the institution or prosecution of any action or proceeding, civil or criminal, in respect thereof, and any such proceeding may be carried on as if this Act had not been passed; or
- (c.) Take away or abridge any protection or benefit in relation to any such action or proceeding.

5. (1.) There shall be an office called the Patent Office at a convenient place, with such officers and clerks as the Governor in Council shall appoint, at which the business of this Act required to be transacted at the Patent Office shall be transacted.

a Patent Office.  
*Ib.* s. 82.

(2.) The Patent Office shall be under the immediate control of an officer called the Registrar of Patents, Designs, and Trade Marks, acting under the superintendence and direction of the Minister.

(3.) Any act or thing directed to be done by or to the registrar may, in his absence, be done by or to any officer for the time being in that behalf authorised by the Minister.

(4.) Until other provision is made in that behalf, the Registrar-General shall be and act as Registrar of Patents, Designs, and Trade Marks.

6. This Act, except where it is otherwise expressed, shall commence from and immediately after the thirty-first day of December, one thousand eight hundred and eighty-four.

Commencement of  
Act

PART

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*Patents, Designs, and Trade Marks Act.*

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## PART II.

## PATENTS.

*Application for and grant of Patent.*

Persons entitled to apply for patent.  
*Ib.* s. 4.

7. (1.) Any person, whether a British subject or not, may make an application for a patent.

(2.) Two or more persons may make a joint application for a patent, and a patent may be granted to them jointly.

Application and specification.  
*Ib.* s. 5.

8. (1.) An application for a patent must be made in the form set forth in the Second Schedule to this Act, or in such other form as may be from time to time prescribed; and must be left at, or sent by post to, the Patent Office in the prescribed manner.

(2.) An application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application, one or more of the applicants, claims or claim to be the true and first inventor or inventors, and for which he or they desires or desire to obtain a patent; and must be accompanied by either a provisional or complete specification.

(3.) In the case of a joint application the declaration may be made by one of the applicants.

(4.) A provisional specification must describe the nature of the invention, and be accompanied by drawings, if required.

(5.) A complete specification, whether left on application or subsequently, must particularly describe and set forth the nature of the invention, and in what manner it is to be performed, and must be accompanied by drawings, if required.

(6.) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement of the invention claimed.

Reference of application to examiner.  
*Ib.* s. 6.

9. The registrar shall refer every application to an examiner or examiners, who shall ascertain and report to the registrar whether the nature of the invention has been fairly described, and the application, specification, and drawings (if any) have been prepared in the prescribed manner, and the title sufficiently indicates the subject matter of the invention.

Power for Registrar to refuse application or require amendment.  
*Ib.* s. 7.

10. (1.) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings has not or have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject matter of the invention, the registrar may require that the application, specification, or drawings be amended before he proceeds with the application.

(2.) Where

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(2.) Where the registrar requires an amendment, the applicant may appeal from his decision to the law officer.

(3.) The law officer shall, if required, hear the applicant and the registrar, and may make an order determining whether and subject to what conditions, if any, the application shall be accepted.

(4.) The registrar shall, when an application has been accepted, give notice thereof to the applicant.

(5.) If after an application has been made, but before a patent has been sealed, an application is made, accompanied by a specification bearing the same or a similar title, it shall be the duty of the examiner to report to the registrar whether the specification appears to him to comprise the same invention; and, if he reports in the affirmative, the registrar shall give notice to the applicants that he has so reported.

(6.) Where the examiner reports in the affirmative, the registrar may determine, subject to an appeal to the law officer, whether the invention comprised in both applications is the same, and if so he may refuse to recommend that a patent be granted on the application of the second applicant.

**11.** (1.) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of application.

Time for leaving complete specification.  
*Ib.* s. 8.

*vide s. 10 to 12*  
*s. 8*

(2.) Unless a complete specification is left within that time the application shall be deemed to be abandoned.

**12.** (1.) Where a complete specification is left after a provisional specification, the registrar shall refer both specifications to an examiner for the purpose of ascertaining whether the complete specification has been prepared in the prescribed manner, and whether the invention particularly described in the complete specification is substantially the same as that which is described in the provisional specification.

Comparison of provisional and complete specification.  
*Ib.* s. 9.

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(2.) If the examiner reports that the conditions hereinbefore contained have not been complied with, the registrar may refuse to accept the complete specification unless and until the same shall have been amended to his satisfaction; but any such refusal shall be subject to appeal to the law officer.

(3.) The law officer shall, if required, hear the applicant and the registrar, and may make an order determining whether and subject to what conditions, if any, the complete specification shall be accepted.

(4.) Unless

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(4.) Unless a complete specification is accepted within twelve months from the date of application, then (save in the case of an appeal having been lodged against the refusal to accept) the application shall, at the expiration of those twelve months, become void.

(5.) Reports of examiners shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding, other than an appeal to the law officer under this Act, unless the court or officer having power to order discovery in such legal proceeding shall certify that such production or inspection is desirable in the interests of justice, and ought to be allowed.

Advertisement on acceptance of complete specification.  
*Ib. s. 10.*

**13.** On the acceptance of the complete specification the registrar shall advertise the acceptance in the *Gazette*; and the application and specification or specifications with the drawings (if any) shall be open to public inspection.

Opposition to grant of patent.  
*Ib. s. 11.*

**14.** (1.) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the patent office of opposition to the grant of the patent, on the ground of the applicant having obtained the invention from him, or from a person of whom he is the legal representative, or on the ground that the invention has been patented in this colony on an application of prior date, or on the ground of an examiner having reported to the registrar that the specification appears to him to comprise the same invention as is comprised in a specification bearing the same or a similar title and accompanying a previous application, but on no other ground.

(2.) Where such notice is given the registrar shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after hearing the applicant and the person so giving notice, if desirous of being heard, decide on the case, but subject to appeal to the law officer.

(3.) The law officer shall, if required, hear the applicant and any person so giving notice and being, in the opinion of the law officer, entitled to be heard in opposition to the grant, and shall determine whether the grant ought or ought not to be made.

(4.) The law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer shall appoint.

Sealing of patent.  
*Ib. s. 12.*

**15.** (1.) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, the registrar shall report the facts to the Minister.

(2.) The

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(2.) The Minister shall thereupon submit the application for the consideration of the Governor in Council, who may direct a patent to be sealed with the Great Seal of the Colony.

(3.) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, except in the cases hereinafter mentioned, that is to say:—

(a.) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct;

(b.) If the person making the application dies before the expiration of the fifteen months aforesaid, the patent may be granted to his legal representative and sealed at any time within twelve months after the death of the applicant.

16. Every patent shall take effect and be expressed to take effect as of the day of the application: Date of patent. *Ib.* s. 13. Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification: // Provided also, that in case of more than one application for a patent for the same invention, the sealing of a patent on one of those applications shall not prevent the sealing of a patent on an earlier application.

*Provisional Protection.*

17. Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the same; and such protection from the consequences of use and publication is in this Act referred to as provisional protection. Provisional protection. *Ib.* s. 14.

*Protection by Complete Specification.*

18. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: Effect of acceptance of complete specification. *Ib.* s. 15. Provided that an applicant shall not be entitled to institute any proceeding for infringement unless and until a patent for the invention has been granted to him. //

*Patent.*

19. Every patent when sealed shall have effect throughout the Colony and its Dependencies. Extent of patent. *Ib.* s. 16.

20. (1.)



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Term of patent.  
*Ib. s. 17.*

**20.** (1.) The term limited in every patent for the duration thereof shall be fourteen years from the date from which it takes effect.

(2.) But every patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to make the prescribed payments within the prescribed times.

(3.) If, nevertheless, in any case, by accident, mistake, or inadvertence, a patentee fails to make any prescribed payment within the prescribed time, he may apply to the registrar for an enlargement of the time for making that payment.

(4.) Thereupon the registrar shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, not exceeding ten pounds, enlarge the time accordingly, subject to the following conditions :

(a.) The time for making any payment shall not, in any case, be enlarged for more than three months ;

(b.) If any proceeding shall be taken in respect of an infringement of the patent committed after a failure to make any payment within the prescribed time, and before the enlargement thereof, the Court before which the proceeding is proposed to be taken may, if it shall think fit, refuse to award or give any damages in respect of such infringement.

*Amendment of Specification.*

Amendment of specification.  
*Ib. s. 18.*

**21.** (1.) An applicant or a patentee may, from time to time, by request in writing left at the patent office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of such amendment and his reasons for the same.

(2.) The request and the nature of such proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the patent office of opposition to the amendment.

(3.) Where such notice is given the registrar shall give notice of the opposition to the person making the request, and shall hear and decide the case subject to an appeal to the law officer.

(4.) The law officer shall, if required, hear the person making the request and the person so giving notice, and being in the opinion of the law officer entitled to be heard in opposition to the request, and shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5.) Where no notice of opposition is given or the person so giving notice does not appear, the registrar shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6.) When

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*Patents, Designs, and Trade Marks Act.*

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(6.) When leave to amend is refused by the registrar, the **person** making the request may appeal from his decision to the law **officer**.

(7.) The law officer shall, if required, hear the person making **the request** and the registrar, and may make an order determining **whether**, and subject to what conditions, if any, the amendment **ought** to be allowed.

(8.) No amendment shall be allowed that would make the **specification**, as amended, claim an invention substantially larger **than or** substantially different from the invention claimed by the **specification** as it stood before amendment.

(9.) Leave to amend shall be conclusive as to the right of the **party** to make the amendment allowed, except in case of fraud; and the **amendment** shall in all courts and for all purposes be deemed to **form part** of the specification.

(10.) The foregoing provisions of this section do not apply **when** and so long as any action for infringement or other legal **proceeding** in relation to a patent is pending.

**22.** (1.) In an action for infringement of a patent, and in a **proceeding** for revocation of a patent, the Court or a judge may at **any time** order that the patentee shall, subject to such terms as to **costs** and otherwise as the Court or a judge may impose, be at liberty to **apply** at the Patent Office for leave to amend his specification by **way of disclaimer**, and may direct that in the meantime the trial or **hearing** of the action shall be postponed.

Power to disclaim part of invention during action, &c.  
*Ib.* s. 19.

**23.** Where an amendment by way of disclaimer, correction, or **explanation** has been allowed under this Act, no damages shall be **given** in any action in respect of the use of the invention before the **disclaimer**, correction, or explanation, unless the patentee establishes to **the satisfaction** of the Court that his original claim was framed in **good faith** and with reasonable skill and knowledge.

Restriction on recovery of damages.  
*Ib.* s. 20.

**24.** Every amendment of a specification shall be advertised **in the prescribed manner**.

Advertisement of amendment.  
*Ib.* s. 21.

*Compulsory Licenses.*

**25.** If on the petition of any person interested it is proved to the Governor in Council that by reason of the default of a patentee to **grant licenses** on reasonable terms—

Power for Governor in Council to order grant of licenses.  
*Ib.* s. 22.

- (a.) The patent is not being worked in the Colony; or
- (b.) The reasonable requirements of the public with respect to the invention cannot be supplied; or

(c) Any

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(c.) Any person is prevented from working or using to the best advantage an invention of which he is possessed, the Governor in Council may order the patentee to grant licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor in Council, having regard to the nature of the invention and the circumstances of the case, may deem just, and any such order may be enforced by mandamus.

*Register of Patents.*

Register of patents.  
*Ib.* s. 23.

26. (1.) There shall be kept at the patent office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may from time to time be prescribed.

(2.) The register of patents shall be *primâ facie* evidence of any matters by this Act directed or authorised to be inserted therein.

(3.) Copies of deeds, licenses, and any other documents affecting the proprietorship in any letters patent or in any license thereunder, must be supplied to the registrar in the prescribed manner for filing in the Patent Office.

*Fees.*

Fees in schedule.  
*Ib.* s. 24.

27. (1.) There shall be paid in respect of the several instruments described in the Third Schedule to this Act, the fees in that Schedule mentioned, and there shall likewise be paid, in respect of other matters under this part of the Act, such fees as may be from time to time prescribed by the Governor in Council; and such fees shall be paid into the Consolidated Revenue.

(2.) The Governor in Council may from time to time reduce any of those fees.

*Extension of Term of Patent.*

Extension of term of  
patent on petition to  
Governor in Council.  
*Ib.* s. 25.

28. (1.) A patentee may, after advertising in manner directed by any rules made under this section his intention to do so, present a petition to the Governor in Council, praying that his patent may be extended for a further term; but such petition must be presented at least six months before the time limited for the expiration of the patent.

(2.) Any person may enter a caveat, addressed to the Clerk of the Executive Council at the Council Office, against the extension.

(3.) If the Governor in Council shall be pleased to refer any such petition to the Court, the Court shall proceed to consider the same, and the petitioner and any person who has entered a caveat shall be entitled to be heard by himself or by counsel on the petition.

(4.) The

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(4.) The Court shall, in considering their decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(5.) If the Court report that the patentee has been inadequately remunerated by his patent, it shall be lawful for the Governor in Council to extend the term of the patent for a further term not exceeding seven, or in exceptional cases, fourteen years; or to order the grant of a new patent for the term therein mentioned, and containing any restrictions, conditions, and provisions that the Court may think fit.

(6.) It shall be lawful for the Judges of the Supreme Court, or any two of them, of whom the Chief Justice shall be one, to make, from time to time, rules of procedure and practice for regulating proceedings on such petitions, and subject thereto such proceedings shall be regulated according to the existing procedure and practice in cases of petitions to the Court.

(7.) The costs of all parties of and incident to such proceedings shall be in the discretion of the Court; and the orders of the Court respecting costs shall be enforceable in the same manner as other orders of the Court.

*Revocation.*

29. (1.) The proceeding by *scire facias* to repeal a patent is hereby abolished. Revocation of  
patent.  
Ib. s. 26.

(2.) Revocation of a patent may be obtained on petition to the Court.

(3.) Every ground on which a patent may, at the commencement of this Act, be repealed by *scire facias* shall be available by way of defence to an action of infringement and shall also be a ground of revocation.

(4.) A petition for revocation of a patent may be presented by—

- (a.) The Attorney-General;
  - (b.) Any person authorised by the Attorney-General;
  - (c.) Any person alleging that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims;
  - (d.) Any person alleging that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee;
  - (e.) Any person alleging that he, or any person under or through whom he claims an interest in any trade business, or manufacture, had publicly manufactured, used, or sold, within the colony, before the date of the patent, anything claimed by the patentee as his invention.
- (5.) The

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(5.) The plaintiff must deliver with his petition particulars of the objections on which he means to rely, and no evidence shall, except by leave of the Court or a judge, be admitted in proof of any objection of which particulars are not so delivered.

(6.) Particulars delivered may be from time to time amended by leave of the Court or a judge.

(7.) The defendant shall be entitled to begin, and give evidence in support of the patent, and if the plaintiff gives evidence impeaching the validity of the patent the defendant shall be entitled to reply.

(8.) Where a patent has been revoked on the ground of fraud, the registrar may, on the application of the true inventor made in accordance with the provisions of this Act, grant to him a patent in lieu of and taking effect from the same date as the date of revocation of the patent so revoked, but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted.

*Crown.*

Patent to bind  
Crown.  
*Ib.* s. 27.

**30.** (1.) A patent shall have to all intents the like effect as against Her Majesty the Queen, her heirs and successors, as it has against a subject.

(2.) But the officers or authorities administering any department of the service of the Crown may, by themselves, their agents, contractors, and others, at any time after the application, use the invention for the services of the Crown on terms to be before or after the use thereof agreed on, with the approval of the Minister, between those officers or authorities and the patentee, or, in default of such agreement, on such terms as may be settled by the Minister after hearing all parties interested.

*Legal Proceedings.*

Hearing with  
assessors.  
*Ib.* s. 28.

**31.** (1.) In an action or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and shall, on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try and hear the case wholly or partially with his assistance; the action shall be tried without a jury unless the Court shall otherwise direct.

(2.) The remuneration, if any, to be paid to an assessor under this section shall be determined by the Court, and be paid in the same manner as the other expenses of the execution of this Act.

Delivery of  
particulars.  
*Ib.* s. 29.

**32.** (1.) In an action for infringement of a patent the plaintiff must deliver with his statement of claim, or by order of the Court or the judge, at any subsequent time, particulars of the breaches complained of.

(2.) The

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(2.) The defendant must deliver with his statement of defence, **or by order of the Court or a judge, at any subsequent time, particulars of any objections on which he relies in support thereof.**

(3.) If the defendant disputes the validity of the patent, the **particulars delivered by him must state on what grounds he disputes it, and if one of those grounds is want of novelty, must state the time and place of the previous publication or use alleged by him.**

(4.) At the hearing no evidence shall, except by leave of the **Court or a judge, be admitted in proof of any alleged infringement or objection of which particulars are not so delivered.**

(5.) Particulars delivered may be from time to time amended, **by leave of the Court or a judge.**

(6.) On taxation of costs regard shall be had to the particulars **delivered by the plaintiff and by the defendant; and they respectively shall not be allowed any costs in respect of any particular delivered by them unless the same is certified by the Court or a judge to have been proven or to have been reasonable and proper, without regard to the general costs of the case.**

**33.** In an action for infringement of a patent, the Court or a **judge may on the application of either party make such order for an injunction, inspection, or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the Court or a judge may see fit.**

Or let for inspection &c., in action. *Ib.* s. 30.

**34.** In an action for infringement of a patent, the Court or a **judge may certify that the validity of the patent came in question; and if the Court or judge so certifies, then in any subsequent action for infringement, the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges, and expenses as between solicitor and client, unless the Court or judge trying the action certifies that he ought not to have the same.**

Certificate if validity questioned and costs thereon. *Ib.* s. 31.

**35.** Where any person claiming to be the patentee of an **invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged manufacture, use, sale, or purchase of the invention, any person or persons aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as may have been sustained thereby, if the alleged manufacture, use, sale, or purchase to which the threats related was not in fact an infringement of any legal rights of the person making such threats: Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.**

Remedy in case of groundless threats of legal proceedings. *Ib.* s. 32.

*Miscellaneous.*

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*Miscellaneous.*

Patent for one invention only.  
*Ib. s. 33.*

**36.** Every patent may be in the form in the Second Schedule to this Act, and shall be granted for one invention only, but may contain more than one claim; but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it comprises more than one invention.

Patent on application of representative of deceased inventor.  
*Ib. s. 34.*

**37.** (1.) If a person possessed of an invention dies without making application for a patent for the invention, application may be made by, and a patent for the invention granted to his legal representative.

(2.) Every such application must be made within six months of the decease of such person, and must contain a declaration by the legal representative that he believes such person to have been the true and first inventor of the invention.

Patent to first inventor not invalidated by application in fraud of him.  
*Ib. s. 35.*

**38.** A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

Assignment for particular places.  
*Ib. s. 36.*

**39.** A patentee may assign his patent for the whole colony or any place in or part of the colony.

Loss or destruction of patent.  
*Ib. s. 37.*

**40.** If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the registrar, the Governor in Council may at any time cause a duplicate thereof to be sealed.

Proceedings and costs before law officers.  
*Ib. s. 38.*

**41.** The law officer may examine witnesses on oath and administer oaths for that purpose under this part of this Act, and may from time to time make, alter, and rescind rules regulating references and appeals to the law officer and the practice and procedure before him under this part of this Act; and in any proceeding before the law officer under this part of this Act, the law officer may order costs to be paid by either party, and any such order may be made a rule of the Court.

Exhibition at industrial or international exhibition not to prejudice patent rights.  
*Ib. s. 39.*

**42.** The exhibition of an invention at an industrial or international exhibition, certified as such by the Minister, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or the consent of the inventor, shall not prejudice the right of the inventor or his legal personal

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personal representative to apply for and obtain provisional protection and a patent in respect of the invention or the validity of any patent granted on the application, provided that both the following conditions are complied with, namely,—

- (a.) The exhibitor must, before exhibiting the invention, give the registrar the prescribed notice of his intention to do so; and
- (b.) The application for a patent must be made before or within six months from the date of the opening of the exhibition.

43. The Registrar shall from time to time prepare and publish such indexes, abridgments of specifications, catalogues, and other works relating to inventions, as the Minister may direct.

Publication of indexes, &c.  
Ib. s. 40.

44. The Minister may at any time require a patentee to furnish him with a model of his invention on payment to the patentee of the cost of the manufacture of the model; the amount to be settled, in case of dispute, by the Auditor-General.

Power to require models on payment.  
Ib. s. 42.

45. (1.) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of the Supreme Court of Queensland, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connexion with the manufacture or preparation of anything intended to be sold in or exported from Queensland :

Foreign vessels in Queensland waters.  
Ib. s. 43.

(2.) But this section shall not extend to vessels of any foreign state of which the laws authorise subjects of such foreign state, having patents or like privileges for the exclusive use or exercise of inventions within its territories, to prevent or interfere with the use of such inventions in British vessels while in the ports of such foreign state, or in the waters within the jurisdiction of its courts, where such inventions are not so used for the manufacture or preparation of anything intended to be sold in or exported from the territories of such foreign state.

*Existing Patents.*

46. (1.) The provisions of this Act relating to applications for patents and proceedings thereon shall have effect in respect only of applications made after the commencement of this Act.

Provisions respecting existing patents.  
Ib. s. 45.

(2.) Every patent granted before the commencement of this Act, or on an application then pending, shall remain unaffected by the provisions of this Act relating to patents binding the Crown, and to compulsory licenses.

(3.) In all other respects (except with regard to fees payable in respect of granting a patent) this Act shall extend to all patents granted



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*Patents, Designs, and Trade Marks Act.*

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granted before the commencement of this Act, or on applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

(4.) All instruments relating to patents granted before the commencement of this Act required to be left or filed in the Supreme Court shall be deemed to be so left or filed if left or filed before or after the commencement of this Act in the Patent Office.

### PART III.

#### DESIGNS.

##### *Registration of Designs.*

Application for registration of design.  
*Ib. s. 47.*

**47.** (1.) The registrar may, on application by or on behalf of any person claiming to be the proprietor of any new or original design not previously published in Queensland, register the design under this Part of this Act.

(2.) The application must be made in the form set forth in the First Schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to, the patent office in the prescribed manner.

(3.) The application must contain a statement of the nature of the design, and the class or classes of goods in which the applicant desires that the design be registered.

(4.) The same design may be registered in more than one class :

(5.) In case of doubt as to the class in which a design ought to be registered, the registrar may decide the question.

(6.) The registrar may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal therefrom to the law officer.

(7.) The law officer shall, if required, hear the applicant and the registrar, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

Drawings, &c., to be furnished on application.  
*Ib. s. 48.*

**48.** (1.) On application for registration of a design the applicant shall furnish to the registrar the prescribed number of copies of drawings, photographs, or tracings of the design sufficient, in the opinion of the registrar, for enabling him to identify the design ; or the applicant may, instead of such copies, furnish exact representations or specimens of the design.

(2.) The registrar may, if he thinks fit, refuse any drawing, photograph, tracing, representation, or specimen which is not, in his opinion, suitable for the official records.

Certificate of registration.  
*Ib. s. 49.*

**49.** (1.) The registrar shall grant a certificate of registration to the proprietor of the design when registered.

(2.) The registrar may, in case of loss of the original certificate, or in any other case in which he deems it expedient, grant a copy or copies of the certificate.

*Copyright*

*Patents, Designs, and Trade Marks Act.**Copyright in Registered Designs.*

**50.** (1.) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration. Copyright on registration. *Ib.* s. 50.

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

**51.** Before delivery on sale of any articles to which a registered design has been applied, the proprietor of the design shall cause each such article to be marked with the prescribed mark, or with the prescribed word or words or figures, denoting that the design is registered; and if he fails to do so the copyright in the design shall cease, unless the proprietor shows that he took all proper steps to ensure the marking of the article. Marking registered designs. *Ib.* s. 51.

**52.** (1.) During the existence of copyright in a design, the design shall not be open to inspection except by the proprietor, or a person authorised in writing by the proprietor, or a person authorised by the registrar or by the court, and furnishing such information as may enable the registrar to identify the design, nor except in the presence of the registrar, or of an officer acting under him, nor except on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof. Inspection of registered designs. *Ib.* s. 52.

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

**53.** On the request of any person producing a particular design, together with its mark of registration, or producing only its mark of registration, or furnishing such information as may enable the registrar to identify the design, and on payment of the prescribed fee, it shall be the duty of the registrar to inform such person whether the registration still exists in respect of such design, and if so, in respect of what class or classes of goods, and stating also the date of registration, and the name and address of the registered proprietor. Information as to existence of copyright. *Ib.* s. 53.

**54.** If a registered design is used in manufacture in any foreign country and is not used in this colony within six months of its registration in this colony, the copyright in the design shall cease. Cessation of copyright in certain events. *Ib.* s. 54.

*Register*

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*Patents, Designs, and Trade Marks Act.*

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*Register of Designs.*

Register of designs.  
*Ib.* s. 55.

**55.** (1.) There shall be kept at the patent office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may from time to time be prescribed.

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

*Fees.*

Fees on registration,  
&c.  
*Ib.* s. 56.

**56.** There shall be paid in respect of applications and registration and other matters under this part of this Act such fees as may be from time to time prescribed by the Governor in Council; and such fees shall be paid into the Consolidated Revenue.

*Industrial, International, and Intercolonial, Exhibitions.*

Exhibition at industrial or international exhibitions not to prevent or invalidate registration.  
*Ib.* s. 57.

**57.** The exhibition at an industrial, international, or intercolonial, exhibition, certified as such by the Minister, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof, provided that both the following conditions are complied with; namely,—

- (a.) The exhibitor must, before exhibiting the design, or article, or publishing a description of the design, give the registrar the prescribed notice of his intention to do so; and
- (b.) The application for registration must be made before or within six months from the date of the opening of the exhibition.

*Legal Proceedings.*

Penalty on piracy of registered design.  
*Ib.* s. 58.

**58.** During the existence of copyright in any design—

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

(b.) It

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*Patents, Designs, and Trade Marks Act.*

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

Any person who acts in contravention of this section shall be liable for every offence to forfeit a sum not exceeding fifty pounds to the registered proprietor of the design, who may recover such sum as a simple contract debt by action in any court of competent jurisdiction.

59. Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may (if he elects to do so) bring an action for the recovery of any damages arising from the application of any such design, or of any fraudulent or obvious imitation thereof for the purpose of sale, to any article of manufacture or substance, or from the publication, sale, or exposure for sale by any person of any article or substance to which such design or any fraudulent or obvious imitation thereof shall have been so applied, such person knowing that the proprietor had not given his consent to such application. Action for damages. *Ib.* s. 59.

60. The author of any new and original design shall be considered the proprietor thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case such person shall be considered the proprietor, and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to any such article or substance as aforesaid, either exclusively of any other person or otherwise, and also every person on whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise. Definition of proprietor. *Ib.* s. 61.

#### PART IV.

##### TRADE MARKS.

###### *Registration of Trade Marks.*

61. (1.) The registrar may, on application by or on behalf of any person claiming to be the proprietor of a trade mark, register the trade mark. Application for registration. *Ib.* s. 62.

(2.) The application must be made in the form set forth in the Second Schedule to this Act, or in such other form as may be from time to time prescribed, and must be left at, or sent by post to, the Patent Office in the prescribed manner.

(3.) The

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*Patents, Designs, and Trade Marks Act.*

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(3.) The application must be accompanied by the prescribed number of representations of the trade mark, and must state the particular goods or classes of goods in connexion with which the applicant desires the trade mark to be registered.

(4.) The registrar may, if he thinks fit, refuse to register a trade mark, but any such refusal shall be subject to appeal to the law officer, who shall, if required, hear the applicant and the registrar, and may make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

(5.) The law officer may, however, if it appears expedient, refer the appeal to the Court; and in that event the Court shall have jurisdiction to hear and determine the appeal and may make such order as aforesaid.

Limit of time for proceeding with application.  
*Ib. s. 63.*

**62.** Where registration of a trade mark has not been or shall not be completed within twelve months from the date of the application, by reason of default on the part of the applicant, the application shall be deemed to be abandoned.

Conditions of registration of trade mark.  
*Ib. s. 64.*

**63.** (1.) For the purpose of this Act, a trade mark must consist of or contain at least one of the following essential particulars :

- (a.) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or
- (b.) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or
- (c.) A distinctive device, mark, brand, heading, label, ticket, or fancy word or words not in common use.

(2.) There may be added to any one or more of these particulars any letters, words, or figures, or combination of letters, words, or figures, or of any of them.

(3.) Provided that any special and distinctive word or words, letter, figure, or combination of letters or figures or of letters and figures used as a trade mark before the passing of this Act may be registered as a trade mark under this part of this Act.

Connexion of trade mark with goods.  
*Ib. s. 65.*

**64.** A trade mark must be registered for particular goods or classes of goods.

Registration of a series of marks.  
*Ib. s. 66.*

**65.** When a person claiming to be the proprietor of several trade marks which, while resembling each other in the material particulars thereof, yet differ in respect of (a) the statement of the goods for which they are respectively used or proposed to be used, or (b) statements of numbers, or (c) statements of price, or (d) statements of quality, or (e) statements of names of places, seeks to register such trade

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trade marks, they may be registered as a series in one registration. A series of trade marks shall be assignable and transmissible only as a whole, but for all other purposes each of the trade marks composing a series shall be deemed and treated as registered separately.

**66.** A trade mark may be registered in any colour, and such registration shall (subject to the provisions of this Act) confer on the registered owner the exclusive right to use the same in that or any other colour. Trade marks may be registered in any colour. *Ib.* s. 67.

**67.** Every application for registration of a trade mark under this part of this Act shall as soon as may be after its receipt be advertised by the registrar in the *Gazette*. Advertisement of application. *Ib.* s. 68.

**68.** (1.) Any person may within four months of the first advertisement of the application, give notice in duplicate at the patent office of opposition to the registration of the trade mark, and the registrar shall send one copy of such notice to the applicant. Opposition to registration. *Ib.* s. 69.

(2.) Within two months after receipt of such notice or such further time as the registrar may allow, the applicant may send to the registrar a counter statement in duplicate of the grounds on which he relies for his application, and if he does not do so shall be deemed to have abandoned his application.

(3.) If the applicant sends such counter statement, the registrar shall furnish a copy thereof to the person who gave notice of opposition, and shall require him to give security in such manner and to such amount as the registrar may require for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made or such further time as the registrar may allow, the opposition shall be deemed to be withdrawn.

(4.) If the person who gave notice of opposition duly gives such security as aforesaid, the registrar shall inform the applicant thereof in writing, and thereupon the case shall be deemed to stand for the determination of the Court.

**69.** A trade mark, when registered, shall be assigned and transmitted only in connexion with the goodwill of the business concerned in the particular goods or classes of goods for which it has been registered, and shall be determinable with that goodwill. Assignment and transmission of trade mark. *Ib.* s. 70.

**70.** Where each of several persons claims to be registered as proprietor of the same trade mark, the registrar may refuse to register any of them until their rights have been determined according to law, and the registrar may himself submit or require the claimants to submit their rights to the Court. Conflicting claims to registration. *Ib.* s. 71.

71. (1.)

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Restrictions on  
registration.  
*Ib. s. 72.*

**71.** (1.) Except where the Court has decided that two or more persons are entitled to be registered as proprietors of the same trade mark, the registrar shall not register in respect of the same goods or description of goods a trade mark identical with one already on the register with respect to such goods or description of goods.

(2.) The registrar shall not register with respect to the same goods or description of goods a trade mark so nearly resembling a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive.

Further restriction  
on registration.  
*Ib. s. 73.*

**72.** It shall not be lawful to register as part of or in combination with a trade mark any words the exclusive use of which would by reason of their being calculated to deceive or otherwise, be deemed disentitled to protection in a court of justice, or any scandalous design.

Saving for power  
to provide for entry  
on register of  
common marks as  
additions to  
trade marks.  
*Ib. s. 74*

**73.** (1.) Nothing in this Act shall be construed to prevent the registrar from entering on the register, in the prescribed manner, and subject to the prescribed conditions, as an addition to any trade mark—

(a.) In the case of an application for registration of a trade mark used before the passing of this Act,

Any distinctive device, mark, brand, heading, label, ticket, letter, word, or figure, or combination of letters, words, or figures, though the same is common to the trade in the goods with respect to which the application is made;

(b.) In the case of an application for registration of a trade mark not used before the passing of this Act,

Any distinctive word or combination of words, though the same is common to the trade in the goods with respect to which the application is made.

(2.) The applicant for entry of any such common particular or particulars must, however, disclaim in his application any right to the exclusive use of the same, and a copy of the disclaimer shall be entered on the register.

(3.) Any device, mark, brand, heading, label, ticket, letter, word, figure, or combination of letters, words, or figures, which was or were, before the passing of this Act, publicly used by more than three persons on the same or a similar description of goods shall, for the purposes of this section, be deemed common to the trade in such goods.

*Effect of Registration.*

Registration equi-  
valent to public use.  
*Ib. s. 75.*

**74.** Registration of a trade mark shall be deemed to be equivalent to public use of the trade mark.

**75.** The

*Patents, Designs, and Trade Marks Act.*

**75.** The registration of a person as proprietor of a trade mark shall be *prima facie* evidence of his right to the exclusive use of the trade mark, and shall, after the expiration of five years from the date of the registration, be conclusive evidence of his right to the exclusive use of the trade mark, subject to the provisions of this Act.

Right of registered proprietor to exclusive use of trade mark.  
*Ib.* s. 76.

**76.** A person shall not be entitled to institute any proceeding to prevent or to recover damages for the infringement of a trade mark unless, in the case of a trade mark capable of being registered under this Act, it has been registered in pursuance of this Act, or of an enactment repealed by this Act, or, in the case of any other trade mark in use before the passing of this Act, registration thereof under this part of this Act, or of an enactment repealed by this Act, has been refused. The registrar may, on request, and on payment of the prescribed fee, grant a certificate that such registration has been refused.

Restrictions on actions for infringement in certain cases.  
*Ib.* s. 77.

*Register of Trade Marks.*

**77.** There shall be kept at the patent office a book called the Register of Trade Marks, wherein shall be entered the names and addresses of proprietors of registered trade marks, notifications of assignments and of transmissions of trade marks, and such other matters as may be from time to time prescribed.

Register of trade marks.  
*Ib.* s. 78.

**78.** (1.) At a time not being less than three months nor more than six months before the expiration of fourteen years from the date of the registration of a trade mark, the registrar shall send notice to the registered proprietor that the trade mark will be removed from the register unless the proprietor pays to the registrar before the expiration of such fourteen years (naming the date at which the same will expire) the prescribed fee; and if such fee be not previously paid, he shall at the expiration of two months from the date of the giving of the first notice send a second notice to the same effect.

Removal of trade mark after fourteen years unless fee paid.  
*Ib.* s. 79.

(2.) If such fee be not paid before the expiration of such fourteen years the registrar may after the end of three months from the expiration of such fourteen years remove the mark from the register, and so from time to time at the expiration of every period of fourteen years.

(3.) If before the expiration of the said three months the registered proprietor pays the said fee together with the additional prescribed fee, the registrar may without removing such trade mark from the register accept the said fee as if it had been paid before the expiration of the said fourteen years.

(4.) Where after the said three months a trade mark has been removed from the register for nonpayment of the prescribed fee, the registrar may, if satisfied that it is just so to do, restore such trade mark to the register on payment of the prescribed additional fee.

(5.) Where



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*Patents, Designs, and Trade Marks Act.*

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(5.) Where a trade mark has been removed from the register for nonpayment of the fee or otherwise, such trade mark shall nevertheless for the purpose of any application for registration during the five years next after the date of such removal, be deemed to be a trade mark which is already registered.

*Fees.*

Fees for registration,  
&c.  
*Ib.* s. 80.

79. There shall be paid in respect of applications and registration and other matters under this part of this Act, such fees as may be from time to time prescribed by the Governor in Council; and such fees shall be paid into the Consolidated Revenue.

PART V.

INTERNATIONAL AND INTERCOLONIAL ARRANGEMENTS.

And whereas by the one hundred and third section of the Act of the Imperial Parliament called "*The Patents, Designs, and Trade Marks Act, 1883,*" it is enacted as follows, that is to say:—

- (1.) If Her Majesty is pleased to make any arrangement with the Government or Governments of any Foreign State or States for mutual protection of inventions, designs, and trade marks, or any of them, then any person who has applied for protection for any invention, design, or trade mark in any such State, shall be entitled to a patent for his invention or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the protection obtained in such Foreign State:

Provided that his application is made, in the case of a patent within seven months, and in the case of a design or trade mark within four months, from his applying for protection in the Foreign State with which the arrangement is in force:

Provided that nothing in this section contained shall entitle the patentee, or proprietor of the design or trade mark, to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade mark in this country, as the case may be:

- (2.) The publication in the United Kingdom, or the Isle of Man, during the respective periods aforesaid, of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or publication therein

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*Patents, Designs, and Trade Marks Act.*

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therein during such periods of a description or representation of the design, or the use therein during such periods of the trade mark, shall not invalidate the patent which may be granted for the invention, or the registration of the design or trade mark :

- (3.) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section must be made in the same manner as an ordinary application under this Act: Provided that in the case of trade marks, any trade mark, the registration of which has been duly applied for in the country of origin, may be registered under this Act :
- (4.) The provisions of this section shall apply only in the case of those Foreign States with respect to which Her Majesty shall from time to time by Order in Council declare them to be applicable, and so long only in the case of each State as the Order in Council shall continue in force with respect to that State :

And by the one hundred and fourth section of the said Act it is further enacted as follows, that is to say :—

- (1.) Where it is made to appear to Her Majesty that the Legislature of any British Possession has made satisfactory provision for the protection of inventions, designs, and trade marks, patented or registered in this country, it shall be lawful for Her Majesty from time to time, by Order in Council, to apply the provisions of the last preceding section, with such variations or additions (if any) as to Her Majesty in Council may seem fit, to such British Possession :
- (2.) An Order in Council under this Act shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act; but it shall be lawful for Her Majesty in Council to revoke any Order in Council made under this Act :

Be it enacted as follows :—

80. (1.) If Her Majesty is pleased by Order in Council to apply the provisions of the said one hundred and third section of the Imperial Act, called "*The Patents, Designs, and Trade Marks Act, 1833*," to the Colony of Queensland, then any person who has applied for protection for any invention, design, or trade mark in England or in any Foreign State, with the Government of which Her Majesty has made an arrangement under the said section for mutual protection of inventions, designs, or trade marks, or any of them, shall be entitled to a patent for his invention or to registration of his design or trade mark (as the case may be) under this Act, in priority to other applicants ;

International  
arrangements for  
protection of  
inventions, designs  
and trade marks.

*Patents, Designs, and Trade Marks Act.*

applicants ; and such patent or registration shall take effect from the same date as the date of the protection obtained in England or such Foreign State, as the case may be :

Provided that his application is made, in the case of a patent within twelve months, and in the case of a design or trade mark within six months, from his applying for protection in England or the Foreign State with which the arrangement is in force.

Provided that nothing in this section contained shall entitle the patentee or proprietor of the design or trade mark to recover damages for infringements happening prior to the date of the actual acceptance of his complete specification, or the actual registration of his design or trade mark in this colony, as the case may be.

(2.) The publication in Queensland, during the respective periods aforesaid of any description of the invention, or the use therein during such periods of the invention, or the exhibition or use therein during such periods of the design, or the publication therein during such periods of a description or representation of the design, or the use therein during such periods of the trade mark, shall not invalidate the patent which may be granted for the invention or the registration of the design or trade mark.

(3.) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section, must be made in the same manner as an ordinary application under this Act : Provided that, in the case of trade marks, any trade mark the registration of which has been duly applied for in the country of origin may be registered under this Act.

(4.) The provisions of this section shall in the case of Foreign states apply only in the case of those Foreign States with respect to which Her Majesty shall from time to time by Order in Council declare the provisions of the aforesaid section of the said Imperial Act to be applicable, and so long only in the case of each State as the Order in Council shall continue in force with respect to that State.

Provision for  
Colonies and India.

**81.** (1.) Where it is made to appear to the Governor in Council that the Legislature of any British Possession has made satisfactory provision for the protection of inventions, designs, and trade marks, or any of them patented or registered in Queensland, the Governor in Council may from time to time, by Order in Council, apply all or any of the provisions of the last preceding section relating to the protection of inventions, designs, and trade marks patented or registered in England, with such variations or additions, if any, as to the Governor in Council may seem fit, to inventions, designs, and trade marks, or any of them, patented or registered in such British Possession.

(2.) An Order in Council under this section shall, from a date to be mentioned for the purpose in the Order, take effect as if its provisions had been contained in this Act ; but it shall be lawful for the Governor in Council to revoke any such Order in Council.

PART

*Patents, Designs, and Trade Marks Act.*

## PART VI.

## GENERAL.

*Proceedings at Patent Office.*

**82.** There shall be a seal for the Patent Office, and impressions thereof shall be judicially noticed and admitted in evidence. Seal of Patent Office. *Ib.* s. 84.

**83.** There shall not be entered in any register kept under this Act, or be receivable by the registrar, any notice of any trust expressed, implied, or constructive. Trust not to be entered in registers. *Ib.* s. 85.

**84.** The registrar may refuse to recommend that a patent be granted for an invention, or to register a design or trade mark, of which the use would, in his opinion, be contrary to law or morality. Refusal to grant patent, &c., in certain cases. *Ib.* s. 86.

**85.** Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to the copyright in a registered design, or to a registered trade mark, the registrar shall on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the patent, copyright in the design, or trade mark, in the register of patents, designs, or trade marks, as the case may be. The person for the time being entered in the register of patents, designs, or trade marks as proprietor of a patent, copyright in a design or trade mark as the case may be, shall, subject to any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the same and to give effectual receipts for any consideration for such assignment, license, or dealing. Provided that any equities in respect of such patent, design, or trade mark may be enforced in like manner as in respect of any other personal property. Entry of assignments and transmissions in registers. *Ib.* s. 87.

**86.** Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed; and certified copies, sealed with the seal of the patent office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee. Inspection of and extracts from registers. *Ib.* s. 88.

**87.** Printed or written copies or extracts, purporting to be certified by the registrar and sealed with the seal of the patent office, of or from patents, specifications, disclaimers, and other documents in the patent office, and of or from registers and other books kept there, shall be admitted in evidence in all courts of justice, and in all proceedings, without further proof or production of the originals. Sealed copies to be received in evidence. *Ib.* s. 89.

88. (1.)

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*Patents, Designs, and Trade Marks Act.*

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Rectification of registers by Court.  
*Ib.* s. 90.

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

(2.) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3.) Any order of the Court rectifying a register shall direct that due notice of the rectification be given to the registrar.

Power for registrar to correct clerical errors.  
*Ib.* s. 91.

**89.** The registrar may, on request in writing accompanied by the prescribed fee,—

(a.) Correct any clerical error in or in connection with an application for a patent, or for registration of a design or trade mark; or

(b.) Correct any clerical error in the name, style, or address of the registered proprietor of a patent, design, or trade mark; or

(c.) Cancel the entry or part of the entry of a trade mark on the register: Provided that the applicant accompanies his request by a statutory declaration made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark.

Alteration of registered mark.  
*Ib.* s. 92.

**90.** (1.) The registered proprietor of any registered trade mark may apply to the Court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Act, and the Court may refuse or grant leave on such terms as it may think fit.

(2.) Notice of any intended application to the Court under this section shall be given to the registrar by the applicant; and the registrar shall be entitled to be heard on the application.

(3.) If the Court grants leave, the registrar shall, on proof thereof and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

Falsification of entries in registers.  
*Ib.* s. 93.

**91.** If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

92. Where

*Patents, Designs, and Trade Marks Act.*

**92.** Where any discretionary power is by this Act given to the registrar, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a trade mark or design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

Exercise of discretionary power by registrar.  
*Ib. s. 94.*

**93.** The registrar may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Minister for directions in the matter.

Power of registrar to take directions of Minister.  
*Ib. s. 95.*

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

Certificate of registrar to be evidence.  
*Ib. s. 96.*

**95.** (1.) Any application, notice, or other document authorised or required to be left, made, or given at the patent office or to the registrar, or to any other person under this Act, may be sent by a prepaid letter through the post; and if so sent shall be deemed to have been left, made, or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

Applications and notices by post.  
*Ib. s. 97.*

(2.) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

**96.** Whenever the last day fixed by this Act, or by any rule for the time being in force, for leaving any document or paying any fee at the patent office shall fall on Christmas Day, Good Friday, or on a Saturday or Sunday, or Bank holiday, or any day observed as a day of public fast or thanksgiving, herein referred to as excluded days, it shall be lawful to leave such document or to pay such fee on the day next following such excluded day, or days, if two or more of them occur consecutively.

Provision as to days for leaving documents at office.  
*Ib. s. 98.*

**97.** If any person is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act or by any rules made under the authority of this Act, then the guardian or committee (if any) of such incapable person, or if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person, and all acts done by such substitute shall for the purpose of this Act be as effectual as if done by the person for whom he is substituted.

Declaration by infant, lunatic, &c.  
*Ib. s. 99.*

98. (1.)

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*Patents, Designs, and Trade Marks Act.*

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Power for Governor in Council to make general rules for classifying goods and regulating business of patent office.  
\_b. s. 101.

**98.** (1.) The Governor in Council may from time to time make such general rules and do such things as they think expedient, subject to the provisions of this Act—

- (a.) For regulating the practice of registration under this Act;
- (b.) For classifying goods for the purposes of designs and trade marks;
- (c.) For making or requiring duplicates of specifications, amendment, drawings, and other documents;
- (d.) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Governor in Council think fit, of specifications, drawings, amendments, and other documents;
- (e.) For securing and regulating the making, printing, publishing and selling of indexes to, and abridgments of, specifications and other documents in the patent office; and providing for the inspection of indexes and abridgments and other documents;
- (f.) For regulating the presentation of copies of patent office publications to patentees and to public authorities, bodies, and institutions at home and abroad;
- (g.) Generally for regulating the business of the patent office, and all things by this Act placed under the direction or control of the registrar or of the Minister.

(2.) Any of the forms in the First Schedule to this Act may be altered or amended by rules made by the Governor in Council as aforesaid.

(3.) General rules may be made under this section at any time after the passing of this Act, but not so as to take effect before the commencement of this Act, and shall (subject as hereinafter mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(4.) Any rules made in pursuance of this section shall be published in the *Gazette*, and shall forthwith be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament.

(5.) If either House of Parliament, within the next forty days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

99. The

*Patents, Designs, and Trade Marks Act.*

**99.** The registrar shall, in every year, make a report respecting the execution by or under him of this Act which shall be laid before both Houses of Parliament, and therein shall be included for the year to which each report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.

Annual reports of registrar.  
*Ib.* s. 102.

*Offences.*

**100.** (1.) Any person who represents that any article sold by him is a patented article, when no patent has been granted for the same, or describes any design or trade mark applied to any article sold by him as registered which is not so, shall be liable for every offence on summary conviction to a fine not exceeding five pounds.

Penalty on falsely representing articles to be patented.  
*Ib.* s. 105.

(2.) A person shall be deemed, for the purposes of this enactment, to represent that an article is patented or a design or a trade mark is registered, if he sells the article with the word "patent," "patented," "registered," or any word or words expressing or implying that a patent or registration has been obtained for the article stamped, engraved, or impressed on, or otherwise applied to the article.

**101.** Any person who, without the authority of Her Majesty, or any of the Royal Family, or of the Governor, or of any Government Department, the proof whereof shall lie on him, assumes or uses in connexion with any trade, business, calling, or profession, the Royal arms, or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be liable on summary conviction to a fine not exceeding twenty pounds.

Penalty on unauthorised assumption of Royal arms.  
*Ib.* s. 106.

**102.** (1.) The registers of patents and of proprietors kept under any enactment repealed by this Act shall respectively be deemed parts of the same book as the register of patents kept under this Act.

Former registers to be deemed continued.  
*Ib.* s. 114.

(2.) The registers of trade marks kept under any enactment repealed by this Act shall be deemed parts of the same book as the register of trade marks kept under this Act.

**103.** Nothing in this Act shall take away, abridge, or pre-judicially affect the Prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

Saving of Prerogative.  
*Ib.* s. 116.

*Granting of patent is a matter of favor and not of right.*

SCHEDULES.



*Patents, Designs, and Trade Marks Act.*

17. sch. 3.

**SCHEDULES.**  
**THE FIRST SCHEDULE.**

Year and Number of Act.	Title of Act.	Extent of Repeal.
21 James I. c. 3. [1623.]	The Statute of Monopolies.	Sections ten, eleven, and twelve.
16 Victoria No. 24 ...	An Act to authorise the Governor, with the advice of the Executive Council, to grant Letters of Registration for all Inventions and Improvements in the Arts or Manufactures, to have the same effect as Letters Patent in England so far as regards the Colony.	The whole.
31 Victoria No. 36 ...	An Act to Amend the Law relating to Letters of Registration for Inventions and Improvements in the Arts or Manufactures by granting Provisional Certificates of Registration for a Limited Period.	The whole.
28 Victoria No. 5 ...	An Act to prevent the Fraudulent Marking of Merchandise and to provide for the Registration of Trade Marks.	Sections four, five, six, and seven.
29 Victoria No. 1 ...	An Act to Amend " <i>The Trade Marks Act of 1864.</i> "	The whole.

**THE SECOND SCHEDULE.**

17. sch. 1.

**FORMS OF APPLICATION, &c.**

**FORM A.**

**FORM OF APPLICATION FOR PATENT.**

(a) Here insert name, address, and calling of person making declaration.  
(b) Here insert title of invention.

I, (a) *John Smith, of 29, Brisbane street, Ipswich, in the Colony of Queensland, Engineer*, do solemnly and sincerely declare that [A.B. of \_\_\_\_\_ and] I am [or are] in possession of an invention for (b) "*Improvements in Sewing Machines;*" that I [or the said A.B.] am [or is] the true and first inventor thereof; and that the same is not in use by any other person or persons to the best of my knowledge and belief; and I humbly pray that a patent may be granted to me [or us] for the said invention.

And I make the above solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of "*The Oaths Act of 1867.*"

(c) Signature of inventor.

(c) John Smith.  
Declared at Ipswich, in the Colony of Queensland, this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_  
Before me,

(d) Signature and title of the officer before whom the declaration is made.

(d) James Adams,  
Justice of the Peace.

NOTE.—Where the above declaration is made out of Queensland, the words "and by virtue of '*The Oaths Act of 1867,*'" must be omitted; and the declaration must be made before a Justice of the Peace, or Commissioner for Affidavits for Queensland, or a British consular officer, or where it is not reasonably practicable to make it before such officer, then before a public officer duly authorised in that behalf.

**FORM**

*Patents, Designs, and Trade Marks Act.*

## FORM B.

## FORM OF PROVISIONAL SPECIFICATION.

*Improvements in Sewing Machines. (a)*

I, **(b) John Smith, of 29, Brisbane street, Ipswich, in the Colony of Queensland, Engineer,** do hereby declare the nature of my invention for "*Improvements in Sewing Machines,*" to be as follows (c):—

Dated this      day of      18 .

NOTE.—No stamp is required on this document.

(a) Here insert title as in declaration.

(b) Here insert name, address, and calling of applicants as in declaration.

(c) Here insert short description of invention.

(d) Signature of inventor.

(d) John Smith.

## FORM C.

## FORM OF COMPLETE SPECIFICATION.

*Improvements in Sewing Machines. (a)*

I, **(b) John Smith, of 29, Brisbane street, Ipswich, in the Colony of Queensland, Engineer,** do hereby declare the nature of my invention for "*Improvements in Sewing Machines,*" and in what manner the same is to be performed, to be particularly described and ascertained in and by the following statement (c):—

Having now particularly described and ascertained the nature of my said invention, and in what manner the same is to be performed, I declare that what I claim is (d),—

1.

2.

3., &c.

Dated this      day of      , 18 .

(a) Here insert title as in declaration.

(b) Here insert name, address, and calling of inventor, as in declaration.

(c) Here insert full description of invention.

(d) Here state distinctly the features of novelty claimed.

(e) John Smith. (e) Signature of inventor.

## FORM D.

## FORM OF PATENT.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith: To all to whom these presents shall come greeting:

Whereas *John Smith, of 29, Brisbane street, Ipswich, in the Colony of Queensland, Engineer,* hath by his solemn declaration represented unto us that he is in possession of an invention for "*Improvements in Sewing Machines,*" that he is the true and first inventor thereof, and that the same is not in use by any other person to the best of his knowledge and belief:

And whereas the said inventor hath humbly prayed that we would be graciously pleased to grant unto him (hereinafter together with his executors, administrators, and assigns, or any of them, referred to as the said patentee) our Royal Letters Patent for the sole use and advantage of his said invention:

And whereas the said inventor hath by and in his complete specification particularly described the nature of his invention:

And whereas we, being willing to encourage all inventions which may be for the public good, are graciously pleased to condescend to his request:

Know ye, therefore, that We, of our especial grace, certain knowledge, and mere motion, do, by these presents, for us, our heirs and successors, give and grant unto the said patentee our especial license, full power, sole privilege, and authority, that the said patentee by himself, his agents, or licensees, and no others, may at all times hereafter during the term of years herein mentioned, make, use, exercise, and vend the said invention within our Colony of Queensland, in such manner as to him or them may

seem

*Patents, Designs, and Trade Marks Act.*

(a) Date of application.

seem meet, and that the said patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention, during the term of fourteen years from the (a): And to the end that the said patentee may have and enjoy the sole use and exercise and the full benefit of the said invention, We do by these presents, for us, our heirs and successors, strictly command all our subjects whatsoever within our said Colony that they do not at any time during the continuance of the said term of fourteen years either directly or indirectly make use of or put in practice the said invention, or any part of the same, nor in anywise imitate the same, nor make or cause to be made any addition thereto or subtraction therefrom, whereby to pretend themselves the inventors thereof, without the consent, license, or agreement of the said patentee in writing under his hand and seal, on pain of incurring such penalties as may be justly inflicted on such offenders for their contempt of this our Royal command, and of being answerable to the patentee according to law for his damages thereby occasioned: Provided that these our letters patent are on this condition, that, if at any time during the said term it be made to appear to our Supreme Court of Queensland that this our grant is contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof within our said Colony, or that the said patentee is not the first and true inventor thereof within the said Colony as aforesaid, these our letters patent shall forthwith determine, and be void to all intents and purposes, notwithstanding anything hereinbefore contained: Provided also, that if the said patentee shall not pay all fees by law required to be paid in respect of the grant of these letters patent, or in respect of any matter relating thereto at the time or times, and in manner for the time being by law provided; and also if the said patentee shall not supply, or cause to be supplied, for our service all such articles of the said invention as may be required by the officers or commissioners administering any department of our service in such manner, at such times, and at and upon such reasonable prices and terms as shall be settled in manner for the time being by law provided, then, and in any of the said cases, these our letters patent, and all privileges and advantages whatever hereby granted, shall determine and become void, notwithstanding anything hereinbefore contained: Provided also that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as they may by law be granted: And lastly, we do by these presents for us, our heirs and successors, grant unto the said patentee that these our letters patent shall be construed in the most beneficial sense for the advantage of the said patentee. In witness whereof we have caused these our letters to be made patent this  
one thousand eight hundred and

Great Seal  
of the  
Colony.

FORM E.

FORM OF APPLICATION FOR REGISTRATION OF DESIGN.

day of

18 .

You are hereby requested to register the accompanying  
Design, in Class \_\_\_\_\_ in the name of (a)  
who claims to be the Proprietor thereof, and to return the same to  
Statement of nature of Design  
Registration Fees enclosed £ : :  
To the Registrar, Patent Office, Brisbane.  
(Signed)

(a) Here insert legibly the name and address of the individual or firm.

FORM

*Patents, Designs, and Trade Marks Act.*

FORM F.

FORM OF APPLICATION FOR REGISTRATION OF TRADE MARK.

(One representation to be fixed within this square, and two others on separate sheets of foolscap of same size.)

(Representations of a larger size may be folded, but must be mounted upon linen and affixed hereto.)

You are hereby requested to register the accompanying trade mark [*In Class* —  
*Iron in bars, sheets, and plates*; in *Class* — *Steam Engines and boilers*; and in *Class* —  
*Warming Apparatus*] in the name of (a) \_\_\_\_\_, who claims to be the  
 proprietor thereof.

(a) Here insert legibly the name, address, and business of the individual or firm.

Registration Fees enclosed £ : :

To the Registrar, Patent Office, Brisbane.

(Signed)

Note. — If the trade mark has been in use before the date of the passing of this Act, state length of use.

THE THIRD SCHEDULE.

*ib. sch. 2.f*

FEEs ON INSTRUMENTS FOR OBTAINING PATENTS, AND RENEWAL.

(a.) *Up to sealing.*

	£	s.	d.	£	s.	d.	Section 27.
On application for provisional protection ... ..	2	0	0				
On filing complete specification ... ..	3	0	0				
				5	0	0	
				5	0	0	
				5	0	0	

(b.) *Further before end of four years from date of patent.*

(c.) *Further*

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*Patents, Designs, and Trade Marks Act.*


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(c.) *Further before end of eight years from date of patent.*

On certificate of renewal ... ..										10	0	0
Or in lieu of the fees of £5 and £10 the following annual fees:—												
Before the expiration of the fourth year from the date of the patent	...									1	0	0
"          "          fifth                  "          "	...									1	0	0
"          "          sixth                  "          "	...									1	0	0
"          "          seventh                  "          "	...									1	0	0
"          "          eighth                  "          "	...									1	10	0
"          "          ninth                  "          "	...									1	10	0
"          "          tenth                  "          "	...									2	0	0
"          "          eleventh                  "          "	...									2	0	0
"          "          twelfth                  "          "	...									2	0	0
"          "          thirteenth                  "          "	...									2	0	0

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 14.

An Act to Amend "The Wages Act of 1870."

[ASSENTED TO 13TH OCTOBER, 1884.]

**W**HEREAS it is expedient to amend "*The Wages Act of 1870.*" Preamble.  
Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1.** From and after the passing of this Act, the provisions of 34 Vic., No. 16, to "*The Wages Act of 1870*" shall, *mutatis mutandis*, apply to and be apply to mines and miners. deemed to include mines and all buildings, works, and machinery used in connection therewith; and the word "mortgage" in the said Act shall be deemed to include any mortgage or bill of sale of any mine or building, works, or machinery used in connection therewith; and the word "miners" in "*The Masters and Servants Act of 1861*" shall mean and include all persons employed in and about any mine or in connection therewith.

Provided

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*Wages Act.*

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Provided that the mortgagee shall not be liable for any wages of a miner accrued more than one month prior to the date of such miner's first application for such wages to such mortgagee, or a like period previous to the date of such mortgagee having taken possession of the mine, buildings, work, or machinery, whichever of such dates shall have been first in time.

Short title.

2. This Act shall be read and construed with and as an amendment of "*The Wages Act of 1870*," and may be cited as "*The Wages Act, 1884*."

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.



No. 15.

An Act to Declare the Powers of Local Authorities with respect to imposing License Fees, Tolls, Rates, and Dues, and for other purposes.

[ASSENTED TO 13TH OCTOBER, 1884.]

**W**HEREAS doubts have arisen as to the power of Councils of Municipalities and Boards of Divisions to impose License-Fees in respect of Licenses granted by them, and to impose tolls, rates, and dues, for the use of roads, bridges, wharves, jetties, and markets, under their control, and it is expedient to remove such doubts: Be it enacted and declared by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. In this Act—

Interpretation.

The term "Local Government Acts" means "*The Local Government Act of 1878*," "*The Divisional Boards Act of 1879*," and "*The United Municipalities Act of 1881*," or any of them, and any Acts amending or in substitution for the same respectively;

The term "local authority" means and includes the Council of a Municipality, the Board of a Division, or the Joint-Board of a United Municipality.

2. Every



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*Local Authorities By-Laws Act.*

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Local authorities  
may impose fees for  
Licenses.

**2.** Every local authority constituted under the Local Government Acts is authorised and empowered to impose by By-law, and to collect, receive, and retain, reasonable fees or charges for and in respect of any license granted under any By-law which the local authority is by the Local Government Acts or otherwise authorised or empowered to make, and to impose in like manner, and to collect, receive, and retain, reasonable tolls, rates, and dues, for the use of roads, bridges, wharves, jetties, or markets, under the control of the local authority. Such rates or dues may be imposed in the form of taxes or charges upon vehicles passing over the roads of the local authority.

Validity of By-laws  
already made.

**3.** Any By-law heretofore made by a local authority which would have been valid if made after the passing of this Act is hereby declared to be and to have been valid.

Mode of making  
By-laws by Joint  
Boards in certain  
cases.

**4.** If any of the component municipalities of a United Municipality is a Municipality under the provisions of "*The Local Government Act of 1878*" By-laws made by the Joint-Board of such United Municipality must be made in the manner prescribed by that Act.

Short title.

**5.** This Act may be cited as "*The Local Authorities By-Laws Act of 1884.*"

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*Bill of Day & Co.  
29.12.1880.*

# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.



No. 16.

An **Act to Authorise the Appropriation out of the Consolidated Revenue Fund of Queensland of the sum of £200,000 towards the Service of the Year ending on the last day of June, 1885.**

[ASSENTED TO 17TH OCTOBER, 1884.]

**W**HEREAS we, your Majesty's most dutiful and loyal subjects, Preamble.  
the members of the Legislative Assembly of Queensland in  
Parliament assembled, have in the present Session of Parliament  
cheerfully granted to your Majesty the sum hereinafter mentioned  
towards the service of the year ending on the last day of June, One  
thousand eight hundred and eighty-five: And whereas we desire  
to make good out of the Consolidated Revenue Fund of Queensland  
the sum granted to your Majesty as aforesaid: Be it therefore  
enacted by the Queen's Most Excellent Majesty, by and with the  
advice

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*Appropriation Act, No. 2.*


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advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows :—

**Appropriation.**

**1.** In addition to the sum of Two hundred and fifty thousand pounds already applied to the service of the year ending on the last day of June, One thousand eight hundred and eighty-five, by "*The Appropriation Act of 1884-5, No. 1,*" of the present year, there shall, and may be issued and applied out of the Consolidated Revenue Fund of Queensland, a further sum of Two hundred thousand pounds for or towards making good the supplies granted to Her Majesty for the service of the year ending on the last day of June, One thousand eight hundred and eighty-five.

**Treasurer to pay moneys as directed by warrant.**

**2.** The Treasurer of the Colony shall issue and pay the sum above-named for the purpose aforesaid to such persons, upon such days, and in such proportions as the Governor, by any warrant or order in writing under his hand and directed to the said Treasurer, shall from time to time order and direct, and the payments so made shall be charged upon and payable out of the Consolidated Revenue Fund of the Colony.

**Treasurer to be allowed credit for sums paid in pursuance of warrant.**

**3.** The Treasurer shall, in his accounts, from time to time be allowed credit for any sum or sums of money paid by him in pursuance of such warrant or order in writing as aforesaid, and the receipt or receipts of the respective persons to whom the same shall be so paid shall be a full and valid discharge to the said Treasurer in passing his accounts for any such sum or sums as shall be therein mentioned, and he shall receive credit for the same accordingly.

**Short title.**

**4.** This Act may be cited as "*The Appropriation Act of 1884-5, No. 2.*"

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*H. B. Kelly.*

# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

No. 17.

An Act to Make better Provision for Securing and Maintaining the Public Health.

[ASSENTED TO 21ST OCTOBER, 1884.]

*Amended  
50 No. 41*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same as follows:—

### PART I.—PRELIMINARY.

1. This Act may be cited as "*The Health Act of 1884.*"

Short title.

2. This Act is divided into Parts as follows:—

Division of Act.

PART I.—PRELIMINARY;

PART II.—CENTRAL BOARD OF HEALTH;

PART III.—SANITARY PROVISIONS—SEWERAGE AND DRAINAGE;

PART IV.—REGULATION OF CELLAR DWELLINGS AND LODGING-HOUSES;

PART V.—NUISANCES AND FOOD;

PART VI.—INFECTIOUS DISEASES—HOSPITALS—PROVISIONS AGAINST INFECTION;

PART VII.—SLAUGHTER-HOUSES;

PART VIII.—OFFICERS AND CONDUCT OF BUSINESS;

PART IX.—EXPENSES;

PART X.—LEGAL PROCEEDINGS;

PART XI.—MISCELLANEOUS PROVISIONS

{3. In

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*Health Act.*


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## Definitions.

**3.** In this Act, unless the context otherwise requires, the following terms have the several meanings following, that is to say,—

- “Minister”—Means the Colonial Secretary, or other Minister charged for the time being with the performance of his duties;
- “Municipality”—Means a municipality constituted under “*The Local Government Act of 1878*,” or any Act amending or in substitution for that Act;
- “Division”—Means a division constituted under “*The Divisional Boards Act of 1879*,” or any Act amending or in substitution for that Act;
- “District”—Means any municipality, or division, or subdivision of either, in which this Act is in force;
- “Municipal District”—Means and includes any district which is a municipality, and any other district or part of a district which is declared by the Governor in Council, by Proclamation, to be a Municipal District for the purposes of this Act;
- “Local Authority”—Means the municipal or shire council or divisional board having jurisdiction within the district;
- “Municipal Authority”—Means the local authority of a municipal district;
- “Street”—Includes any highway, and any public bridge, and any road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not;
- “House”—Includes schools, also factories and other buildings in which persons are employed;
- “Drain”—Means any drain used for the drainage of one building only, or of premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed;
- “Sewer”—Includes sewers and drains of every description, except drains to which the word “drain” as above defined applies;
- “Slaughter-house”—Includes the buildings and places commonly called slaughter-houses, and any other building or place used for slaughtering cattle, sheep, pigs, or other animals of any description;
- “Board”—Means the Central Board of Health hereby constituted;
- “Surveyor”—Means the Surveyor appointed by the local authority;

“Health”

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- “Health Officer”—Means the Health Officer appointed by the local authority ;
- “Court of Summary Jurisdiction”—Means any justice or justices of the peace, police or other magistrate or officer, by whatever name called, to whom jurisdiction is given by “*The Summary Jurisdiction Acts*,” or any Acts therein referred to ;
- “Summary Jurisdiction Acts”—Means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled “*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*,” and any Acts amending or in substitution for the same.

4. “*The Health Act of 1872*” is hereby repealed.

Repeal of “*Health Act of 1872*.”

5. The provisions of the third and fourth Parts of this Act extend to, and are in force in, the Municipalities of

Brisbane,	Ipswich,	Sandgate,
Bundaberg,	Mackay,	Toowong,
Charters Towers,	Maryborough,	Toowoomba,
Cooktown,	Rockhampton,	Townsville, and
Gympie,	Roma,	Warwick,

and the Divisions of Booroodabin, Toombul, and Woolloongabba, so far as such provisions are respectively applicable thereto.

The Governor in Council may from time to time, by Proclamation, declare that all or any of the provisions of the said Parts of this Act shall be in force in any other Municipality or Division, or any Subdivision thereof.

Upon the publication of any such Proclamation the said Parts of this Act, or such provisions thereof as shall be declared in the Proclamation, shall extend to and be in force in the Municipality, Division, or Subdivision, mentioned therein.

Except as aforesaid this Act applies to the whole Colony.

The Governor in Council may nevertheless by Proclamation suspend the operation of any of the provisions of this Act in any District.

6. When any of the provisions of this Act are in force in any District, the provisions of “*The Local Government Act of 1878*,” and “*The Divisional Boards Act of 1879*,” and any Acts amending the same respectively, relating to the making of By-laws for dealing with any of the matters which are dealt with by the provisions of this Act so in force, shall, so far as such matters are dealt with by the provisions of this Act so in force, be suspended.

Repeal of provisions of Local Government Acts as to By-laws for matters dealt with under this Act.

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Provided that any By-laws made under the said Acts, or any of them, which would have been valid if they had been made under this Act, shall remain in force as if they had been made under this Act.

Districts and local authorities.

7. All districts shall, respectively, be subject to the jurisdiction of the local authorities of such districts, who shall have and may exercise the powers by this Act conferred upon them.

## PART II.—CENTRAL BOARD OF HEALTH.

Central Board of Health.

8. The Governor in Council may from time to time appoint any number of fit and proper persons, not more than seven, to be a Board for the purpose of superintending the operation of this Act. The Board so constituted shall be called "The Central Board of Health."

The Minister shall be *ex officio* a member and chairman of the Board. He shall have a vote, and in case of equality of votes shall have a casting vote.

Three members of the Board at the least shall be legally qualified medical practitioners.

Board may appoint officers.

9. The Board may from time to time, subject to the approval of the Governor in Council, appoint such officers and servants as they may deem necessary to assist them in carrying out the provisions of the Act, and every person so appointed shall be removable at the pleasure of the Board. The Board shall make appointments and orders in the execution of this Act by writing signed by them or a majority of them.

Meetings.

10. The Board shall hold their meetings at such times and places as the Minister may appoint, and the powers and duties vested in the Board may be exercised and executed at such meetings by a majority of the members of the Board.

In the absence of the Minister any other member of the Board may be chosen to preside, but he shall have only a casting vote.

*Inquiries by Board.*

Power of Board to direct inquiries.

11. The Board may from time to time cause to be made such inquiries as are directed by this Act and such other inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction, approval, or consent is required by this Act.

Orders as to costs of inquiries.

12. The Board may make orders as to the costs of inquiries or proceedings instituted by, or of appeals to, the Board under this Act, and as to the parties by whom, or the rates out of which, such costs shall be borne; and every such order when confirmed by the Governor in Council may be made a rule of the Supreme Court on the application of any person named therein.

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**13.** All orders made by the Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as the Board may direct. Orders of Board under this Act.

**14.** Inspectors of the Board shall, for the purposes of any inquiry directed by the Board, have, in relation to witnesses and their examination, and the production of papers and accounts, similar powers to those which Justices have under the Summary Jurisdiction Acts, and in relation to the inspection of places and matters required to be inspected, similar powers to those which the inspectors of local authorities have under this Act. Power of inspectors of Board.

*Power of Board to enforce Performance of Duty by defaulting Local Authority.*

**15.** Where complaint is made to the Board that a local authority has made default in enforcing any provisions of this Act which it is its duty to enforce, the Governor in Council on the recommendation of the Board, if satisfied after due inquiry that the local authority has been guilty of the alleged default, may make an order directing the local authority to perform its duty in the matter of such complaint, and limiting a time for such performance. Proceedings on complaint to Board of default of local authority.

If such duty is not performed within the time limited in the order, the order may be enforced by writ of *mandamus*, or the Board may appoint some person to perform the duty, and shall by order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the costs of the proceedings, shall be paid by the local authority in default; and any order made for the payment of such expenses and costs may be removed into the Supreme Court and be enforced in the same manner as if the same were an order of that Court.

Any person appointed under this section to perform the duty of a defaulting local authority shall, in the performance and for the purposes of such duty, have all the powers of such local authority other than (save as hereinafter provided) the powers of levying rates; and the Board may from time to time by order change any person so appointed.

*Cases of Emergency.*

**16.** In any case of emergency the Board or the Minister may exercise all or any of the powers by this Act conferred upon a local authority. In any such case the expenses incurred in the execution of such powers shall be paid out of the Consolidated Revenue Fund. Provision for cases of emergency.

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PART III.—SANITARY PROVISIONS—SEWERAGE AND DRAINAGE.

*Provisions as to Sewers and Drains.*

Sewers vested in local authority.

**17.** All existing and future sewers within any district, together with all buildings, works, materials, and things belonging thereto, except—

- (1.) Sewers made by any person for his own profit, or by any company for the profit of the shareholders; and
- (2.) Sewers made and used for the purpose of draining, preserving, irrigating, or otherwise improving, land;

shall vest in and be under the control of the local authority of the district.

Power to purchase sewers.

**18.** Any local authority may purchase or otherwise acquire from any person any sewer, or any right of making or of using or other right in or respecting a sewer (with or without any buildings, works, materials, or things belonging thereto) within their district, and any person may sell or grant to such authority any such sewer, right, or property belonging to him; and any purchase money paid by such authority in pursuance of this section shall be subject to the same trusts (if any) to which the sewer, right, or property, sold was subject.

But any person who, previously to the purchase of a sewer by the local authority, has acquired a right to use such sewer, shall be entitled to use the same, or any sewer substituted in lieu thereof, to the same extent as he would or might have done if the purchase had not been made.

Maintenance and making of sewers.

**19.** Every local authority shall keep in repair all sewers belonging to it, and shall cause to be made such sewers as may be necessary for effectually draining its district for the purposes of this Act.

Powers for making sewers.

**20.** A local authority may carry any sewer through, across, or under, any road, or any street or place laid out as or intended for a street, and also (subject to the provisions of "*The Public Works Lands Resumption Act of 1878*"), into, through, or under, any other lands within the district.

A local authority may also (subject to the provisions of this Act relating to sewage works beyond the district of a local authority, and to the provisions of the said last-mentioned Act) exercise beyond the district for the purpose of outfall or distribution of sewage all or any of the powers given by this section.

Alteration and discontinuance of sewers.

**21.** A local authority may from time to time enlarge, lessen, alter the course of, cover in, or otherwise improve, any sewer belonging to it, and may discontinue, close up, or destroy, any such sewer that has in its opinion become unnecessary, on condition of providing a sewer

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sewer as effectual for the use of any person who may be deprived in pursuance of this section of the lawful use of any sewer. Provided that the discontinuance, closing up, or destruction of any sewer shall be so done as not to create a nuisance.

**22.** Every local authority shall cause the sewers belonging to it to be constructed, covered, ventilated, and kept, so as not to be a nuisance or injurious to health, and to be properly cleansed and emptied. Cleansing sewers.

**23.** A local authority may, if it thinks fit, provide a map exhibiting a system of sewerage for effectually draining the district, and shall, whenever any covered sewer is made by it in its district, provide a map indicating the position of every such sewer; and all such maps shall be kept at the office of the local authority, and shall at all reasonable times be open to the inspection of the ratepayers of the district. Map of system of sewerage.

**24.** The owner or occupier of any premises within the district of a local authority shall be entitled to cause his drains to empty into the sewers of the local authority on condition of his giving such notice as may be required by the local authority of his intention so to do, and of complying with the regulations of the local authority in respect of the mode in which the communications between such drains and sewers are to be made, and subject to the control of any person who may be appointed by the local authority to superintend the making of such communications. Power of owners and occupiers within district to drain into sewers of local authority.

Any person causing a drain to empty into a sewer of a local authority without complying with the provisions of this section shall be liable to a penalty not exceeding twenty pounds, and the local authority may close any communication between a drain and sewer made in contravention of this section, and may recover in a summary manner from the person so offending any expenses incurred by them under this section.

**25.** The owner or occupier of any premises beyond the district of a local authority may cause any sewer or drain from such premises to communicate with any sewer of the local authority on such terms and conditions as may be agreed on between such owner or occupier and such local authority, or as in case of dispute may be settled, at the option of the owner or occupier, by a court of summary jurisdiction or by arbitration in manner provided by this Act. Use of sewers by owners and occupiers beyond district.

**26.** Where any house within the district of a local authority is without a drain sufficient for effectual drainage, the local authority may by written notice require the owner or occupier of such house, within a reasonable time therein specified, to make a drain or drains emptying Power of local authority to enforce drainage of undrained houses.

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emptying into any sewer which the local authority is entitled to use, and which is not more than three hundred feet from the site of such house; or, if no such means of drainage are within that distance, then emptying into such covered place within that distance, and not being under any house, as the local authority directs; and the local authority may require any such drain or drains to be of such materials and size, and to be laid at such level and with such fall, as, on the report of the surveyor, may appear to the local authority to be necessary.

If such notice is not complied with, the local authority may, after the expiration of the time specified in the notice, do the work required, and may recover in a summary manner the expenses incurred by it in so doing from the owner.

Provided that where, in the opinion of the local authority, greater expense would be incurred in causing the drains of two or more houses to empty into an existing sewer pursuant to this section than in constructing a new sewer and causing such drains to empty therein, the local authority may construct such new sewer and require the owners or occupiers of such houses to cause their drains to empty therein, and may apportion as it deems just the expenses of the construction of such sewer among the owners of the several houses, and may recover from such owners in a summary manner the sums so apportioned.

Power of local authority to require houses to be drained into new sewers.

**27.** Where any house within the district of a local authority has a drain communicating with any sewer, which drain though sufficient for the effectual drainage of the house is not adapted to the general sewerage system of the district, or is in the opinion of the local authority otherwise objectionable, the local authority may, on condition of providing a drain or drains equally effectual for the drainage of the house, and communicating with such other sewer as it thinks fit, close such first-mentioned drain, and may do any works necessary for that purpose; and the expense of those works, and of the construction of any drain or drains provided by the local authority under this section, shall be deemed to be expenses properly incurred by the local authority in the execution of this Act.

Penalty on building house without drains in municipal district.

**28.** It shall not be lawful in any municipal district to erect any house, or to rebuild any house which has been pulled down to or below the ground floor, or to occupy any house so erected or rebuilt, unless and until a drain or drains is or are constructed, of such size and materials, and at such level, and with such fall, as on the report of the surveyor may appear to the local authority to be necessary for the effectual drainage of such house.

The drain or drains so to be constructed shall empty into some sewer which the local authority is entitled to use, and which is within three hundred feet of some part of the site of the house to be built or rebuilt;

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rebuilt; or, if no such means of draining are within that distance, shall empty into such covered place within that distance, not being under any house, as the local authority directs.

Any person who causes any house to be erected or rebuilt, or any drain to be constructed, contrary to the provisions of this section shall be liable to a penalty not exceeding fifty pounds.

**29.** Any person who in any municipal district without the written consent of the local authority—

- (1.) Causes any building to be newly erected over any sewer of the local authority; or
- (2.) Causes any vault, arch, or cellar, to be newly built or constructed under any street;

Penalty on unauthorised building over sewers and under streets in municipal district.

shall forfeit to the local authority the sum of five pounds and a further sum of forty shillings for every day during which the offence is continued after written notice from the local authority.

A local authority may cause any building, vault, arch, or cellar, erected or constructed contrary to the provisions of this section, to be altered, pulled down, or otherwise dealt with as it thinks fit, and may recover in a summary manner from the offender any expenses incurred by the local authority in so doing.

*Disposal of Sewage.*

**30.** For the purpose of receiving, storing, disinfecting, distributing, or otherwise disposing of, sewage, any local authority may—

Powers for disposing of sewage.

- (1.) Construct any works within the district, or (subject to the provisions of this Act as to sewage works beyond the district of the local authority) beyond the district;
- (2.) Contract for the use of, purchase, or take on lease, any land, buildings, engines, materials, or apparatus either within or beyond the district;
- (3.) Make contracts for the supply of sewage to any person for any period not exceeding twenty-five years, and as to the execution and costs of works, either within or beyond the district, for the purposes of such supply.

Provided that no nuisance shall be created in the exercise of any of the powers conferred by this section. //

**31.** The local authority of any district may, by agreement with the local authority of any adjoining district, and with the sanction of the Board, cause its sewers to communicate with the sewers of the local authority of such adjoining district, in such manner and on such terms and subject to such conditions as may be agreed on between the local authorities, or, in case of dispute, may be settled by the Board.

Power to agree for communication of sewers with sewers of adjoining district.

Provided

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Provided that, so far as practicable, storm-waters shall be prevented from flowing from the sewers of the first-mentioned local authority into the sewers of the last-mentioned local authority, and that the sewage of other districts or places shall not be permitted by the first-mentioned local authority to pass into its sewers so as to be discharged into the sewers of the last-mentioned local authority without the consent of such last-mentioned local authority.

Power to deal with land appropriated to sewage purposes.

**32.** A local authority may deal with any lands held by it for the purpose of receiving, storing, disinfecting, or distributing, sewage, in such manner as it deems most profitable, either by leasing the same for a period not exceeding twenty-one years for agricultural purposes, or by contracting with some person to take the whole or a part of the produce of such land, or by farming such land and disposing of the produce thereof, subject to this restriction, that in dealing with land for any of the above purposes provision shall be made for effectually disposing of all the sewage brought to such land without creating a nuisance.

Contribution to works under agreement for supply or distribution of sewage.

**33.** Where a local authority agrees with any person as to the supply of sewage or as to works to be made for the purpose of such supply, the local authority may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement.

*As to Sewage Works beyond a District.*

Notice to be given before commencing sewage works beyond a district.

**34.** A local authority shall, three months at least before commencing the construction or extension of any sewer or other work for sewage purposes beyond its district, give notice of the intended work by advertisement in one or more of the local papers circulated within the district where the work is to be done.

Such notice shall describe the nature of the intended work, and shall state the intended termini thereof, and particulars of the roads and streets and other lands (if any), through, across, under, or on, which the work is to be done, and shall name a place where a plan of the intended work is open for inspection at all reasonable hours; and a copy of such notice shall be served on the owners or reputed owners, lessees or reputed lessees, and occupiers, of the lands, and on the local authority having the care of such roads or streets.

In case of objection works not to be commenced without sanction of Governor in Council.

**35.** If any such owner, lessee, or occupier, or any such local authority, or any other owner, lessee, or occupier, who would be affected by the intended work, objects to such work, and serves notice, in writing, of such objection on the local authority at any time within the period of three months, the intended work shall not be commenced without the sanction of the Governor in Council, after such inquiry as hereinafter mentioned, unless such objection is withdrawn.

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**36.** The Governor in Council may, on application of the local authority, appoint an inspector to make inquiry on the spot into the propriety of the intended work and into the objections thereto, and to report to the Minister on the matters with respect to which such inquiry was directed; and on receiving the report of such inspector the Governor in Council may make an order disallowing the intended work, or allowing it with such modifications (if any) as he may deem necessary.

Inspector to hold inquiry, and report to Minister.

*Privies, Water-closets, Etc.*

**37.** It shall not be lawful to erect any house, or to rebuild any house pulled down to or below the ground floor, without providing for such house, a sufficient water-closet, earth-closet, or privy, so constructed as to secure privacy.

Penalty on building houses without privy accommodation.

Any person who causes any house to be erected or rebuilt in contravention of this enactment shall be liable to a penalty not exceeding twenty pounds.

**38.** If a house within the district of a local authority appears to such local authority by the report of its surveyor or inspector of nuisances to be without a sufficient water-closet, earth-closet, or privy, so constructed as to secure privacy, the local authority shall, by written notice, require the owner or occupier of the house, within a reasonable time therein specified, to provide a sufficient water-closet, earth-closet, or privy, constructed as aforesaid.

Power of local authority to enforce provision of privy accommodation for houses.

If such notice is not complied with, the local authority may, at the expiration of the time specified in the notice, do the work thereby required to be done, and may recover in a summary manner from the owner the expenses incurred in so doing. Provided that where a water-closet, earth-closet, or privy, has been and is used in common by the inmates of two or more houses, or if in the opinion of the local authority a water-closet, earth-closet, or privy, may be so used, the local authority need not require the same to be provided for each house.

**39.** A local authority may itself undertake or contract with any person to undertake to supply dry earth or other deodorising substances to any house within the district for the purpose of any earth-closet.

As to earth-closets.

The term "earth-closet" includes any place for the reception and deodorisation of fæcal matter, constructed to the satisfaction of the local authority.

**40.** Where it appears to any local authority by the report of the surveyor that any house is used or intended to be used as a factory or building in which persons of both sexes are employed or intended to be employed

Privy accommodation for factories.

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employed at one time in any manufacture, trade, or business, the local authority may, if it thinks fit, by written notice require the owner or occupier of such house, within the time therein specified, to construct a sufficient number of water-closets, earth-closets, or privies, for the separate use of each sex.

Any person who neglects or refuses to comply with any such notice shall be liable for each default to a penalty not exceeding twenty pounds, and to a further penalty not exceeding forty shillings for every day during which the default is continued.

Public necessities.

**41.** Any local authority may, if it thinks fit, provide and maintain in proper and convenient situations urinals, water-closets, earth-closets, privies, and ash-pits, and other similar conveniences for public accommodation.

Drains, privies, etc.,  
to be properly kept.

**42.** Every local authority shall provide that all drains, water-closets, earth-closets, privies, ash-pits, and cesspools, within the district be constructed and kept so as not to be a nuisance or injurious to health.

A local authority may make by-laws for regulating the construction and situation of drains, water-closets, earth-closets, privies, ash-pits, and cesspools.

Examination of  
drains, privies, etc.

**43.** (1.) A surveyor or inspector of nuisances of a local authority, if he has reason to suspect that any drain, water-closet, earth-closet, privy, ash-pit, or cesspool, on or belonging to any premises within the district is a nuisance or injurious to health, may, after twenty-four hours' written notice to the occupier of the premises, or in case of emergency without notice, enter the premises, with or without assistants, and cause the ground to be opened, and examine such drain, water-closet, earth-closet, privy, ash-pit, or cesspool.

(2.) If the drain, water-closet, earth-closet, privy, ash-pit, or cesspool, on examination is found to be in proper condition, the surveyor or inspector of nuisances shall cause the ground to be closed, and any damage done to be made good as soon as can be, and the expenses of the works shall be defrayed by the local authority.

(3.) If the drain, water-closet, earth-closet, privy, ash-pit, or cesspool, on examination appears to be in bad condition, or to require alteration or amendment, the local authority shall forthwith cause notice in writing to be given to the owner or occupier of the premises, requiring him forthwith, or within a reasonable time therein specified, to do the necessary works.

(4.) If the notice is not obeyed, the person to whom it is given shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default, and the local authority may if it thinks fit execute such works, and may recover in a summary manner from the owner the expenses incurred in so doing.

*Scavenging,*

*Health Act.**Scavenging, Cleansing.—Regulations as to Streets and Houses.*

**44.** (1.) A local authority may, and when required by order of the Governor in Council on the recommendation of the Board shall, itself undertake or contract for the removal of house refuse from premises, the cleansing of earth-closets, privies, ashpits, and cesspools, and the proper cleansing of streets, either for the whole or any part of the district.

Local authorities to provide for cleansing of streets and removal of refuse.

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(2.) All matters collected by the local authority or contractor in pursuance of this section may be sold or otherwise disposed of, and any profits received by a local authority from such sale or disposition shall be carried to the account of the fund or rate applicable for the general purposes of this Act.

(3.) If any person removes or obstructs a local authority or contractor in removing any matters by this section authorised to be removed by the local authority, he shall for each offence be liable to a penalty not exceeding five pounds. Provided that the occupier of a house within the district shall not be liable to such penalty in respect of any matters which are produced on his own premises and are intended to be removed for sale or for his own use, and are in the meantime kept so as not to be a nuisance.

**45.** If a local authority which has itself undertaken or contracted for the removal of house refuse from premises, or the cleansing of earth-closets, privies, ash-pits, and cesspools, fails, without reasonable excuse, after notice in writing from the occupier of any house within the district requiring the local authority to remove any house refuse or to cleanse any earth-closet, privy, ash-pit, or cesspool, belonging to such house or used by the occupiers thereof, or to cause the same to be removed or cleansed, as the case may be, within seven days, the local authority shall be liable to pay to the occupier of such house a penalty not exceeding five shillings for every day during which such default continues after the expiration of that period.

Penalty on neglect of local authority to remove refuse, etc.

**46.** When a local authority does not itself undertake or contract for—

Power of local authority to make by-laws imposing duty of cleansing etc., on occupier.

The cleansing of footways and pavements adjoining any premises ;

The removal of house refuse from any premises ; or

The cleansing of earth-closets, privies, ash-pits, and cesspools, belonging to any premises ;

it may make by-laws imposing the duty of such cleansing or removal, at such intervals as the local authority thinks fit, on the occupier of any such premises.

A local authority may also make by-laws for the prevention of nuisances arising from filth, dust, ashes, and rubbish, and for preventing the keeping of animals on any premises so as to be injurious to health.

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Power to provide receptacles for deposit of rubbish.

**47.** A local authority may, if it thinks fit, provide in proper and convenient situations receptacles for the temporary deposit and collection of dust, ashes, and rubbish; it may also provide fit buildings and places, either within or beyond the district, for the deposit of any matters collected by it in pursuance of this part of this Act.

Houses unfit for habitation, if not purified or repaired may be pulled down.

**48.** Where, on the certificate of the health officer, it appears to a local authority that any house is unfit by reason of its filthy or dilapidated condition or improper construction to be used as a dwelling or otherwise occupied, the local authority may give notice in writing to the owner or occupier of such house to purify or repair or alter the same so as to render it fit for human habitation or occupation.

If the person to whom the notice is given fails to comply therewith within the time therein specified, he shall be liable to a penalty of ten shillings per day for every day during which such default continues; and the local authority may, if it thinks fit, direct the house to be pulled down or destroyed.

Houses to be purified on certificate of officer of health or of two medical practitioners.

**49.** Where, on the certificate of the health officer or of any two medical practitioners, it appears to a local authority that any house or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing, cleansing, or purifying of any house or part thereof would tend to prevent or check infectious disease, the local authority shall give notice in writing to the owner or occupier of such house or part thereof to whitewash, cleanse, or purify the same, as the case may require.

If the person to whom notice is so given fails to comply therewith within the time therein specified, he shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default; and the local authority may, if it thinks fit, cause such house or part thereof to be whitewashed, cleansed, or purified, and in the meantime to be vacated, and may recover in a summary manner the expenses incurred by them in so doing from the person in default.

Penalty in respect of certain nuisances on premises.

**50.** Any person who—

- (1.) Keeps any swine or pig-stye in any dwelling-house, or in any place forbidden by any by-law of the local authority, or keeps any swine or pig-stye in any place so as to be a nuisance to any person; or
- (2.) Suffers any waste or stagnant water to remain in any place for twenty-four hours after written notice to him from the local authority to remove the same; or
- (3.) Allows

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- (3.) Allows the contents of any water-closet, privy, or cesspool, to overflow or soak therefrom; or
- (4.) Allows any waste water to run from any premises so as to cause an offensive smell;

shall, for every such offence, be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding five shillings for every day during which the offence is continued; and the local authority shall abate or cause to be abated every such nuisance, and may recover, in a summary manner, the expenses incurred in so doing from the occupier of the premises on which the nuisance exists.

*Offensive Ditches and Collections of Matter.*

51. Where any watercourse or open ditch lying near to or forming the boundary between the district of a local authority and any adjoining district is foul and offensive, so as injuriously to affect the district of such local authority, any justice having jurisdiction in such adjoining district may, on the application of such local authority, summon the local authority of such adjoining district, whether this Part of this Act is in force in that district or not, to appear before a court of summary jurisdiction to show cause why an order should not be made by such court for cleansing such watercourse or open ditch, and for executing such permanent or other structural works as may appear to such court to be necessary.

Provision for obtaining order for cleansing offensive ditches lying near to or forming the boundaries of districts.

The court, after hearing the parties, or in the absence of the local authority so summoned, if it does not appear, may make such order with reference to the execution of the works, and the persons or authorities by whom the same shall be executed, and by whom and in what proportions the costs of such works shall be paid, and also as to the amount thereof and the time and the mode of payment, as to such court may seem reasonable.

52. Where in any municipal district it appears to the inspector of nuisances that any accumulation of manure, dung, soil, or filth, or other offensive or noxious matter, ought to be removed, he shall give notice to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove the same.

Removal of filth, on certificate of inspector of nuisances.

If such notice is not complied with within twenty-four hours from the service thereof, the manure, dung, soil, filth, or matter referred to, shall be vested in and be removed sold or disposed of by the local authority, and the proceeds thereof shall be applied in payment of the expenses incurred in the execution of the provisions of this section, and the surplus (if any) shall be paid on demand to the owner of the matter removed.

The expenses of removal by the local authority of any such accumulation, if and so far as they are not covered by the sale thereof, may

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may be recovered by the local authority in a summary manner from the person to whom the accumulation belongs, or from the occupier of the premises, or (where there is no occupier) from the owner.

Periodical removal of manure from mews and other premises.

**53.** Notice may be given by any local authority (by public announcement in the district or otherwise) requiring the periodical removal of manure or other refuse matter from mews, stables, or other premises.

When any such notice has been given, any person to whom the manure or other refuse matter belongs who fails so to remove the same, or permits a further accumulation, and does not continue such periodical removal at such intervals as the local authority directs, shall be liable without further notice to a penalty not exceeding twenty shillings for each day during which such manure or other refuse matter is permitted to accumulate.

**PART IV.—REGULATION OF CELLAR DWELLINGS AND LODGING-HOUSES.**

*Occupation of Cellar Dwellings.*

Prohibition of occupying cellar dwellings.

**54.** It shall not be lawful to let or occupy or suffer to be occupied as a dwelling any cellar (including, for the purposes of this Act, in that expression any vault or underground room).

Definition of occupying as a dwelling.

Any cellar in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this Act.

Penalty on persons offending against enactment.

**55.** Any person who lets, occupies, or knowingly suffers to be occupied as a dwelling any cellar, shall be liable for every such offence to a penalty not exceeding twenty shillings for every day during which the cellar continues to be so let or occupied after notice in writing from the local authority to discontinue such letting or occupation.

Power to close cellar in case of two convictions.

**56.** Where two convictions against the provisions of this Act relating to the occupation of a cellar as a dwelling have taken place within three months (whether the persons so convicted were or were not the same), a court of summary jurisdiction may direct the closing of the cellar so occupied for such time as it may deem necessary, or may empower the local authority permanently to close the same, and to defray any expenses incurred by it in so doing.

*Common Lodging-houses.*

Registers of common lodging-houses to be kept.

**57.** Every local authority shall keep a register in which shall be entered the names and residences of the keepers of all common lodging-houses within the district of such local authority, and the situation of every such house, and the number of lodgers authorised under this Act by the local authority to be received therein.

A copy

*Health Act.*

A copy of any entry in the register, certified by the clerk of the local authority to be a true copy, shall be received as evidence in all courts, and shall be sufficient proof of the matter registered, without production of the register or of any document or thing on which the entry is founded; and a certified copy of any such entry shall be supplied gratis by the clerk of the local authority to any person applying at a reasonable time for the same.

**58.** A person shall not keep a common lodging-house or receive a lodger therein, unless the house is registered in accordance with the provisions of this Act, nor unless his name as the keeper thereof is entered in the register: Provided that on the death of a person so registered his widow or any member of his family may continue to keep the house as a common lodging-house for not more than four weeks after his death, without being registered as the keeper thereof.

All common lodging-houses to be registered, and to be kept only by registered keepers.

**59.** A house shall not be registered as a common lodging-house until it has been inspected and approved for the purpose by some officer of the local authority.

Local authority may refuse to register houses.

The local authority may refuse to register as the keeper of a common lodging-house a person who does not produce to the local authority a certificate of character, in such form as the local authority directs, signed by three inhabitant householders of the district within which the lodging-house is situated, or a person who is in the opinion of the local authority an unfit person to keep a common lodging-house.

**60.** The keeper of every common lodging-house shall, if required in writing by the local authority so to do, affix and keep undefaced and legible a notice with the words "Registered Common Lodging-House" in some conspicuous place on the outside of such house.

Notice of registration to be affixed to houses.

The keeper of any such house who, after being required in writing by the local authority so to do, refuses or neglects to affix or renew such notice shall be liable to a penalty not exceeding five pounds, and to a further penalty of ten shillings for every day that such refusal or neglect continues after conviction.

**61.** A local authority may from time to time make by-laws—

By-laws to be made by local authority.

- (1.) For fixing, and from time to time varying, the number of lodgers who may be received into a common lodging-house, and for the separation of the sexes therein;
- (2.) For promoting cleanliness and ventilation therein;
- (3.) For enforcing the giving of notices, and the taking of precautions, in the case of any infectious disease occurring in a common lodging-house; and
- (4.) Generally for the good conduct of common lodging-houses.

**62.** Where

*Health Act.*

Power to local authority to require supply of water to houses.

**62.** Where it appears to a local authority that a common lodging-house is without a proper supply of water for the use of the lodgers, and that such a supply can be furnished thereto at a reasonable rate, the local authority may, by notice in writing, require the owner or keeper of such house, within a time specified therein, to obtain such supply and to do all works necessary for that purpose; and if the notice is not complied with accordingly the local authority may remove such house from the register until it is complied with.

Limewashing of houses.

**63.** The keeper of a common lodging-house shall, from time to time when required by the local authority, limewash the walls and ceilings thereof, and shall, if he fails to do so, be liable to a penalty not exceeding forty shillings for every day during which he so fails.

Keepers to give notice of fever, etc., therein.

**64.** The keeper of a common lodging-house shall, when a person in such house is ill of fever or any infectious disease, give immediate notice thereof to the health officer of the local authority.

As to inspection.

**65.** The keeper of a common lodging-house, and every other person having or acting in the care or management thereof, shall, at all times when required by any officer of the local authority, give him free access to such house or any part thereof; and any such keeper or person who refuses such access shall be liable to a penalty not exceeding five pounds.

Offences by keepers of houses.

**66.** Any keeper of a common lodging-house who—

- (1.) Receives any lodger in such house while the same is not registered under this Act; or
- (2.) Fails to give the notices required by this Act when any person in such house is ill of fever or other infectious disease;

shall be liable to a penalty not exceeding five pounds, and in the case of a continuing offence to a further penalty not exceeding forty shillings for every day during which the offence continues.

Conviction for third offence to disqualify persons from keeping common lodging-house.

**67.** When the keeper of a common lodging-house is convicted of a third or subsequent offence against any of the provisions of this Act relating to common lodging-houses, the court before which the conviction for such third or subsequent offence takes place may, if it think fit, adjudge that he shall not keep a common lodging-house at any time within five years after the conviction, or within such shorter period after the conviction as the court thinks fit; and any such judgment shall be observed.

Interpretation of common lodging-house.

**68.** For the purposes of this Act the expression "common lodging-house" includes, in any case in which only part of a house is used as a common lodging-house, the part of such house so used.

*By-laws*

*Health Act.**By-laws as to Houses Let in Lodgings.*

**69.** The Governor in Council may, by Proclamation, declare Governor in Council may empower local authority to make by-laws as to lodging-houses. the following enactment to be in force within the district or any part of the district of a local authority, and from and after the publication of such Proclamation such enactment shall be in force in the district or part of a district mentioned in the Proclamation, that is to say:—

A local authority may make by-laws—

- (1.) For fixing, and from time to time varying, the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family, and for the separation of the sexes in a house so let or occupied;
- (2.) For the registration of houses so let or occupied;
- (3.) For the inspection of such houses;
- (4.) For enforcing drainage and the provision of privy accommodation for such houses, and for promoting cleanliness and ventilation in such houses;
- (5.) For the cleansing and limewashing at stated times of the premises, and for the paving of the courts and courtyards thereof;
- (6.) For the giving of notices and the taking of precautions in case of any infectious disease occurring in any such house.

*Evidence in cases of Lodging-houses.*

**70.** If in any proceedings for a breach of any of the provisions of this Act or of any by-laws made thereunder, relating to common lodging-houses or houses let in lodgings, it is alleged that any inmates of any house or part of a house are members of the same family, the burden of proving such allegation shall lie on the person making it. Evidence as to family in proceedings.

## PART V.—NUISANCES AND FOOD.

- 71.** (1.) Any premises in such a state as to be a nuisance or injurious to health; Definition of nuisances.
- (2.) Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ash-pit, so foul or in such a state as to be a nuisance or injurious to health;
  - (3.) Any animal so kept as to be a nuisance or injurious to health;
  - (4.) Any accumulation or deposit which is a nuisance or injurious to health;
  - (5.) Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of the same family;
  - (6.) Any

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(6.) Any factory, workshop, or workplace, not kept in a cleanly state, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities, generated in the course of the work carried on therein, that are a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of persons employed therein; and

(7.) Any chimney (not being the chimney of a private dwelling-house) sending forth smoke in such a quantity as to be a nuisance;

shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by this Act.

Provided that:—

A penalty shall not be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on any business or manufacture, if it is proved to the satisfaction of the court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best available means have been taken for preventing injury thereby to public health:

Duty of local authority to inspect district for detection of nuisances.

**72.** It shall be the duty of every local authority to cause inspection to be made of the district from time to time with a view to ascertain what nuisances exist calling for abatement under the powers of this Act, and to enforce the provisions of this Act in order to abate the same.

Information of nuisances to local authority.

**73.** Information of nuisances under this Act in the district of a local authority may be given to the local authority by any person aggrieved thereby, or by any two inhabitant householders of such district, or by any officer of the local authority, or by any constable or officer of police.

Local authority to serve notice requiring abatement of nuisance.

**74.** On the receipt of any information respecting the existence of a nuisance the local authority shall, if satisfied of the existence of a nuisance, serve a notice on the person by whose act, default, or sufferance the nuisance arises or continues, or, if such person cannot be found, on the owner or occupier of the premises on which the nuisance arises, requiring him to abate the same within a time to be specified in the notice, and to execute such works and do such things as may be necessary for that purpose.

Provided

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Provided as follows:—

- (a.) When the nuisance arises from the want of any structural convenience or defective construction of any building, or where there is no occupier of the premises, notice under this section shall be served on the owner :
- (b.) When the person causing the nuisance cannot be found, and it is clear that the nuisance does not arise or continue by the act, default, or sufferance of the owner or occupier of the premises, the local authority may themselves abate the same without order.

**75.** If the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the notice, is in the opinion of the local authority likely to recur on the same premises, the local authority shall cause a complaint relating to such nuisance to be made before a justice, and such justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before a court of summary jurisdiction.

On non-compliance with notice, complaint to be made to justice.

**76.** If the court is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, the court shall make—

Power of court to make order dealing with nuisance.

- (a.) An order requiring such person to comply with all or any of the requisitions of the notice, or otherwise to abate the nuisance within a time specified in the order, and to do any works necessary for that purpose ; or
- (b.) An order prohibiting the recurrence of the nuisance, and directing the execution by such person of any works necessary to prevent the recurrence ; or
- (c.) An order both requiring abatement and prohibiting the recurrence of the nuisance.

The court may by the order impose a penalty not exceeding five pounds on the person on whom the order is made, and shall give directions as to the payment of all costs incurred up to the time of the hearing or making the order for abatement or prohibition of the nuisance.

**77.** Where the nuisance proved to exist is such as to render a house or building, in the judgment of the court, unfit for human habitation, the court may prohibit the using thereof for that purpose until in its judgment the house or building is rendered fit for that purpose ; and on the court being satisfied that it has been rendered fit for that purpose, the court may vary its previous order by another declaring the house or building habitable, and from the date thereof such house or building may be let or inhabited.

Order of prohibition in case of house unfit for human habitation.

**78.** Any



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Penalty for  
contravention of  
order of court.

**78.** Any person not obeying an order to comply with the requisitions of the local authority, or otherwise to abate the nuisance, shall, unless he satisfies the court that he has used all due diligence to carry out such order, be liable to a penalty not exceeding ten shillings for every day during which his default continues.

Any person who knowingly and wilfully disobeys an order of prohibition shall be liable to a penalty not exceeding twenty shillings for every day during which such disobedience continues.

The local authority may enter the premises to which any order relates, and abate the nuisance, and do whatever may be necessary in execution of such order, and recover in a summary manner the expenses incurred by them from the person against whom the order is made.

In certain cases order  
may be addressed to  
local authority.

**79.** Whenever it appears to the satisfaction of the court of summary jurisdiction that the person by whose act or default the nuisance arises, or the owner or occupier of the premises is not known or cannot be found, then the order of the court may be addressed to and executed by the local authority.

Power to sell manure  
&c.

**80.** Any matter or thing removed by a local authority in abating any nuisance under this Act may be sold by public auction, and the money arising from the sale may be retained by the local authority and applied in payment of the expenses incurred by it with reference to such nuisance, and the surplus, if any, shall be paid on demand to the owner of such matter or thing.

Power of entry of  
local authority.

**81.** (1.) The local authority, or any of their officers, shall be admitted into any premises for the purpose of examining as to the existence of any nuisance thereon, or of enforcing the provisions of this Act, at any time between the hours of nine in the forenoon and six in the afternoon, or in the case of a nuisance arising in respect of any business, then at any hour when such business is in progress or is usually carried on.

(2.) Where a nuisance under this Act has been ascertained to exist, or an order of abatement or prohibition has been made, the local authority, or any of the officers of the local authority shall be admitted from time to time into the premises between the hours aforesaid, until the nuisance is abated, or the works ordered to be done are completed, as the case may be.

(3.) Where an order of abatement or prohibition has not been obeyed, the local authority, or any of the officers of the local authority, shall be admitted from time to time at all reasonable hours, or at all hours during which business is in progress or is usually carried on, into the premises where the nuisance exists, in order to abate the same.

(4.) If

*Health Act.*

(4.) If admission to premises for any of the purposes of this section is refused, any justice, on complaint thereof on oath by any officer of the local authority (made after reasonable notice in writing of the intention to make it has been given to the person having custody of the premises), may, by order under his hand, require the person having custody of the premises to admit the local authority, or any officer of the local authority, into the premises during the hours aforesaid; and if no person having the custody of the premises can be found, the justice may, on oath made before him of that fact, by order under his hand authorise the local authority or any officer of the local authority to enter such premises during the hours aforesaid.

(5.) Any order made by a justice for admission of the local authority, or any officer of the local authority, into any premises shall continue in force until the nuisance has been abated, or the work for which the entrance was necessary has been done.

**82.** Any person who refuses to obey an order of a justice for admission of the local authority, or any officer of the local authority, on any premises shall be liable to a penalty not exceeding five pounds. Penalty for disobedience of order.

**83.** (1.) All reasonable costs and expenses incurred in making a complaint or giving notice, or in obtaining any order of the court, or any justice, in relation to a nuisance under this Act, or in carrying the same into effect, shall be deemed to be money paid for the use and at the request of the person against whom the order is made; or if the order is made on the local authority, or if no order is made, but the nuisance is proved to have existed when the complaint was made or the notice was given, then of the person by whose act or default the nuisance was caused; and in case of nuisances caused by the act or default of the owner of premises, such costs and expenses may be recovered from any person who is for the time being owner of such premises: Provided that such costs and expenses shall not exceed in the whole one year's rack-rent of the premises. Costs and expenses of execution of provisions relating to nuisances.

(2.) Such costs and expenses, and any penalties incurred in relation to any nuisance, may be recovered in a summary manner or in the Supreme Court or District Court; and the court shall have power to divide costs expenses or penalties between persons by whose acts or defaults a nuisance is caused as to it may seem just.

**84.** (1.) Complaint may be made to a justice of the existence of a nuisance on any premises within the district of a local authority by any person aggrieved thereby, or by any inhabitant of such district, or by any owner of premises within such district, and thereupon the like proceedings shall be had with the like incidents and consequences as to making of orders, penalties for disobedience of orders, appeal, and otherwise, as in the case of a complaint relating to a nuisance made to a justice by a local authority. Power of individual to complain to justice of nuisance.

(2.) Provided

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(2.) Provided that the court may, if it thinks fit, adjourn the hearing or further hearing of the summons for the purposes of having an examination made of the premises where the nuisance is alleged to exist, and may authorise any officer of police or other person to enter any such premises for the purposes of such examination.

(3.) The court may authorise any officer of police or other person to do all necessary acts for executing an order made under this section, and to recover the expenses from the person against whom the order is made in a summary manner.

(4.) Any officer of police, or other person authorised under this section, shall have the like powers and be subject to the like restrictions as if he were an officer of the local authority authorised under the provisions of this Act relating to nuisances to enter any premises and do any acts thereon.

Local authority may take proceedings in superior court for abatement of nuisances.

**85.** A local authority may, if in its opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in the Supreme Court to enforce the abatement or prohibition of any nuisance under this Act, or for the recovery of any penalties from, or for the punishment of, any person offending against the provisions of this Act relating to nuisances, and may order the expenses of and incident to all such proceedings to be paid out of the fund or rate applicable by the local authority to the general purposes of this Act.

Power to proceed where cause of nuisance arises beyond district.

**86.** When a nuisance under this Act within the district of a local authority appears to be wholly or partially caused by some act or default committed or taking place beyond the district, the local authority may take or cause to be taken against any person, in respect of such act or default, any proceedings authorised by this Act in relation to nuisances, with the same incidents and consequences as if such act or default were committed or took place wholly within the district; so, however, that summary proceedings shall in no case be taken otherwise than before a court having jurisdiction in the district where the act or default is alleged to be committed or take place.

Provision in case of two convictions for overcrowding.

**87.** Where two convictions against the provisions of any Act relating to the overcrowding of a house have taken place within a period of three months (whether the persons convicted were or were not the same) a court of summary jurisdiction may, on the application of the local authority of the district in which the house is situated, direct the closing of the house for such period as the court may deem necessary.

Provision as to ships.

**88.** (1.) For the purpose of the provisions of this Act relating to nuisances, any ship or vessel lying in any river, harbour, or other water, within the district of a local authority, shall be subject to the jurisdiction of the authority in the same manner as if it were a house within

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within such district; and any ship or vessel lying within any river, harbour, or other water, not within the district of a local authority, shall be deemed to be within the district of such local authority as may be declared by the Governor in Council by Proclamation, and where no such Proclamation has been made, then of the local authority whose district is nearest to the place where such ship or vessel is lying.

(2.) The master or other officer in charge of any such ship or vessel shall be deemed, for the purpose of the said provisions, to be the occupier of such ship or vessel.

(3.) This section shall not apply to any ship or vessel which is under the command or charge of any officer bearing Her Majesty's Commission, or to any ship or vessel which belongs to the Government of any Foreign State.

**89.** The provisions of this Act relating to nuisances shall be deemed to be in addition to, and not to abridge or affect, any right remedy or proceeding under any other provisions of this Act, or any other Act, or at common law. Provisions of Act relating to nuisances not to affect other remedies. //

Provided that no person shall be punished for the same offence both under the provisions of this Act relating to nuisances and under any other law or enactment.

*Offensive Trades.*

**90.** Any person who, after the passing of this Act, establishes within a municipal district, without the consent in writing of the municipal authority, any of the following trades, that is to say, the trade of— Restriction on establishment of offensive trades in municipal district.

Blood-boiler,  
Bone-boiler,  
Fellmonger,  
Soap-boiler,  
Tallow-melter,  
Tripe-boiler,

or any other noxious or offensive trade, business, or manufacture, shall be liable to a penalty not exceeding fifty pounds in respect of the establishment thereof, and any person carrying on a business so established after the passing of this Act shall be liable to a penalty not exceeding forty shillings for every day on which the offence is continued, whether there has or has not been any conviction in respect of the establishment thereof.

**91.** A local authority may from time to time make by-laws with respect to any offensive trades established with its consent either before or after the passing of this Act, in order to prevent or diminish the noxious or injurious effects thereof. By-laws as to offensive trades.

92. (1.)

*Health Act.*

Duty of municipal authority to complain to justice of nuisance arising from offensive trade.

**92.** (1.) Where any candle-house, melting-house, melting-place, or soap-house, or any slaughter-house, or any building or place for boiling offal or blood, or for boiling, burning, or crushing bones, or any manufactory, building, or place used for any trade, business, process, or manufacture causing effluvia, is certified to a municipal authority by its health officer, or by any two legally qualified medical practitioners, or by any ten inhabitants of the district to be a nuisance, or injurious to the health of any of the inhabitants of the district, such municipal authority shall direct complaint to be made before a justice, who may summon the person by or on whose behalf the trade so complained of is carried on to appear before a court of summary jurisdiction.

(2.) The court shall inquire into the complaint, and if it appears to the court that the business carried on by the person complained of is a nuisance, or causes any effluvia which is a nuisance or injurious to the health of any of the inhabitants of the district, the person so offending (being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier) shall be liable to a penalty not exceeding five pounds nor less than forty shillings, and on a second and any subsequent conviction to a penalty double the amount of the penalty imposed for the last preceding conviction, but the highest amount of such penalty shall not in any case exceed the sum of two hundred pounds.

(3.) Provided that the court may suspend its final determination on condition that the person complained of undertakes to adopt within a reasonable time such means as the court may deem to be practicable and order to be carried into effect for abating such nuisance, or preventing the injurious effects of such effluvia.

(4.) A municipal authority may, if it thinks fit, on such certificate as in this section mentioned, cause to be taken any proceedings in the Supreme Court against any person in respect of the matters alleged in such certificate.

Power to proceed where nuisance arises from offensive trade carried on beyond district.

**93.** Where any house, building, manufactory, or place which is certified, in pursuance of the last preceding section, to be a nuisance, or injurious to the health of any of the inhabitants of a municipal district, is situated beyond the district, the municipal authority may take or cause to be taken any proceedings by that section authorised in respect of the matters alleged in the certificate, with the same incidents and consequences as if the house, building, manufactory, or place, were situated within the district; so, however, that summary proceedings shall not in any case be had otherwise than before a court having jurisdiction in the district where the house, building, manufactory, or place is situated.

*Unsound*

*Health Act.**Unsound Meat, Etc.*

**94.** (1.) Any health officer or inspector of nuisances may at all reasonable times inspect and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk, exposed for sale, or deposited in any place for the purpose of sale or preparation for sale, and intended for the food of man. Power of medical officer of health to inspect meat, etc.

(2.) If any such animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk, appears to such health officer or inspector to be diseased, or unsound, or unwholesome, or unfit for the food of man, he may seize and carry away the same himself or by an assistant, in order to have the same dealt with by two justices.

(3.) The proof that any substance so exposed was not exposed or deposited for any such purpose, or was not intended for the food of man, shall rest with the party charged.

**95.** (1.) If it appears to the justices that any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk so seized is diseased or unsound, or unwholesome, or unfit for the food of man, they shall condemn the same, and order it to be destroyed or so disposed of as to prevent it from being exposed for sale or used for the food of man, and it shall be destroyed or disposed of accordingly. Power of justice to order destruction of unsound meat, etc.

(2.) The person to whom the same belongs, or did belong at the time of exposure for sale, or in whose possession or on whose premises the same was found, shall be liable to a penalty not exceeding twenty pounds for every animal, carcase, or fish, or piece of meat, flesh, or fish, or any poultry or game, or for the parcel of fruit, vegetable, corn, bread, or flour, or for the milk, so condemned, or, at the discretion of the justices, without the infliction of a fine, to imprisonment for a term of not more than three months.

(3.) The justices who, under this section, are empowered to convict the offender may be either the justices who may have ordered the article to be disposed of or destroyed, or any other justices having jurisdiction in the place.

**96.** Any person who in any manner prevents any health officer or inspector of nuisances from entering any premises and inspecting any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetable, corn, bread, flour, or milk, exposed or deposited for the purpose of sale, or of preparation for sale, and intended for the food of man, or who obstructs or impedes any such health officer or inspector, or his assistant, when carrying into execution the provisions of this Act, shall be liable to a penalty not exceeding five pounds. Penalty for hindering officer from inspecting meat, &c.

97. On

*Health Act.*

Search warrant may be granted by a justice.

**97.** On complaint made on oath by a health officer, or by any inspector of nuisances or other officer of a local authority, a justice may grant a warrant to any such officer to enter any building or part of a building in which such officer has reason for believing that there is kept or concealed any animal, carcase, meat, poultry, game, flesh, fish, vegetable, corn, bread, or milk, which is intended for sale for the food of man, and is diseased, unsound, or unwholesome, or unfit for the food of man, and to search for, seize, and carry away any such animal or other article in order to have the same dealt with by two justices under the provisions of this Act.

Any person who obstructs any officer in the performance of his duty under such warrant shall, in addition to any other punishment to which he may be subject, be liable to a penalty not exceeding twenty pounds.

**PART VI.—INFECTIOUS DISEASES—HOSPITALS—PROVISIONS AGAINST INFECTION.**

Duty of local authority to cause premises to be cleansed and disinfected.

**98.** (1.) Where a local authority is of opinion on the certificate of the health officer, or of any other legally qualified practitioner, that the cleansing and disinfecting of any house or part thereof, within its district, or of any articles therein likely to retain infection, would tend to prevent or check infectious disease, it shall be the duty of such local authority to give notice in writing to the owner or occupier of such house or part thereof, requiring him to cleanse and disinfect such house or part thereof and articles within the time specified in such notice.

(2.) If the person to whom notice is so given fails to comply therewith, he shall be liable to a penalty of not less than one shilling and not exceeding ten shillings for every day during which he continues to make default; and the local authority shall cause such house or part thereof and articles to be cleansed and disinfected, and may recover the expenses incurred from the owner or occupier in default in summary manner.

(3.) Where the owner or occupier of any such house or part thereof is from poverty or otherwise unable, in the opinion of the local authority, effectually to carry out the requirements of this section, the local authority may, with the consent of such owner or occupier, and without enforcing such requirements on him, cleanse or disinfect such house or part thereof or articles, and may defray the expenses of so doing.

Destruction of infected bedding, etc.

**99.** A local authority may direct the destruction of any bedding, clothing, or other articles, which have been exposed to infection from any dangerous infectious disorder, and may give compensation for the same.

*Health Act.*

**100.** A local authority may provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding, clothing, or other articles, which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge.

Provision of means of disinfection.

**101.** A local authority may provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any infectious disorder, and may pay the expense of conveying therein any person so suffering to a hospital or other place of destination.

Provision of conveyance for infected persons.

**102.** Where any suitable hospital or place for the reception of the sick is provided within the district of a local authority, or within a convenient distance of such district, then—

Removal of infected persons without proper lodging to hospital by order of justice.

(1.) Any person who is suffering from any dangerous infectious disorder, and is without proper lodging or accommodation, or lodged in a room occupied by more than one family, or is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed by order of any justice to such hospital or place at the cost of the local authority;

(2.) Any person so suffering, who is lodged in any common lodging-house, may, with the like consent and on a like certificate, be removed by order of the local authority.

Any order under this section may be addressed to an officer of police or to such officer of the local authority as the justice or local authority making the same thinks expedient.

Any person who wilfully disobeys or obstructs the execution of any such order shall be liable to a penalty not exceeding ten pounds.

**103.** A local authority may make by-laws for removing to any hospital to which such local authority is entitled to remove patients, and for keeping in such hospital so long as may be necessary, any persons brought within the district by any ship or boat who are infected with a dangerous infectious disorder, and such by-laws may impose on offenders against the same penalties not exceeding twenty pounds for each offence.

Removal to hospital of infected persons brought by ships.

**104.** Any person who—

(1.) While suffering from a dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner conductor or driver thereof that he is so suffering; or

Penalty on exposure of infected persons and things.

(2.) Being



*Health Act.*

- (2.) Being in charge of any person so suffering, so exposes such sufferer; or
- (3.) Give, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, rags, or other things, which have been exposed to infection from any such disorder;

shall be liable to a penalty not exceeding twenty pounds.

Any person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, shall in addition be ordered by the court to pay such owner and driver the amount of any expense and loss they may respectively incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance. Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags, or other things for the purpose of having the same disinfected.

Penalty for failing to provide for disinfection of public conveyance.

**105.** Every owner or driver of a public conveyance shall immediately provide for the disinfection of such conveyance after it has to his knowledge conveyed any person suffering from a dangerous infectious disorder; and if he fails to do so he shall be liable to a penalty not exceeding twenty pounds.

No such owner or driver shall be compelled to convey any person so suffering until such person has paid a sum sufficient to cover any loss or expense to be incurred in carrying into effect the provisions of this section.

Penalty on letting houses in which infected persons have been lodging.

**106.** Any person who knowingly lets for hire any house, room, or part of a house in which any person has been suffering from any dangerous infectious disorder, without having such house, room, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of a legally qualified medical practitioner, as testified by a certificate signed by him, shall be liable to a penalty not exceeding twenty pounds.

For the purposes of this section the keeper of an inn shall be deemed to let for hire part of a house to any person admitted as a lodger into such inn.

Penalty on persons letting houses making false statement as to infectious disease.

**107.** Any person letting for hire, or showing for the purpose of letting for hire, any house or part of a house in which there is, or within six weeks previously has been, any person suffering from any dangerous infectious disorder, shall inform any person negotiating for the hire of such house or part of a house of the fact of a person so suffering being, or having been, therein, and if he wilfully fails to do so he shall be liable at the discretion of the court to a penalty not exceeding twenty pounds, or to imprisonment with or without hard labour for a period not exceeding one month.

*Prevention*

*Health Act.**Prevention of Epidemic Diseases.*

**108.** The Board may from time to time, with the approval of the Power of Board to make Regulations. Governor in Council, make Regulations as to the treatment of persons affected with cholera or any epidemic, endemic, or infectious, disease, and for preventing the spread of cholera and such other diseases as well on the seas, rivers, and waters of Queensland, and on the high seas within three miles of the coast thereof, as on land, and may declare by what person or authority such Regulations shall be enforced and executed.

All Regulations so made shall be published in the *Gazette*, and such publication shall be for all purposes conclusive evidence thereof.

**109.** Whenever any part of Queensland appears to be Power of Board to make Regulations for prevention of diseases. threatened with or is affected by any formidable epidemic, endemic, or infectious disease, the Board may, with the approval of the Governor in Council, make Regulations for all or any of the following purposes, namely:—

- (1.) For the speedy interment of the dead;
- (2.) For house to house visitation;
- (3.) For compelling the reporting to the local authority of any case of epidemic, endemic, or infectious disease;
- (4.) For the provision of medical aid and accommodation;
- (5.) For the promotion of cleansing, ventilation, and disinfection; and
- (6.) For guarding against the spread of disease;

and may by Order made with the like approval declare all or any of the Regulations so made to be in force within the whole or any part or parts of the district of any local authority, and to apply to any vessels, whether on inland waters or on arms or parts of the sea within the territorial jurisdiction of Queensland, for the period in such Order mentioned; and may by any subsequent Order abridge or extend such period.

All Regulations and Orders so made by the Board shall be Publication of regulations and orders. published in the *Gazette*, and such publication shall be for all purposes conclusive evidence of such Regulations or Orders.

**110.** The local authority of any district within which or Local authorities to see to the execution of Regulations. part of which Regulations so made by the Board are in force shall if required by the Board superintend and see to the execution thereof, and shall appoint and pay such medical or other officers or persons, and do and provide all such acts, matters, and things as may be necessary for mitigating any such disease, or for superintending or aiding in the execution of such Regulations, as the case may require.

The local authority may from time to time direct any prosecution or legal proceedings for or in respect of the wilful violation or neglect of any such Regulation.

**111.** Local

*Health Act.***Power of entry.**

**111.** Local authorities and their officers shall have power of entry on any premises or vessel for the purpose of executing or superintending the execution of any Regulations or Orders so made by the Board as aforesaid.

**Local authority's  
medical officer  
entitled to costs of  
attendance on board  
vessels.**

**112.** (1.) Whenever, in compliance with any Regulations so made by the Board, the health officer of a local authority performs any medical service on board any vessel, he shall be entitled to charge for such service at the general rate of his allowance for services for the place for which he is appointed; and such charge shall be payable by the captain of such vessel on behalf of the owners thereof, together with any reasonable expenses for the treatment of the sick.

(2.) Where such services are rendered by any medical practitioner who is not a health officer, he shall be entitled to charges for any service rendered on board, with extra remuneration on account of distance, at the same rate as those which are usually paid by private patients of the class of those attended and treated on shipboard, to be paid as aforesaid.

(3.) In case of dispute in respect of such charges, the dispute may, where the charges do not exceed twenty pounds, be determined by a court of summary jurisdiction; and such court shall determine summarily the amount which is reasonable, according to the usual rate of charge at the place where the dispute arises, for attendance on patients of the like class as those in respect of whom the charge is made.

**Board may combine  
local authorities.**

**113.** The Governor in Council may, if he think fit, by order authorise or require any two or more local authorities to act together for the purposes of the provisions of this Act relating to prevention of epidemic diseases, and may prescribe the mode of such joint action and of defraying the costs thereof.

**Penalty for violating  
or obstructing the  
execution of Regula-  
tions.**

**114.** Any person who—

- (1.) Wilfully violates any Regulation made by the Board; or
- (2.) Wilfully obstructs any person acting under the authority, or in the execution of any such Regulation;

shall be liable to a penalty not exceeding one hundred pounds.

**PART VII.—SLAUGHTER-HOUSES.**

**Power to provide  
slaughter-houses.**

**115.** A municipal authority may, if it thinks fit, provide slaughter-houses either within or beyond the district, and shall make by-laws with respect to the management and charges for the use of any slaughter-houses so provided.

**PART**

*Health Act.***PART VIII.—OFFICERS AND CONDUCT OF BUSINESS.***Officers of Local Authorities.*

**116.** (1.) A local authority may, and if required by the Board shall, from time to time appoint fit and proper persons to be respectively health officer, surveyor, and inspector of nuisances. Appointment of officers of local authorities.

(2.) A local authority may also appoint or employ such assistants and other officers and servants as may be necessary and proper for the efficient execution of this Act, and may make regulations with respect to the duties and conduct of the officers and servants so appointed or employed.

(3.) A local authority may pay to the officers and servants so appointed or employed such reasonable salaries, wages, or allowances, as the local authority thinks proper.

**117.** (1.) A person shall not be appointed a health officer under this Act unless he is a legally qualified medical practitioner. As to health officer.

(2.) The same person may be appointed health officer or inspector of nuisances for two or more districts.

(3.) A health officer may exercise any powers of an inspector of nuisances under this Act.

(4.) In case of illness or incapacity of the health officer, a local authority may appoint and pay a deputy health officer.

**118.** Officers or servants appointed or employed under this Act by a local authority shall not be concerned or interested in any bargain or contract made with such local authority for any of the purposes of this Act. Officers not to contract with local authority.

If any such officer or servant is so concerned or interested, or under colour of his office or employment, exacts or accepts any fee or reward whatsoever other than his proper salary, wages, and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Act, and shall forfeit and pay the sum of fifty pounds, which may be recovered by any person, with full costs of suit, by action.

*Mode of Conducting Business.*

**119.** A local authority may from time to time appoint out of their number a Committee of one or more persons as it thinks fit, for the purpose of performing or exercising any of the duties or powers imposed or conferred by this Act which, in the opinion of such local authority, can be properly performed or exercised by means of a committee. Provided that a committee so appointed shall in no case be authorised to borrow any money or to make any rate, and shall be subject to any regulations and restrictions which may be imposed by the local authority that appointed it. Power of local authority to appoint committees.

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Board's officers may attend meetings of local authorities.

An officer appointed by the Board in that behalf may attend any meetings of a local authority when and as directed by the Board.

Local authorities to report.

Every local authority shall make an annual report, in such form and at such time as the Governor in Council may from time to time direct, of all works executed, and of all sums received and disbursements made by them under and for the purposes of this Act during the preceding year, and shall send a copy to the Board. The local authority shall also publish a copy in some local newspaper circulating in the district.

PART IX.—EXPENSES.

Mode of defraying expenses of local authority.

**120.** All expenses incurred or payable by a local authority in the execution of this Act, and not otherwise provided for, shall be charged on and defrayed out of the municipal fund or divisional fund, as the case may be.

General health rate.

**121.** (1.) For the purpose of defraying any expenses chargeable on the municipal or divisional fund which that fund is insufficient to meet, the local authority shall from time to time, as occasion may require, make and levy in addition to any other rate leviable by them under any Act, a rate or rates to be called "General Health Rates."

(2.) Any such rate may be made and levied either prospectively in order to raise money for the payment of future charges and expenses, or retrospectively in order to raise money for the payment of charges and expenses incurred at any time within six months before the making of the rate.

(3.) The provisions of "*The Local Government Act of 1878*," and of "*The Divisional Boards Act of 1879*," respectively, and of the several Acts amending the same, relating to the making and levying of rates, shall apply to the making and levying of rates under this Act.

(4.) The general health rate shall be made and levied upon all rateable property situated in the district.

(5.) The same endowment shall be payable and shall be paid to the local authority in respect of moneys raised by general health rates as is payable in respect of moneys raised by general rates under the said Acts respectively.

Further provision for recovery of expenses.

**122.** Any sum specified in an order of the Board for payment of the expenses of performing the duty of a defaulting local authority, together with the costs of the proceedings, shall be deemed to be expenses properly incurred by such local authority, and to be a debt due from such local authority, and payable out of any moneys in the hands of such local authority or its officers, or out of any rate applicable to the payment of any expenses properly incurred by such local authority.

If

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If the defaulting local authority refuses to pay any such sum **with** costs, as aforesaid, for a period of thirty days after demand, the Governor in Council may by order empower the Board to make and levy a rate of sufficient amount to defray the debt so due from the defaulting local authority, and all expenses incurred in consequence of the non-payment of such debt.

(2.) The Board, when so empowered, shall have the same powers of making and levying the rate as the defaulting local authority would have had in the case of a rate made by such local authority.

(3.) After repaying all sums of money so due in respect of the order, the surplus, if any, shall be paid by the Board to or to the order of the defaulting local authority.

**123.** (1.) The Board may, from time to time, certify the amount of expenses that have been incurred, or an estimate of the expenses about to be incurred, by any person appointed by the Board under this Act to perform the duty of a defaulting local authority; and also the amount of any loan required to be raised for the purpose of defraying any expenses that have been so incurred, or are estimated as about to be incurred, and the certificate of the Board shall be conclusive as to all matters to which it relates.

Power of Board to borrow to defray expenses of performing duty of defaulting authority.

(2.) Whenever the Board so certifies a loan to be required, the Colonial Treasurer may advance to the Board or to any person appointed as aforesaid, the amount of the loan so certified to be required; and the Board may, by any instrument duly executed, charge the municipal or divisional fund and any endowment payable to the local authority with the repayment of the principal and interest due in respect of such loan in accordance with the provisions of "*The Local Works Loans Act of 1880*," and every such charge shall have the same effect as if the defaulting local authority had itself raised such loan, and had duly executed an instrument charging the same on such fund and endowment.

(3.) The surplus (if any) of any such loan, after payment of the aforesaid, shall, on the amount thereof being certified by the Board, be repaid to the Colonial Treasurer.

(4.) The term "Expenses," for the purposes of the provisions of this Part of this Act, shall include all sums payable under those provisions by or by the order of the Board or a person appointed by the Board.

## PART X.—LEGAL PROCEEDINGS.

*Prosecution of Offences and Recovery of Penalties, Etc.*

**124.** All offences under this Act, and all penalties, forfeitures, costs, and expenses, under this Act directed to be recovered in a summary manner, or the recovery of which is not otherwise provided for, may be prosecuted and recovered in the manner directed by "*The Summary Jurisdiction Acts*" before a court of summary jurisdiction.

Summary proceedings for offences, penalties, etc.

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The court of summary jurisdiction, when hearing and determining an information or complaint under this Act, shall be constituted of two or more justices.

General provisions  
as to summary  
proceedings.

**125.** The description of any offence against the provisions of this Act in the words of the Act shall be sufficient.

Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information; and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the prosecutor.

Restriction on  
recovery of penalties.

**126.** Proceedings for the recovery of any penalty under this Act shall not, except as in this Act is expressly provided, be had or taken by any person other than by a party aggrieved, or by the local authority of the district in which the offence is committed, or an officer of such local authority, without the consent in writing of the Attorney-General.

Application of  
penalties.

**127.** When the application of a penalty under this Act is not otherwise provided for, one-half thereof shall go to the informer, and the remainder to the local authority of the district in which the offence was committed: Provided that, if the local authority or its officer is the informer, the local authority shall be entitled to the whole of the penalty recovered; and all penalties or sums recovered by the local authority on account of any penalty shall be carried to the account of the municipal or divisional fund.

Proceedings in cases  
of nuisances caused  
by two or more  
persons.

**128.** (1.) Where any nuisance under this Act appears to be wholly or partially caused by the acts or defaults of two or more persons, the local authority, or other complainant, may institute proceedings against any one of such persons, or may include all or any two or more of such persons in one proceeding; and any one or more of such persons may be ordered to abate such nuisance, so far as the same appears to the court having cognizance of the case to be caused by any acts or defaults on his or their part, which, in the opinion of such court, contribute to such nuisance, or may be fined or otherwise punished notwithstanding that the acts or defaults of any one of such persons would not separately have caused a nuisance; and the costs may be distributed as to such court may appear fair and reasonable.

(2.) Proceedings against several persons included in one complaint shall not abate by reason of the death of any of the persons so included, but all such proceedings may be carried on as if the deceased person had not been originally so included.

(3.) Whenever

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(3.) Whenever in any proceeding under the provisions of this Act relating to nuisances, whether written or otherwise, it becomes necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate him as the "owner" or "occupier" of such premises, without name or further description.

(4.) Nothing in this section shall prevent persons proceeded against from recovering contribution in any case in which they would otherwise be entitled to contribution by law.

**129.** (1.) When a local authority incurs expenses, for the repayment whereof the owner of the premises for or in respect of which the same are incurred is made liable under this Act, or by any agreement with the local authority, such expenses may be recovered, together with interest at a rate not exceeding eight pounds per centum per annum from the date of service of a demand for the same till payment thereof, from any person who is the owner of such premises when the works are completed for which such expenses have been incurred, and until recovery of such expenses and interest the same shall be a charge on the premises in respect of which they were incurred.

Recovery of expenses by local authorities from owners.

(2.) In all summary proceedings by a local authority for the recovery of expenses incurred by them in works of private improvement, the time within which such proceedings may be taken shall be reckoned from the date of the service of notice of demand.

**130.** (1.) When such expenses have been settled and apportioned by the surveyor of the local authority as payable by such owner, the apportionment shall be binding and conclusive on such owner, unless within three months from service of notice on him by the local authority, or the surveyor, of the amount settled by the surveyor to be due from such owner, he by written notice disputes the same.

Appeal from apportionment.

(2.) The local authority may, by order, declare any such expenses to be payable by annual instalments within a period not exceeding thirty years, with interest at a rate not exceeding eight pounds per centum per annum, until the whole amount is paid; and any such instalments and interest, or any part thereof, may be recovered in a summary manner from the owner for the time being of such premises.

**131.** (1.) Any costs and expenses recoverable under this Act by a local authority from any owner of premises may be recovered from the occupier for the time being of such premises, and the owner shall allow the occupier to deduct any moneys which he is compelled to pay under this Act out of the rent from time to time becoming due in respect of the premises, as if the same had been actually paid to such owner as part of such rent.

Liability of occupier.

(2.) Provided



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(2.) Provided that no such occupier shall be required to pay any further sum than the amount of the rent for the time being due from him, or which became payable by him, after demand of such costs or expenses from him, and after notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, unless such occupier refuses, on application to him by the local authority, truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded from any occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall lie on the occupier.

(3.) Provided, also, that nothing herein contained shall affect any contract between any owner or occupier of any house, building, or other property, whereby it is agreed that the occupier shall pay or discharge all rates, dues, and sums of money payable in respect of such house, building, or other property, or to affect any express contract between landlord and tenant, inconsistent with the provisions of this section.

Justices may act though members of local authority or liable to contribute.

**132.** No justice shall be deemed incapable of acting in any case arising under this Act by reason of his being, as one of several rate-payers, or as one of any other class of persons, liable in common with others to contribute to, or be benefited by, any rate or fund out of which any expenses incurred by such local authority are under this Act to be defrayed.

Appearance of local authorities in legal proceedings.

**133.** A local authority may appear before any court, or in any legal proceedings, by its clerk, or by any officer or member authorised generally or in respect of any special proceeding by resolution of the local authority, and the clerk, or any officer or member so authorised, may institute and carry on any proceeding which the local authority is authorised to institute and carry on under this Act.

Name of local authority need not be proved.

**134.** In any proceeding instituted by or against a local authority under this Act it shall not be necessary for the plaintiff to prove the corporate name of the local authority its constitution or the limits of its district. But this section shall not prejudice the right of any defendant to prove such constitution or limits.

Demands not exceeding two hundred pounds may be recovered in district courts.

**135.** Proceedings for the recovery of any demand not exceeding two hundred pounds, which a local authority is empowered to recover in a summary manner, may, at the option of the local authority, be taken in a District Court.

Proceedings not to be quashed for want of form.

**136.** No rate, order, conviction, or thing, made or done under or in the execution of this Act shall be vacated, quashed, or set aside for want of form, or be removed by *certiorari*, or any other writ or process

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process whatsoever, into the Supreme Court. Provided that nothing in this section shall prevent the removal of any case stated for the opinion of the Supreme Court, or of any rate, order, conviction, or thing to which such special case relates.

**137.** An action shall not be brought against a local authority, or any member thereof, or any officer of a local authority, or person acting in his aid, for anything done or intended or omitted to be done under the provisions of this Act, until the expiration of one month after notice in writing has been served on such local authority, member, officer, or person, clearly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his solicitor or agent; and on the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the notice so served; and unless such notice is proved the jury shall find for the defendant.

Notice of action  
against local  
authority, etc.

Every such action shall be commenced within six months next after the accruing of the cause of action, and not afterwards, and shall be tried in the circuit, district, or place, where the cause of action occurred, and not elsewhere.

Any person to whom any such notice of action is given may tender amends to the plaintiff, his solicitor, or agent, at any time within one month after service of the notice, and, in case the same be not accepted, may plead such tender.

**138.** No matter or thing done, and no contract entered into, by a local authority, and no matter or thing done by any member of a local authority, or by any officer of a local authority, or other person whomsoever acting under the direction of a local authority, shall, if the matter or thing was done, or the contract was entered into *bonâ fide* for the purpose of executing this Act, subject any such person to any personal liability in respect thereof; and any expense incurred by any member, officer or other person acting as last aforesaid, shall be borne and repaid out of the fund or rate applicable by the local authority to the general purposes of this Act.

Protection of local  
authority and their  
officers from personal  
liability.

*Notices.*

**139.** In the case of any notices orders or other documents under this Act which require authentication by a local authority, the signature thereof by the clerk, surveyor, or inspector of nuisances, of the local authority shall be sufficient authentication.

Notices, etc., may be  
printed or written.

**140.** Notices, orders, and any other documents, required or authorised to be served under this Act may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or, if addressed to the owner or occupier of premises,

Service of notices.

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premises, by delivering the same or a true copy thereof to some person on the premises, or, if there is no person on the premises who can be so served, by fixing the same on some conspicuous part of the premises.

Or they may be served by sending them by post by a prepaid letter, and if served by post they shall be deemed to have been served at the time when the letter would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice, order, or other document, was properly stamped and addressed and put into the post.

Any notice by this Act required to be given to the owner or occupier of any premises may be addressed to him by the description of the "owner" or "occupier" of the premises (naming them), in respect of which the notice is given without further name or description.

*Appeal.*

**Appeal to the Board.**

**141.** (1.) Any person aggrieved by the decision of a local authority in any case in which the local authority is empowered to recover, in a summary manner, any expenses incurred by it, may, within twenty-one days after notice of such decision, address a memorial to the Board, stating the grounds of his complaint, and shall deliver a copy thereof to the local authority.

(2.) The Board may make such order in the matter as to it seems just, and the order so made shall be binding and conclusive on all the parties.

(3.) Any proceedings that have been commenced for the recovery of such expenses by the local authority shall, on the delivery to the local authority of the copy of the memorial, be stayed.

(4.) The Board may, if it thinks fit, by its order direct the local authority to pay to the person so proceeded against such sum as the Board considers to be a just compensation for the loss damage or grievance sustained by him.

**Appeal to District Court.**

**142.** Any person aggrieved by any order, or conviction, or by any matter or thing done by any court of summary jurisdiction, may appeal therefrom to a District Court, subject to the conditions following :—

(1.) The appeal shall be made to the first District Court having jurisdiction in the place in which the cause of appeal arises, holden not less than twenty-one days after the decision of the court from which the appeal is made ;

(2.) The appellant shall, within fourteen days after the cause of appeal arises, give notice to the other party and to the local authority or court of summary jurisdiction by whose act he deems himself aggrieved, of his intention to appeal, and of the grounds of appeal ;

(3.) The

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- (3.) The appellant shall, immediately after such notice, enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, or give such other security by deposit of money or otherwise as the justice may allow ;
- (4.) Upon such security being given proceedings on the order or conviction shall be stayed until the determination of the appeal ;
- (5.) If the appellant is in custody the justice may, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody ;
- (6.) The decision of the District Court shall be binding on all parties : Provided that the Court may, if it thinks fit, state the facts specially for the determination of the Supreme Court.

## PART XI.—MISCELLANEOUS PROVISIONS.

**143.** All by-laws made by a local authority under this Act shall be made in the same manner in which by-laws are required to be made by the Act under which the local authority is constituted. Mode of making by-laws.

**144.** Whenever it becomes necessary for a local authority or any of its officers to enter, examine, or lay open, any lands or premises for the purpose of making plans, surveying, measuring, taking levels, making, keeping in repair, or examining, works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and the owner or occupier of such lands or premises refuses to permit the same to be entered upon, examined, or laid open, for the purposes aforesaid, or any of them, the local authority may, after written notice to such owner or occupier, apply to a court of summary jurisdiction for an order authorising the local authority to enter, examine, and lay open the lands and premises for the purposes aforesaid, or any of them. Entry on lands for purposes of Act.

If no sufficient cause is shown against the application, the court may make an order accordingly, and on such order being made the local authority or any of its officers may, at all reasonable times between the hours of nine in the forenoon and six in the afternoon, enter, examine, or lay open, the lands or premises mentioned in such order, for such of the said purposes as are therein specified without being subjected to any action or molestation for so doing.

Provided that, except in case of emergency, no entry shall be made or works commenced under this section until at least twenty-four hours' notice of the intended entry, and of the object thereof, has been given to the occupier of the premises intended to be entered.

145. (1.)

*Health Act.*

Penalty on obstructing execution of Act.

**145.** (1.) Any person who wilfully obstructs any member of a local authority, or any person duly authorised under this Act, in the execution of this Act, or who destroys, pulls down, injures, or defaces any board on which any by-law, notice, or other matter, is inscribed, shall, if the same was put up by authority of the Board or of the local authority, be liable for every such offence to a penalty not exceeding five pounds.

(2.) If the occupier of any premises prevents the owner thereof from obeying or carrying into effect any provisions of this Act, any justice to whom application is made in that behalf shall, by order in writing, require such occupier to permit the execution of any works required to be executed, provided that the same appear to such justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act; and if within twenty-four hours after the making of the order such occupier fails to comply therewith, he shall be liable to a penalty not exceeding five pounds for every day during the continuance of such non-compliance.

(3.) If the occupier of any premises, when requested by or on behalf of the local authority to state the name of the owner of the premises occupied by him, refuses or wilfully omits to disclose, or wilfully misstates the name, he shall (unless he shows cause to the satisfaction of the court for his refusal) be liable to a penalty not exceeding five pounds.

Penalty on damaging works of local authority.

**146.** Any person who wilfully damages any works or property belonging to a local authority, or is guilty of a breach of any by-law, shall, in cases where no other penalty is provided by this Act, be liable to a penalty not exceeding five pounds.

Compensation in case of damage by local authority.

**147.** If any person sustains any damage by reason of the exercise of any of the powers of this Act, in relation to any matter as to which he is not himself in default, full compensation shall be made to such person by the local authority exercising such powers; and any dispute as to the fact of damage or amount of compensation, if the compensation claimed does not exceed the sum of fifty pounds, may, at the option of either party, be determined by and the compensation recovered before a court of summary jurisdiction.

Forms.

**148.** The forms contained in the Schedule to this Act may be used for the purposes to which they are respectively applicable.

SCHEDULE.

*Health Act.*

## SCHEDULE.

## FORMS.

## FORM A.

*Form of Notice requiring Abatement of Nuisance.*

To [person causing the nuisance, or owner or occupier of the premises whereon the nuisance exists, as the case may be].

Take notice that under the provisions of "The Health Act of 1884," the [describing the local authority], being satisfied of the existence of a nuisance at [describe premises or place where the nuisance exists], arising from [describe the cause of nuisance, for instance, want of a privy or drain; or, for further instance, a ditch or drain so foul as to be a nuisance or injurious to health; or, for further instance, swine kept so as to be a nuisance or injurious to health], hereby requires you within from the service of this notice to abate the same, and for that purpose to [state any things required to be done or works to be executed]. If you make default in complying with the requisitions of this notice, or if the said nuisance, though abated, is likely to recur, a summons will be issued requiring your attendance to answer a complaint which will be made to a court of summary jurisdiction for enforcing the abatement of the nuisance, and prohibiting a recurrence thereof, and for recovering the costs and penalties that may be incurred thereby.

Dated this                      day of                      18 .

Signature of officer }  
of local authority }

## FORM B.

*Form of Summons.**Summons.*

To the owner or occupier of [describe premises], situated at [insert such a description as may be sufficient to identify the premises], or to A.B. of

You are required to appear before [describe court of summary jurisdiction], at the petty sessions [or court] holden at                      on the                      day of                      next, at the hour of                      in the                      noon, to answer a complaint this day made to me by                      that in or on the premises above mentioned [or in or on certain premises situated at No.                      in the street in the municipality [or division] of                      [or such other description or reference as may be sufficient to identify the premises], the following nuisance exists [describing it, as the case may be], and that the said nuisance is caused by the act or default of the occupier [or owner] of the said premises, or by you A.B. [or in case the nuisance be discontinued, but likely to be repeated, say, there existed recently, to wit, on or about the                      day of                      on the premises, the following nuisance [describe the nuisance], and that the said nuisance was caused by [&c.], and although the same has since the said last-mentioned day been abated or discontinued, there is reasonable ground to consider that the same or the like nuisance is likely to recur on the said premises.]

Given under my hand and seal this                      day of                      18 .

J. S. (L.S.)

FORM

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*Health Act.*


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## FORM C.

*Form of Order for Abatement or Prohibition of Nuisance.*

To the owner [or occupier] of [describe the premises] situated [give such description as may be sufficient to identify the premises] or to A.B. of

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ complaint was made before \_\_\_\_\_ Esquire, one of Her Majesty's Justices of the Peace in and for the Colony of Queensland, by \_\_\_\_\_ that in or on certain premises situated at \_\_\_\_\_ the following nuisance existed [describing it], and that the said nuisance was caused by the act or default of the owner [or occupier] of the said premises [or was caused by A.B.] [If the nuisance has been removed say the following nuisance existed on or about [the day the nuisance was ascertained to exist] and that the said nuisance was caused by &c., and although the same is now removed the same or the like nuisance is likely to recur on the said premises]:

And whereas \_\_\_\_\_ the owner [or occupier] within the meaning of "The Health Act of 1884," [or the said A.B.] has this day appeared before us [(or me) describing the court] to answer the matter of the said complaint [or in case the party charged does not appear, say and whereas it has been this day proved to our [or my] satisfaction that a true copy of a summons requiring the owner [or occupier] of the said premises [or the said A.B.] to appear this day before us [or me] has been duly served according to the said Act]:

Now, on proof before us [or me] that the nuisance so complained of exists on the said premises, and that the same is caused by the act or default of the owner [or occupier] of the said premises [or by the said A.B.], we [or I], in pursuance of the said Act, hereby order the said owner [or occupier, or A.B.] within [specify the time] from the service of this order according to the said Act [here specify any things required to be done or works to be executed, as, for instance, to provide for the cleanly and wholesome keeping of the said premises, or to remove the animal kept so as to be a nuisance or injurious to health; or, for further instance, to cleanse, white-wash, purify, and disinfect the said dwelling-house; or, for further instance, to construct a privy or drain, etc.; or, for further instance, to cleanse or to cover or to fill up the said cesspool, &c., so that the same shall no longer be a nuisance or injurious to health as aforesaid]; [and if it appears to the court that the nuisance is likely to recur on the premises, say: and we [or I], being satisfied that, notwithstanding the said cause [or causes] of nuisances may be removed under this order, the same is [or are] likely to recur, do therefore prohibit the said owner [or occupier or A.B.] from [here insert the matter of the prohibition, as, for instance] using the said house or building for human habitation until the same, in our [or my] judgment, is rendered fit for that purpose.]

*In case the nuisance was removed before complaint, say,* Now, on proof before us [or me] that at or recently before the time of making the said complaint, to wit on \_\_\_\_\_, as aforesaid, the cause of nuisance complained of did exist on the said premises, but the same has since been removed, yet, notwithstanding such removal, we [or I] being satisfied that it is likely that the same or the like nuisance will recur on the said premises, do hereby prohibit [order of prohibition]; and if this order of prohibition is infringed, then we [or I] [order to local authority to do works.]

Given under our hands and seals [or my hand and seal, describing the court] this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_.

J. S. [L.S.]  
J. T. [L.S.]

## FORM D.

*Form of Order for Abatement of Nuisance by Local Authority.*

To the council of \_\_\_\_\_ etc., as the case may be.

Whereas [state complaint of nuisance as in last form]:

And whereas it has been proved to our [or my] satisfaction that such nuisance exists, but that no owner or occupier of the premises, or person causing the nuisance, is known or can be found [as the case may be]: Now we [or I] in pursuance of the said Act, hereby order the said [local authority, naming it,] forthwith to [here specify the works to be done].

Given, etc. [as in last form].

FORM

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*Health Act.*

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## FORM E.

*Form of Order to permit Execution of Works by Owner.*

Whereas complaint has been made to me, E.F., Esquire, one of Her Majesty's justices of the peace in and for the Colony of Queensland, by A.B., owner, within the meaning of "*The Health Act of 1884*," of certain premises [*describe the situation of the premises so as to identify them*] that C.D., the occupier of the said premises, prevents the said A.B. from obeying and carrying into effect the provisions of the said Act in this, to wit, that the said C.D. prevents the said A.B. from [*here describe the works generally according to circumstances, for instance thus*: constructing and laying down in connection with the said house a covered drain, so as to communicate with a sewer which the local authority of the district of \_\_\_\_\_, is entitled to use under the said Act, such sewer being within one hundred feet of the said premises]: And whereas the said C.D., has been duly summoned to answer the said complaint, and has not shown sufficient cause against the same, and it appears to me that the said works are necessary for the purpose of enabling the said A.B. to obey and carry into effect the provisions of the said Act, I do hereby order the said C.D. to permit the said A.B. to execute the same in the manner required by the said Act.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 18 .  
J.S. [L.S.]

## FORM F.

*Order of Justice for Admission of Officer of Local Authority.*

Whereas [*describe the local authority*] has, by its officer [*naming him*], made application to me A.B., one of Her Majesty's justices of the peace in and for the Colony of Queensland, and the said officer has made oath to me that demand has been made pursuant to the provisions of "*The Health Act of 1884*," for admission to [*describe situation of premises so as to identify them*], for the purpose of [*describe the purpose, as the case may be*], and that such demand has been refused.

Now, therefore, I the said A. B. hereby require you [*name the person having custody of the premises*] to admit the said [*name the local authority, or the officer of the local authority*] to the said premises, for the purpose aforesaid.

Given, etc. [*as in last form*].

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 18.

An Act to amend "The Immigration Act of 1882."

[ASSENTED TO 27TH OCTOBER, 1884.]

**W**HEREAS it is desirable to amend the provisions of "*The Immigration Act of 1882*" with respect to nominated and indented immigrants, and to encourage the introduction of indented labourers from Europe: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act shall be read and construed with and as an amendment of "*The Immigration Act of 1882*," hereinafter referred to as the "Principal Act."

2. The Governor in Council may direct that persons of any specified age shall not be eligible to be nominated for a passage warrant under the provisions of the ninth section of the Principal Act; and any such direction shall be published in the *Gazette*, and shall have the force of law.

3. The

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*Immigration Act of 1882 Amendment Act.*

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Scale of payments for  
indentured labourers.

3. The scale of amounts payable by an intending employer in respect of the passage to the colony of labourers or servants, to be engaged by him in the United Kingdom or on the Continent of Europe under the provisions of the twelfth section of the Principal Act, shall be that set forth in Schedule F to this Act, instead of that set forth in Schedule D to the Principal Act.

Proper accommoda-  
tion to be provided  
for indentured  
labourers.

4. Every agreement for the employment of a labourer or servant made under the provisions of the thirteenth section of the Principal Act shall contain a stipulation that the employer shall provide sufficient and proper house accommodation for such labourer or servant and his family during the term of the agreement.

Short title.

5. This Act may be cited as "*The Immigration Act of 1882 Amendment Act of 1884.*"

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SCHEDULE F.

*Scale of Payments for Indented Passages.*

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For males between the ages of fifteen and forty-five years, ... ..	£2 each;
For females between those ages, whether the wives of indentured labourers or themselves indentured, ... ..	£1 each;
For children of an indentured labourer under the age of fifteen years, ... ..	£1 each;
For all above the age of forty-five years ...	The full amount of passage money.

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 19.

**An Act to Amend the Laws relating to the Administration of Oaths  
in Courts of Justice.**

[ASSENTED TO 27TH OCTOBER, 1884.]

**W**HEREAS it has been found in the administration of Justice Preamble. that many persons called to give evidence in a Court of Justice, whose evidence would only be receivable under and by virtue of the provisions of "*The Oaths Act Amendment Act of 1876*," cannot be admitted as witnesses by reason that they do not and cannot be made to clearly understand the meaning of the promise and declaration in the said Act contained: And it is desirable to amend the said Act in the manner hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland, in Parliament assembled, and by the authority of the same, as follows:—

1. Sections One and Two of the said Act are hereby repealed.
2. If

Repeal sections 1 and 2, 40 Vic., No. 10.

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*Oaths Act Amendment Act.*

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Mode of taking  
evidence of persons  
objecting or  
incompetent to take  
an oath.

2. If any person tendered for the purpose of giving evidence in respect of any Civil or Criminal proceeding before a Court of Justice, or any officer thereof, or on any Commission issued out of the Court, objects to take an oath, or by reason of any defect of religious knowledge or belief or other cause, appears incapable of comprehending the nature of an oath, it shall be the duty of the Judge or person authorised to administer the oath, if satisfied that the taking of an oath would have no binding effect on the conscience of such person and that he understands that he will be liable to punishment if his evidence is untruthful, to declare in what manner the evidence of such person shall be taken, and such evidence so taken in such manner as aforesaid shall be valid as if an oath had been administered in the ordinary manner. And if any such person wilfully and corruptly gives false evidence he may be indicted and tried for perjury, and upon conviction thereof shall be liable to the same punishment as if he had taken an oath.

Interpreters.

3. The provisions of the preceding section of this Act shall, *mutatis mutandis*, extend and apply to Interpreters called to interpret in any Civil or Criminal proceeding in any Court of Justice.

Short title.

4. This Act shall be read and construed with and as an amendment of "*The Oaths Act of 1867*," and "*The Oaths Act Amendment Act of 1876*," and may be cited as "*The Oaths Act Amendment Act of 1884*."

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 20.

**An Act to Prevent the Improper Employment of Aboriginal Natives of Australia and New Guinea on Ships in Queensland Waters.**

[ASSENTED TO 17TH NOVEMBER, 1884.]

**WHEREAS** it is expedient to make better provision for preventing Preamble. the improper employment of Native Labourers on vessels trading in Queensland Waters: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. In the interpretation of this Act—**

Interpretation.

The term "Native Labourer" means any Aboriginal Native of Australia or New Guinea, or of any of the islands adjacent thereto respectively;

The word "vessel" means any ship or boat;

The term "Vessel trading in Queensland Waters" means a vessel sailing from any port in Queensland and engaged in any fishery, or in trading between Queensland ports, or between any Queensland port and any island or islands belonging to or dependent on Queensland.

2. No

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*Native Labourers' Protection Act.*

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Native labourers not to be employed unless under articles.

**2.** No native labourer shall be employed or carried on board of any vessel trading in Queensland Waters unless he is carried on the ship's articles in like manner as a seaman forming part of the crew of the vessel, and has been engaged to serve in accordance with the provisions of this Act.

No native labourer to be engaged except in the presence of the shipping master.

**3.** No native labourer shall be engaged to serve on board of, or in connection with, any such vessel for any voyage or period of time, by any person other than the master or owner thereof, nor shall any native labourer be so engaged except in the presence and with the sanction of the shipping master of the port at or nearest to which such engagement is made.

Agreement to be explained and attested.

**4.** Every Agreement of hiring of a native labourer shall be signed by him in the presence of such shipping master, who shall carefully explain the Agreement to him, or otherwise ascertain that he understands the same, before he signs it, and shall attest the signature of such native labourer.

Particulars to be entered and tokens to be given.

The shipping master shall enter particulars of every such engagement in a register book, to be kept by him for that purpose, and the native labourer and the master or owner engaging him shall respectively sign their names in the book in testimony of such engagement.

The shipping master shall also enter in the register book particulars of the personal appearance of the native labourer sufficient to identify him, and shall deliver to him a metal token inscribed or impressed with such letters and figures as shall be sufficient to show where the entry relating to him can be found, and a copy of such particulars, letters, and figures, shall be entered in the official log of the vessel.

Contents of Agreement.

**5.** Every such Agreement shall contain the following particulars as terms thereof, namely :—

- (1.) The nature of the intended voyage or engagement, and, as far as practicable, its duration, which shall not exceed twelve months;
- (2.) The capacity in which the native labourer is to serve;
- (3.) The amount of wages which the native labourer is to receive;
- (4.) A scale or statement, approved by the shipping master, of the provisions and clothing to be furnished to the native labourer.

Penalties.

**6.** If any vessel trading in Queensland Waters carries any native labourer with respect to whom the provisions of this Act have not been observed, the master and owner shall be jointly and severally liable to a penalty not exceeding one hundred pounds.

**7.** Every

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*Native Labourers' Protection Act.*

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**7.** Every native labourer employed on board of, or in connection with, a vessel trading in Queensland Waters, whether he was engaged before, or is engaged after, the passing of this Act, shall be discharged and receive his wages in the presence of a shipping master. Native labourers to be discharged and paid before shipping master.

If the master or owner of any such vessel, or any other person, discharges a native labourer who has been employed on board of any such vessel or pays his wages otherwise than as is herein provided, he shall be liable to a penalty not exceeding twenty pounds. Penalty.

**8.** If any such vessel arrives in any port in Queensland having a less number of native labourers on board than are carried on the ship's articles, the master and owner shall each be liable to a penalty not exceeding five and twenty pounds for every native labourer so deficient in respect of whom such master or owner shall not prove to the satisfaction of the Court that he has been prevented by circumstances beyond his control from bringing such native labourer to such port. Master to bring native labourers back to port. Penalty.

**9.** All offences against either of the two last preceding sections of this Act may be prosecuted in a summary way before any two justices. Mode of prosecution.

**10.** In any proceeding against any person for a breach of the provisions of this Act the accused person shall be a competent witness on his own behalf. Accused person may give evidence.

**11.** In any proceeding under this Act the averment in the information or statement of claim that any person named therein is a native labourer shall be sufficient proof thereof until the contrary is shown. Onus of proof.

**12.** The provisions of this Act shall not apply to any native labourer who is employed as a boatman on board of any boat in any port in Queensland. Exceptions.

In the case of a native labourer who is carried direct in a vessel to any such port for the purpose of being engaged under the provisions of this Act, (the proof of which purpose shall be upon the person alleging the fact), the provisions of this Act shall not apply in respect of such native labourer while he is being so carried.

**13.** The engagement of a native labourer in accordance with the provisions of this Act shall be a sufficient compliance with the provisions of the eleventh section of "*The Pearl-Shell and Béche-de-mer Fishery Act of 1881*" respecting the engagement of native labourers. Compliance with the provisions of this Act to be sufficient compliance with "*The Pearl-Shell and Béche-de-mer Fishery Act of 1881.*"

**14.** This Act may be cited as "*The Native Labourers' Protection Act of 1884.*" Short title.

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 21.

An Act to amend "The Brands Act of 1872."

[ASSENTED TO 1ST DECEMBER, 1884.]

**W**HEREAS it is expedient to amend "*The Brands Act of 1872.*" Preamble.  
Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same as follows:—

1. From and after the passing of this Act the Schedule hereto Schedule. shall be substituted for Schedule C of "*The Brands Act of 1872.*"

2. An information for a breach of any of the provisions of Limit of time for initiating prosecution. the twenty-seventh or twenty-eighth sections of the said Act may be laid and prosecuted in a summary way at any time within one month from the discovery of such breach, anything in any law or statute to the contrary notwithstanding.

3. The thirty-eighth section of the said Act shall be read and construed as if the twenty-seventh clause of such Act had been mentioned therein instead of the twenty-ninth clause thereof. The 38th section of principal Act to apply to 27th section.

4. This

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*Brands Act.*


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Short title.

4. This Act shall be styled and may be cited as "*The Brands Act of 1872 Amendment Act of 1884.*"

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## SCHEDULE.

For every first registration of a brand	...	ten shillings
For every transfer of a brand	... ..	five shillings
Annual assessment for owners of stock—For		} one shilling and sixpence.
every 100 or portion of 100 after the		
first 50.		

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 22.

**An Act to Establish a Board of Pharmacy in Queensland, and to make better provision for the Registering of Pharmaceutical Chemists, and for other Purposes.**

[ASSENTED TO 16TH DECEMBER, 1884.]

**W**HEREAS it is desirable to make better provision for preventing unqualified persons from representing themselves to be competent to practise as dispensing chemists and druggists: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Pharmacy Act of 1884.*" Short title.

2. From and after a day to be notified by the Governor in Council by proclamation, and not being less than one month after the making and certifying of a register as hereinafter provided, the seventh section of "*The Medical Act of 1867,*" and so much of the Repeal of part of "Medical Act of 1863" relating to chemists and druggists.

third

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*Pharmacy Act.*

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third, eighth, ninth, tenth, seventeenth, and twentieth sections thereof as relates to chemists and druggists, shall be repealed, except as to any matter or thing theretofore lawfully done, or any liability theretofore incurred.

**Definitions.****3.** In this Act—

“Board” means “The Pharmacy Board of Queensland” established under this Act :

“Registered Chemist and Druggist” means a person registered as such under “*The Medical Act of 1867*” :

“Pharmaceutical Chemist” means a person registered as such under this Act :

“Register” means the Pharmaceutical Register of Queensland kept under the provisions of this Act :

“Drugs” means drugs for internal or external use, and extends to all articles taken and sold as medicines :

“The Regulations” means regulations made by the Board, with the approval of the Governor in Council, under the authority of this Act.

## PART I.

*The Pharmacy Board.*

## Pharmacy Board.

**4.** There shall be a Board, consisting of seven members, called “The Pharmacy Board of Queensland,” which shall be constituted as hereinafter provided, and shall have the powers and authorities hereinafter defined.

## Qualification.

**5.** Every member of the Board must, until a register has been made, and that fact has been certified to the Governor under the provisions of this Act, be a registered chemist and druggist, or legally qualified medical practitioner, and so soon as such register has been made, and the fact so certified, must be a pharmaceutical chemist, or legally qualified medical practitioner.

## First Board how appointed.

**6.** The first members of the Board shall be appointed by the Governor in Council and shall hold office until the thirty-first day of December, one thousand eight hundred and eighty-six.

## Future Boards to be elected.

**7.** In the case of future Boards, the members shall be elected by the pharmaceutical chemists of the colony. Every election shall be held in such manner as may be prescribed by the regulations.

Every ordinary election shall be held in the month of December on such day as may be appointed by the Board.

**8. Members**

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*Pharmacy Act.*

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**8.** Members of the Board, after the first, shall hold office for the Term of office. three years next succeeding the month of their election, and shall be eligible to be re-elected.

**9.** If any member of the Board, during his term of office, die, Vacancies, how filled. resign, cease to reside in the colony, become insolvent or insane, or be declared by resolution concurred in by an absolute majority of the Board, unfit to remain a member of the Board, his seat shall become vacant, and the vacancy shall be filled by the appointment or election of another member, according as the member whose seat so becomes vacant was appointed or elected, and the member so appointed or elected shall hold office for the residue of the term of office of the member whose place he is appointed or elected to fill.

**10.** The members of the Board shall elect one of their number President. as president.

A quorum of the Board shall consist of not less than three Quorum of Board. members thereof. The continuing members may act notwithstanding any vacancy in their body.

The president when present shall preside at all meetings of the Board, and in the event of his absence from any meeting, one of the members present shall be elected chairman of that meeting.

The Board may from time to time appoint and remove a Officers. registrar and other officers.

**11.** The Board may from time to time, with the approval of Regulations. the Governor in Council, make, alter, or rescind, regulations for carrying this Act into effect. Such regulations shall not have any effect if they be repugnant to any law in force in Queensland, nor until they shall have been published in the *Gazette*.

**12.** The Board may question any person who may attend before Power to examine witnesses. it for the purpose of examination or registration, or any witness he may call before it to give evidence, and may examine any such person upon oath, or take a solemn declaration from such person.

If any person shall wilfully, knowingly, or corruptly make any Penalties. false statement in answer to any such question or upon such examination or in such declaration, or shall utter or attempt to utter or put off as true to or before the Board any false, forged, or counterfeit diploma, degree, license, certificate, or other document or writing, he shall be guilty of a misdemeanor, and on conviction thereof shall be liable to be imprisoned for any period not exceeding three years with or without hard labour, or may be dealt with under any other law applicable to his offence.

PART

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*Pharmacy Act.*


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## PART II.

*Pharmaceutical Register of Queensland.*

Pharmaceutical  
Register to be kept.

**13.** The Board shall cause to be made and kept a register, in the form in the first schedule, or to the like effect, of the names of all persons entitled to be registered as pharmaceutical chemists, and such register shall be called "The Pharmaceutical Register of Queensland."

So soon as a register shall have been made under this Act, the President of the Board shall certify the fact to the Governor under his hand and seal.

Fees payable.

**14.** Previously to the registration or examination of any person under this Act the fees set out in the second schedule shall be paid to the Registrar of the Board for the purposes of this Act.

Board may correct  
register.

**15.** The Board may from time to time make any necessary alterations in the registration of the qualifications and addresses of persons registered under this Act.

Notice of change of  
residence of registered  
chemist.

Every pharmaceutical chemist, on changing his place of business shall give notice thereof to the Registrar of the Board, and the Registrar shall correct the entry in the register accordingly.

Means of ascertaining  
change of residence.

The Board may from time to time write or cause to be written a letter to any pharmaceutical chemist, addressed to him at his registered address, to inquire whether he has changed his place of business, and, if no answer be returned to such letter within the period of six months from the sending thereof, the Board may erase the name of such person from the register, and may restore the same to such register upon the personal application of such person and production of his certificate or satisfactory proof of his former registration.

Notice of death to be  
given Registrar.

**16.** Every district registrar of deaths in Queensland, on registering the death of any pharmaceutical chemist, shall forthwith transmit notice thereof by post to the Registrar of the Board, and on receipt of such notice the Board shall erase the name of such chemist from the register.

Name may be erased  
for certain causes.

**17.** If any pharmaceutical chemist be convicted of any offence which in the opinion of the Board renders him unfit to be on the register, the Governor in Council may, upon the application of the Board, order the name of such person to be erased from such register, and it shall be the duty of the Board to erase such name accordingly.

Correct list to be  
published.

**18.** The Board shall, in the month of January in each year, cause to be published in the *Gazette*, and also cause to be printed, published, and offered for sale at a reasonable price, a correct list of the

*Pharmacy Act.*

the names of all registered pharmaceutical chemists, and in such list the names shall be in alphabetical order according to the surnames, with the respective residences of the persons named therein; and such printed list shall be called "The Pharmaceutical List of Queensland" for the year in question.

19. A printed copy of such list for the time being, purporting to be printed and published with the authority of the Board, or a copy of the *Gazette* purporting to contain such list or any regulations made by the Board, shall be *prima facie* evidence in all courts of justice and in all legal proceedings whatsoever that the persons specified in such printed list are registered according to the provisions of this Act, or that such regulations were duly made, and the absence of the name of any person from such printed list for the time being shall be evidence, until the contrary shall be made to appear, that such person is not a registered pharmaceutical chemist.

Printed list or  
*Gazette* copy of  
regulations to be  
evidence.

## PART III.

*Registered Pharmaceutical Chemists.*

20. Any person who has attained the age of twenty-one years and—

Qualification of  
pharmaceutical  
chemists.

- (1.) Is a registered chemist and druggist; or
- (2.) Holds a certificate or diploma of competency as a pharmaceutical chemist or as a chemist and druggist from the Pharmaceutical Society of Great Britain, or any College or Board of Pharmacy recognised by the Board under the Regulations; or
- (3.) Having served for not less than three years under written indentures as an apprentice to a pharmaceutical chemist in Queensland, or a person qualified under the last preceding definition, has passed the examination prescribed by the Regulations; or
- (4.) Having for the like period been employed as a dispensing assistant to a chemist and druggist, or pharmaceutical chemist, carrying on business in Queensland, has passed such examination; or
- (5.) Having for the like period been employed as a dispensing chemist in a public hospital or charitable institution in Queensland, has passed such examination; or
- (6.) Having for periods, amounting in the aggregate to the like period of three years, been employed in any two or more of the occupations mentioned in the two last preceding definitions, has passed such examination;

shall be entitled to be registered as a pharmaceutical chemist under this Act. And no person not qualified as in this section is provided shall be so registered.

Provided



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*Pharmacy Act.*

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Board may examine candidates.

Provided that no person shall be registered by virtue of any of the qualifications in this section numbered four, five, and six, unless his qualification, other than examination, shall have arisen before the expiration of three years from the passing of this Act, nor unless he shall apply for examination within six months after the expiration of such three years.

Certificate of qualification.

**21.** The Board shall, from time to time, grant to persons entitled to be registered as pharmaceutical chemists under this Act, certificates of qualification in the form in the third schedule hereto, or to the like effect.

A certificate of qualification shall entitle the person named therein, on payment of the proper fee, to be registered under this Act at any time within six months after the date of such certificate.

Board may examine candidates.

**22.** The Board shall examine all persons who shall present themselves for examination under the provisions of this Act, as to their knowledge of the Latin language, botany, *Materia Medica*, pharmaceutical and general chemistry, practical pharmacy, and such other subjects as may from time to time be prescribed by the Regulations: Provided that such examination shall not include the theory and practice of medicine, surgery, or midwifery.

The Board may from time to time appoint examiners to conduct examinations under this Act.

Conditions of registration.

**23.** Every registered chemist and druggist shall be registered as a pharmaceutical chemist, without application or fee.

Every person not being a registered chemist and druggist, who desires a certificate of qualification under this Act, shall furnish the Board with a statutory declaration in the form in the fourth schedule, or to the like effect, verifying his right to registration, or his right to be examined, as the case may be, and shall produce such other written evidence of his right to be registered or examined as may be prescribed by the Regulations.

Where a person applies for such certificate under the second definition of the twentieth section of this Act, his application must be accompanied by the certificates or diplomas on which he bases his application. Such certificates or diplomas shall be returned to the applicant by the Board.

Where a person applies to be examined under the third definition of the said twentieth section, his declaration must be accompanied by the written indentures of apprenticeship and a certificate from his master in the form in the fifth schedule, or to the like effect.

Where a person applies to be examined under the fourth, fifth, or sixth definition of the said twentieth section, his application must, if practicable, be accompanied by a statutory declaration in the form in the sixth schedule, or to the like effect, of the person in whose shop he was employed, or of the president, treasurer, or superintendent of the public institution in which he served.

PART

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*Pharmacy Act.*


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## PART IV.

*Miscellaneous.*

**24.** Upon the decease of any pharmaceutical chemist actually in business at the time of his death it shall be lawful for his executor or administrator to continue such business for a period of twelve months, and for such further time as may be permitted by the Board, provided that the business is always *bonâ fide* conducted by a registered pharmaceutical chemist.

Provision in case of death for carrying on business.

**25.** Any registrar or other person who wilfully makes or causes to be made any false entry in, or falsification of, the Register or the Pharmaceutical List of Queensland for any year, and any person who wilfully procures or attempts to procure himself to be registered under this Act by making, or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, and any person aiding or assisting therein, shall be guilty of a misdemeanor, and shall on conviction be liable to a penalty not exceeding one hundred pounds, with or without imprisonment, for any term not exceeding twelve calendar months.

Penalties for falsification of register or list, or other frauds on the Act.

**26.** From and after the day notified by the Governor in Council by proclamation as provided by the second section of this Act, it shall not be lawful for any person not duly registered as a pharmaceutical chemist under this Act to assume or use the title of pharmaceutical chemist, pharmacist, chemist and druggist, dispensing chemist or dispensing druggist, or other words of similar import, or to use or exhibit any title, term, or sign, which may be construed to mean that he is qualified to perform the duties of a pharmaceutical chemist, pharmacist, chemist and druggist, dispensing chemist, or dispensing druggist.

Unregistered person may not represent himself to be a chemist, &c.

Any person offending against the provisions of this section shall be liable to a penalty not exceeding twenty pounds, and in default of payment shall be liable to be imprisoned for any term not exceeding six months.

**27.** From and after the day notified as aforesaid, it shall not be lawful for any corporation, or joint-stock company, to assume or use the title of pharmaceutical chemists, pharmacists, chemists or druggists, dispensing chemists, or dispensing druggists, or other words of similar import, or to use or exhibit any title, term, or sign, which may be construed to mean that they are qualified to perform the duties of pharmaceutical chemists, pharmacists, chemists and druggists, dispensing chemists, or dispensing druggists, unless in either case their business is carried on under the actual personal supervision and management of a pharmaceutical chemist, and the name of such person is set forth in every signboard, label, invoice, or other document, in which such title, term, sign, or words, is, or are, used by them.

Corporations may not represent themselves to be chemists.

Any

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*Pharmacy Act.*

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Any corporation or joint-stock company offending against the provisions of this section shall be liable to a penalty of ten pounds for every day during which the offence is continued, which may be recovered by action in any court of competent jurisdiction at the suit of any person authorised by the Board in that behalf.

Any person aiding or abetting any corporation or joint-stock company in any such offence shall be liable to a penalty not exceeding twenty pounds, and in default of payment shall be liable to be imprisoned for any term not exceeding six months.

Limitation of application of Act.

**28.** The provisions of the two last preceding sections shall not apply to—

- (1.) Any representation, made by any person or corporation carrying on the business of wholesale dealers in drugs in the ordinary course of wholesale dealing only, to the effect that he or they is or are such wholesale dealer or dealers; or
- (2.) Any person or corporation taking possession of the stock-in-trade of a pharmaceutical chemist under a *bonâ fide* mortgage, and carrying on his business for a period not exceeding three months for the purpose of selling the same as a going concern, provided that such business is carried on under the actual personal supervision and management of a pharmaceutical chemist; or
- (3.) Any legally qualified medical practitioner; or
- (4.) Any person representing himself to be a Homœopathic Chemist only, and who at the time of the passing of this Act is engaged in dispensing or selling homœopathic medicines only.

Keeping shop as chemists and druggists for five years.

**29.** Any person who has kept open shop as a chemist and druggist in the Colony of Queensland for the term of five years previous to the passing of this Act, shall be entitled, at any time within twelve months after the passing of this Act, to submit himself for examination, and, on passing such examination, shall be entitled to be registered as a pharmaceutical chemist.

Penalties how recovered.

**30.** All offences under this Act shall be adjudicated on, and (except as hereinbefore otherwise provided) all penalties imposed by this Act shall be recovered in a summary manner by and before two justices of the peace, and all penalties when recovered shall be paid to the Board to be applied towards the expenses of carrying this Act into effect.

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SCHEDULES.

*Pharmacy Act.*

## SCHEDULES.

## FIRST SCHEDULE.

*Register of Pharmaceutical Chemists.*

Name.	Residence.	Qualification.	Date of Registration.

A.B., President }  
 C.D., Member } Of the Pharmacy Board  
 E.F., Member } of Queensland.

## SECOND SCHEDULE.

*Fees payable under "The Pharmacy Act of 1884."*

	£	s.	d.
For every examination before the Board ... ..	3	3	0
On registration as a pharmaceutical chemist, without examination ... ..	2	2	0
On registration in every other case ... ..	1	1	0

## THIRD SCHEDULE.

*Certificate of Qualification for Registration as a Pharmaceutical Chemist under "The Pharmacy Act of 1884."*

We do hereby certify that \_\_\_\_\_, residing at \_\_\_\_\_ in the Colony of Queensland, is duly qualified for registration as a pharmaceutical chemist, on the grounds set forth at the foot of this certificate.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, .

President. [L.S.]  
 Member. [L.S.]  
 Member. [L.S.]  
 Registrar. [L.S.]

## FOURTH SCHEDULE.

*"PHARMACY ACT OF 1884."**Declaration by a person desiring to be registered [or examined] under "The Pharmacy Act of 1884."*

I, \_\_\_\_\_, residing at \_\_\_\_\_ in \_\_\_\_\_, do solemnly and sincerely declare that I have attained the age of twenty-one years, and that I hold a certificate [or diploma] of competency as a pharmaceutical chemist [or as the case may be] from the Pharmaceutical Society of Great Britain [or as the case may be] [or served for three years, from the \_\_\_\_\_ day of \_\_\_\_\_ to the \_\_\_\_\_ day of \_\_\_\_\_, under the annexed Indentures of Apprenticeship \_\_\_\_\_, a registered chemist and druggist (or as the case may be) at \_\_\_\_\_], [or was employed as a dispensing assistant \_\_\_\_\_]

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*Pharmacy Act.*

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assistant to \_\_\_\_\_, a registered chemist and druggist (or pharmaceutical chemist),  
 from the \_\_\_\_\_ day of \_\_\_\_\_ to the \_\_\_\_\_ day of \_\_\_\_\_ ] [or was employed  
 as dispensing chemist in the \_\_\_\_\_ hospital, from the \_\_\_\_\_ day of \_\_\_\_\_  
 to the \_\_\_\_\_ day of \_\_\_\_\_ (or as the case may be)], [or kept open shop as a  
 chemist and druggist at \_\_\_\_\_, in the Colony of Queensland, from  
 to \_\_\_\_\_].

And I make this solemn declaration, &c.

Declared at \_\_\_\_\_, in the \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_  
 \_\_\_\_\_, before me.

A. B.

C. D.

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FIFTH SCHEDULE.

*Certificate to be signed by Master of Apprentices.*

To the Pharmacy Board of Queensland.

I, \_\_\_\_\_, residing at \_\_\_\_\_ in the Colony of \_\_\_\_\_,  
 a registered pharmaceutical chemist [or as the case may be], do hereby certify that  
 \_\_\_\_\_ served me under written indentures of apprenticeship from the \_\_\_\_\_ day  
 of \_\_\_\_\_ to the \_\_\_\_\_ day of \_\_\_\_\_; and I believe that he is a fit person  
 to be registered as a pharmaceutical chemist on passing the prescribed examination.

And I make this solemn declaration, &c.

Declared at \_\_\_\_\_, in the Colony of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
 \_\_\_\_\_, before me.

A. B.

C. D.

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SIXTH SCHEDULE.

*Declaration to be signed by Master Chemist or President, &c., of Hospital, &c., as to service  
 of Dispensing Assistant or Chemist.*

To the Pharmacy Board of Queensland.

I, \_\_\_\_\_, residing at \_\_\_\_\_, in the Colony of \_\_\_\_\_, do  
 hereby declare that I carried on business as a registered chemist and druggist [or  
 pharmaceutical chemist] at \_\_\_\_\_ from the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, to the  
 \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, and that \_\_\_\_\_, residing at \_\_\_\_\_, in  
 the Colony of \_\_\_\_\_, was employed by me as a dispensing assistant in my open  
 shop at \_\_\_\_\_, during that period [or that I am the president (or as the case may  
 be) of the \_\_\_\_\_ hospital (or as the case may be), and that \_\_\_\_\_ was  
 employed there as dispensing chemist from the \_\_\_\_\_ day of \_\_\_\_\_  
 to the \_\_\_\_\_ day of \_\_\_\_\_].

And I make this solemn declaration, &c.

Declared at \_\_\_\_\_, in the \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_  
 \_\_\_\_\_, before me.

A. B.

C. D.

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 23.

An Act to provide for the Drainage of Lands within the Colony of Queensland.

[ASSENTED TO 16TH DECEMBER, 1884.]

**W**HEREAS it is expedient to make provision for the Drainage of Preamble.  
Lands within the Colony of Queensland: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly in Parliament assembled, and by the authority of the same, as follows:—

1. This Act shall be read and construed with "*The Divisional Boards Act of 1879*" and "*The Divisional Boards Act Amendment Act of 1882.*" To be read with "Divisional Boards Acts."

2. In this Act

"Watershed" means any portion of a Division or subdivision from which the water is drained in a common direction by reason of the natural conformation of the country or otherwise.

Interpretation.

"The said Acts" means "*The Divisional Boards Act of 1879*" and "*The Divisional Boards Act Amendment Act of 1882,*" and any Acts amending or in substitution for them.

3. The

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*Divisional Boards Agricultural Drainage Act.*

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Petition to be presented to Board by ratepayers representing majority of votes on the watershed.

**3.** The powers conferred by this Act shall be exercised by the Board upon petition signed as hereinafter provided.

A petition must be signed by such number of the ratepayers of the Division rated in respect of the land situated within the watershed as represents a majority of all the votes of the ratepayers rated in respect of such land, and must be addressed to the Board praying them to exercise the powers by this Act conferred in respect of draining the watershed.

Board to appoint persons to draw up plans and specifications.

**4.** On the Board being satisfied that the said petition is duly signed by ratepayers representing a majority of votes of the ratepayers rated in respect of the land within the watershed they shall appoint a proper person to prepare a scheme of drainage of the watershed.

Board to appoint valuator.

**5.** The person so appointed shall prepare such scheme with proper plans and specifications and shall submit the same to the Board, who shall thereupon, if they approve of the same, appoint a valuator to value the amount of improvement which such proposed scheme, if completed, would effect on the several rateable properties within the watershed.

Notice of valuation to be given.

**6.** Notice of the valuation and of the amount thereof shall be given in the same manner and to the same persons as in the case of valuations under the said Acts.

Right of appeal.

**7.** If any person thinks himself aggrieved on the ground of incorrectness in the valuation of his own or any other property, he shall have the same right of appeal therefrom as in the case of valuations of rateable property under the said Acts, and the same proceedings shall be had upon such appeal, as nearly as may be, as by the said Acts are provided in the case of appeals under the said Acts, with this addition that in the event of any person appealing against the valuation of another person's property he shall give notice of the appeal to such person as well as to the Board.

Plans to be forwarded to Minister.

**8.** The Board shall forward the plans and specifications to the Minister for approval.

Minister may return plans, &c., and call on neighbouring Division to continue scheme.

**9.** The Minister may approve of the plans and specifications, or may return them for amendment, and may, if he think it necessary or advisable that provision should be made for continuing the system of drainage through another Division or other Divisions, require such Division or Divisions to afford the necessary facilities for such continuance, but at the expense, nevertheless, of the Board carrying out the scheme of drainage.

10. If

*Divisional Boards Agricultural Drainage Act.*

**10.** If the Minister so requires any Division or Divisions to afford such facilities as in the last preceding section provided, he may appoint some person or persons to assess the amount of compensation (if any) to be paid by one Division to another, and any amount so assessed, if approved by the Minister, shall be paid.

Minister may appoint valuator where scheme extended.

**11.** If the Minister approves of the plans and specifications, or amended plans and specifications, the Colonial Treasurer may advance to the Board, by way of loan, out of any moneys available for that purpose, the necessary money for carrying out the scheme. Such loan shall be called a special loan, and shall be repayable in thirty years, under the provisions of "*The Local Works Loans Act of 1880.*"

Money advanced to be called a special loan.

The Colonial Treasurer may deduct and retain from any moneys payable to the Board by way of endowment under the said Acts the amount of any annual instalment so repayable.

**12.** The amount of any such loan shall not be taken into consideration in estimating the amount that may be borrowed by the Board under the provisions of the said Acts relating to loans to Divisional Boards.

Amount so borrowed not to limit other borrowing powers.

**13.** For the purpose of carrying out such scheme the Board, its officers, workmen, and servants, shall have power to enter on any land and to break the surface, excavate, and do all necessary work in connection with construction or otherwise, after giving fourteen days' notice of their intention to do so to the owners or occupiers of such land.

Right to enter on lands.

**14.** Any land required for carrying out the scheme may be taken by the Board under "*The Public Works Lands Resumption Act of 1878,*" and any person whose land is injuriously affected by the works shall be entitled to compensation from the Board, to be determined in the manner provided by that Act for assessing compensation.

Claims for compensation.

**15.** For the purpose of repaying the amount of the loan the Board shall from time to time make and levy a special rate (to be called a "special drainage rate") upon all rateable property within the watershed upon which it appears by the valuation that any improvement will be effected by the scheme, and of such an amount as will be sufficient to provide in each year the annual instalment payable in respect of the loan together with the amount of the purchase money of any land taken for the purposes of the scheme and of any compensation payable to any persons whose land is injuriously affected thereby. And such rate shall be apportioned upon the several rateable properties in proportion to the amount of improvement which it appears by the valuation will be effected upon them respectively.

A special rate on all properties benefited.

**16.** Such



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*Divisional Boards Agricultural Drainage Act.*

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Recovery of rates.

**16.** Such special rate shall be paid and borne by the same persons, and the proceedings for the recovery thereof shall be the same, as in the case of rates made under the said Acts.

No money shall be payable to the Board by way of endowment in respect of any such special rate.

Short title.

**17.** This Act shall be styled and may be cited as "*The Divisional Boards Agricultural Drainage Act of 1884.*"

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 24.

An Act to Amend the Laws relating to Jurors and to Amend "The Jury Act of 1867."

[ASSENTED TO 16TH DECEMBER, 1884.]

**W**HEREAS it is expedient to amend the laws relating to the Preamble.  
exemption of jurors and otherwise to amend the laws as to  
trials by jury: Be it therefore enacted by the Queen's Most Excellent  
Majesty, by and with the advice and consent of the Legislative Council  
and Legislative Assembly of Queensland in Parliament assembled, and  
by the authority of the same, as follows:—

1. So much of the fourth section of "*The Jury Act of 1867*" Jury districts.  
as provides that the jury districts therein mentioned shall comprise  
and include all places within thirty miles from the court house of  
the City of Brisbane and towns therein mentioned is hereby repealed, and  
from and after the passing hereof the said jury districts shall comprise  
and include all places within such distance not exceeding fifty miles  
from the court house of such city and towns aforesaid as the Governor,  
by and with the advice of the Executive Council, shall from time to  
time by proclamation declare and appoint.

2. The

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*Jury Act.*

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*Juries de medietate  
linguæ abolished.*

**2.** The thirty-fifth section of the said Act is hereby repealed, and from and after the passing of this Act an alien shall not be entitled to be tried by jury *de medietate linguæ*, but shall be triable in the same manner as if he were a natural-born subject.

*Juries de ventre  
inspiciendo abolished.*

**3.** In cases where a female upon a capital conviction alleges or the court has otherwise reason to suppose that she is pregnant, no jury *de ventre inspiciendo* shall be empanelled or sworn, but the court shall direct that one or more medical men may be sworn to inquire whether she be with child of a quick child, and if after due inquiry he or they shall report that she is with child of a quick child, the court shall stay execution of the sentence until such female be delivered of a child, or until it is no longer possible in the course of nature that she shall be so delivered, and in such cases the expenses of such inquiry shall be paid by the Crown.

*Certain persons  
exempted.*

**4.** No person who is incapacitated by disease or infirmity, or exempted by the said Act, or who is actually employed as a Mining Manager within the meaning of "*The Mines Regulation Act of 1881*," shall be liable to be summoned or compelled to serve on any jury.

*Jurors to be allowed  
refreshment.*

**5.** Jurors, after having been sworn, may in the discretion of the court be allowed, at any time before giving their verdict, the use of a fire when out of court and be allowed reasonable refreshment.

*Judge may excuse  
juror.*

**6.** It shall be lawful for the court before whom any person may be summoned as a juror to discharge in open court such person from further attendance at such court, or to excuse such person from attendance for any period during the sittings of such court.

*Short title.*

**7.** This Act shall be read and construed with and as an amendment of "*The Jury Act of 1867*," and may be cited as "*The Jury Act of 1884*."

- Persons who cannot act on a jury are:—
1. Persons not natural born or naturalized subjects of the Queen.
  2. Persons who can neither read nor write.
  3. Persons convicted of treason felony or an infamous crime (and not pardoned).
  4. Insolvent persons.
  5. Persons incapacitated by disease or infirmity.
  6. Person who is actually employed as a Mining Manager within the meaning of "*The Mines Regulation Act of 1881*."

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 25.

An Act to authorise the raising of a Loan for the Public Service of the Colony and for other purposes.

[ASSENTED TO 23RD DECEMBER, 1884.]

*Amended  
50 Vic. No. 26*

**W**HEREAS it is expedient to authorise the raising by way of Preamble Loan for the Public Service of the Colony of certain sums of money amounting in all to nine millions nine hundred and eighty thousand pounds for the several purposes hereinafter specified: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for the Governor in Council to raise by Power to raise money for certain purposes. way of Loan for the Public Service of the Colony such several sums of money not exceeding in the whole the sum of nine millions nine hundred and eighty thousand pounds, as may be required for the several purposes following—That is to say—

IMMIGRATION

## Government Loan Act, No. 2.

IMMIGRATION ... ..	£750,000
<b>RAILWAYS—</b>	
<i>Southern and Western—</i>	
Roma to Charleville and Extension Westward ... ..	422,000
Stanthorpe to the Border ... ..	82,000
Brisbane to Ipswich, double line ... ..	85,000
Brisbane to Caboolture and Gympie ... ..	488,000
Brisbane to Cleveland ... ..	80,000
Extension to City and Fortitude Valley ... ..	175,000
South Brisbane Branch, to complete ... ..	120,000
Beenleigh to Southport and the Border ... ..	168,000
Upper Logan Branch to Beaudesert ... ..	70,000
Sandgate Branch ... ..	44,000
Brisbane Valley Branch, Extension to Mount Esk ... ..	45,000
Fassifern Branch, Extension to Coochin ... ..	31,000
Laidley Creek Branch ... ..	30,000
Highfields Branch, Extension to Crow's Nest ... ..	24,000
Beauvaraba Branch ... ..	48,000
Drayton Deviation ... ..	44,000
Warwick to Killarney ... ..	65,000
Ipswich to Warwick ... ..	500,000
Warwick towards St. George ... ..	250,000
Buildings and Sidings ... ..	366,000
<i>Wide Bay and Burnett District—</i>	
Maryborough to Gayndah ... ..	250,000
Maryborough to Gympie and Wharf Branch ... ..	43,000
Maryborough to Burrum ... ..	25,000
Howard to Bundaberg ... ..	100,000
Isis Branch ... ..	20,000
Bundaberg to Mount Perry ... ..	30,000
Bundaberg towards Gladstone ... ..	150,000
Buildings and Sidings ... ..	35,000
<i>Central Railways—</i>	
Extension Westward ... ..	495,000
Clermont Branch ... ..	35,000
Railway Wharf, Rockhampton ... ..	10,000
Emu Park Railway ... ..	64,000
Buildings and Sidings ... ..	32,000
<i>Northern Railways—</i>	
Townsville to Hughenden, and Extension Westwards ... ..	420,000
Herberton to the Coast ... ..	400,000
Cooktown towards Maytown ... ..	150,000
Cloncurry to the Gulf of Carpentaria ... ..	500,000
Bowen to Coal Fields ... ..	100,000
Buildings and Sidings ... ..	55,000
Surveys ... ..	90,000
Rolling-Stock ... ..	737,000
Railway Telegraph Lines and other Works ... ..	36,000
IMPROVEMENT OF HARBOURS AND RIVERS ... ..	583,000
LIGHTHOUSES ... ..	10,000
PUBLIC BUILDINGS ... ..	485,000
BRIDGES ... ..	100,000
ELECTRIC TELEGRAPHS ... ..	250,000
LOANS TO LOCAL BODIES ... ..	500,000
WATER SUPPLY AND STORAGE... ..	250,000
DEFENCE OF THE COLONY ... ..	100,000
DEFICITS ON PREVIOUS LOANS... ..	35,000
	£9,980,000

*Government Loan Act, No. 2.*

2. For the purpose of raising the whole or any part of such sum the Governor in Council may cause Debentures to be made out and sold, or may authorise the creation and sale of Inscribed Stock; and all Debentures or Inscribed Stock so made out, or created and sold, shall be secured upon the Consolidated Revenue of the Colony, and shall bear interest at a rate not exceeding four pounds per centum per annum.

Loan secured upon the Consolidated Revenue.

3. It shall be lawful for the Governor in Council to authorise the sale of any such Debentures or Inscribed Stock in places beyond the limits of the Colony, and to appoint any agent or agents to negotiate such sale.

Debentures or Inscribed Stock may be sold beyond the limits of the Colony.

4. All Debentures purporting to be issued by the Governor, under the authority of this Act, and signed by the Governor or by the Vice-President of the Executive Council, and countersigned by the Colonial Treasurer, shall be deemed to have been duly issued, and the holder thereof shall not be bound to inquire whether such issue was in fact duly authorised.

Securities signed by the Governor or Vice-President of the Executive Council to be deemed duly issued.

5. All sums borrowed under the authority of this Act shall be paid to the Colonial Treasurer, and shall be by him placed to the credit of the Consolidated Revenue Fund, to be applied to the several purposes for which the same shall have been raised, and shall be accounted for in the same manner as if they had formed part of the current annual revenue of the Colony.

Sums borrowed how to be accounted for.

6. The appropriation of all sums paid on account of salaries, or to supplement salaries, from moneys received under authority of this Act, shall be annually sanctioned by the Legislative Assembly.

Salaries to be annually voted.

7. All sums borrowed under the authority of this Act shall be payable on the first day of July, one thousand nine hundred and twenty-four.

Loan when to be repaid.

8. All interest upon any sums borrowed under the authority of this Act shall be and be deemed to be a charge upon all the revenues of the Colony, and the same when due shall be paid by the Colonial Treasurer out of such revenues in priority to all demands thereon, except the charges and expenses of the collection thereof and the interest upon the sum of sixteen millions five hundred and seventy thousand eight hundred and fifty pounds, borrowed under the authority of the Government Loan Acts of 1866, 1870, 1872, 1875, 1876, 1877, 1878, 1879, 1881, 1882, and 1884.

Interest to be a primary charge on revenue.

9. This Act shall be styled and may be cited as "*The Government Loan Act of 1884, No. 2.*"

Short title.



# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 26.

An Act to authorise the Appropriation out of the Consolidated Revenue Fund of certain further Sums towards the Service of the Year ending on the last day of June, 1885, and for the Year ended on the last day of June, 1884.

[ASSENTED TO 23RD DECEMBER, 1884.]

**W**HEREAS we, your Majesty's most dutiful and loyal subjects, the Preamble. Members of the Legislative Assembly of Queensland in Parliament assembled, have cheerfully granted to your Majesty the several sums hereinafter mentioned towards the service of the year ending on the last day of June One thousand eight hundred and eighty-five, and for supplementing the grants made by Parliament for the year ended on the last day of June One thousand eight hundred and eighty-four: And whereas we desire to make good out of the Consolidated revenue Fund of Queensland the several sums granted to your Majesty as aforesaid: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. In addition to the sum of Four hundred and fifty thousand Appropriation. pounds already applied towards the service of the year ending on the last day of June One thousand eight hundred and eighty-five, by "The Appropriation Acts Numbers 1 and 2 of 1884-5" there shall and may be issued and applied out of the Consolidated Revenue Fund of Queensland a further sum of one million three hundred and five thousand four hundred and forty-one pounds towards making good the supplies



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*Appropriation Act No. 3.*


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supplies granted to Her Majesty for the service of the year ending on the last day of June One thousand eight hundred and eighty-five, and a supplementary sum of one hundred and seven thousand nine hundred and sixty-six pounds twelve shillings and four pence for or towards making good the supplies granted to Her Majesty for the service of the year ended on the last day of June, One thousand eight hundred and eighty-four, and a supplementary sum of fifteen thousand six hundred and eighty-two pounds on account, towards making good the supplies granted to Her Majesty for the service of the year ending on the last day of June, One thousand eight hundred and eighty-five, and the said total sum of one million seven hundred and fifty-five thousand four hundred and forty-one pounds, and the said supplementary sums of one hundred and seven thousand nine hundred and sixty-six pounds twelve shillings and four pence and fifteen thousand six hundred and eighty-two pounds shall respectively be appropriated to the salaries and services following :—

(1.) *Executive and Legislative.*—Any sum or sums of money not exceeding eighteen thousand six hundred and eighteen pounds to defray the salaries, contingencies, and other expenses of the establishments and services following—

	£	s.	d.	£	s.	d.
The Governor's Establishment ... ..	2,290	0	0			
The Executive Council's Establishment ... ..	1,039	0	0			
The Legislative Council's Establishment ... ..	3,360	0	0			
The Legislative Assembly's Establishment ... ..	3,545	0	0			
The Legislative Council and Legislative } Assembly's Joint Establishments ... ..	8,384	0	0			
				18,618	0	0

(2.) *The Colonial Secretary.*—Any sum or sums of money not exceeding four hundred and twenty-five thousand two hundred and thirty pounds to defray the salaries, contingencies, and other expenses of the establishments and services following—

	£	s.	d.	£	s.	d.
The Colonial Secretary's Establishment ... ..	5,475	0	0			
Registrar-General's Establishment ... ..	7,982	0	0			
Registrar of Titles ... ..	4,912	0	0			
Police ... ..	133,837	0	0			
Water Police ... ..	2,929	0	0			
Petty Sessions ... ..	33,858	0	0			
Government Printing ... ..	33,042	0	0			
Agent-General for the Colony ... ..	3,300	0	0			
Immigration ... ..	7,565	0	0			
Insanity ... ..	23,693	0	0			
Colonial Stores ... ..	26,625	0	0			
Gaols, Penal Establishments, and Reformatories	21,815	0	0			
Benevolent Asylum ... ..	6,580	0	0			
Schooner "Mavis" ... ..	1,810	0	0			
Steamer "Kate" ... ..	2,676	0	0			
Defence Force ... ..	23,656	0	0			
Charitable Allowances ... ..	47,800	0	0			
Medical and Medical Board ... ..	3,645	0	0			
Central Board of Health ... ..	650	0	0			
Grants in aid of Public Institutions ... ..	3,250	0	0			
Miscellaneous Services ... ..	30,100	0	0			
				425,230	0	0

(3.) *Administration*

*Appropriation Act No. 3.*

(3.) *Administration of Justice.*—Any sum or sums of money not exceeding twenty-eight thousand two hundred and twenty-five pounds to defray the salaries, contingencies, and other expenses of the establishments and services following—

	£	s.	d.	£	s.	d.
Law Officers of the Crown ... ..	6,240	0	0			
Supreme Court ... ..	6,223	0	0			
Sheriff ... ..	4,630	0	0			
District Courts ... ..	8,805	0	0			
Insolvency ... ..	1,427	0	0			
Intestacy ... ..	900	0	0			
				28,225	0	0

(4.) *Secretary for Public Instruction.*—Any sum or sums of money not exceeding one hundred and sixty-three thousand and twenty-seven pounds to defray the salaries, contingencies, and other expenses of the establishments and services following—

	£	s.	d.	£	s.	d.
Department of Public Instruction ... ..	4,100	0	0			
Inspection ... ..	5,100	0	0			
Special Instruction ... ..	200	0	0			
State Schools ... ..	95,600	0	0			
Buildings ... ..	26,975	0	0			
Provisional Schools ... ..	11,800	0	0			
Grammar Schools ... ..	2,523	0	0			
Technical Education ... ..	600	0	0			
Orphanages ... ..	13,076	0	0			
Deaf, Dumb, and Blind Institution ... ..	455	0	0			
Museum ... ..	2,598	0	0			
				163,027	0	0

(5.) *Treasurer and Secretary for Finance and Trade.*—Any sum or sums of money not exceeding one hundred and twenty-four thousand five hundred and forty-eight pounds to defray the salaries, contingencies, and other expenses of the establishments and services following—

	£	s.	d.	£	s.	d.
Treasury Establishment ... ..	8,288	0	0			
Miscellaneous Services ... ..	12,700	0	0			
Customs Establishment ... ..	36,450	0	0			
Border Patrol ... ..	3,923	0	0			
Distillation ... ..	4,270	0	0			
Government Analyst ... ..	590	0	0			
Marine Board ... ..	1,200	0	0			
Shipping Office ... ..	915	0	0			
Harbours and Pilot Establishment... ..	33,175	0	0			
Lighthouses and Lightships ... ..	16,586	0	0			
Powder Magazines ... ..	846	0	0			
Oyster Fisheries ... ..	250	0	0			
Harbours and Rivers ... ..	5,355	0	0			
				124,548	0	0

(6.) *Department*

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*Appropriation Act No. 3.*


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(6.) *Department of Public Lands.*—Any sum or sums of money not exceeding one hundred and four thousand six hundred and eighty-one pounds to defray the salaries, contingencies, and other expenses of the establishments and services following—

	£	s.	d.	£	s.	d.
Secretary for Public Lands Establishment ..	9,240	0	0			
Sale of Lands .. .. .	11,525	0	0			
Crown Bailiffs and Rangers .. .. .	4,725	0	0			
Survey of Roads .. .. .	2,125	0	0			
Reserves .. .. .	7,550	0	0			
Botanical Gardens .. .. .	3,632	0	0			
Survey of Land, &c. ....	50,708	0	0			
Trigonometrical Survey .. .. .	4,000	0	0			
Pastoral Occupation .. .. .	9,626	0	0			
Miscellaneous Services .. .. .	1,550	0	0			
				104,681	0	0

(7.) *Department of Public Works and Mines.*—Any sum or sums of money not exceeding one hundred and thirty-eight thousand eight hundred and seventy pounds to defray the salaries, contingencies, and other expenses of the establishments and services following—

	£	s.	d.	£	s.	d.
Secretary for Public Works Establishment ..	11,432	0	0			
Buildings .. .. .	77,150	0	0			
Roads .. .. .	25,000	0	0			
Gold Fields .. .. .	25,288	0	0			
				138,870	0	0

(8.) *Department of Railways.*—Any sum or sums of money not exceeding four hundred and forty-nine thousand and twenty-five pounds to defray the salaries, contingencies, and other expenses of the establishments and services following—

	£	s.	d.	£	s.	d.
General Establishment .. .. .	11,260	0	0			
Chief Engineer's Department, Southern Division	1,925	0	0			
Southern and Western Railway .. .. .	222,490	0	0			
Maryborough and Wide Bay Railways .. .. .	36,717	0	0			
Bundaberg and Mount Perry Railway .. .. .	13,940	0	0			
Central Railway .. .. .	117,377	0	0			
Northern Railway .. .. .	45,316	0	0			
				449,025	0	0

(9.) *Postmaster-General.*—Any sum or sums of money not exceeding two hundred and ninety-seven thousand six hundred and seventy-two pounds to defray the salaries, contingencies, and other expenses of the establishments and services following—

	£	s.	d.	£	s.	d.
Chief Office .. .. .	11,908	0	0			
Post and Telegraph Offices .. .. .	88,667	0	0			
Conveyance of Mails .. .. .	152,700	0	0			
Contingencies .. .. .	43,997	0	0			
Miscellaneous .. .. .	400	0	0			
				297,672	0	0

(10.) *Auditor-*

*Appropriation Act No. 3.*

(10.) *Auditor-General*.—Any sum or sums of money not exceeding five thousand five hundred and forty-five pounds to defray the salaries and contingencies of the Auditor-General's establishment—

	£	s.	d.	£	s.	d.
For the Salaries of the Department ... ..	4,270	0	0			
Travelling and Contingent Expenses ... ..	1,275	0	0			
	<hr/>			5,545	0	0

(11.) *Supplementary, 1883-4*.—Any sum or sums of money not exceeding one hundred and seven thousand nine hundred and sixty-six pounds twelve shillings and four pence, to defray Supplementary Charges for the service of the year ended on the last day of June, One thousand eight hundred and eighty-four, of the establishments and services following—

	£	s.	d.	£	s.	d.
Executive and Legislative ... ..	788	18	0			
Colonial Secretary's Department ... ..	27,216	16	7			
Administration of Justice ... ..	7,138	18	8			
Public Instruction ... ..	11,185	3	9			
Colonial Treasurer's Department ... ..	26,204	2	7			
Department of Public Lands ... ..	12,444	19	10			
Department of Public Works and Mines ... ..	10,501	6	7			
Department of Railways ... ..	9,051	10	8			
Auditor-General's Department ... ..	134	15	8			
	<hr/>			107,966	12	4

(12.) *Supplementary, 1884-5*.—Any sum or sums of money not exceeding fifteen thousand six hundred and eighty-two pounds on account, to defray Supplementary Charges for the service of the year ending on the last day of June, One thousand eight hundred and eighty-five, of the establishments and services following:—

	£	s.	d.	£	s.	d.
Executive and Legislative ... ..	40	0	0			
Colonial Secretary's Department ... ..	6,243	0	0			
Public Instruction ... ..	66	0	0			
Colonial Treasurer's Department ... ..	1,740	0	0			
Department of Public Lands ... ..	1,250	0	0			
Department of Public Works ... ..	6,243	0	0			
Department of Railways ... ..	100	0	0			
	<hr/>			15,682	0	0

**2.** The Treasurer of the Colony shall issue and pay the several sums above-named, for the purposes hereinbefore mentioned, to such persons, upon such days, and in such proportions as the Governor by any warrant or order in writing under his hand and directed to the said Treasurer shall from time to time order and direct, and the payments so made shall be charged upon and payable out of the Consolidated Revenue Fund of the Colony.

Treasurer to pay  
moneys as directed  
by warrant.

**3.** The

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*Appropriation Act No. 3.*

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Treasurer to be  
allowed credit for  
sums paid in pur-  
suance of warrant.

**3.** The said Treasurer shall in his accounts from time to time be allowed credit for any sum or sums of money paid by him in pursuance of such warrants or orders in writing as aforesaid, and the receipt or receipts of the respective persons to whom the same shall be so paid shall be a full and valid discharge to the said Treasurer in passing his accounts for any such sum or sums as shall be therein mentioned, and he shall receive credit for the same accordingly.

Short title.

**4.** This Act may be cited as "*The Appropriation Act of 1884-5, No 3.*"

# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

No. 27.

An Act to make better provision for the Defence of the Colony of Queensland.

[ASSENTED TO 23RD DECEMBER, 1884.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. "*The Volunteer Act of 1878*," hereinafter called "the said Repeal of 42 Vict., No. 7. repealed Act," is hereby repealed.

2. In the Interpretation of this Act the following terms shall Interpretation. unless the context otherwise requires, have the several meanings set against them respectively, that is to say,—

"Governor"—The Governor as Her Majesty's Representative;

"Minister"—The Colonial Secretary or other Minister for the time being administering the provisions of this Act;

"Defence Force" or "Force"—The Defence Force hereby authorised to be created;

"Commandant"—

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*Defence Act.*

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- “Commandant”—The Officer commanding the Land Force for the time being ;
- “Senior Naval Officer”—“The Senior Combatant Commissioned Officer of the Marine Force for the time being.”
- “District”—A district appointed under this Act ;
- “Division”—A division of a district so appointed ;
- “Corps”—Any battery of artillery, troop or company of cavalry or mounted infantry, company of engineers, company of seamen, company of marines, ship’s company, torpedo corps, company of infantry, or any corps of cadets ; but so that where two or more companies of infantry are formed into a battalion or regiment in one district, the battalion or regiment shall be the “corps” ;
- “Commanding Officer”—The Officer commanding the corps or vessel ;
- “Existing Corps”—A corps whose services have been accepted under the said repealed Act ;
- “Member”—Any member of a corps ;
- “The Army Act”—The Act of the Imperial Parliament called “*The Army Act, 1881*,” and any Act or Acts amending or in substitution for it, including the Articles of War, made under the authority of such Act or Acts, and for the time being in force ;
- “The Naval Discipline Act”—The Act of the Imperial Parliament called “*The Naval Discipline Act, 1866*,” and any Act or Acts amending or in substitution for it, including the Articles of War, made under the authority of such Act or Acts, and for the time being in force ;
- “Municipality”—A municipality under “*The Local Government Act of 1878*,” or a Division under “*The Divisional Boards Act of 1879*,” or any Acts amending or in substitution for those Acts respectively ;
- “Regulations”—Regulations made by the Governor under the provisions of this Act ;
- “Prescribed”—Prescribed by this Act or the Regulations.

Governor to be  
Commander-in-  
Chief.

**3.** The Governor, as Her Majesty’s Representative, shall be Commander-in-Chief of all the Naval and Military Forces of Queensland.

*Defence Force.*

Defence Force of  
whom composed.

**4.** There shall be a Defence Force in Queensland, consisting of all the male inhabitants of Queensland, between the ages of eighteen years and sixty years, who are not exempted or disqualified by this Act, and who are British subjects by birth or naturalisation.

*Exemptions.*

*Defence Act.**Exemptions.*

5. The following persons, between the ages of eighteen and sixty years, shall be exempt from enrolment, and from actual service at any time:—

Persons always exempted.

The Superintendents, gaolers, and warders of gaols, and the officers, keepers, and warders of all public lunatic asylums;

Persons disabled by bodily infirmity;

The only son of a widow, being her only support.

(2.) No person shall have the benefit of exemption unless he proves his right thereto in manner hereinafter prescribed.

Exemption must be claimed.

(3.) When exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall be upon the claimant.

And proved.

(4.) Exemption shall not prevent any person from serving, if he desires it and is not disabled by bodily infirmity.

Not to prevent volunteering.

6. The male population liable to serve in the Defence Force shall be divided into four classes, as follows:—

Classification of the population for purposes of service.

The first class shall comprise all men of the age of eighteen years and upwards, but under thirty years, who are unmarried, or widowers without children;

First class.

The second class shall comprise all men of the age of thirty years and upwards, but under forty-five years, who are unmarried, or widowers without children;

Second.

The third class shall comprise all men of the age of eighteen years and upwards, but under forty-five years, who are married, or widowers with children;

Third.

The fourth class shall comprise men of the age of forty-five years and upwards, but under sixty years.

Fourth.

And whenever it is necessary to call upon men to serve in the Defence Force, they shall be so called upon in the order aforesaid.

Order for service.

*Division of Defence Force.*

7. The Defence Force shall be divided into Active and Reserve Force, Land and Marine.

Divisions of the Force.

The members of the Marine Corps shall be seamen, sailors, and persons whose usual occupation is or has been upon any steam or sailing ship.

Marine Active.

The Reserve Force, Land and Marine, shall consist of the whole of the men who are not serving in the Active Force for the time being.

Reserve, Land, and Marine.

*Active*



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*Defence Act.*

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*Active Force.*

Of what corps the Active Force shall consist.

**8.** The Active Land Force shall consist of regiments and troops of cavalry, batteries of field artillery, companies of mounted infantry, companies of engineers, companies of submarine miners, batteries of garrison artillery, and battalions, regiments, and companies of infantry, in such proportions as the Governor shall appoint ;

(2.) The Active Marine Force shall consist of companies of seamen, companies of marines, torpedo corps, and seamen serving on armed ships or vessels, in such proportions as the Governor shall appoint ;

(3.) The strength of each such regiment, troop, battery, battalion, company, or corps shall be regulated from time to time by the Governor.

Corps where established.

**9.** Every corps shall be established in and for some place to be appointed by the Governor.

*Period of Service.*

Period of service.

**10.** The period of service in the Active Force in time of peace shall be three years.

*Existing Volunteer Corps.*

Existing Volunteer Corps to continue.

**11.** Every Volunteer Corps whose services have been accepted under the said repealed Act, shall continue in existence as a corps under the provisions of this Act, in the same manner as if it had been formed under this Act: Provided that any volunteer, being a member of any such corps, may within three months after the passing of this Act, retire from such corps, on giving fourteen days notice in writing to his commanding officer of his intention so to do.

The period for which any man has been an efficient member of an existing corps may be counted for or towards the period of three years' service in the Defence Force under this Act.

*Military Districts.*

Military districts.

**12.** The Governor in Council may from time to time by Proclamation appoint any part of the Colony to be a District for the purposes of this Act, and may divide any such District into Divisions, and direct what Force shall be established in such Districts and Divisions respectively.

Volunteers.

**13.** Whenever the Governor has appointed that any corps of any branch of the service shall be established in any District or place, any man volunteering to serve therein shall give in his name to a person appointed for that purpose by the Governor, and so soon as a sufficient number of men between the ages of eighteen and forty-five years have so volunteered, the corps shall be deemed complete ;

Provided

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*Defence Act.*

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Provided that when a larger number of men volunteer to serve in any corps than is appointed by the Governor, a sufficient number shall be chosen out of them in the prescribed manner;

Provided further that if any member of an existing corps, not being over the age of fifty-five years, volunteers to serve in any corps, he shall be enrolled therein in priority to other men so volunteering.

14. Every man on enlistment under this Act shall sign a service roll in which the conditions of his service shall be stated; and every officer, on appointment, and every man, on enlistment, or re-enlistment, shall take the oath following;—

“I, A.B., do sincerely promise and swear (or solemnly declare) that I will be faithful and bear true allegiance to Her Majesty:”

Such oath or declaration may be administered by a justice of the peace, or by the commanding officer of the corps, if he has previously taken the oath before a justice of the peace.

Any member of an existing corps who does not retire from such corps as hereinbefore provided shall sign the service roll of the corps under this Act.

*Formation of Corps.*

15. Corps shall be raised in the first instance by voluntary enlistment only, and the provisions of this Act relating to compulsory enlistment shall not be put in force except when a sufficient number of men do not volunteer to keep up the respective corps to their proper strength, nor then except in case of war or invasion or imminent danger thereof.

16. (1.) The enrolment of men shall be made in each district and division by such person (to be called the “Enrolment Officer”), and at such time or times, as may be appointed by the Governor in Council, and it shall be the duty of the Enrolment Officer, by actual *inquiry* at each house in the district or division, and by every other *means* in his power, to make and complete, from time to time, a *correct* roll of the names of all the men of such one or more of the classes hereinbefore defined resident within the district or division, as may be directed, specifying their ages and condition, and distinguishing those who are seamen or sailors, or persons engaged in or upon any steam or sailing ship and those who are *bonâ fide* enrolled members of any active corps.

(2.) Such roll shall be made out in duplicate, and one copy must be forwarded without delay to the Commandant.

(3.) The Roll shall be *primâ facie* evidence of the particulars contained in it, and the persons enrolled shall be liable to serve under the provisions of this Act, unless exempt.

*Balloting.*

*Defence Act.**Balloting.*

- Ballot.** **17.** Whenever in case of war or invasion, or imminent danger thereof, any corps is found to be reduced below, or not formed up to, its proper strength the following provisions shall have effect:—
- (1.) The necessary number of men to maintain the corps at its proper strength shall be drawn by ballot;
  - (2.) The ballot shall be of the men enrolled for the District or Division in which the place in which the corps is established is situated;
  - (3.) When a ballot is taken for more than one corps at the same time and place, the men taken or accepted and enrolled for service in the Active Force shall be attached to such of the said corps as the Governor may order;
  - (4.) Ballots shall be taken in the prescribed manner.
- Men drafted to be appointed to corps.**
- Ballot when sufficient men do not volunteer.** **18.** When a ballot is taken, the men enrolled in the first class and liable to serve shall be first balloted.
- If the number of men required to be balloted is greater than the whole number of men in the first class, then the number required to make up the deficiency shall be balloted for from those in the second class.
- If more men than the whole number in the first and second classes are still required, then the number requisite to make up the deficiency shall be balloted for from the third class.
- In like manner, if more men than are in the first second and third classes are still required, then the number requisite to make up the deficiency shall be balloted for from the fourth class.
- Proviso as to sons of one family.** At no time shall more than one son belonging to the same family residing in the same house, if more than one are inscribed on the roll, be drawn, unless the number of names so inscribed is otherwise insufficient to complete the required proportion of service men.
- As to substitutes for men balloted.** **19.** Any man balloted for service may at any time secure exemption, until again required to serve, by furnishing an acceptable substitute of his own class on or before the day fixed for joining the corps for which he is balloted; but if during any period of service any man who is serving in the Active Force as a substitute for another becomes liable to service in his own person, he shall be taken for such service, and his place as substitute shall be supplied by the man in whose stead he was serving.
- Men balloted to serve.** **20.** Any man drawn by ballot shall be bound to take the prescribed oath and sign the service roll, and shall thereupon become a member of the corps.

21. (1.)

*Defence Act.*

**21.** (1.) Any man of the Active Force who during any period of service attains the age of thirty years or forty-five years, according to his class, shall notwithstanding be required to complete the full period for which he volunteered or was balloted to serve.

Ages of officers and men.

(2.) No officer or man shall be allowed to remain in the Active Force in any capacity who is over the age of fifty-five years, except in case of war, or invasion, or danger of either, or by the special permission of the Commandant or Senior Naval Officer.

**22.** No officer or man of an Active Corps shall be permitted to retire therefrom in time of peace without giving to his commanding officer six months' notice, in writing, of his intention, unless the Commandant or Senior Naval Officer, as the case may be, shall see fit to dispense with such notice under special circumstances.

Notice by volunteers before retiring.

**23.** Any officer or man who has been a member of the Active Force, and retires therefrom under the last preceding section, and subsequently re-enlists in the same or any other corps, shall be entitled to add together his separate periods of service for the purpose of making up the period of three years' service in this Act mentioned.

Separate periods of service may be added together.

Advantage may be taken of the provisions of this section in respect of any number of re-enlistments, but a man shall not be allowed to count any period of service of less duration than six months at one time.

**24.** (1.) The Governor may make Regulations for the enrolment of such horses as may be necessary for the purposes of batteries of field artillery, troops of cavalry, and companies of mounted infantry.

Enrolment of horses.

(2.) A military train, and a medical staff, as well as commissariat, transport, hospital and ambulance, corps, may be formed whenever the exigencies of the service require it, at such places, in such manner, and of such strength, including the proper officers, as the Governor may direct.

Other corps when required.

**25.** The Governor may, at any time, disband any Active Corps, if he considers it necessary so to do.

Disbanding corps.

*Permanent Force.*

**26.** In order to provide for the care and protection of forts, magazines, armaments, warlike stores, and other such service, and to secure the establishment of a school for military instruction in connection with the Defence Force, the Governor may raise, station, and maintain one battery of artillery, the whole strength of which shall not exceed one hundred and fifty men. The officers of this corps shall be appointed during pleasure, and the men shall be enlisted in the prescribed manner for periods of three years' continuous service.

Provision for military schools based on corps enlisted for continuous service.

(2.) This

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*Defence Act.*

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Purposes and duties of such corps.

(2.) This corps, in addition to performing garrison and other duties, shall serve as a practical school of military instruction, by affording officers, non-commissioned officers, and men, of the Defence Force opportunities of study and training by joining the corps for such periods as may be prescribed.

To be deemed called out for active service.

(3.) The officers, non-commissioned officers, and men of this corps, as well as the officers, non-commissioned officers, and men attached to it from time to time for instruction, shall, for purposes of discipline, be deemed to be called out for active service, and be subject to the laws and regulations which under the provisions of this Act apply to officers, non-commissioned officers, and men, called out for such service.

Provision for Permanent Naval Force.

**27.** The Governor may also raise and maintain such and so many officers and seamen as may from time to time be required to man any armed ships or vessels belonging to Her Majesty's Colonial Government. The officers of such ships shall be appointed during pleasure and the seamen shall be enlisted in the prescribed manner and for the prescribed period of service. All such officers and seamen shall, for purposes of discipline, be deemed to be called out for active service, and be subject to the laws and regulations which under the provisions of this Act apply to officers, non-commissioned officers, and men of the Marine Force, called out for such service.

*Permanent Force Reserve.*

Provision for forming Permanent Force Reserve.

**28.** Men who have served in the Permanent Force for a period of three years or, with the approval of the Commandant or Senior Naval Officer, as the case may be, for any less period, and are certified by him as efficient, may be drafted into a Permanent Force Reserve, and shall thereupon be attached to some corps of the Active Force established in the District or Division in which they reside, and shall serve as ordinary members of such corps until called upon to rejoin the Permanent Force.

Such men, in addition to their pay as ordinary members of the corps to which they are attached, shall receive such Reserve pay as may be prescribed.

If any man who retires from the Permanent Force goes to reside in any part of the Colony not comprised in any District or Division, he may nevertheless be drafted into the Permanent Force Reserve, and shall be entitled to receive such Reserve pay if he serves annually for not less than eight days with the Permanent Force, or with any other corps of the Active Force appointed by the Commandant or Senior Naval Officer for that purpose.

Liability of Reserve men to rejoin.

Men of the Permanent Force Reserve shall, so long as they continue to receive such Reserve pay, be bound to rejoin the Permanent Force at any time when called upon in the prescribed manner so to do.

*The*

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*Defence Act.*

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*The Police Force.*

**29.** All men for the time being serving in the Police Force shall be members of the Defence Force, and may in case of any emergency be called upon by the Governor to serve in the Active Land Force, and shall thereupon become members of such Force for as long a period as the Governor may direct, not exceeding that for which other men are enrolled for active service under the provisions of this Act.

Provision for making use of the Police as a Military Force.

*Officer commanding the Defence Force.*

**30.** There shall be appointed an officer, to be styled the "Commandant of the Queensland Defence Force," who shall be charged, under the orders of the Governor, with the military command and discipline of the Land Force, and who, while holding such appointment, shall have the rank of Colonel in the Defence Force.

Officer commanding the Defence Force.

(2.) The Senior Naval Officer shall be charged under the orders of the Governor with the command and discipline of the Marine Force.

*Officers.*

**31.** Commissions of officers in the Defence Force shall be granted by the Governor. Warrant officers shall be appointed by the Minister. Sergeants in the Land Force shall be appointed by the Commandant, and all other non-commissioned officers therein shall be appointed by the commanding officer of the corps to which they belong. Petty officers in the Marine Force shall be appointed by the Senior Naval Officer.

Commissioned and non-commissioned officers.

All officers shall hold their rank during pleasure.

**32.** No person shall be appointed an officer in the Active Force, except provisionally, until he has obtained a certificate of fitness from a board of officers of the Active Force, to be constituted as the Governor may appoint; or unless he had obtained a certificate of competency before the passing of this Act; and the Regulations may prescribe conditions as to the qualifications of officers of different grades. The Governor may order the assembling of such boards as often as may be expedient, and may dispense with the conditions of this section in the case of men who have served as officers or non-commissioned officers in Her Majesty's regular army, or navy, or in an existing corps.

Conditions of qualification of officers.

Board of Examination.

(2.) In time of peace no person, except the Commandant, shall hold higher rank in the Land Force than that of lieutenant-colonel.

Rank in time of peace.

**33.** The Governor may appoint staff officers of the Defence Force with such rank as from time to time may be found requisite or necessary for the efficiency of the service; and such staff officers shall have such rank

Staff officers.

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*Defence Act.*

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rank and authority in the Defence Force as are held relatively in Her Majesty's service, and their duties shall be such as shall from time to time be prescribed.

Officers on the unattached list.

**34.** (1.) Officers holding commissions in the Defence Force may be placed on the retired list, with honorary rank not exceeding that of lieutenant-colonel in case of the Land Force, or commander in case of the Marine Force, or without honorary rank, as prescribed by the Regulations; and the Governor may appoint officers on the retired list to commissions in the Active Force, but no officer on the retired list shall be bound to serve in the Defence Force in a lower grade than that of his retired rank.

Officers on the retired list.

(2.) The Governor may place officers of the Defence Force on an unattached list, and may nominate fit and proper persons to commissions on the unattached list, and officers on such list may be employed for duty with any corps or on the staff.

Relative rank of officers.

**35.** The relative rank and authority of officers in the Defence Force shall be the same as the relative rank and authority of officers in Her Majesty's regular army or navy, as the case may be; and any body of the Force assembled on parade shall be commanded by the combatant officer highest in rank then present on duty and in uniform, or the senior of two or more combatant officers of equal rank: Provided that no officer whose rank is provisional only shall under any circumstances command an officer of the same grade whose rank is substantive.

Proviso.

Officers of H.M.'s army and navy to be senior.

**36.** Officers of Her Majesty's regular army and navy shall always be reckoned senior to officers of the Defence Force of the same rank, whatever be the dates of their respective commissions.

*Clothing, and Arms and Accoutrements.*

Officers to furnish their own uniforms, &c.

**37.** Commissioned officers shall provide their own uniforms, arms, and accoutrements.

Quality of arms, &c.

**38.** The arms and accoutrements of the officers and men of the Active Force shall be such as the Governor shall from time to time direct; and no such arms and accoutrements of the men shall be left in their possession except by special authority of the commanding officer.

Responsibility for damages.

**39.** The value of all such articles of public property as may become deficient or damaged while in possession of any corps, otherwise than through fair wear and tear or unavoidable accident, may be recovered by the Commandant or Senior Naval Officer, as the case may be, or any other person authorised by him, from the commanding officer, who shall be personally liable therefor, unless he can prove that the loss occurred without any negligence on his part.

The

*Defence Act.*

The value of any such articles of public property or property of any corps as have become deficient or damaged while in possession of the corps, otherwise than through fair wear and tear or unavoidable accident, may be recovered by the commanding officer from the officer, man, or men, by whom such deficiency or damage was occasioned, and the commanding officer shall not be personally liable except as aforesaid. Recovery thereof.

40. The several corps established, or hereafter to be established, shall be supplied with uniform clothing of such colour pattern and design as may be prescribed for each arm of the service. Uniform clothing.

41. The several corps shall be furnished with arms, accoutrements, and equipment, and the same shall be kept in public armouries, whenever there are such; and where there are no such public armouries, and until the same are provided, the commanding officer shall himself actually keep the arms accoutrements and equipment, in a good and sufficient building, provided with suitable arm-racks and provision for the care thereof, and shall be personally responsible for such arms accoutrements and equipment; and the commanding officer may, at the discretion of the Governor in Council, be allowed annually such sum for the care of such arms accoutrements and equipment as may appear proper for the same; and no arms, accoutrements, or articles of equipment, shall be taken or removed from any such public armoury, or from the care of such commanding officer, except as prescribed by the Regulations. Arms and accoutrements. Safe keeping. Allowance for care of. As to removal.

42. Any man serving in the Active Force shall, at the expiration of his period of service, or on his leaving Queensland, or leaving the place where his corps is established, return to his commanding officer all articles of public property or property of the corps which he has in his possession, and shall obtain a written discharge from such commanding officer; and any man who leaves Queensland with any articles of public property or property of the corps in his possession shall be guilty of a misdemeanor, and may be tried for the same at any subsequent time; and a record in the books of his corps of his having so received, and not having returned, any articles of public property or property of the corps, shall be evidence of possession thereof by him. Men leaving corps or Queensland to return clothing, &c. Penalty for default. Proof.

43. If any volunteer, being a member of an existing corps, retires from the corps under the provisions of this Act, he shall give up in good order to his commanding officer all articles supplied to him as a volunteer at the public expense, and not fairly expended by him in his service as a volunteer, and in default shall be liable to a penalty amounting to twice the cost price of such articles with full costs of prosecution. Volunteer not entering Defence Force to return clothing, &c.

44. No



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*Defence Act.*


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When only to appear  
in uniform.

**44.** No corps of the Active Force, and no non-commissioned officer or man, shall at any time appear in uniform or armed or accoutred, except when on duty or *bonâ fide* at parade or drill or at target practice, or at reviews or on field-days or inspections, or on his way thereto or therefrom, or by leave of the commanding officer.

*Drill and Training.*

Yearly training and  
drill in time of  
peace.

**45.** In time of peace the Active Force shall be trained and drilled annually for such periods as are authorised by this Act, and in accordance with the Regulations.

Drill of Defence  
Force.

**46.** (1.) The Governor may order the officers and men of the Active Force, or any portion thereof, to be trained and drilled for a period not exceeding sixteen days nor less than eight days in each year, at such time and places and in such manner as he may think fit; and for each day's drill every officer and man shall receive the prescribed pay of his rank.

To be paid out of  
Consolidated  
Revenue Fund.

(2.) All sums of money required to defray any expense under the foregoing provisions may be paid out of the Consolidated Revenue Fund.

Provisions respecting  
attending for drill  
and training.

(3.) The Governor may order the Active Force or any corps thereof, to assemble in a camp, fort, or other place (and, in the case of the Marine Force, in a ship or ships, which may be ordered beyond the waters of the Colony), for continuous drill and training, for a period not exceeding eight days in each year (which period is included in the the sixteen days hereinbefore mentioned); and when so ordered to assemble the Force or corps shall be considered to be on active service during the whole of the period for which they are called out, and all ranks shall receive rations and shelter in addition to their daily pay.

In such cases the daily pay shall be for each day of twenty-four hours, and the drill and duty to be performed in camp, or on shipboard, or in going to and from the camp, or ship, shall be as ordered by the officer commanding for the time being.

Conditions of  
payment.

**47.** Payments for drill shall be made only upon proof of compliance with the Regulations as to drill and the efficiency of the several corps; and any officer or man absent from drill shall forfeit his pay therefor.

Drill instructors.

**48.** The Governor may, from time to time, appoint competent persons to instruct and drill the Force.

Occasional drill  
without pay.

**49.** The officers and men of any corps who reside within two miles of a place appointed for drill, may assemble, or be ordered out by the commanding officer, for drill or exercise at such other times than those appointed for performing the drills hereinbefore specified as may be prescribed, and shall not be entitled to receive any pay therefor.

**50.** The

*Defence Act.*

**50.** The Governor may, by any general order, dispense with the **drill** or training of any corps or part of a corps either in any particular year or until further order, and may, in like manner, again direct such drill and training, or either of them, to be resumed if he thinks fit; and any such order shall have the force of law according to the **terms** thereof.

Power to dispense with drill and training in any year.

*Inspections.*

**51.** The several corps of the Active Force shall be subject to such **insp**ections from time to time as the Governor may direct.

Inspection.

*Rifle Ranges and Drill Sheds.*

**52.** At or as near as may be to the head-quarters of every corps **there** may be provided a rifle range with suitable butts, targets, and other necessary appliances; and the Governor in Council may **order** such land as may be necessary for the same to be taken **un**der the provisions of "*The Public Works Lands Resumption Act of 1878,*" and may direct to be stopped, at such time as may be necessary during the target practice of any corps, the traffic **on** any roads that cross the line of fire, and may make Regulations **for** conducting target practice and registering the results thereof, and **for** the safety of the public, and may by the Regulations impose **penalties** for wilful damage to any such butts, targets, and appliances.

Rifle ranges.

Land for.

Practice at.

Penalties for damages to targets, &c. Inspection.

All such ranges shall be subject to inspection and approval before **being** used.

The owners of private property shall be compensated for any actual **damage** that may accrue to their respective properties from the **use** of any such rifle range.

Compensation to proprietors.

*Rifle and Drill Associations.*

**53.** The Governor may sanction the organisation of rifle corps or clubs, and of associations for purposes of drill, under such conditions as may be prescribed, and may provide arms and ammunition for them.

Rifle and drill associations may be sanctioned.

The Regulations may prescribe that the members of any such rifle corps, club, or association, shall be sworn in, be called out for active service, be subject to discipline, and liable to punishment for breach of discipline, or of the Regulations applicable to them, and be entitled to exemption from tolls, in the same manner as members of the **Defence** Force.

Officers and non-commissioned officers thereof shall be appointed, and **be** subject to removal in the same manner, and shall pass the same examinations, and have the same relative rank, as officers and non-commissioned officers of the Defence Force; but shall always be reckoned as junior to officers of the Defence Force of the same rank, whatever may be the dates of their respective commissions or appointments.

The

*Defence Act.*

The Regulations may prescribe a standard of efficiency for the members of any such rifle corps, club, or association; and efficient members thereof shall, while actually serving therein, be exempt from enrolment in the Defence Force.

The management of the civil affairs of any such rifle corps, club, or association, may be regulated by rules adopted on the formation thereof, or subsequently amended in the prescribed manner. Such rules, or any amendments thereof, shall not have force unless or until approved by the Governor.

*Military Instruction in Schools and Colleges.*

Arms for public schools.

**54.** There may be furnished to any school in Queensland, in which there are instituted classes for instruction in military drill and exercises in accordance with the Regulations, such arms and accoutrements as are necessary for the instruction of the pupils thereof over the age of twelve years.

*Calling out in aid of the Civil Power.*

How and in what cases Active Force may be so called out in aid of the Civil Power.

**55.** The Active Force, or any corps thereof, shall be liable to be called out for active service with their arms and ammunition, in aid of the civil power, in any case in which a riot, disturbance of the peace, or other emergency requiring such service occurs, or is, in the opinion of the civil authorities hereinafter mentioned, anticipated as likely to occur, and (in either case) to be beyond the powers of the civil authorities to suppress, or to prevent or deal with, whether such riot, disturbance, or other emergency, occurs, or is so anticipated, within or without the District or Division in which the corps is raised or organised.

Duty of senior officer present in the locality, on requisition of the proper civil authorities.

It shall be the duty of the senior combatant officer of the Active Force present at any locality to call out the same or such portion thereof as he considers necessary for the purpose of preventing or suppressing any such actual or anticipated riot or disturbance, or for the purpose of meeting and dealing with any such emergency as aforesaid, when thereunto required in writing by any three magistrates of whom the police magistrate, or the mayor or other chief officer of the municipality in which such riot, disturbance, or other emergency occurs, or is anticipated as aforesaid, is one; and to obey such instructions as may be lawfully given to him by the police magistrate, or mayor, or other chief officer in regard to the suppression of any such actual riot or disturbance, or in regard to the anticipation of such riot or disturbance, or other emergency, or to the suppression of the same, or to the aid to be given to the civil power in case of any such riot, disturbance, or other emergency.

What the requisition must show.

Every such requisition in writing shall express on the face thereof the actual occurrence of a riot, disturbance, or emergency, or the anticipation thereof, requiring such service of the Active Force in aid of the civil power for the suppression thereof.

Every

*Defence Act.*

Every officer and man of the Defence Force so called out shall, Duty of officers and men, who shall be special constables. on every such occasion, obey the orders of the officer under whose orders he shall be; and the officers and men, when so called out, shall, without any further or other appointment, and without taking any oath of special office, be special constables, and shall be considered to act as such as long as they remain so called out; but they shall act only as a military body, and shall be individually liable to obey the orders of their officer only.

*Calling out the Defence Force.*

**56.** The senior combatant officer in any District or Division, or Commanding officers may call out Defence Force on sudden emergencies. the commanding officer of any corps, or in his absence the senior combatant officer of the corps who may be present, may, upon any sudden emergency of invasion, or imminent danger thereof, call out the whole or any part of the Force within his command, until the pleasure of the Governor is known; and the men so called out shall obey all such orders as the officer under whose orders they shall be may give, and proceed to such place within or without the District or Division as he may direct.

**57.** The Governor may call out the Defence Force or any part thereof, for active service either within or without the colony, at any time, when it appears advisable so to do by reason of war or invasion, or danger of either; and the Active Force may then be increased to any required extent. Calling out in time of war, &c., or danger thereof.

(2.) The Governor may, from time to time, direct the furnishing by any District or Division, of such number of men as may be required either for reliefs, or to fill vacancies in corps on active service. Furnishing reliefs.

(3.) Whenever the Defence Force or any part thereof is called out for actual service by reason of war or invasion, the Governor may place them under the orders of the commander of Her Majesty's regular Naval or Land Forces, as the case may be, in Queensland or any other place where the Force is required to serve, or under the orders of any other officer then in command of the Naval or Land Forces, as the case may be, of any other of the Australasian Colonies. Command of Force so called out.

(4.) The Active Force or any corps thereof, or any part of a corps, shall also be liable to be called out for active service with their arms and ammunition under the Regulations, to act as guards of honour, or escorts, or as guards and sentries, or to fire salutes in any of the following cases:— Guards of honour on certain occasions.

- (a.) The opening or closing of any session of the Parliament of Queensland; Opening or closing session.
- (b.) For the purpose of attending, at any public ceremonial, the Governor, or any member of the Royal Family while Attending Governor, &c. in the colony;
- (c.) For the purpose of protecting any public building or property.

58. In

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*Defence Act.*


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**58.** In time of war or otherwise, when the Defence Force is called out for actual service under the provisions of this Act, no man shall be required to serve continuously for a longer period than one year ; but any man who volunteers to serve for the war or for any longer period than one year shall be compelled to fulfil his engagement ; and the Governor may, in cases of unavoidable necessity (of which necessity the Governor shall be the sole judge), call upon any man to continue to serve beyond his one year's service.

**59.** Whenever the Defence Force, or any part or corps thereof, is called out for active service, the officers and men so called out shall be paid at the prescribed rates, and in default of any rates being so prescribed, then at such rates of daily pay as are paid to officers and men of the relative and corresponding grade in Her Majesty's service.

**60.** The Active Land Force shall be subject to the Queen's Regulations and Orders for the Army ; and every officer and man of the Land Force shall, from the time of being called out for active service, and also during the periods of annual drill or training, under the provisions of this Act, and also during any drill or parade of his corps at which he may be present in the ranks or as a spectator, and also when going to or from the place of drill or parade of his corps, and also at any other time while in the uniform of his corps, be subject to "*The Army Act*" and all other laws then applicable to Her Majesty's troops in Queensland, and not inconsistent with this Act, except that no man shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws ; and except also that the Regulations may prescribe that any provisions of the said laws or Regulations shall not apply to the Defence Force.

**61.** The Active Marine Force shall be subject to the Queen's Regulations and Admiralty Instructions for the government of Her Majesty's Naval Service ; and every officer and man thereof shall, from the time of being called out for active service afloat, and also during the periods of annual drill or training afloat, under the provisions of this Act, be subject to "*The Naval Discipline Act*" and all other laws then applicable to Her Majesty's Naval Forces in Queensland, and not inconsistent with this Act, except that no man shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws ; and except also that the Regulations may prescribe that any provisions of the said laws shall not apply to the Defence Force :

Provided that any corps or member of the Marine Force, not being part of a ship's company, may, when on land, be attached by the Governor to the Land Force for the purpose of drill, exercise, or active service, and when so attached shall be deemed, for the purposes of this and the last preceding sections, to form part of the Active Land Force.

**62.** Any

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*Defence Act.*


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**62.** Any officer or man charged with any offence committed *while* serving in the Force shall be liable to be tried by court martial, *and if* convicted, to be punished therefor, and such liability shall *continue* during the whole period of his service, and during six *months* after he is discharged from the Force or after the corps to which he *belongs* or belonged is relieved from active service, notwithstanding *that he* has been so discharged, or that the corps to which he belonged *has been* so relieved from active service; and any officer or man of the *Force* may be tried for the crime of desertion at any time without *reference* to the length of time which has elapsed since his desertion.

Trial by court martial after discharge or relief.

Trial for desertion.

**63.** Each man called out for active service shall attend at such *time and place* as may be required by the officer under whose command he *is*, with any arms accoutrements ammunition and equipment that he *has* received, and with such provisions as such officer may direct.

Attendance at rendezvous.

**64.** Any member of the Force who, when called out for active *service*, absents himself without leave from his corps for a longer *period* than seven days, may be tried by court martial as a deserter.

Absence over seven days; trial as deserter.

**65.** (1.) When any officer or man is killed in active service, or *dies from* wounds or disease contracted on active service, provision shall *be* made for his wife and family out of the public funds.

Provision for families of men killed, &c.

(2.) All cases of permanent disability, arising from injuries *received* or illness contracted on active service, shall be reported on by *a* medical board, and compensation awarded, in the prescribed *manner*, and any medical practitioner who signs a false certificate in *any* such case shall incur a penalty of one hundred pounds.

And for men permanently disabled.

*Regulations for Transport and for Billeting and Cantoning Troops when on Actual Service, and furnishing Carriages, Horses, &c. for their Transport and Use.*

**66.** Any duty or toll which might otherwise be lawfully levied *or demanded* at any pier, wharf, quay, landing-place, ferry, or bridge, *or at* any gate or bar on a public road, shall not be demanded or *taken* for—

Exemption from tolls.

- (1.) Any officer or man of the Defence Force, being on march or duty, or going to, or returning from the place appointed for, and on the day of, any duly authorised drill, parade, exercise, inspection, review, or other public duty, whether mounted, on foot, or in any conveyance, and being in uniform appropriate to the occasion;
- (2.) Any horse or other beast ridden or used by any such officer or man on any such occasion as last aforesaid;
- (3.) Any dray, cart, waggon, carriage, or other conveyance, public or private, employed only in carrying or conveying any

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*Defence Act.*

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any such officer or man on any such occasion, being in uniform, with or without any conductor or driver of such dray, cart, waggon, carriage, or conveyance, or domestic servant of such officer or man, and which conductor, driver, or servant, shall be equally exempt with such officer or man ;

- (4.) Any dray, cart, waggon, carriage, or conveyance, public or private, employed only in carrying, or conveying, or returning empty from carrying or conveying, having been employed only in carrying or conveying, any arms or baggage of any officer or man, being on march, or duty, or going to or returning from the place appointed for drill, parade, exercise, inspection, review, or other public duty, or any military stores belonging to, or for the use of, or any gun or its appurtenances belonging to, or for the use of the Defence Force ; or
- (5.) Any horse, or other beast drawing any such dray, cart, waggon, carriage, or conveyance, gun, or appurtenances.

If any person knowingly demands or takes any duty or toll, whether on his own behalf or on behalf of any other person, in contravention of this section, or if any person makes any false representation respecting himself or any other person, or any animal, or thing, with intent to obtain for himself or otherwise, or by any means fraudulently obtains for himself or otherwise, any exemption under this section he shall for every such offence be liable to a penalty not exceeding five pounds.

Free conveyance by  
Railway.

**67.** Every officer and man of the Defence Force being in uniform shall, on giving reasonable notice to the Commissioner for Railways, and on production of a pass signed by the commanding officer of the corps, be conveyed free over all the Queensland Government Railways, from his home or usual place of residence, to all musters, drills, parades, and rifle practices, and back again.

Any person, whether a member of the Defence Force or not, who fraudulently obtains, or attempts to obtain, free conveyance by railway under the provisions of this section, either, in the case of a member of the Force, by falsely representing that he is on his way to or from any muster, drill, parade, or rifle practice, or, in the case of any other person, by wearing the uniform of any corps, shall be liable for every such offence to a penalty not exceeding ten pounds.

Regulations for  
billeting.

**68.** The Governor may make Regulations for the billeting and cantoning of troops when on active service, in time of war, for the furnishing of railway cars, engines, carriages, horses, boats, and other conveyances for their transport and use, and for adequate compensation therefor ; and may, by such Regulations, impose fines not exceeding five pounds for breach thereof, and imprisonment in cases of default of payment of such fines.

**69.** Any

*Defence Act.*

**69.** Any person lawfully required under this Act, or by the Penalty for refusing conveyance.  
*Regulations*, to furnish any railway car, engine, boat, or other craft, **for** the conveyance or use of any troops, who neglects or refuses to **furnish** the same, shall be liable to a penalty not exceeding one **hundred** pounds for each such offence.

**70.** Nothing contained in this Act or the Regulations shall Not to be quartered in residence of females.  
**be construed** to authorise the quartering or billeting of any troops, **either** on a march or in cantonment, in any house set apart as a **residence** for females, or to oblige the occupier of any such house to **recei**ve such troops, or to furnish them with lodging or house room.

*Courts of inquiry and courts martial.*

**71.** The Governor—

- (1.) May convene courts of inquiry and appoint officers of The Governor may convene courts of inquiry and courts martial. the Defence Force to constitute such courts, for the purpose of investigating and reporting on any matter connected with the government or discipline of the Force, or with the conduct of any officer or man of the Force; and
- (2.) May convene courts martial, or delegate power to convene such courts, and appoint, or delegate power to appoint, officers to constitute the same, for the purpose of trying any officer or man in the Force for any offence under this Act, and may delegate also power to approve, confirm, mitigate, or remit any sentence of any such court; but no officer of Her Majesty's regular army or Proviso. navy on full pay shall sit on any such court martial.

**72.** (1.) The Regulations for the composition of courts of Composition and powers of courts martial.  
**inquiry**, and courts martial, and the modes of procedure and powers **thereof**, shall be the same as the Regulations which are for the time **being** in force relating to the composition modes of procedure and **powers** of courts of inquiry and courts martial for Her Majesty's Pay and allowance.  
**regular** army or navy, as the case may be, and which are not **incon-**sistent with this Act; and the pay and allowances of officers and **others** attending such courts may be fixed by the Regulations.

(2.) Every person required to give evidence before a court mar- Attendance of witnesses.  
**tial** may be summoned or ordered to attend.

(3.) If any person who is not enrolled in the Active Force is Refusing to attend, or give evidence, &c.  
**summoned** as a witness before a court martial, and after payment or **tender** of the reasonable expenses of his attendance makes default in **attending**; or being in attendance as a witness,—

(a.) Refuses to take an oath or affirmation which he is lawfully required by a court martial to take; or

(b.) Refuses



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*Defence Act.*


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- (b.) Refuses to produce any document in his power or control which he is lawfully required by a court martial to produce ; or
- (c.) Refuses to answer any question to which a court martial may lawfully require an answer ; or
- (d.) Is guilty of any contempt towards the court martial by causing any interruption or disturbance in its proceedings ;

Offence to be certified to court of law and punished.

the president of the court martial may certify the offence of such person under his hand to a judge of any court of law or police magistrate in the locality having power to punish persons guilty of like offences in his court, and such court or police magistrate may thereupon inquire into the alleged offence, and if the person accused is found guilty, punish him in like manner as if he had committed such offence in a proceeding in such court.

Sentence of death in certain cases only.

**73.** No officer or man of the Defence Force shall be sentenced to death by any court martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard, or traitorous correspondence with the enemy ; and no sentence of any court martial shall be carried into effect until approved by the Governor.

Subject to approval of the Governor.

*Offences and Penalties.*

**74.** (1.) Any commissioned officer who—

Claiming for drills not performed.

- (a.) Knowingly claims pay on account of any drills performed with his corps for any man belonging to any other corps ; or

Returning men not duly enrolled.

- (b.) Includes in any parade state or other return any man not duly enlisted and attached as a member of the Defence Force ; and

(2.) Any non-commissioned officer or man of the Force who—

Claiming for drills performed with another corps.

- (c.) Claims or receives pay on account of any drill performed in the ranks of any other than his own proper corps, or in more than one corps during the annual drill in any year ;

shall be guilty of a misdemeanor, and shall likewise be liable to be tried and punished by court martial.

Fraudulently retaining pay of the corps.

**75.** Any commissioned or non-commissioned officer of the Force who obtains under false pretences, or who retains or keeps in his own possession with intent to apply to his own use or benefit, any of the pay or moneys belonging to any other officer or man of any corps, shall be guilty of a misdemeanor, and shall be dismissed the service.

Any

*Defence Act.*

Any commissioned or non-commissioned officer who knowingly **signs** a false parade state, roll, or pay list, or any false return whatever, **shall** be guilty of a misdemeanor, and shall likewise be liable to be **tried** and punished by court martial. Signing false parade roll.

**76.** (1.) Any person of whom information is required by any **Enrolment Officer** in order to enable him to comply with the **provisions** of this Act, who refuses to give such information, or gives **false** information, shall be liable to a penalty not exceeding five **pounds** for each item of information demanded of him and **falsely stated**, and the like sum for each individual name that is **refused, concealed, or falsely stated**; and every person who refuses to give **his own name** and proper information, when applied to as aforesaid, or **gives** a false name or information, shall be liable to a penalty not **exceeding** five pounds. Refusing required information, or giving false information.

(2.) Any person appointed in that behalf who refuses or **neglects** to make any enrolment or ballot, or to make or transmit, in **the** prescribed manner, any prescribed roll or return, or copy thereof, **shall** be liable to a penalty not exceeding fifty pounds for each offence. Refusing to make enrolment, ballot, &c.

**77.** Any man drafted or liable to be drafted for service in the **Active Force**, who refuses or neglects to take the oath or to make **the** declaration hereinbefore prescribed, when tendered to him by a **justice** of the peace, or by the commanding officer of the corps to **which** such man is attached, or which he is required to join, shall **be liable** to imprisonment with or without hard labour for a period not **exceeding** twelve months, and for every subsequent neglect or refusal **to take** or make such oath or declaration shall be liable to a further **imprisonment** with or without hard labour not exceeding two years. Men drafted refusing to be sworn, &c. Punishment.

**78.** Any officer or man, or any person whatsoever, who **falsely personates** another at any parade, or on any other occasion, for any of **the** purposes required by this Act, shall be guilty of a misdemeanor. Personating another on parade.

**79.** Any person who—

- (1.) Unlawfully disposes of or removes any arms, accoutrements, or other articles belonging to the Crown or any corps; or
- (2.) Refuses to deliver up the same when lawfully required; or
- (3.) Has the same in his possession, except for lawful cause (the proof of which shall lie upon him);

**shall** be liable to a penalty of five pounds for each offence; but this **shall** not prevent such offender from being indicted and punished for **any** greater offence if the facts amount to a greater offence, instead of **being** subjected to the penalty aforesaid. Unlawfully disposing of arms, &c. Proviso.

Any

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*Defence Act.*


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Arrest for such offences.

Any person charged with any offence mentioned in this section, may be arrested by order of the justice before whom the complaint is made, upon information on oath showing that there is reason to believe that such person is about to leave Queensland carrying with him any such arms, accoutrements, or articles.

Subscriptions, arms, &c., vested in Commanding officer.

**80.** For the purposes of any proceedings in any Court of civil or criminal jurisdiction, all moneys subscribed by or for or otherwise appropriated to the use of any corps, and all arms, ammunition, accoutrements, musical instruments, or other things, belonging to or used by any corps or vessel, and not being the private property of a member of the corps or ship's company, shall be deemed to be vested in the commanding officer and to be his property, and may be so described in any information or other proceeding.

No gift, sale, or other alienation, or attempted alienation, of any such money, arms, ammunition, accoutrements, musical instruments, or other things, by any person, whether he is a member of the corps or not, shall be effectual to pass the property therein without the consent of the commanding officer.

If any property belonging to or used by or for the Defence Force is not appropriated to any particular corps or vessel, or it is uncertain to which corps or vessel it belongs, the same shall be deemed to be the property of the Commandant or Senior Naval Officer, as the case may be.

An action or suit shall not be discontinued by the death, resignation, or removal of the Commandant, or Senior Naval Officer, or any commanding officer, but may proceed in the name of his successor.

Resisting draft, &c.

**81.** Any person who—

- (1.) Resists any balloting or calling out of men enrolled under this Act; or
- (2.) Counsels or aids any person to resist any such balloting or calling out, or the performance of any service in relation thereto; or
- (3.) Counsels any man balloted or enlisted not to appear at the place of rendezvous; or
- (4.) Wilfully dissuades any man balloted or enlisted from the performance of any duty required by law of members of the Force; or
- (5.) Does any act to his detriment in consequence of his having performed any such duty;—

shall be liable to a penalty not exceeding twenty pounds, with or without imprisonment for any period not exceeding six months.

(2.) Any

*Defence Act.*

(2.) Any person who—

- (1.) Procures or persuades any man who has been enlisted to serve in any corps to desert; or
- (2.) Attempts to procure or persuade any such man to desert; or
- (3.) Knowing that any such man is about to desert, aids or assists him in deserting; or
- (4.) Knowing any such man to be a deserter, conceals such man, or aids or assists him in concealing himself, or aids or assists in his rescue;

Offences connected with desertion.

shall be liable to be imprisoned, with or without hard labour, for any period not exceeding six months. Punishment.

82. Any person who wilfully contravenes any provision of this Act, or the Regulations, shall, when no other penalty is imposed for such contravention, be liable to a penalty not exceeding five pounds for each offence; but this section shall not prevent his being indicted and punished for any greater offence if the facts amount to a greater offence. Penalty for contravening this Act in any way.

83. Any person who, not being at the time a member of the Defence Force, shall wear any uniform of any corps, shall be liable to a penalty not exceeding ten pounds for each offence. Penalty for making use of uniform.

*Recovery of Penalties.*

84. All offences against this Act, or the Regulations, not hereby declared to be misdemeanors, may be prosecuted in a summary manner before any two justices; and, in case of non-payment of any penalty immediately after conviction, the convicting justices may order the person convicted and making default in payment of such penalty and costs to be imprisoned for a period of not more than forty days when the penalty does not exceed five pounds, and for a period of not more than ninety days when it exceeds that sum. How recoverable. Imprisonment if not paid. Form of imprisonment.

An officer of the Defence Force preferring an information or complaint under this Act shall not be liable to pay any fees in respect thereof.

Any offence made by this Act punishable by fine or imprisonment, which is also punishable under "*The Army Act*," may be dealt with under this Act, but no offender shall be punished in both ways for the same offence. Trial by court martial not excepted.

*Prosecutions.*

85. No prosecution for an offence against this Act or the Regulations shall be brought against a Commissioned Officer of the Land Force, except on the complaint of the Commandant, or against a commissioned On whose complaint only prosecution shall be brought.

*Defence Act.*

a commissioned officer of the Marine Force, except on the complaint of the Senior Naval Officer; and no prosecution against any man of the Force shall be brought, except on the complaint of the commanding officer or adjutant of the corps, or commanding officer of the vessel, to which such man belongs.

And within what time.

But the Commandant or Senior Naval Officer may authorise any commissioned officer of the Defence Force to make a complaint in his name, and the authority of any such officer alleging himself to have been so authorised to make a complaint shall not be controverted or called in question except by the Commandant or Senior Naval Officer.

No prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling, or having in possession, arms, accoutrements, or other articles, delivered to the Force, or for desertion.

*Notices, Orders, Etc.*

Need not be in writing unless herein so required.

**86.** It shall not be necessary for any order or notice under this Act to be in writing, unless hereby required to be so, provided it be communicated to the person who is to obey or be bound by it, either directly by the officer or person making or giving it, or by some other person by his order.

Notice of general orders in *Gazette*.

**87.** All general orders or other orders issued through or by the Commandant or Senior Naval Officer shall be sufficiently notified to all persons whom they may concern by publication in the *Gazette*; and a copy of the *Gazette* purporting to contain them shall be sufficient evidence of any such orders.

Notifying other orders.

**88.** Every order made by any commanding officer shall be sufficiently notified to all persons whom it may concern by publication in some newspaper published in the District or Division in which such corps is established, or, if there is no such newspaper, then by posting a copy thereof on the door of every place of public worship, or, if there is no such place, on the door of some other public place, in the District or Division affected by such order.

Proof of warrant, &c.

**89.** The production of an appointment, warrant, or order in writing, purporting to be granted or made according to the provisions of this Act, shall be *prima facie* evidence of such appointment, warrant, or order, without proving the signature or seal thereto, or the authority of the person granting or making such appointment, warrant, or order.

*Expenditure.*

Payments to be made out of Consolidated Fund.

**90.** All sums of money required to defray any expense authorised by this Act may be paid out of the Consolidated Revenue Fund; but no sum of money shall be so paid unless it be included in some appropriation made by Parliament; and a detailed account of moneys so expended shall be laid before Parliament during the next session thereof.

Accounts to be laid before Parliament

*General*

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*Defence Act.*

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*General Power to make Regulations.*

**91.** The Governor may make such Regulations as he thinks fit Power to make Regulations and impose fines. relating to any matters or things which may be necessary to be prescribed or done for carrying this Act into effect, and for prescribing and defining the duties of members of the Defence Force, and may by any such Regulation impose a penalty not exceeding twenty pounds for a breach thereof.

**92.** All Regulations made under the authority of this Act Regulations to be published. shall be published in the *Gazette*; and when so published they shall have the force of law as fully as if they were contained in this Act, of which they shall be deemed to form a part.

**(2.)** All Regulations made under this Act, and an annual report To be laid before Parliament with annual report. of the state of the Defence Force, shall be laid before Parliament by the Minister.

*Short Title.*

**93.** This Act may be cited as "*The Defence Act of 1884.*" Short title.

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 28.

An **Act** to make better Provision for the Occupation and Use of  
Crown Lands.

[ASSENTED TO 23RD DECEMBER, 1884.]

**W**HEREAS it is desirable to make better provision for the occu- Preamble.  
pation and use of Crown Lands: Be it enacted by the Queen's  
Most **E**xcellent Majesty, by and with the advice and consent of the  
**L**egislative Council and Legislative Assembly of Queensland in Parlia-  
**m**ent assembled, and by the authority of the same, as follows:—

### PART I.—PRELIMINARY.

**1.** This Act is divided into Parts, as follows:—

Division of Act.

- PART I.—PRELIMINARY;
- PART II.—ADMINISTRATION;
- PART III.—EXISTING PASTORAL LEASES;
- PART IV.—AGRICULTURAL AND GRAZING FARMS;
- PART V.—OCCUPATION LICENSES;
- PART VI.—SALES BY AUCTION;
- PART VII.—SPECIAL GRANTS AND LEASES AND RESERVES;
- PART VIII.—RESUMPTION AND COMPENSATION;
- PART IX.—GENERAL.

2. This



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*Crown Lands Act.*

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Short title.

**2.** This Act shall be styled and may be cited as "*The Crown Lands Act of 1884.*"

Commencement of Act.

**3.** This Act, except when otherwise expressly provided, commences and takes effect on and after the first day of March, one thousand eight hundred and eighty-five, which date is hereinafter referred to as the commencement of this Act.

Interpretation

**4.** The following terms shall in this Act, unless the context otherwise indicate, bear the several meanings set against them respectively:—

"Crown Lands"—All lands vested in Her Majesty which are not for the time being dedicated to any public purpose, or subject to any deed of grant, lease, contract, promise, or engagement, made by or on behalf of Her Majesty; and all lands which are subject to a right of depasturing under Part III. of this Act, or are held under an occupation license under Part V. of this Act;

"Minister"—The Secretary for Public Lands or other Minister who for the time being performs his duties;

"Board"—The Land Board constituted as hereinafter provided;

"Commissioner"—The Land Commissioner appointed under the provisions of this Act for the district in which the land in question is situated;

"Land Agent"—The Land Agent appointed under the provisions of this Act for the district in which the land in question is situated;

"Land Court"—The Commissioner's Court;

"District"—A district proclaimed under the provisions of this Act;

"Agricultural Area"—Crown lands proclaimed as such under the provisions of this Act;

"Town Lands"—All Crown lands which have been heretofore or shall be hereafter proclaimed as such;

"Suburban Lands"—All Crown lands within a distance of two miles in a straight line from any town lands;

"Country Lands"—All Crown lands which are not town lands or suburban lands;

"License"—A license to depasture or occupy under the provisions of this Act, as the case may be;

"Occupation License"—A license under Part V. of this Act;

"Licensee"—The holder of a license;

"Pastoral

*Crown Lands Act.*

- “ Pastoral Tenant ”—The holder of a lease or license under any of the Acts hereby repealed ;
- “ Run ”—The land comprised in any such lease or license ;
- “ Selection ”—The making of an application to select, or the farm selected, as the context may require ;
- “ Selector ”—The person making such application or entitled for the time being to the farm in question ;
- “ Lessee ”—The holder of a lease under the provisions of this Act ;
- “ Holding ”—The land held by any lessee ;
- “ Farm ”—A holding under Part IV. of this Act ;
- “ Agricultural Farm ”—A holding under Part IV. of this Act in an Agricultural Area ;
- “ Grazing Farm ”—A holding under Part IV. of this Act not in an Agricultural Area ;
- “ Improvements ”—Any head station, house, store, stable, hut, woolshed, sheep-pen, drafting-yard, barn, stockyard, fence, well, dam, tank, reservoir, trough, artificial water-course or watering-place, pump, apparatus for raising water, garden, plantation, cultivation, or any building, erection, construction, or appliance, being a fixture for the working or management of a holding, or of any sheep, cattle, or horses, or other live stock depastured thereon, or for maintaining or increasing the pastoral, or, in the case of agricultural farms, the agricultural capabilities thereof ;
- “ Regulations ”—Regulations made under this Act ;
- “ Prescribed ”—Prescribed by this Act or by Regulations under it.

to—

5. The Third and Fourth Parts of this Act extend and apply Application of Act.

- (1.) The part of the colony described in the first Schedule to this Act ;
- (2.) Any other parts of the colony to which the Governor in Council, on the recommendation of the Board, from time to time, by Proclamation, extends the provisions of those Parts of this Act ;
- (3.) The land comprised in any run the pastoral tenant whereof makes application to the Minister to bring such run under the operation of Part III. of this Act.

The remainder of this Act extends to the whole colony.

6. (1.) It shall not be lawful for the Governor in Council to sell any portion of a run to a pastoral tenant under the provisions of the fifty-fourth section of “ *The Pastoral Leases Act of 1869* ” where the lease has been acquired after the passing of this Act.

Restriction on exercise of power conferred on Governor in Council by section 54 of “ *Pastoral Leases Act of 1869.* ”

7. (1.)

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*Crown Lands Act.*

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Repeal of Acts in second Schedule.

7. (1.) From and after the commencement of this Act so much of the several Acts specified in the second Schedule to this Act as is not already repealed, and all regulations made thereunder respectively, shall be repealed, except as to any rights, claims, penalties, and liabilities already accrued or incurred and in existence.

(2.) From and after the coming of the Third Part of this Act into operation in any part of the colony, "*The Pastoral Leases Act of 1869*" and all regulations made thereunder, shall be repealed as to such part of the colony, except as to any rights, claims, penalties, and liabilities then already accrued or incurred and in existence.

(3.) Provided that for the purpose of dealing with any lands applied for, selected, or leased, under any of the said Acts before their repeal, the Governor in Council may continue to appoint Commissioners and other officers, and do or cause to be done all such acts and things as may be necessary for carrying out and giving effect to any applications, contracts, or agreements, which have before such repeal been made under or arisen from the said Acts or any of them :

And provided further that all lands which at the time of such repeal are subject to the provisions of the said Acts or any of them shall continue to be subject to the provisions thereof, until the same shall have been surrendered or resumed, or the existing title thereto shall have otherwise determined.

Governor may grant in fee-simple or for any less estate.

8. The Governor in Council may, in the name of Her Majesty, and under and subject to the provisions of this Act, grant in fee-simple, or demise for a term of years, any Crown lands within the Colony of Queensland.

Every such grant or demise shall be made in the prescribed form, and being so made shall be valid and effectual to convey to and vest in the person therein named, subject to the provisions of this Act, the lands described in the grant or demise for such estate or interest as shall be set forth in such instrument.

Every such grant or demise shall be made subject to such reservations and conditions as are authorised by this Act, and subject to no other reservations or conditions.

Governor may proclaim counties and parishes.

9. The Governor in Council may by Proclamation divide into counties any Crown lands not already included in any county, and may divide any county already existing or hereafter proclaimed into parishes, and may distinguish such counties and parishes respectively by names.

After such Proclamation the lands comprised within such counties and parishes shall be recognised by such names as counties and parishes respectively.

Town lands may be proclaimed.

10. The Governor in Council may by Proclamation set apart any Crown lands as Town Lands, and may in like manner set apart any Crown lands as Township Reserves.

PART

*Crown Lands Act.*

## PART II.—ADMINISTRATION.

*The Land Board.*

**11.** There shall be constituted for the purposes of this Act a **Land Board** to be called the Land Board, consisting of two fit and proper **persons**, appointed from time to time by the Governor in Council by **commission** under his hand and the Great Seal of the Colony. The **Board** shall have and exercise the powers and duties hereinafter prescribed.

This section takes effect from the passing of this Act.

**12.** Each of the members of the Board shall, during his continu- **Salary and**  
**ance in** office, receive a clear annual salary of one thousand pounds, **disabilities.**  
**which** shall be a charge upon and paid out of the Consolidated  
**Revenue.** They shall not be capable of being members of the  
**Executive** Council or of either House of Parliament, and shall not be  
**allowed** to act as directors or auditors or in any other capacity take  
**part in** the management of any bank, joint stock company, trade or  
**business,** or to acquire any interest in any holding or license under  
**this Act.**

**13.** The members of the Board shall hold office during good **How member of the**  
**behaviour,** and shall not be removed therefrom unless an address pray- **Board removed from**  
**ing for** such removal shall be presented to the Governor by the **office or suspended.**  
**Legisla** tive Council and Legislative Assembly respectively in the same  
**session** of Parliament;

Provided that at any time when Parliament is not sitting the  
**Govern** or in Council may suspend any member of the Board from his  
**office** for inability or misbehaviour, in which case a statement of the  
**cause** of suspension shall be laid before both Houses of Parliament  
**within** seven days after the commencement of the next session thereof.

If an Address shall during that session be presented to the  
**Govern** or by the Legislative Council or Legislative Assembly praying  
**for the** restoration of the suspended member to his office, he shall be  
**restored** accordingly; but if no such address shall be presented the  
**Govern** or in Council may confirm such suspension, and declare the  
**office** of the member to be, and the same shall thereupon become and  
**be vacant** as if he were naturally dead.

**14.** In the case of the illness, suspension, inability, or absence, **Appointment of**  
**of any** member of the Board the Governor in Council may appoint **deputy.**  
**some other** person to act as the deputy of such member during such  
**illness,** suspension, inability, or absence, and every such person shall,  
**during** the time for which he shall act as such deputy, have all the  
**powers** and perform all the duties of and be subject to the same dis-  
**abilities** as such member of the Board.

15. The

*Crown Lands Act.*

Board to hold  
Courts.

**15.** The Board shall have a seal of office, which shall be judicially noticed in all courts, and shall from time to time hold public sittings in Brisbane or elsewhere, to be called Land Board Courts, at which all business required by this Act to be transacted by them in open court shall be transacted.

Board to determine  
all matters referred  
to them by Govern-  
nor in Council.

**16.** The Board shall hear and determine all such questions connected with the administration of this Act as may be referred to them by the Governor in Council for determination.

Powers of Board.

**17.** For the purposes of any inquiry or appeal held by or made to the Board, they shall have power to summon any person as a witness and examine him upon oath, and for such purpose shall have such and the same powers as the Supreme Court or a judge thereof.

Any party to any such inquiry or appeal may be represented by his counsel, attorney, or agent.

Every such inquiry and appeal shall be heard and determined and the decision thereon shall be pronounced in open court.

The Board may make such order as they think fit as to the costs of any inquiry, appeal, or dispute, heard and determined by them, including allowances to witnesses attending for the purposes of giving evidence at the hearing of any such inquiry, appeal, or dispute. Any such order may be made an order of the Supreme Court and enforced accordingly.

Every witness summoned on any such inquiry or appeal shall be entitled to a tender of his reasonable expenses by the party requiring his attendance.

Mode of assessing  
rent and compen-  
sation.

**18.** Whenever it is necessary to determine the amount of any rent or compensation payable under this Act, or to determine any other amount required by this Act to be determined, the same shall be determined by the Board, and the following rules shall be observed:—

- (1.) The Board shall require the Commissioner to furnish them with a valuation and report of and respecting the land or improvements in respect whereof the rent or compensation is to be paid;
- (2.) They shall also require the pastoral tenant, or lessee, or other person, by or to whom the rent or compensation is or will be payable, to furnish them with a like valuation or a claim, as the case may be;
- (3.) The Board shall, in open court, on a day to be appointed by them for the purpose, hear the last-named person, if he desires to be heard, and shall pronounce their decision in open court;
- (4.) Before deciding the Board may call such witnesses, and take such evidence, whether on oath, affidavit, or declaration, as they think fit;

(5.) Any

*Crown Lands Act.*

(5.) Any person who will be affected by the decision of the Board shall be entitled to see and take copies of such evidence, and of the report and valuation of the Commissioner.

19. Whenever any dispute arises as to the boundaries of any **holdings** under this Act the same shall be determined by the Board. Dispute to be settled by Board.

20. Upon the application of any person aggrieved by a decision **of the Board** the Governor in Council may remit the matter to the **Board** for reconsideration. On application of aggrieved person Board may be directed to rehear matter.

The Board shall thereupon appoint a day for rehearing the **matter** in open court, and shall proceed to a rehearing thereof **accordingly**.

21. Any person aggrieved by a decision of the Board, whether **on an original hearing** or on a rehearing, may within one month after **the pronouncing** of the decision or the refusal of the Governor in **Council** to remit the matter to the Board, as the case may be, appeal **from** the decision to the Supreme Court, which is hereby authorised **to hear** and determine such appeal. Appeal to Supreme Court.

The appeal shall be in the nature of a rehearing, and shall be **brought**, and the proceedings therein shall be had, in such manner as **may** be prescribed by Rules of Court.

The appeal shall be heard and determined by a single Judge, **but the Judge** shall, if required by either party to the appeal, call in **the aid** of two assessors specially qualified, and shall hear and **determine** the matter with the assistance of such assessors.

One assessor shall be nominated by each party, but such **nomination** shall be subject to the approval of the Judge.

Evidence on an appeal to the Court may be taken in the same **manner** as is hereinbefore prescribed in the case of matters heard and **determined** by the Board.

An appeal shall lie to the full Court from any decision of the **Judge** upon a question of law.

22. If the members of the Board certify to the Minister that **they** are unable to agree upon any question, the question shall be **referred** to the Minister for decision. Reference to Minister.

Every question referred by the Board to the Minister which **ought** to be heard and determined by the Board in open court, shall be **heard** and determined by the Minister sitting in open court at Brisbane **with** the members of the Board, and his decision shall be pronounced **with** the reasons thereof in open court.

The

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*Crown Lands Act.*

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The decision of the Minister shall have the effect of a decision of the Board and be subject to the like appeal.

For the purposes of hearing and determining any such question the Minister shall have and may exercise the same powers as are hereinbefore conferred upon the Board.

Board to keep Register.

**23.** The Board shall cause a Register to be kept in which shall be entered minutes of all its proceedings and records of all its decisions.

*Commissioners.*

Governor in Council may create Districts and appoint Commissioners.

**24.** The Governor in Council may by Proclamation, on the recommendation of the Board, declare any portion or portions of the colony to be a District or Districts for the purposes of this Act.

The Governor in Council may appoint such and so many Land Commissioners and Land Agents for such districts as may be necessary for carrying the provisions of this Act into effect.

Commissioner to hold a court once in each month.

**25.** The Commissioner shall once at least in each month, on a day of which notice shall be given in the *Gazette*, hold an open court, at which all applications to select land under this Act shall be considered and approved or rejected or otherwise dealt with, and at which all such other matters as are by this Act declared to be within the cognizance of the Commissioner, and required to be dealt with in open court, shall be dealt with.

Commissioner's Court.

**26.** The Commissioner shall have power to hear and determine any question relating to the granting or refusal of any application to select raised at any such court by himself or any other person, and to inquire into any objection made thereto, either on public or private grounds, and to examine witnesses on oath in relation thereto, and from time to time to postpone any application, or the hearing or decision of any question or objection.

The Commissioner shall also have power for the purposes aforesaid, or for the purposes of any inquiry held under the provisions of this Act, to summon any person as a witness, and to examine him upon oath, and for such purposes shall have the same powers and authorities as any two justices of the peace in petty sessions have in respect of offences punishable on summary conviction.

Any party to any such inquiry may be represented by his counsel, attorney, or agent.

The Commissioner's decision on every such question or inquiry shall be pronounced in open court.

Decisions to be subject to confirmation by Board.

**27.** No decision of a Commissioner shall be final unless and until it has been confirmed by the Board; and the Board shall forthwith consider and confirm, vary, or reverse, every such decision.

**But**

*Crown Lands Act.*

But the Board shall not vary or reverse any decision until after notice to the party in whose favour the decision was given, and hearing him in open court or otherwise if he desires to be so heard. And every order of the Board varying or reversing a decision shall be pronounced in open court.

## PART III.—EXISTING PASTORAL LEASES.

28. At any time within six months after this Part of this Act becomes applicable to any run the pastoral tenant thereof may give notice to the Minister that he elects to take advantage of the provisions of this Act with respect to such run.

Existing runs may be brought under this Act.

The notice of election shall be in the form in the third Schedule to this Act or to the like effect.

Amended  
50 V. 110, 33

In the case of two or more conterminous runs being held by the same pastoral tenant, the whole shall be dealt with as one run (hereinafter called a consolidated run) for the purposes of this Part of this Act.

For the purposes of this section, the lease of any run the term whereof has expired by effluxion of time since the thirty-first day of December, one thousand eight hundred and eighty-two, shall be deemed to be a subsisting lease until the expiration of the period of six months hereinbefore mentioned.

29. Upon the receipt of any such notice by the Minister, the following consequences shall ensue, that is to say :—

Consequences of surrender.

- (1.) The Minister shall cause the run to be divided into two parts, one of which, hereinafter called "the resumed part," shall be thereafter deemed to be Crown lands (subject to the right of depasturing thereon hereinafter defined), and for the other part the pastoral tenant shall be entitled to receive a lease for the term and on the conditions hereinafter stated ;
- (2.) Land which has been resumed from a run under the provisions of the fifty-fifth section of "*The Pastoral Leases Act of 1869*," but has not been alienated or selected for sale, shall be deemed to be a portion of the run for the purpose of the division thereof ;
- (3.) In the case of runs within the Railway Reserves created by "*The Western Railway Act*" and "*The Railway Reserves Act*," the whole or any part of which has since the passing of those Acts respectively been resumed from lease under the provisions of the fifty-fifth section of "*The Pastoral Leases Act of 1869*," so much of the resumed lands as has not been reserved, selected, or alienated, shall be deemed to be a portion of the run for the purpose of the division thereof ;

(4.) The



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*Crown Lands Act.*

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- (4.) The proportion of a run to be included in the resumed part shall be determined by the following rules:—
- (I.) In the case of runs held under “*The Settled Districts Pastoral Leases Act of 1876*” or “*The Settled Districts Pastoral Leases Act of 1876 Amendment Act of 1882*,” one-half is to be included:
- (II.) In other cases—
- (a.) If at the time of this Act coming into operation with respect to the run a period of twenty years or upwards has elapsed from the date of the issue of the first license to occupy the land comprised in the run for pastoral purposes, one-half is to be included;
- (b.) If at that time a period of ten years, and less than twenty years, has elapsed from the date of the issue of such license, one-third is to be included;
- (c.) If at that time a period of less than ten years has elapsed from the date of the issue of such license, one-fourth is to be included;
- (d.) In the case of a consolidated run, the area to be resumed from each separate run is to be ascertained by the foregoing rules, and the total quantity so ascertained will be the quantity to be included in the resumed part of the consolidated run;
- (5.) For the purposes of making such division, the Commissioner, or some other fit and proper person appointed by the Governor in Council, shall be required to inspect the run and report as to the best mode of making a fair division thereof;
- (6.) In making a division, the following rules are to be observed:—
- (e.) The whole resumed part is to be in one block, and, where practicable, shall be separated from the remainder of the run by one straight line, and at least one-fourth of the external boundaries shall be coincident with the original boundaries of the run.
- (f.) The average quality and capabilities of the resumed part are to be, as far as practicable, the same as the average quality and capability of the whole run;
- (g.) In cases where the quality and capabilities of different parts of a run are unequal, an allowance may be made in area; and the proportion to

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*Operation modified  
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be included in the resumed part may be increased or diminished accordingly, so as to make the relative values of the resumed part and the remainder of the run bear the relative proportions hereinbefore prescribed;

- (7.) Upon receipt of the report of the Commissioner or other person appointed as aforesaid, the Minister shall refer the same to the Board;
- (8.) The Board shall by order confirm the division recommended with or without amendment, and the division so confirmed shall be notified in the *Gazette*.

**30.** The pastoral tenant shall thereupon be entitled to receive <sup>New lease.</sup> a lease from the Crown for the remainder of his run not included in the resumed part.

Every such lease shall, in the case of runs held under "*The Settled Districts Pastoral Leases Act of 1876*" or "*The Settled Districts Pastoral Leases Act of 1876 Amendment Act of 1882*," be for ~~the~~ term of ten years, and in other cases for the term of fifteen years, from the first day of January or first day of July nearest to the date of the notification in the *Gazette* of the order of the Board confirming the division, and shall be subject to the following conditions and stipulations:—

- (1.) The lessee shall, during the continuance of the lease, pay a yearly rent at the rates hereinafter stated, and such rent shall be payable in respect of the year ending on the thirtieth day of June, and shall be payable at the Treasury in Brisbane, or other place appointed by the Governor in Council, on or before the thirtieth day of September in that year;
- (2.) The rent shall be computed according to the number of square miles of land comprised in the lease: Provided that any portion of the run, not exceeding one-half of the whole, which consists of inaccessible ranges or for the time being consists of dense scrub, and which is for the time being wholly unavailable for pastoral purposes, shall not be included in computing the area upon which rent is payable;
- (3.) The rent payable for the first five years of the term of the lease shall, in the case of runs held under "*The Settled Districts Pastoral Leases Act of 1876*" or "*The Settled Districts Pastoral Leases Act of 1876 Amendment Act of 1882*," be at the rate of forty shillings, and in the case of other runs at a rate to be determined by the Board, not exceeding ninety shillings, and not less than ten shillings, per square mile;

(4.) The

*Amended  
50 Vic. No. 33*

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- (4.) The rent payable for the second period of five years and for the third period of five years (if any) shall be determined by the Board ;
- (5.) In determining the rent regard shall be had to—
- (a.) The quality and fitness of the land for grazing purposes ;
  - (b.) The number of stock which it may reasonably be expected to carry in average seasons after a proper and reasonable expenditure of money in improvements ;
  - (c.) The distance of the holding from railway or water carriage ;
  - (d.) The natural supply of water, and the facilities for the storage or raising of water ; and
  - (e.) With respect to the rent for the second and third periods of five years the relative value of the holding at the time of the assessment as compared with its value at the time of the commencement of the lease :

Provided that in estimating the value any increment in value attributable to improvements shall not be taken into account ;

Penalty for non-payment of rent.

- (6.) If default is made by the lessee in the payment of rent the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the full amount of rent within ninety days from the date hereinbefore appointed for payment thereof with the addition of a sum by way of penalty calculated as follows, that is to say—if the rent is paid within thirty days five per centum is to be added, if the rent is paid within sixty days ten per centum is to be added, and if the rent is paid after sixty days fifteen per centum is to be added ; but unless the whole of the rent together with such penalty is paid within ninety days from the appointed day the lease shall be absolutely forfeited ;

Rent to be paid pending assessment.

- (7.) When the rent of a holding is to be determined by the Board, the lessee shall, until it has been so determined, continue to pay at the prescribed time and place the same amount of rent per square mile as theretofore, or the minimum rent hereby prescribed, whichever is the greater amount ; and when the amount of rent has been determined by the Board the lessee shall, on the next thirtieth day of September, pay at the prescribed place any arrears of rent found due by him at the rate so determined, so as to adjust the balance due to the Crown ; and any excess of payment by the lessee shall be credited to him in payment of rent which may subsequently become due in respect to the holding.

31. When

*Crown Lands Act.*

**31.** When any portion of a run is resumed under the provisions of this part of this Act, the lessee of the remainder may continue to depasture his stock upon the resumed part or any part thereof until the same has been selected under Part IV. of this Act or otherwise disposed of under the provisions of this Act; but he shall not be entitled to exclude any person from entering upon it for the *bonâ fide* purpose of examination or inspection.

Grazing right on resumed portions of runs or holdings.

*Abatement modified 5/11/1933*

If the lessee desires to exercise such right of depasturing, he shall, within six months after the division of the run has been confirmed by the Board, give notice to the Minister, and shall pay, at the time and place appointed for payment of the rent of his holding, an annual rent at a rate to be determined by the Board, but not exceeding the rate per square mile payable under the previously subsisting lease of the run: Provided that if any of the land on which such right of depasturing is exercised is proclaimed open to selection under Part IV. of this Act, the rent payable in respect thereof shall be reduced by one-third.

When any part of the land is selected or otherwise disposed of, a reduction shall be made in the rent proportionate to the area so selected or disposed of.

If the rent is not paid at the time and place appointed, the right of depasturing shall be forfeited, but the forfeiture may be defeated under and subject to the same conditions as are hereinbefore provided in the case of the lease.

The same abatement shall be made in respect of unavailable land in the case of such right of depasturing as is hereinbefore provided in the case of leases.

Abatement for unavailable land.

**32.** If in the opinion of the Board any lessee exercising the right of depasturing is injuriously using the land over which the right to depasture is exercised by overstocking the same, the Board may require him to reduce the number of his stock thereon to such an extent as the Board may think fit; and if the lessee fails to comply with such requisition within six months after receipt thereof, his right of depasturing shall be determined.

Provision in case of overstocking.

**33.** If a pastoral tenant does not within six months after the order confirming the division of his run give notice to the Minister that he desires to exercise the right of depasturing hereby conferred, or if at any time thereafter he gives notice to the Minister that he surrenders such right in respect of the whole or any portion of the resumed part, or if his right is determined under the provisions of the last preceding section, or if he fails to pay the prescribed rent, the land may be dealt with as Crown lands under any of the provisions of this Act applicable thereto.

Lessee may waive grazing right.

34. In

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*Crown Lands Act.*

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Description of leased lands.

**34.** In any lease under this Part of this Act it shall be sufficient if the land comprised therein be defined according to the best description of such land and of the boundaries thereof which may be procurable, notwithstanding that such description may not have been prepared after actual survey, and no lease shall be liable to be set aside by reason only of the imperfection of any such description so long as the land shall thereby be defined with reasonable certainty.

Use of timber or material by lessees.

**35.** Lessees under this Part of this Act shall be permitted to cut and use such timber and material for building and other purposes as may be required by them for the purposes of their holdings.

Passage of stock.

**36.** Any person driving horses, cattle, or sheep along any road passing through a holding under this Part of this Act, which is ordinarily used for the purpose of travelling stock, may depasture such horses, cattle, or sheep on any land within the distance of half-a-mile from such road, which is not part of an enclosed garden or paddock under cultivation, or is not within one mile from the principal homestead or head station, notwithstanding that such land is leased under this Part of this Act, or is enclosed.

Provided that, unless prevented by rain or flood, such horses, cattle, or sheep shall be driven towards their destination at least six miles within every successive period of twenty-four hours.

Penalty.

**37.** Any person or persons driving horses, cattle, or sheep, and depasturing the same contrary to the provisions of the last preceding section, shall forfeit and pay a sum not exceeding twenty pounds, to be recovered before any two justices of the peace at any court of petty sessions, and for every subsequent offence shall forfeit a like sum.

Time of laying information.

**38.** An information for an offence against the provisions of the last preceding section must be laid within seven days from the time when the matter of the information arose.

Sale of forfeited leases to first applicant.

**39.** If any lease under this Part of this Act is forfeited or otherwise determined before the expiration of the term thereof, the Governor in Council may, by Proclamation, declare the land which was comprised in such lease to be open to be leased to the first applicant for the remainder of the term, subject to the same conditions as were applicable to the former lease.

Or the land may be dealt with under any other provisions of this Act applicable thereto.

If two or more applications are made at the same time the right of priority shall be determined by lot in the prescribed manner.

If

*Crown Lands Act.*

If the land is leased for the remainder of the term, then if there are upon the land any improvements, the new lessee shall pay to the former lessee compensation for such improvements. The amount of such compensation shall be determined by the Board after hearing both parties, and shall be recoverable by action in any court of competent jurisdiction. Provided that the new lessee shall not be entitled to receive a lease until he shall produce evidence of having duly paid the said amount of compensation, or shall have lodged the amount in the hands of the Commissioner or other prescribed officer.

If the land is otherwise dealt with, then any amount which is afterwards received by the Crown in respect of such improvements shall be paid over to the former lessee.

*Existing Runs not brought under Act and forfeited.*

40. If the lease of any run held under "The Pastoral Leases Act of 1869," situated in any part of the colony in which this Act is in force for the time being, of which the pastoral tenant has not elected to take advantage of the provisions of this Act, is forfeited or vacated, the run may be offered for sale by public auction for the residue of the term of the lease computed from the nearest first day of July. The upset price shall not be less than ten shillings per square mile of the estimated area, and the highest amount bid shall be the annual rent to be paid for the residue of the term.

Forfeited leases of runs under "Pastoral Leases Act of 1869" may be offered at auction.

Or the land comprised in the run may be dealt with under any other provisions applicable thereto.

## PART IV.—AGRICULTURAL AND GRAZING FARMS.

41. The Governor in Council, on the recommendation of the Board, may by Proclamation define and set apart any Country Lands as Agricultural Areas.

Agricultural Areas may be proclaimed.

42. The Governor in Council, on the recommendation of the Board, may by Proclamation declare any Country Lands to be open for selection under the provisions of this Part of this Act, and may by like Proclamation, on the like recommendation, withdraw any such lands from being so open.

Governor may proclaim lands open to selection.

43. Before any land is so proclaimed open for selection it shall be surveyed under the direction of the Surveyor-General and divided into lots of convenient area for selection, with proper roads and reserves for public purposes, and such lots shall be marked on the ground by posts not less than three feet in height at the corners of the lots.

Land to be surveyed before selection.

44. With respect to land which, before the passing of this Act, had been proclaimed open for selection or for sale by auction under the provisions of "The Crown Lands Alienation Act of 1876," or any

Temporary provisions as to survey.

Act

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*Crown Lands Act.*

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Act thereby repealed, and as to which it is practicable to divide the land into lots without actual survey, and to indicate the position of such lots by means of maps or plans, and by reference to known or marked boundaries or starting points, the following provisions shall have effect:—

- (1.) The Governor in Council on the recommendation of the Board may suspend the operation of so much of the last preceding section as requires the land to be actually surveyed and marked on the ground before it is proclaimed open for selection, and may require the Surveyor-General to divide the land into lots, and to indicate the position of such lots on proper maps or plans;
- (2.) The land may thereupon be proclaimed open for selection in the same manner as if it had been surveyed, and the delineation of the lots on the maps or plans shall be deemed to be a survey thereof, and the lots shall be deemed to be surveyed lots for the purposes of this Part of the Act;
- (3.) The powers conferred by this section may be exercised at any time within two years after the commencement of this Act, but not afterwards.

*Repealed 50 Vic. No. 33.*

What to be specified  
in Proclamation.

**45.** (1.) The Proclamation declaring the land open to selection shall appoint a day (not being less than four weeks after the date of the Proclamation) on and after which the land will be open: And on and after the day so notified the land shall be open to selection accordingly.

Maximum areas of  
farms.

(2.) The Proclamation shall also specify whether the land is in an Agricultural Area or not, and shall declare the maximum area of land which may be selected by any one person in the District.

(3.) Such maximum area shall not—

- (a.) In the case of land in an Agricultural Area, exceed one thousand two hundred and eighty acres, or be less than three hundred and twenty acres:
- (b.) In the case of other land, exceed twenty thousand acres, or be less than two thousand five hundred and sixty acres.

Price of land.

(4.) The Proclamation shall also specify the numbers of the lots, and their area, and the annual rent per acre to be paid for each lot:

Such rent shall be not less than three pence per acre in the case of land in an Agricultural Area, and not less than three farthings per acre in other cases.

(5.) In

*Crown Lands Act.*

(5.) In the case of land in an Agricultural Area, the Proclamation shall further specify the price (not being less than twenty shillings per acre) at which the lessee may purchase the land in fee-simple, as hereinafter provided.

(6.) The Proclamation shall also state the value of any improvements upon any lot declared open to selection.

*Repealed 50 Vic. No. 33.*

46. When any land is so proclaimed open for selection, maps shall be prepared and exhibited to the public at the land office of the district and at the Department of Public Lands in Brisbane showing the land so open, its distance from railway or water carriage, the price per acre, the maximum area that may be selected by any one person in the district, the quality and capabilities of the land so far as they can be stated, and such other information as may be prescribed. Maps to be exhibited.

47. The Land Agent shall keep a register in which he shall enter all applications to select land in the consecutive order of their receipt and the day and hour on which they were lodged, and each applicant shall himself or by his duly constituted attorney sign his name to such entry. Land Agent to keep register of applications.

When any such application is approved or rejected, or otherwise dealt with, the Commissioner shall make a memorandum of such approval or rejection opposite the entry of the application in the register

Such register shall be open to public inspection during office hours.

48. No person who is under the age of eighteen years, or who is a married woman not having obtained an order for judicial separation or protecting her separate property, or who is in respect of the land applied for or held, or any part thereof, or interest therein, an agent, trustee, or servant, of or for any other person, shall be competent to apply for or hold any land under the provisions of this Part of the Act. Disqualifications.

49. Any person desiring to select Crown lands under this Part of this Act must lodge with the Land Agent an application in the prescribed form, and must himself or by his duly constituted attorney sign the entry of his application in the register of applications. Applications to be lodged by the applicant personally, who shall pay first annual payment and cost of survey.

The application must be for a lot as surveyed, and must refer to it by its number as specified in the Proclamation.

The application must be accompanied by the full amount in cash of the first year's rent together with the survey fee.

Applications shall take priority according to the order of their being lodged with the Land Agent.

Provided

*Operation modified 50 Vic. No. 33.*



*Crown Lands Act.*

Provided that if two or more applicants shall be present at the time of opening the Land Agent's office the applications lodged by them shall be deemed to be lodged at the same time. In such case the right of priority shall be determined by lot in the prescribed manner.

Proportion of frontage in respect to such boundaries.

**50.** Subject to such general regulations concerning surveys, roads, or the prevention of a monopoly of permanent water, or otherwise, as may be made under this Act, land having frontage to a main watercourse, or, in the case of land in an Agricultural Area, to a main road, shall not have a greater breadth of frontage thereto than two-thirds of the depth.

Notice of confirmation to be given to selector.

**51.** When the Board has confirmed the approval of the Commissioner, notice of such confirmation shall be given to the selector. Such notice shall specify the conditions of rent, fencing, and occupation, to be fulfilled by the selector, and the consequences of non-fulfilment thereof.

Payment for improvements.

**52.** If there are upon any land selected under this Part of this Act any improvements, the selector shall pay the value of such improvements to the Land Agent within seven days from the date of the approval of the application.

No person to hold more than maximum area in district.

**53.** No person shall at the same time, either in his own right or as a trustee for any other person, except as hereinafter provided, hold in the same district two or more farms of the same class, the aggregate area of which is greater than the maximum area of land for the time being permitted to be selected as a farm of that class in that district. But no alteration of the boundaries of a district shall prejudice any then existing holding.

Nor shall any person at the same time, either in his own right or as a trustee for any other person, except as hereinafter provided, hold in the colony two or more Agricultural Farms the aggregate area of which is greater than one thousand two hundred and eighty acres, or two or more Grazing Farms the aggregate area of which is greater than twenty thousand acres.

On confirmation license to issue.

**54.** When the applicant has paid the value of the improvements (if any), and the application has been confirmed by the Board, he shall be entitled to receive from the Commissioner a license to occupy the land.

Such license shall not be transferable.

Rights conferred by license.

**55.** Upon the issue of a license the selector may enter upon the land and take possession thereof, but shall not be entitled to impound any stock of the last authorised pastoral tenant found trespassing on any part of the land which is not enclosed with a good and substantial fence except in the case of wilful trespass.

**56.** During

*Repealed  
50 Vic. No. 33.*

*Crown Lands Act.*

**56.** During the currency of the license the selector shall pay <sup>Rent to be paid during license.</sup> the annual rent at the same time and place as is hereinafter prescribed in the case of rent reserved by and payable under the lease, and in the event of his failing to make such payment the same consequences shall ensue with respect to the license as are prescribed in the case of a lease upon the like default.

**57.** In the case of Grazing Farms the selector must within <sup>Condition of Improvement.</sup> three years from the issue of the license enclose the land with a good and substantial fence.

In the case of Agricultural Farms the selector must within five years from the issue of the license either enclose the land with a good and substantial fence or make substantial and permanent improvements on the land of a value equal to the cost of such a fence.

If the same person is the selector of two or more contiguous lots, it shall be sufficient to enclose the whole area comprised in the lots, or to make the prescribed improvements upon any part of such whole area.

It shall not be necessary to erect a fence upon any boundary which is formed by a natural feature of such a character as to be sufficient to prevent the passage of stock.

The selector must also within such period of three years or five years respectively apply to the Commissioner for a certificate that he has done so. Upon such application being made, the Commissioner, or some other person appointed by the Governor in Council in that behalf, shall inspect the selection, and, if he finds that the whole of the land has been so enclosed or improved, shall certify that fact to the Board.

The Board may, if the selector has from any unavoidable cause been prevented from enclosing or improving the land within the time hereinbefore prescribed, grant an extension of twelve months' further time to make such enclosure or improvement; but if the fencing or improvement is not completed within such extended time the license to occupy shall become inoperative, and the selector shall have no further right or title to the land or the occupation thereof.

**58.** Upon the receipt by the Board of a certificate that the <sup>Lease to issue.</sup> selection has been fenced or improved as hereinbefore prescribed, the selector shall be entitled to a lease thereof from Her Majesty, under and subject to the conditions following and all other the conditions and provisions of this Act, that is to say:—

(1.) The term of the lease shall in the case of an Agricultural Farm be fifty years, and in the case of a Grazing Farm be thirty years, computed from the first day of January or first day of July nearest to the date of the license;

(2.) The

*(Enclosed 50/10/103)*

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*Crown Lands Act.*

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- (2.) The annual rent reserved under the lease shall for the first ten years thereof be the rent specified by the Proclamation declaring the land open to selection. The rent for each period of five years after the first ten years shall be determined by the Board ;
- (3.) The rent shall be payable in respect of the year ending on the thirty-first day of December, and shall be payable at the Treasury in Brisbane, or other place appointed by the Governor in Council, on or before the thirty-first day of March in each year ;
- (4.) In determining the rent regard shall be had to—
  - (a.) The quality and fitness of the land for agricultural or grazing purposes, as the case may be ;
  - (b.) In the case of Grazing Farms the number of stock which the holding may reasonably be expected to carry in average seasons after a proper and reasonable expenditure of money in improvements ;
  - (c.) The distance of the holding from railway or water carriage ;
  - (d.) The natural supply of water, and the facilities for the storage or raising of water ;
  - (e.) The relative value of the holding at the time of the assessment as compared with its value at the time of the commencement of the lease :

Provided that in estimating the value any increment in value attributable to improvements shall not be taken into account.
- (5.) If default is made by the lessee in the payment of rent the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the full annual rent within ninety days from the date hereinbefore appointed for payment thereof with the addition of a sum by way of penalty, calculated as follows, that is to say—if the rent is paid within thirty days five per centum is to be added, if the rent is paid within sixty days ten per centum is to be added, and if the rent is paid after sixty days fifteen per centum is to be added ; but unless the whole of the rent together with such penalty is paid within ninety days from the appointed day the lease shall be absolutely forfeited ;
- (6.) The lessee shall occupy the land continuously and *boná fide* during the term of the lease ;

Such occupation shall be by the continuous and *boná fide* residence on the land of the lessee himself or some other person who is the actual and *boná fide* manager

or

*Crown Lands Act.*

or agent of the lessee for the purpose of the use and occupation of the land, and who is himself not disqualified from selecting a farm of the same area and class in the district;

Every appointment of a manager or agent by the lessee shall be in writing signed by the parties or their agents, and shall be in duplicate; and one copy thereof shall be registered in the office of the Commissioner;

Occupation by a person under an unregistered appointment shall not be recognised;

- (7.) In the case of a Grazing Farm the lessee shall keep the land fenced with a good and substantial fence during the whole term of the lease;

Provided that if the same person is the lessee of two or more contiguous Farms in his own right, it shall be sufficient if the whole area comprised in the Farms is so fenced;

- (8.) If at any time during the currency of the lease it is proved to the satisfaction of the Commissioner that the lessee has failed in regard to the performance of the condition of occupation or fencing, the Governor in Council, on the recommendation of the Board, may declare the lease absolutely forfeited and vacated, and thereupon the land comprised therein shall revert to Her Majesty;

- (9.) Provided that in the case of a Grazing Farm, if it is proved to the satisfaction of the Board that the failure to occupy was caused by unavoidable want of water upon the farm, the Board may excuse such failure; but such excuse shall not be given for a period of more than twelve months unless the want of water continued for a longer period;

- (10.) When the rent of a farm is to be determined by the Board the lessee shall, until it has been so determined, continue to pay at the prescribed time and place the same amount of annual rent as theretofore, and when the amount of rent has been determined by the Board the lessee shall, on the next thirty-first day of March, pay at the prescribed place any arrears of rent found due by him at the rate so determined, so as to adjust the balance due to the Crown.

Rent to be paid pending assessment.

**59.** No person who—

- (a.) Is a lessee under Part III. of this Act of a holding exceeding ten thousand acres; or

(b.) Is

Lessees under Part III. and pastoral tenants not to hold Grazing Farms in same district.

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*Crown Lands Act.*

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- (b.) Is a pastoral tenant under any of the Acts hereby repealed, or
- (c.) Is a trustee for any such lessee or pastoral tenant otherwise than under a will, or
- (d.) Is the servant of any such lessee or pastoral tenant, or
- (e.) Is interested as mortgagor or otherwise in any holding under Part III. of this Act, or in a run held under any of the Acts hereby repealed,

may apply for or become or be the lessee of a Grazing Farm which is situated in the same district in which the holding or run is situated, or of a Grazing Farm which is situated in another district, and is within twenty-five miles of any part of such holding or run.

Restriction on freeholders.

**60.** No person who is beneficially entitled to any freehold land or any holding under Part III. of this Act in any district, may become or be the lessee under this Part of this Act of a Grazing Farm or Grazing Farms in the same district the aggregate area whereof, together with the area of the freehold land or of the holding under Part III. of this Act, exceeds the area allowed to be selected by one person in that district. In the case of several joint holders of freehold land each shall be deemed to be the holder of an area equal to the total area divided by the number of joint holders.

Restrictions not to apply in certain cases.

**61.** The restrictions hereinbefore imposed against any person holding a Farm, or against any one person holding more than the prescribed area of land as a Farm or Farms, shall not apply to any person who shall become the lessee of any such Farm or Farms as the trustee of the estate of a previous lessee under the laws relating to the administration of the estates of insolvent persons, or as the trustee of a settlement made in consideration of marriage, or as the Legatee, Executor, or Administrator, or one of the next of kin of a deceased lessee.

Forfeiture for violation of law.

**62.** If at any time during the term of a Lease it is proved to the satisfaction of the Commissioner in open court that the lessee is holding the Farm in violation of any of the provisions of this Act, the Governor in Council, on the recommendation of the Board, may declare the lease absolutely forfeited and vacated, and thereupon the land comprised therein shall revert to Her Majesty.

Use of holding for depasturing another person's stock to be *prima facie* evidence that lessee is a trustee.

**63.** Proof that the stock of any person other than the lessee are ordinarily depastured on a holding under this Part of this Act shall be *prima facie* evidence that the lessee is a trustee of the holding for the owner of such stock.

**64.** If

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*Crown Lands Act.*

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**64.** If the lease of any farm is determined by forfeiture Forfeited leases. or otherwise before the expiration of the term thereof, the land comprised therein may be proclaimed open to selection by the first applicant for the remainder of the term of the lease on the same terms as those then applicable thereto, or may be proclaimed open for selection or occupation in any manner in which Crown lands in the district may be selected or occupied :

But the former lessee shall not, in case the lease was determined by forfeiture, be competent to select the land or any part thereof, or to become the lessee thereof or of any part thereof by assignment, for a period of five years from the time of forfeiture :

If the land is applied for and selected for the remainder of the term, the new lessee shall pay to the former lessee compensation for any improvements upon the land. The amount of such compensation shall be determined by the Board after hearing both parties, and shall be recoverable by action in any court of competent jurisdiction. Provided that the new lessee shall not be entitled to receive his lease until he shall produce evidence of having duly paid the said amount of compensation, or shall have lodged the amount in the hands of the land agent or other prescribed officer.

If the land is otherwise dealt with, then any amount which is afterwards received by the Crown in respect of any such improvements shall be paid over to the former lessee.

*Mortgages.*

**65.** When any holding under this Part of this Act is intended Mortgages. to be charged or made security for the payment of any sum of money, the lessee shall execute a Memorandum of Mortgage in the form in the fourth Schedule hereto or to the like effect.

Every Memorandum of Mortgage must be in duplicate, and one original must be registered in the Department of Public Lands ; and in the case of several mortgages of the same holding they shall take effect according to priority of registration.

A fee of five shillings shall be payable upon the registration of every such memorandum in respect of every holding comprised in or affected by it.

A mortgage may be transferred on payment of the like fee for registration of the transfer.

**66.** A Memorandum of Mortgage shall have effect only Effect of mortgage. as a security for the sum of money intended to be secured by it, and shall not take effect as an assignment of the lease.

**67.** If default is made in the payment of the money secured Right of mortgagee. by Memorandum of Mortgage according to the tenor thereof, or upon

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upon the happening of any event which according to the terms of the memorandum entitles the mortgagee so to do, the mortgagee may—

- (1.) Enter upon and take and retain possession of the holding for any period not exceeding twelve months ;
- (2.) Sell the holding by public auction after not less than thirty days' notice of the intended sale published in the *Gazette* and a local newspaper ;

Provided that the purchaser must be a person who is not disqualified to be the lessee of the land under the provisions of this Act ;

Provided nevertheless that the Board may extend the time during which the mortgagee may retain possession of, or sell the holding.

Transfer on sale.

**68.** Upon a sale of a holding under the power of sale hereby conferred upon a mortgagee he may assign the lease to the purchaser, and the assignment shall be registered in the Department of Public Lands upon payment of the prescribed fee.

*Underleases.*

Conditions on which holdings may be sub-let.

**69.** A lessee under this Part of this Act may underlet the whole or any part of his holding, and an underlease may be transferred, subject to the following conditions, but not otherwise, that is to say,—

- (1.) The sub-lessee or transferee must be a person who is not himself disqualified to become the lessee under this Part of this Act of a Farm in the same District, and of the same area, as the land included in the underlease ;
- (2.) The approval of the Board must be obtained to the underlease or transfer ;
- (3.) Such approval shall not be given to an underlease unless special grounds are shown by the lessee to the satisfaction of the Board for granting such approval ;
- (4.) The underlease or transfer must be in writing and in duplicate, and one original thereof must be registered in the Department of Public Lands.

Consequence of non-observance of conditions.

**70.** If a lessee underlets any part of his holding otherwise than in accordance with this Act, or if the condition of occupation is not performed by any sub-lessee of the whole of a holding, the lessee shall be deemed to have failed to comply with the condition of occupation, and his lease may be dealt with accordingly.

*Register.*

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*Register.*

**71.** There shall be kept in the Department of Public Lands a Register of Leases. Register of Leases.  
 Register of Leases issued under this Part of this Act, wherein shall be entered particulars of all leases, mortgages, and underleases, and such other particulars as may be prescribed by the Regulations.

Any person shall, upon payment of the prescribed fees, be entitled to have access to the Register for the purpose of inspection thereof at any reasonable time during office hours.

*Selections under "Crown Lands Alienation Act of 1876."*

**72.** Whenever the boundaries of any district comprise any conditional selection selected under the provisions of "*The Crown Lands Alienation Act of 1876*," the selector may apply to the Minister to surrender his title under that Act and to receive instead thereof a lease of the land as an Agricultural Farm under this Part of this Act, notwithstanding that the area exceeds one thousand two hundred and eighty acres. Selectors under Act of 1876 may surrender their title and receive lease.

Upon such surrender the selector shall be entitled to receive a lease under this Part of this Act for the prescribed term.

The total rent which has been paid by the selector in respect of the selection, after deducting a sum equal to sixpence per acre, or one-half the annual rent, whichever is the lesser sum, for every year during which the selection has been held, shall be credited to the selector as paid in advance in respect of the rent reserved by the lease, or if there be any surplus after payment of such rent, then in respect of the purchase money as hereinafter provided.

The rent to be reserved under the lease for the first ten years shall be determined by the Board, but shall not be less than the minimum hereinbefore prescribed.

The purchase money to be paid on purchasing the selection within the first twelve years, as hereinafter provided, shall be the selection price, or a sum equal to one pound per acre, whichever is the greater sum.

A selector may, before applying to surrender his title under the provisions of this section, require the Board to determine the rent which will be reserved for the first ten years in the event of such surrender.

*Acquisition of Freehold.*

**73.** Whenever in the case of a holding in an Agricultural Area the condition of occupation hereinbefore prescribed has been performed by the continuous and *bonâ fide* residence on the holding of the lessee himself, or of each of two or more successive lessees, for the period of ten years next preceding the application hereinafter mentioned, the lessee may apply to the Commissioner to become the purchaser In agricultural areas fee-simple may be acquired after ten years' personal occupation.



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purchaser of the holding, and upon proof to the satisfaction of the Commissioner in open court that such condition has been so performed, and on payment at the Treasury, or other place appointed by the Governor in Council, of the prescribed price and deed fee and assurance fee, he shall be entitled to a Deed of Grant of the land in fee-simple.

When the title to a selection under "*The Crown Lands Alienation Act of 1876*" has been surrendered and a new lease has been issued under the provisions of the last preceding section, any continuous personal residence of the selector upon the selection up to the time of such surrender shall be computed in reckoning the period of ten years.

The purchase money shall, if the application to purchase is made before the expiration of twelve years from the commencement of the term of the lease, be the price specified by the Proclamation which declared the land open to selection, or hereinbefore prescribed, as the case may be; and, if the application is made at a later time, shall be a sum bearing the same proportion to that price as the rent payable at the time of the application to purchase bears to the rent specified by that Proclamation or so prescribed.

When a holding is vested in an executor or administrator of a deceased lessee, the residence on the land of any person who is beneficially interested in the holding shall be deemed to be personal residence of the lessee for the purposes of this section.

Special provisions  
for acquiring  
freehold in the case  
of holdings not  
exceeding one  
hundred and sixty  
acres after personal  
occupation.

**74.** With respect to Agricultural Farms, the area whereof does not exceed one hundred and sixty acres, the following provisions shall have effect:—

(1.) If at any time before the expiration of seven years from the commencement of the term of the lease the lessee proves to the Commissioner in open court that the condition of occupation hereinbefore prescribed has been performed for the period of five years next preceding the tendering of such proof either—

- (a.) By the continuous and *boná fide* residence on the holding of the original lessee himself, or,  
 (b.) In case of the death of the original lessee before he has so resided for five years, by the continuous and *boná fide* residence of such lessee on the holding for a portion of that period, and by the continuous and *boná fide* residence on the holding for the remainder of the period of some person beneficially interested in the holding under the will, or as one of the next-of-kin, of the original lessee,

and that a sum at the rate of ten shillings per acre has been expended in substantial and permanent improvements on the land, the lessee, upon payment at the  
 Treasury,

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Treasury, or other place appointed by the Governor in Council, of a sum which together with the rent already paid will make up the sum of two shillings and sixpence per acre, together with the prescribed deed fee and assurance fee, shall be entitled to a Deed of Grant of the land in fee-simple ;

- (2.) Provided that if the original lessee dies before the expiration of seven years from the commencement of the term of the lease and before making such proof as aforesaid, intestate, and leaving a widow, the widow may tender such proof to the Commissioner, and, upon making such proof and such payments as aforesaid, she shall be entitled to have a Deed of Grant of the land in fee-simple issued to her, and shall hold the land upon the same trusts as if she had been duly appointed administrator of the land of the deceased lessee ;
- (3.) The provisions of this section shall not apply to any holding acquired by any person who has acquired a Homestead Selection under "*The Crown Lands Alienation Act of 1876*," or any of the Acts thereby repealed ;
- (4.) No person shall take advantage of the provisions of this section in respect of more than one holding of which he is the original lessee ;
- (5.) The provisions of this section shall not be applicable in respect of any holding which is mortgaged or has been sublet.

*Provisions in case of two or more Farms held by the same person.*

**75.** If the same person is the lessee of two or more Farms which are contiguous, or are only separated by a road or roads, or a creek, the condition of occupation may be performed by the residence of the lessee or another person, being his manager or agent as hereinbefore prescribed, upon one of such Farms ; and such residence shall be equivalent to the residence of the lessee or that person upon each of such Farms, and shall confer on the lessee in respect of each Farm the same rights as his own residence, or the residence of that person, as the case may be, would have conferred.

In case of contiguous farms held by same lessee one only need be occupied.

**76.** If a lessee acquires an Agricultural Farm in fee-simple and continues to reside thereon, such residence shall, so long as he is the owner thereof in fee-simple, continue to confer on him the same rights and privileges as are by the last preceding section declared with respect to other Farms held by him, in the same manner and to the same extent as if the Farm so acquired in fee-simple were still a holding under this Part of this Act.

Privilege to continue notwithstanding acquisition of land in fee-simple.

**PART,**

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## PART V.—OCCUPATION LICENSES.

Licenses may be granted from year to year.

**77.** The Minister may grant licenses to occupy, from year to year, any Crown lands not subject to a right of depasturing under Part III. of this Act. Such licenses shall be granted under and subject to the following provisions and conditions, that is to say :—

- (1.) The land shall be declared open to such occupation by notice in the *Gazette*, specifying the areas to be occupied and the rent per square mile, which shall be determined by the Board ;
- (2.) One month's notice at least shall be given in the *Gazette* before the land shall be so open ;
- (3.) Applications for licenses must be made to the Commissioner ;
- (4.) The first applicant shall be entitled to the license, and if two or more applications are made at the same time the priority shall be decided by lot in the prescribed manner ;
- (5.) Every such license shall expire on the thirty-first day of December of the year in which it is granted, unless renewed, as hereinafter provided ;
- (6.) The amount specified by the notice shall be the annual rent, until increased as hereinafter provided, and shall be paid at the time of application : If that time is after the thirtieth day of June, one-half of the annual rent only will be payable ;
- (7.) The license may be renewed for another year, and so on from year to year, upon payment on or before the thirtieth day of September, at the Treasury in Brisbane, or other place appointed by the Governor in Council in that behalf, of the next year's rent ;
- (8.) The land comprised in the license shall, if so proclaimed, be open to selection under the provisions of Part IV. of this Act ;
- (9.) If the land is so proclaimed open to selection the rent payable in respect thereof shall be reduced by one-third ;
- (10.) The Minister, on the recommendation of the Board, may at any time before the first day of September in any year give notice to the licensee that the next year's rent will be increased by an amount not exceeding twenty-five per centum of the rent then fixed, and the rent shall be increased accordingly ;

(11.) The

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- (11.) The license shall be determinable at the end of any year by six months' notice previously given by the Minister to the licensee;
- (12.) If, in the opinion of the Board, any licensee is injuriously using the land comprised in the license by overstocking the same, the Board may require him to reduce the number of his stock thereon to such an extent as the Board may think fit, and if the licensee fails to comply with such requisition within six months after receipt thereof the license shall be determined.

## PART VI.—SALES BY AUCTION.

**78.** The Governor in Council may cause any town or suburban lands to be offered for unconditional sale by public auction, and may cause maps of such lands to be prepared, which maps shall show and specify the counties, parishes, or towns, in which the lands are situated, and all reserves intended to be made in accordance with the provisions of this Act, and the boundaries and areas of the lands intended to be sold, and shall also show the lengths and bearings of all boundary lines comprised therein, and such maps shall be deposited as public maps in the office of the Surveyor-General.

Governor may cause town or suburban lands to be sold by auction.

**79.** All such lands shall be distinguished as town or suburban lots, according to their respective positions, and shall be offered as nearly as may be in areas according to the following scale:—

Classes of land to be stated.

Town lands in allotments of from one rood to one acre;

Suburban lands within one mile from town lands in lots of from one acre to five acres;

Suburban lands over one mile from town lands in lots of from one acre to ten acres.

**80.** The place and time of sale shall be notified by Proclamation published in the *Gazette* not less than four weeks or more than three months prior to the day of sale, and the Proclamation shall specify the numbers of the lots and the area and upset price of each lot: Provided that any lot may be withdrawn from sale by the Minister at any time prior to the same being actually offered for sale and bid for.

Proclamation of land for sale.

The Proclamation may impose any special conditions with respect to the sale of any specified lot or lots, and may add the value of improvements on any land to the upset price.

Special conditions may be imposed.

**81.** The upset price shall not be less than—

Eight pounds per acre for town lands, and

Two pounds per acre for suburban lands.

Upset price.

Provided that the upset price may be fixed at any larger sum.

**82.** The

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Conditions to be read.

**82.** The land agent or auctioneer shall before the commencement of the sale read the terms and conditions of sale, and all persons bidding at the sale shall be bound by the terms and conditions so read.

Deposit to be made.

**83.** The highest bidding for each lot, together with the name of the purchaser, shall be announced by the land agent or auctioneer before proceeding to offer the next lot, and the purchaser shall thereupon pay a deposit of one-fifth of the purchase money.

Payment of residue

**84.** The balance of the purchase money and the value of the improvements (if any has been added to the upset price), together with the prescribed deed fee, assurance fee, and survey fee, shall be paid to the land agent at his office within one calendar month from the date of the sale, and upon such payment being duly made the purchaser shall be entitled to a deed of grant of the land in fee-simple.

Forfeiture of deposit upon failure to pay balance.

**85.** If the balance of the purchase money, with the value of the improvements, deed fee, assurance fee, and survey fee, is not paid to the land agent within one calendar month from the day of the sale, the deposit shall be absolutely forfeited, and the depositor shall have no further claim to the land on account thereof.

Value of improvements may be paid to owner or occupant.

**86.** The Governor in Council may by the Proclamation direct that the value of any improvements on any lot which were made thereon before the land was surveyed shall be paid to the owner or occupant of such improvements at the time of the sale, and in such case it shall be sufficient that the purchaser, instead of paying the value of the improvements to the land agent, produce to the land agent a receipt in full for such value signed by such owner or occupant.

Proclamation of sale may notify land not bid for open to selection.

**87.** Any Proclamation of lands for sale by auction may specially declare that any land mentioned in it which shall not be bid for or withdrawn from sale either before or after offer at auction shall be open to purchase by the first applicant at the upset price: And in every such case all such lands shall be open to purchase accordingly on payment to the land agent of the full upset price, together with the prescribed deed fee, assurance fee, and survey fee, and any further sum which may have been fixed as the value of improvements on the land.

PART VII.—SPECIAL GRANTS AND LEASES AND RESERVES.

Powers to grant in case of escheat, &c.

**88.** In any case in which Her Majesty has become, or may hereafter become entitled to any land, either by escheat for want of heirs, or by reason of any forfeiture for treason, felony, or otherwise, or by reason that the same has upon inquisition been found to have been granted or otherwise vested unto the use of, or in trust for any alien

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*Operative  
modified  
schedules*

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alien or aliens, the Governor in Council, on behalf of Her Majesty, may grant such land in fee-simple, or for any less estate, to any person, for the purpose of restoring the same to any of the family of the person in whom, or for whose benefit, the same had been vested, or of carrying into effect any intended grant, conveyance, or devise of such last-mentioned person in relation to such land, or of rewarding any person making discovery of such escheat or forfeiture, or of Her Majesty's right and title thereto: Provided that before any land under escheat is so granted notice of the intended grant shall be advertised for two consecutive months in the *Gazette*.

**89.** The owner or owners of any purchased lands adjoining a road which is required for access to such lands only, and is not otherwise required for public use or convenience, may make application, in writing, to the Minister that such road may be closed either permanently or temporarily. Application for closing unnecessary roads.

On the receipt of such application the Minister shall cause notice thereof to be inserted in the *Gazette* and in such local newspapers, if any, as he thinks advisable, and also to be conspicuously posted on the road to be closed, and at the nearest land office, police office, and post office, for a period of not less than two nor more than six calendar months consecutively.

**90.** At the expiration of such period the Governor in Council may approve of such application with or without modification. Consequent alienation or license.

If the application is for the permanent closure of the road, and is approved without modification, the Governor in Council may order the closure of the road upon payment of such price as he may think reasonable (not being less than the original upset price of the adjoining lands), in which case, upon payment of such price together with the deed fee and assurance fee, a deed of grant in fee-simple of the soil of such road shall be issued to the owner, or rateably to the several owners of the adjoining lands, or as they may request, in the same manner as if such road had been purchased by him or them at auction under the provisions hereinbefore contained.

If the application is for the temporary closure of the road and is approved, or if the application being for the permanent closure of the road the Governor in Council shall approve of a temporary closure thereof only, the Minister shall issue to the applicant a license in the prescribed form authorising him and his successors in the occupation of the adjoining lands to enclose the road and keep it enclosed for so long as he or they shall pay the yearly rent of one shilling per annum for every acre or part of an acre of the land comprised therein, which rent shall be payable in advance at the Treasury on the first day of January in every year. Or temporary enclosure only may be authorised.

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Property vested in license.

During the currency of the license the holder thereof shall be deemed the lessee of the land comprised therein.

Forfeiture for non-payment of license fee.

If the annual license fee shall not be paid when due the license shall be forfeited, but the licensee may at any time within ninety days thereafter defeat such forfeiture by payment of the rent together with an additional sum equal to one-fourth part thereof by way of penalty; but in default of such payment of rent and penalty within such period of ninety days the license shall be absolutely forfeited.

Power to cancel license.

If at any time it appears to the Governor in Council expedient to re-open any road in respect of which any such license shall have been issued, the Governor in Council may cancel the license upon giving six months' clear notice to the holder thereof, and upon such cancellation the road so enclosed shall again become open as a public highway.

Sale in consideration of improvements.

**91.** Upon application made within twelve months after the Proclamation in the *Gazette* of the first sale of any town land situated within any new city, town, village, or reserve, upon which improvements are situated, the Governor in Council may sell and grant the allotment or allotments containing such improvements to the owner of such improvements without competition at the fair value thereof in an unimproved state, not being less than twice the minimum upset price as defined by this Act.

Sales without competition in special cases.

**92.** In cases in which there is no convenient way of access to any portion of Crown land, or in which any portion may be insufficient in area for public sale, or in which a portion of Crown land may lie between land already granted and a street or road which forms, or should form, the way of approach to such granted land, or in which buildings erected on lands already granted may have extended over Crown lands, or in any other cases of a like kind, the Governor in Council may sell and grant such lands to the holder or holders of the adjoining lands without competition, and at a price to be determined by the Board.

Power to purchase or exchange.

**93.** The Governor in Council, on behalf of Her Majesty, may acquire any land of any tenure which may be required for any public purpose, either by way of purchase, or by granting any Crown land of equal value in fee-simple or for any less estate in exchange for such land. In any such case the value of the land so acquired or granted, and of any improvements thereon respectively, shall be determined by the Board.

Provisions as to exchange not to apply to country lands.

The power of granting land in exchange for other land conferred by this section shall not be exercised in the case of country lands, except for the purpose of acquiring land to be dedicated as a public road.

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**94.** The Governor in Council, on the recommendation of the Board, may grant leases of any portion of land, not exceeding twenty-five acres, to any person for the erection of wharves, store-houses, slips for building or repairing vessels, baths, works for supplying water or gas to any town, market gardens, or any other special purpose. The lease shall be for such term, not exceeding thirty years, and upon such conditions as to rent and otherwise as shall be determined by the Board: provided that the annual rent shall not at any time be less than one pound per acre.

Governor may grant leases for special purposes.

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*Reserves.*

**95.** The Governor in Council may from time to time grant in trust, or by Proclamation reserve from sale or lease, either temporarily or permanently, any Crown lands which, in his opinion, are or may be required for state forests or for quays, landing places, tramways, railways, railway stations, roads, bridges, ferries, canals, or other internal communications, or for the approaches or other purposes necessarily appertaining to any such works, or for camping places for travelling stock, or for reservoirs, aqueducts, or watercourses, or for the use or benefit of the aboriginal inhabitants of the colony, or for the sites of markets, abattoirs, public baths, or washhouses, mechanics institutes, schools of arts, libraries, museums, or other institutions for public non-scholastic instruction, public gardens or experimental farms and parks, agricultural and horticultural societies, grammar schools, State schools, hospitals, asylums, infirmaries, establishments for the relief of indigent persons, lockups, police stations or police paddocks, gaols, places for the interment of the dead, or for the recreation, convenience, health, or amusement of the people, or for any other purpose of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the colony, or for any special purpose which may be approved by resolution of both Houses of Parliament.

Power to reserve lands for public purposes.

**96.** The Governor in Council may, by Proclamation, and without issuing any deed of grant, place any lands reserved, either temporarily or permanently for any such purpose, under the control of trustees; and may, by like proclamation, declare the style or title of such trustees and the trusts of any land placed under their control, and may empower them to make by-laws for carrying out the objects of the trust and to impose penalties not exceeding in any case five pounds for any breach thereof. No such by-laws shall have effect until they have been approved by the Governor in Council and published in the *Gazette*. Upon such approval and publication, they shall have the force of law.

Trustees of public lands.

Trustees may make by-laws.

**97.** For the purposes of any suit, action, or proceeding in any court of law or equity it shall be sufficient to describe such trustees by such style or title without naming any of them, and in any indictment

Trustees shall be deemed to be owner in law or equity.

or



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or information it shall be sufficient to describe them by such style or title as owners of any property real or personal, and they may by such style or title sue and be sued, and they shall for the purposes of any such suit, action, or proceeding, be deemed to be the absolute owners of the land placed under their control; and no such suit, action, or proceeding, shall abate by reason of the death, removal, or retirement of any such trustee.

Licenses to mine for coal.

**98.** The Governor in Council may grant licenses to mine for coal on temporary or permanent reserves on such terms as to securing the surface, license fees, royalties, or otherwise, as he shall see fit.

*Commons.*

Commons may be resumed.

**99.** The Governor in Council may by Proclamation resume any Crown lands which have heretofore been proclaimed as a Common.

Governor in Council may make regulations for management of Common.

**100.** The Governor in Council may make regulations for the management of any existing Common and for giving effect to commonage rights, subject, however, to the following conditions :

That commonage rights shall appertain solely to residents in the township or district for which the Common was proclaimed ;

That the depasturing of sheep and entire male animals exceeding six months old, except under special conditions, shall be prohibited ;

That payment be made for the depasturing of cattle at a rate not less than two shillings per head per annum, and that in no case shall any one person be allowed to run more than twenty head on the same common.

But nothing herein contained shall prevent *bonâ fide* travellers from depasturing their bullocks, horses, or other stock on any common. Provided that no person travelling with stock shall be deemed a *bonâ fide* traveller unless such stock are driven towards their destination at least six miles within every successive period of twenty-four hours, unless prevented by rain or flood.

Commons may be placed under municipal councils.

**101.** In the case of any Common proclaimed for the use of the inhabitants of a municipality, the Governor in Council may place such Common under the control of the council of such municipality, and may authorise the council to make regulations, subject to the conditions aforesaid, for the management thereof and the giving effect to commonage rights therein.

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## PART VIII.—RESUMPTION AND COMPENSATION.

*Resumption.*

**102.** The whole or any part of any holding under this Act may be resumed from lease by the Governor in Council on the recommendation of the Board, subject to the following provisions, that is to say :—

Resumption from  
holdings.

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- (1.) A notice signed by the Minister must be published in the *Gazette*, and served on the lessee either personally or by post letter addressed to him at the holding six months at least before the resumption takes effect ;
- (2.) The resumption must, except in the case of the resumption of land for a public road, be made to take effect at the expiration of some year of the tenancy ;
- (3.) The lessee may, at any time within three months after service of a notice of resumption of part of a holding, serve on the Minister a notice in writing to the effect that he accepts the same as a notice of resumption of the entire holding, to take effect at the expiration of the then current year of tenancy ; and the notice of resumption shall have effect accordingly ;
- (4.) Upon resumption of the whole or part of a holding the lessee shall be entitled to compensation for the loss thereof, the amount of which shall be determined by the Board ;
- (5.) If the lessee is dissatisfied with the decision of the Board, he may, within one month after the decision is pronounced, give notice to the Minister that he objects to the decision ;
- (6.) If such notice of objection is given, the compensation shall be determined in the manner prescribed by "*The Public Works Lands Resumption Act of 1878*," for determining compensation for land taken under that Act.

**103.** The amount of compensation in respect of the whole or part of a holding shall, irrespective of the compensation payable in respect of the improvements thereon (if any), be such sum as would fairly represent the value of the whole, or of the part resumed, to an incoming purchaser of the whole or that part for the remainder of the term of the lease :

Amount of  
compensation for  
holdings.

Provided that upon resumption of part of a holding the lessee shall be entitled to compensation for the loss of that part as hereinbefore provided ; and shall also be entitled to a proportionate reduction of

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of rent in respect of the portion resumed, and in respect of any depreciation of the value to him of the residue of the holding, caused by the withdrawal of that portion from the holding, or by the use to be made thereof; and the amount of that reduction shall be determined by the Board in manner herein provided.

*Compensation for Improvements.*

Lessee's title to compensation.

**104.** Where there is upon a run or holding an improvement, the pastoral tenant or lessee shall be entitled, subject to the provisions of this Act, on the resumption under the provisions of this Act of the part of the run or holding on which the improvements are, or on the determination of the lease otherwise than by forfeiture, to receive as compensation in respect of the improvement such sum as would fairly represent the value of the improvement to an incoming tenant or purchaser of the whole run or holding.

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Expenses of ringbarking may be allowed as improvements.

**105.** When a lessee has ringbarked timber upon his holding in accordance with the Commissioner's permission, as hereinafter provided, he may, at any time within twelve months after he has incurred any expenditure in respect of such ringbarking, apply to the Commissioner to allow and certify such expenditure; and upon proof of the expenditure being made in open court, the Commissioner may allow and certify such expenditure accordingly, but at a rate not exceeding two shillings and sixpence per acre.

Any ringbarking done in accordance with the permission of the Commissioner shall be deemed to be an improvement in respect of which the lessee by whom it was done, or his assignee, may be entitled to compensation under the provisions of this Act relating to compensation for improvements.

The value of such improvement shall not be estimated to exceed the sum so certified by the Commissioner.

Compensation to be assessed by Board.

**106.** The amount of compensation for improvements to be paid to a pastoral tenant or lessee under this Act shall be determined by the Board in manner hereinbefore provided:

Provided that in case of the resumption of the whole or part of a holding under the provisions of this Act, if the lessee objects to the decision of the Board with respect to the compensation payable in respect of the holding, he shall be also entitled to have the amount of the compensation in respect of the improvements determined under the provisions of "*The Public Works Lands Resumption Act of 1878*," in the same manner as is hereinbefore provided with respect to compensation on the resumption of the holding or part thereof.

Compensation where payable.

**107.** The amount awarded to any pastoral tenant or lessee for compensation under the provisions of this Act shall not, except in the case of the resumption of an entire holding, be payable to him until he

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he is actually deprived of the use of the land or of the improvements, in respect of which the compensation is awarded.

In the case of the resumption of an entire holding the amount awarded shall be payable when the resumption takes effect.

**108.** No appeal shall lie to the Supreme Court from a decision of the Board determining the amount of compensation payable to a pastoral tenant or lessee under this Part of this Act. No appeal to Supreme Court under this Part of this Act.

## PART IX.—GENERAL.

**109.** All leases issued under this Act shall contain a reservation of all mines and minerals in the land comprised therein, and shall contain such other reservations and exceptions as may be prescribed including a reservation of the right of access for the purpose of searching for or working any mines or minerals in any part of the land on condition of making compensation to the lessee for any actual damage, and on such other conditions as may be prescribed. Reservation of mines.

**110.** All Crown grants issued under this Act shall contain a reservation of all gold in or under the land comprised therein. Reservation of gold in grants.

**111.** It shall not be lawful for a lessee under Part III. of this Act, or for a lessee of a Grazing Farm under Part IV. of this Act, to cut down or destroy, except for the purposes of his holding, any trees upon the holding without the permission of the Commissioner, or to ringbark any trees upon the holding without the like permission. Ringbarking and destruction of timber forbidden except with Commissioner's permission.

A lessee desiring such permission shall apply for it in writing in the prescribed form, specifying the portion of the holding in respect of which he desires the permission. The Commissioner shall thereupon inquire into the matter, and may refuse such permission or may grant it upon such conditions as may be prescribed, or, if no conditions are prescribed, as he thinks fit.

Any such lessee who cuts down or destroys any tree upon his holding, except for the purposes of the holding, without the permission of the Commissioner, or contrary to the conditions of the permission, or who ringbarks any tree upon the holding without the like permission, or contrary to the conditions thereof, shall upon the information of the Commissioner or other prescribed officer be liable to a penalty of not less than one shilling and not more than ten shillings for every tree so cut down, destroyed, or ringbarked.

**112.** The rent reserved by any lease or payable in respect of any license under this Act shall be a debt due to Her Majesty. Rent a debt to the Crown.

**113.** Subject to the provisions of this Act leases and licenses may be transferred on application to the Minister, and upon payment of a transfer fee of ten shillings for every holding or license. Transfers of leases and licenses.

**114.** If

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*Crown Lands Act.*

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Proviso for amend-  
ment of defective  
descriptions.

**114.** If after the issue of any lease it is found on survey, or by mutual consent of the parties interested, that the description of the boundaries of the holding therein contained does not describe with sufficient certainty the lands intended to be therein comprised, the Governor in Council may cancel such lease, and may issue a fresh lease for the remainder of the term with an amended description of the holding.

Subdivision of  
holdings.

**115.** Any holding under this Act may be subdivided upon application to the Minister and payment of the prescribed fee.

The application must be accompanied by proper and correct plans and descriptions of the proposed subdivisions, certified by a licensed surveyor.

Upon a subdivision the original lease must be surrendered, and new leases shall thereupon be issued comprising the respective subdivisions.

Such new leases shall be for the residue of the original term, and shall be issued in the name of the original lessee or such persons (not being disqualified to be lessees) as he may direct.

Removal of timber  
and material by other  
than lessees.

**116.** Except as provided in this Act, a lessee under Part III. of this Act shall not have power to restrict other persons duly authorised by the Minister either from cutting or removing timber or material for building or other purpose, or from searching for metal or mineral within his holding.

Right to enter on  
lands.

**117.** Nothing in this Act, or in any license or lease granted thereunder, shall be held to prejudice or interrupt the right of the Governor in Council, or of any officer duly authorised in that behalf by the Governor in Council, to go upon any lands included in any license or lease, or to make any survey, inspection, or examination of the same.

"Fencing Act of  
1861" to apply to  
leased lands.

**118.** The provisions of "*The Fencing Act of 1861*" shall apply to all lands included in any license under Part IV. of this Act or any lease under this Act, and the licensee or lessee shall be deemed the owner thereof for the purposes of the said Act; and the granting of any such license or of a lease under this Act shall for the purposes of the said Act be deemed an alienation of such land.

Right to impound  
limited.

**119.** A lessee exercising the right of depasturing on the resumed part of a run under Part III. of this Act, or a licensee under Part V. of this Act, shall not be entitled to impound the horses or cattle (not being entire horses or bulls) of a selector of an Agricultural Farm found trespassing on any land which is subject to the right of depasturing or license to occupy, and is not separated from the selection by a sufficient fence, until after the expiration of three  
years

*Crown Lands Act.*

years from the date of the selector's license, except in case of wilful trespass, or unless the selector depastures on his selection more horses or cattle than at the rate of one for every ten acres of the land comprised in the selection which is not so occupied as to be unavailable for depasturing such horses or cattle.

**120.** For the purpose of effecting surveys under the provisions of this Act, the Surveyor-General may issue licenses to such surveyors as may on examination prove to be duly qualified. Provided that if any such surveyor shall wilfully neglect the proper execution of the surveys on which he may be employed, or shall make any false statement or misrepresentation in regard to any land surveyed or the measurement thereof, his license may be suspended or cancelled.

*Licensed Surveyors.*

**121.** The Governor in Council may by Proclamation rescind, either in whole or in part, any reservation of any Crown lands as town lands or suburban lands, or as reserves for public purposes.

*Power to rescind proclamation of town or suburban lands.*

From the date of any such rescinding Proclamation the unalienated town lands and suburban lands and reserved lands respectively affected thereby shall be deemed country lands as if the original reservation had not been made.

If any lands have been sold as town lands under any Proclamation so rescinded, all reserves for water within the township shall be still reserved, and the streets and roads within the township shall be kept as roads, but may be closed and sold to the adjoining owners in like manner as other roads may be closed and sold.

*Water Reserves and streets to be preserved.*

**122.** The Governor in Council may from time to time appoint a sufficient number of persons to be rangers or bailiffs of Crown lands, and every such ranger or bailiff may and shall, during his continuance in office, do on behalf of Her Majesty, or on behalf of the Governor or the Minister, in respect of any Crown lands, all necessary acts for preventing intrusion, encroachment, or trespass thereon, and may enter upon any holding under this Act and view the same, and observe the manner of the occupation thereof, and may do all such acts as may be necessary for recovering any rent or other sums payable in respect thereof, or for taking and recovering possession of any lands in case of forfeiture, or for such other purpose as any bailiff lawfully appointed may by law do in respect of any lands of his employer.

*Power to appoint Crown bailiffs.— Their duties.*

**123.** On information in writing preferred by any Commissioner or other person authorised by the Minister in that behalf to any justice, setting forth that any person is in unlawful occupation of any Crown lands, or land reserved or dedicated for any public purpose, or is in possession of any Crown land under colour of any lease under this Act that has become forfeited, such justice shall issue his summons for the appearance before any two justices of the peace, at a place and time therein specified, of the persons so informed against.

*Removal of trespassers.*

At

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*Crown Lands Act.*

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At such time and place such justices, on the appearance of such person, or on due proof of the service of such summons on him or at his usual or last place of abode or business, shall hear and inquire into the subject matter of such information, and on being satisfied of the truth thereof, either by the admission of the person informed against or on other evidence, shall issue their warrant, addressed to the sheriff or deputy-sheriff or commissioner or to any officer of police, requiring him forthwith to dispossess and remove such person from such land and to take possession of the same on behalf of Her Majesty, and the person to whom such warrant is addressed shall forthwith carry the same into execution.

Any lessee or his manager may in like manner lay an information against any person who shall be in unlawful occupation of any part of the land included in his holding.

Penalties for trespassing.

**124.** Any person, unless lawfully claiming under a subsisting lease or license or otherwise under this Act, who is found occupying any Crown lands or land granted, reserved, or dedicated for public purposes, either by residing or by erecting any hut or building thereon, or by clearing, digging up, enclosing, or cultivating any part thereof, or cutting or removing timber otherwise than firewood not for sale thereon, shall be liable, on conviction, to a penalty not exceeding five pounds for the first offence, and not exceeding ten pounds for the second offence, and not exceeding twenty pounds for the third or any subsequent offence.

No commissioner, land agent, or licensed surveyor may acquire interest in land in respect of which he may be employed.

**125.** If any Commissioner, land agent, or licensed surveyor, or any district surveyor, directly or indirectly acquires any interest in any land declared open for selection under this Act, in respect of which he acts as Commissioner or land agent, or in the survey of which lands he has been or is concerned, he shall forfeit his office or license as the case may be, and shall also forfeit the sum of one hundred pounds with full costs of suit, which may be recovered by any person who may sue for the same in the Supreme Court or in the nearest District Court.

Removal of boundary mark to be a misdemeanor.

**126.** If any person wilfully obliterates, removes, or defaces any boundary mark of any holding under this Act which has been lawfully made or erected, such person shall be guilty of a misdemeanor.

Limitation of actions.

**127.** All actions, unless brought on behalf of the Crown, against any member of the Board, Commissioner, land agent, or other officer acting under the provisions of this Act, for anything wrongfully done under or against the provisions of this Act, shall be commenced within twelve months after the matter complained of was committed, and not otherwise.

Notice

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*Crown Lands Act.*

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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.

The plaintiff in any such action shall not recover if tender of sufficient amends has been made before the commencement of the action, or if a sufficient sum of money has been paid into court after such commencement by or on behalf of the defendant, together with costs incurred up to that time.

If judgment is given for the defendant, or the plaintiff becomes nonsuited or discontinues his action, the defendant shall recover from the plaintiff his full costs of action as between solicitor and client, and have the like remedy for the same as any defendant has by law against his plaintiff in similar cases.

**128.** Any person who feels himself aggrieved by the conviction or decision of any justice or justices under any of the provisions of this Act, may appeal therefrom to the District Court nearest to the place where such conviction or decision was given, and the execution consequent upon the conviction or decision appealed from shall be suspended on the appellant with two or more sufficient sureties entering into a bond or recognizance to Her Majesty in the sum of fifty pounds, which bond or recognizance the said justice or justices, or any other justice are hereby authorised to take; and the obligee by such bond or recognizance shall be bound to prosecute such appeal to conclusion, and to be forthcoming to abide the determination of the Court, and to pay such costs, if any, as the Court shall award against him; and such Court is hereby authorised and required to hear and determine the matter of the appeal.

Appeal from justices to the nearest District Court.

In any such matter the decision of such Court shall be final and conclusive.

**129.** No order or other proceeding made or taken by any justices, or any District Court, touching or concerning the conviction of any offenders, or touching or concerning any other matter or thing arising out of the provisions of this Act, shall be liable to be quashed or vacated for want of form only, or to be removed or removable by *Certiorari*, or any writ or process whatsoever into the Supreme Court.

No proceedings under this Act to be removable by *Certiorari*.

**130.** The Governor in Council may from time to time by Proclamation make Regulations for all or any of the matters following, that is to say:—

Regulations.

- (1.) Defining the survey fees which shall be payable in respect of any holding applied for, surveyed, or subdivided, under this Act;
- (2.) Providing for the due carrying out of the provisions of this Act;

(3.) Defining



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*Crown Lands Act.*

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- (3.) Defining the mode of doing and performing any thing by this Act required to be done or performed;
- (4.) Prescribing the form of leases, licenses, and other instruments, to be issued or used under or for the purposes of this Act.
- (5.) Authorising, forbidding, or regulating, the cutting of timber upon, or its removal from Crown Lands, or any holding under Part III. of this Act;
- (6.) All other matters and things that may be necessary to give effect to this Act.

Such Regulations, not being contrary to the provisions of this Act, shall have the force of law.

A copy of all such Regulations shall be laid before Parliament within fourteen days from the Proclamation thereof, if Parliament is then sitting, and if it is not then sitting, within fourteen days from the commencement of the next session.

Any person who wilfully offends against the provisions of the Regulations shall, unless herein otherwise provided, be liable on summary conviction to a penalty not exceeding five pounds.

And any person who offends against any such Regulation relating to any public park or reserve, and after being warned by any ranger or bailiff of Crown lands, park-keeper, or police constable, shall not desist from so offending, may be thereupon apprehended by such ranger, bailiff, park-keeper, or constable, and taken before some justice of the peace, and shall be liable, on conviction, to forfeit and pay a penalty not exceeding ten pounds.

Regulations may authorise issue of timber and other licenses.

**131.** The Regulations may authorise the issuing of licenses to enter any Crown lands or any holding under Part III. of this Act, and to cut thereon and take therefrom any timber, or to dig for and remove any gravel, stone, brick-earth, shells, or other material, but not within two miles of any head station, unless with the consent of the lessee.

The Regulations may impose a license fee in respect of any such license, and may also impose a royalty on any timber or other material so cut or removed.

Lessee may object to entry by licensee or restrict area for its operation.

**132.** A lessee may make any reasonable objection to the exercise of the powers conferred by any such license in respect of his holding, and the right to exercise such powers after any objection has been made shall be determined by the Commissioner subject to appeal to the Board.

A lessee may, by notice in writing to that effect given to a licensee, forbid him from exercising his rights as such licensee within any area on his holding mentioned in the notice, and not exceeding  
two

*Crown Lands Act.*

two square miles, for a period not exceeding one month, and the licensee may within that period appeal to the Commissioner, who shall hear and determine the matter, and may allow or disallow the forbiddance.

The licensee shall be liable to a penalty not exceeding twenty pounds if after such notice and before the matter is determined, or in the event of the forbiddance being allowed, he exercises the right of a licensee within the forbidden area.

**133.** Any person who cuts or removes any timber without a license, or in violation of any of the provisions of the Regulations, shall be liable, on conviction, to a penalty not exceeding twenty pounds and not less than five pounds; and in addition thereto such timber shall be forfeited, and he shall be disqualified to hold a timber license of any kind for such time (not exceeding twelve months) as the Minister may direct. Penalty for breach of Timber Regulations, &c.

Any person who, without authority from the Commissioner, removes any timber which has been seized and branded by any Crown Lands Ranger or other authorised person, shall be liable, on conviction, to a penalty of not less than twice the value of such timber and not less than five pounds. Such value shall be taken to be the price which would ordinarily be paid for such timber at the place of seizure.

Any person who wilfully obliterates a brand upon any timber which has been seized by a Crown Lands Ranger or other authorised person, shall be liable, on conviction, to a penalty not exceeding twenty pounds and not less than five pounds.

Any unlicensed person who removes any stone, gravel, brick-earth, shells, or other material from Crown lands, or any holding under Part III. of this Act, shall be liable, on conviction, to a penalty not exceeding five pounds, and shall be disqualified to hold a license for such removal for such time (not exceeding twelve months) as the Minister may direct.

**134.** Any person who fraudulently evades, or attempts to evade any of the provisions of this Act, or otherwise commits any fraud thereon for the acquisition of land, shall be guilty of a misdemeanor, and, on conviction thereof, shall be liable to be imprisoned and kept to hard labour for a period of not more than two years. Punishment for fraud or evasion, &c.

**135.** Lands acquired by any evasion of or fraud upon the provisions of this Act shall be forfeited to the Crown. Land so acquired to be forfeited to the Crown.

**136.** Any person who conveys, transfers, demises, assigns, or becomes assignee of any land acquired or held by any fraud upon the provisions of this Act, knowing the same to have been so acquired or held, shall be guilty of a misdemeanor, and, on conviction thereof, shall be liable to be imprisoned with or without hard labour for a period not exceeding twelve months, and all his interest (if any) in the land shall be forfeited to Her Majesty. Punishment of person dealing with land fraudulently acquired.

137. No

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*Crown Lands Act.*

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Notice of intended forfeiture to be given.

**137.** No forfeiture of any lease under Part IV. of this Act for any cause other than non-payment of rent shall be declared until after a notice in writing has been served on the lessee, either personally, or by posting it addressed to him at the holding.

The notice shall specify the alleged cause of forfeiture and shall call upon the lessee to show cause against it at the next sitting of the Land Court held after the expiration of sixty days from the service of the notice.

A copy of the notice shall be published in the *Gazette* and the nearest local newspaper six weeks at least before the sitting of the Court at which cause is to be shown.

Forfeitures to be proclaimed by Governor.

**138.** Every forfeiture of a holding for breach of any of the provisions of this Act, or for non-payment of any moneys required to be paid by this Act, or breach of any condition imposed by this Act, shall be proclaimed in the *Gazette*.

Offences may be prosecuted in a summary way.

**139.** All offences against this Act or the Regulations may, unless herein otherwise provided, be prosecuted in a summary way before any two justices.

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FIRST SCHEDULE.

That portion of the Colony of Queensland within the following boundaries :— Commencing on the boundary between the Colonies of Queensland and New South Wales at a post marked broad-arrow over NSW over Q over 214 at the south-west corner of Onepar run, and bounded thence by the west and north boundaries of that run, by the western boundaries of Bulloo Lake South, Bulloo Lake, Mucheroo, Mugergera West, Parabinna South, and Parabinna runs, east by the north boundary of Parabinna run, north by the west boundary of Whippa North run, east by the north boundary of same, north by part of the west boundary of Narrawaltha run, east by the northern boundaries of Narrawaltha, Noccunida, and Bellara runs, north by part of the west boundary of Koolyadhu North run, west by the south boundary of Mooroola run, north by the west boundaries of Mooroola and North Gibbers runs, east by part of the north boundary of last-mentioned run, north by the west boundaries of Vincent and Dowling runs, east by the north boundaries of Dowling, Blondin, and part of Boomally runs, north by the west boundaries of Jumbuck and Adelong runs, east by the north boundaries of Adelong, Yea Yea, and Rose runs, north-westerly and north by the south-western, south, west, and part of the north boundaries of Mary run, north and east by the west and north boundaries of Oban run and part of the north boundary of Tobermory run, north by the west boundary of Corangina run, west, north, and east by part of the south, by the west, and by part of the north boundary of Karawla run, north by the west boundaries of Count, Why-not, and Russia runs, east by part of the north boundary of Russia run, north by the west boundary of Moscow run, west and north by the south and part of the west boundary of Pasha run, west and north by the south and west boundaries of Dervish run, east by the north boundaries of Dervish, Pasha, and Cracow runs, by part of the west and north boundaries of Mount McIver run, north by the west boundaries of Alaric, Tamboryne, Arnica, Victoria, and Adelaide runs, east by the north boundary of Adelaide run, north by the west boundaries of Mineral and Tara runs, east by the north boundary of Tara run, north and east by the

west

*Crown Lands Act.*

west and north boundaries of Cudmore run, south, east, and north by part of the east, the north, and part of the west boundary of Cudmore, Flukes, and Coepit runs, by part of the north boundary of Coepit run, northerly by the western boundaries of Gilmore and Collabbara runs, north-westerly by the north eastern boundaries of Strathconan No. 7 and Strathconan No. 3, north-easterly by the south-east boundaries of Emmett Downs No. 2 and Emmett Downs No. 1 run, north and west by the east and north boundaries of Emmett Downs No. 1 run, north-westerly by the east and north-east boundaries of Tallundilly, Tichbourne, and Isis Downs No. 3 runs, north by the west boundary of Wellbeck run, west by part of the south boundary of Barnstaple run, west and north by the south and west boundaries of St. Helena South and St. Helena runs, west by the south boundaries of Mary Downs, Douglas Downs, and Hazlemere runs, north-east by the south-east boundary of Moselle run, north-westerly by the north-east boundaries of Moselle, Bundaberinia, Wallon, Campsie No. 1, Campsie No. 2, Campsie No. 3, Campsie No. 4, Campsie No. 5, Campsie No. 6, and Bladensburg No. 10 runs, north-easterly by the east and south-east boundaries of Bladensburg No. 8, Vindex No. 3, Vindex No. 5, Vindex No. 6, and Vindex No. 7 runs, northerly by the eastern boundaries of Vindex No. 7, Vindex No. 8, Vindex No. 9, Vindex No. 11, Watershed, Manuka, Corœbus, and Marmion runs, east by the north boundary of Katandra No. 10 and part of Katandra No. 11 runs, north by the west boundary of Stamfordham No. 2 run, east by the north boundary of Stamfordham No. 2 and Stamfordham runs, north and east by the west and north boundaries of Ingleounda run, north by the east boundaries of Redcliff South and Redcliff runs, east and north by the south and east boundaries of Redcliff North and Hughenden runs, east by the south boundary of Prairie Plains run, north-west by the north-east boundary of same, north-east and north-west by the south-east and north-east boundaries of Glendower run to the watershed separating the tributaries of Flinders river from those of Thompson river; thence north-easterly by that watershed to the western watershed of Burdekin river; thence northerly by the watershed separating Burdekin, Herbert, and Barron rivers from the waters flowing to the Gulf of Carpentaria to a point thirty miles in a direct line from the coast near Cairns; thence by a line parallel with and distant thirty miles from the coast to the one hundred and thirty-eighth meridian of east longitude, the west boundary of the Colony; thence by that boundary north to the coast; thence by the coast easterly, north-easterly, and south-easterly to Point Danger at the southern boundary of the Colony; and thence by the southern boundary westerly to the point of commencement.

## THE SECOND SCHEDULE.

Year and Number of Act.	Title of Act.
39 Vic. No. 7. ...	An Act to authorise the making of a Railway from Dalby to Roma, and to provide Funds for the construction of the same by the sale of Crown Lands.
40 Vic. No. 15 ...	An Act to Consolidate and Amend the Law relating to the Alienation of Crown Lands.
40 Vic. No. 16 ...	An Act to provide for the Leasing of Runs in the Settled Districts of the Colony.
41 Vic. No. 11 ...	An Act to set apart certain Lands as Railway Reserves, and to provide Funds for the Construction of Railways, and to Amend " <i>The Western Railway Act.</i> "
43 Vic. No. 12 ...	An Act to Amend the Law relating to the Alienation of Crown Lands.
46 Vic. No. 11 ...	An Act to Amend " <i>The Settled Districts Pastoral Leases Act of 1876.</i> "

THE

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*Crown Lands Act.*

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THE THIRD SCHEDULE.

District of

Name of Run :

To the Minister for Lands.

(a) the undersigned holding [or claiming] a lease under  
 the (b) of the run known as in the District  
 of , do hereby elect to take advantage of the provisions of "The Crown  
*Lands Act of 1884*" with respect to such run.

GIVEN under hand at this day of 18  
 A.B.

Witness :

J.P.

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(a) I or We.

(b) Act under which the Run is held.

THE FOURTH SCHEDULE.

MEMORANDUM OF MORTGAGE.

I, A.B., of , being the registered lessee of (*describe the holding and number of the lease*) under the provisions of Part IV. of "*The Crown Lands Act of 1884*," in consideration of the sum of lent to me by [or due by me to] C.D., of , hereby mortgage the said holding to him. And I do hereby covenant and agree with the said C D. that I will pay him the said sum on [*here insert day appointed for payment, covenant for payment of interest, and such other covenants as may be agreed upon*]. And in default of performance, on my part, of the above covenants, or any of them, I authorise the said C.D. to sell the said holding in accordance with the provisions of the said Act.

In witness whereof I have hereto signed my name, this day of 18  
 A.B.

Signed by the abovenamed A.B. as mortgagor,  
 this day of 18 ,  
 in my presence.

E. F., (J.P.)

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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No. 29.

An Act to Amend the Law relating to Persons holding Office under the Crown who may sit and vote in the Legislative Assembly, and to fix the Salaries payable to Ministers of the Crown.

[ASSENTED TO 23RD DECEMBER, 1884.]

**W**HEREAS it is expedient to amend the provisions of "*The Preamble. Legislative Assembly Act of 1867*" with respect to persons holding office under the Crown who may sit and vote in the Legislative Assembly of Queensland, and to declare the salaries payable to Ministers of the Crown: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows, that is to say :—

1. The Governor may from time to time by Proclamation declare any Officers of the Crown, not exceeding seven in all, and being Officers liable to retire from office on political grounds, to be capable of being elected members of the Legislative Assembly, and of sitting and voting therein. Governor may declare what Ministers may sit in Legislative Assembly.

Any

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*Officials in Parliament Act.*

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Any six of the Officers so declared shall be capable of being so elected and of sitting and voting in the Legislative Assembly at the same time.

Provided that not more than six of such Officers shall at any one time be members of the Legislative Assembly, and if at the time of the election of any of such Officers to be a member of the Legislative Assembly six of such Officers are already members thereof, his election shall be null and void, and a writ shall forthwith issue for the election of a member in his stead.

Until others declared what Ministers are capable of sitting.

2. Until any such Proclamation as aforesaid has been made by the Governor, any six of the persons for the time being holding the offices of—

Colonial Secretary,  
Colonial Treasurer,  
Attorney-General, or Minister of Justice,  
Secretary for Public Lands,  
Secretary for Public Works and Mines,  
Postmaster-General, and  
Secretary for Public Instruction,

shall be so capable.

Government officers not to sit in Parliament except as mentioned.

3. Any person holding any office or place of profit under the Crown, or having a pension from the Crown during pleasure or for a term of years, and not being one of the Officers named in the last preceding section or in a Proclamation made under this Act, shall be incapable of being elected, or of sitting or voting, as a member of the Legislative Assembly; and the election of any such person to be a member of the Legislative Assembly shall be null and void, and a writ shall forthwith issue for the election of a member in his stead.

This section shall not apply to any person in receipt only of pay, half-pay, or a pension as an officer of Her Majesty's Navy or Army, or who shall receive any new or other commission in the Navy or Army respectively, or any increase of pay on any such commission, nor to any person who is in receipt only of daily pay as an officer or member of the Defence or Volunteer Force of Queensland and is not employed permanently or at an annual salary.

Salary of Ministers.

4. The salary of each of the Officers by this Act declared capable of being elected members of the Legislative Assembly shall be one thousand pounds per annum: Provided that one of such Officers, to be designated by the Governor in that behalf, shall receive a further salary of three hundred pounds per annum. For the payment of such salaries a sum, amounting in all to seven thousand three hundred pounds per annum, shall be charged upon and paid to Her Majesty out of the Consolidated Revenue Fund of the Colony.

5. When

*Officials in Parliament Act.*

5. When a person has been elected a member of the Legislative Assembly after his acceptance of one of the offices aforesaid, the subsequent acceptance by him from the Crown of another of such offices, whether both offices are held together or the one office is accepted in lieu of and in immediate succession to the other, shall not vacate his seat.

Responsible Minister changing his office not to vacate seat.

6. If any person accepts any two or more of the offices aforesaid, it shall not be competent for him to receive the salary of more than one office.

No person to draw salaries for two offices.

7. The Acts specified in the Schedule to this Act are hereby repealed to the extent in the said Schedule indicated.

Repeal.

8. This Act may be cited as "*The Officials in Parliament Act of 1884.*"

Short title.

## THE SCHEDULE.

Year and Number of Act.	Title of Act.	Extent of Repeal.
31 Victoria No. 21	An Act to Consolidate certain Laws relating to the Legislative Assembly	Sections 5 and 6.
38 Victoria No. 4	An Act to grant a Civil List so far as respects Ministers of the Crown	The Whole.
40 Victoria No. 18	An Act to amend the Laws relating to the Office of Attorney-General and to provide for the appointment of a Minister of Justice	So much of section 1 as is contained in the words:—"The person so appointed to be Minister of Justice shall be capable of being elected and of sitting and voting as a member of the Legislative Assembly in the same manner and to the same extent as the Attorney-General for the time being is now so capable And in every such case the fifth section of ' <i>The Legislative Assembly Act of 1867</i> ' and the second section of ' <i>The Civil List Amendment Act of 1874</i> ' shall respectively be read and construed as if the words ' <i>Minister of Justice</i> ' were therein respectively substituted for the words ' <i>Attorney-General.</i> '"





# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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**An Act to enable the Trustees for the time being of the Will of John Pettigrew, deceased, to sell and dispose of certain Trust Property comprised therein.**

[ASSENTED TO 13TH OCTOBER, 1884.]

**W**HEREAS John Pettigrew, late of Ipswich, in the Colony of Preamble. Queensland, Merchant, by his Will, dated the fourth day of January, one thousand eight hundred and seventy-eight, gave, devised, and bequeathed to Grace Marcella Pettigrew, the Honourable William Pettigrew, Richard Gill, and William Field, therein described and therein designated his Trustees, all his property, real and personal, upon trust, as to the residue thereof in the said Will mentioned, to have an estimate made thereof, and, if the same should exceed the sum of ten thousand pounds, to dispose of the said excess as therein mentioned, and as to the said ten thousand pounds, directed his Trustees to continue the said sum invested in his business of a General Merchant, which business he thereby directed his Trustees to carry on till the youngest of his children should attain the age of twenty-one years, under the conditions following, that is to say, *inter alia*, that his Trustees should at no time have a liability, on account of the said business, in excess of two thousand pounds, and that his Trustees should not permit the capital by them invested in the said business to exceed ten thousand pounds :

And

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*Pettigrew Estate Enabling Act.*

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And whereas the said Testator died on or about the tenth day of November, one thousand eight hundred and seventy-eight, without having altered or revoked his said Will, which was duly proved in the Supreme Court of Queensland on the twentieth day of December, one thousand eight hundred and seventy-eight, by the Executrix and Executors therein named :

And whereas the said Will contains no trust or power for the winding up or sale of the Testator's said business until the youngest of his children shall attain the age of twenty-one years, and his youngest child is now of the age of seven years or thereabouts :

And whereas the said Trustees have carried on the said business since the Testator's decease, and have always had, and now have, a liability of the nature in the said Will mentioned, on account of the said business, considerably in excess of two thousand pounds :

And whereas the capital invested in the said business at the time of the Testator's death considerably exceeded ten thousand pounds, and has always remained, and now is, in excess of that sum :

And whereas the said Trustees cannot reduce the said capital and liability to the respective amounts prescribed by the said Testator, or continue to carry on and manage the said business in the manner directed by the said Will, without causing irreparable injury and loss to the said business :

And whereas the said William Field has retired from his office of Trustee of the said Will, and no other Trustee has been appointed in his place :

And whereas it is expedient that power should be given to the Trustees for the time being of the said Will to sell or wind up the said business in such manner as they may think advisable, and to stand possessed of the money to arise from such sale upon the trusts to which the same will be subject under the said Will : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in this present Parliament assembled, and by the authority of the same as follows, that is to say :—

**Power to Trustees to sell.**

1. It shall be lawful for the said Grace Marcella Pettigrew, William Pettigrew, and Richard Gill, or other the Trustees or Trustee for the time being of the said Will of the said John Pettigrew, deceased, hereinafter called the Trustees, at their, his, or her discretion, either to sell the said business of the said John Pettigrew, deceased, as a going concern, or to wind up the same and to sell and dispose thereof, and all the stock-in-trade, book debts, goods, chattels, and effects comprised therein and used in connection therewith.

**Mode of sale.**

2. It shall be lawful for the Trustees in their discretion to exercise such power of sale by selling the said business, stock-in-trade, book debts, goods, chattels, and effects, at such time or times as they shall think

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*Pettigrew Estate Enabling Act.*

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think fit, and either together or in lots, and either by public auction or private contract, or by both such modes of sale, and either for cash or on credit, or partly for cash and partly on credit.

3. It shall be lawful for the Trustees to insert any such special or other stipulations in any conditions for sale, or contract for sale, as they shall think fit; and also to buy in such business, stock-in-trade, book debts, goods, chattels and effects, or any part thereof, at any sale by auction, and to rescind or vary any contract for sale, and to re-sell the thing or things which shall have been so bought in, or as to which the contract or contracts shall have been so rescinded, without being responsible for any loss which may be occasioned thereby. On special conditions if necessary.

4. The Trustees shall stand possessed of the money to arise from any such sale or sales upon trust, in the first place, to pay the costs, charges and expenses of and attending the same, and all the costs, charges and expenses of and attending the applying for, obtaining and passing of this Act, and in the next place to pay off, discharge and satisfy all the debts and liabilities of the said business; and as to the residue of such money, with respect to so much thereof as shall exceed the sum of ten thousand pounds, to dispose of such excess in the manner directed in the said Will; and as to the said sum of ten thousand pounds, or in case such residue shall not exceed the said sum of ten thousand pounds, then, as to the whole of such residue, upon trust to invest the same in their, his, or her names or name in or upon any of the securities, debentures, or shares in which the Trustees are by the said Will authorised to invest money held by them upon the trusts thereof; and to stand possessed of the said securities, debentures, and shares, and the interest, dividends and annual produce thereof, upon and for the same trusts, intents and purposes, and with, under, and subject to the same powers, provisions and declarations as are in the said Will contained with respect to the said business and the profits thereof. Application of purchase moneys.

5. On every such sale as aforesaid the receipts in writing of the Trustees for any money which may become payable for the purchase of the said business, stock-in-trade, book debts, goods, chattels and effects, sold under the provisions hereinbefore contained, shall be good and sufficient discharges to the purchaser or purchasers thereof, and such purchaser or purchasers shall not be bound or required to see to the application, nor be affected by the misapplication or non-application, thereof. Trustees' receipts to be good discharges.

6. This Act may be cited as "*The Pettigrew Estate Enabling Act.*" Short title.



# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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An Act to enable the Gympie Gas Company (Limited), incorporated under the provisions of "The Companies Act, 1863," to light with Gas the Gold Fields of Gympie, and for other purposes therein mentioned.

[ASSENTED TO 13TH OCTOBER, 1884.]

**W**HEREAS a Company called the "Gympie Gas Company, Preamble. (Limited)" has lately been incorporated under the provisions of "The Companies Act, 1863," under and subject to the rules, regulations, and provisions contained in the memorandum and articles of association of the said "Gympie Gas Company (Limited)," for the purpose of manufacturing gas and coke, and supplying the same to the inhabitants of the town of Gympie and its suburbs, and disposing of the residuum from the said manufacture, and for such other process for lighting towns, *et cetera*, which it may be found advantageous to adopt, and the doing all such other things as are incidental or conducive to the attainment of the said objects: And whereas by the said memorandum and articles of association it was agreed that the capital of the said Company should consist of ten thousand pounds, to be contributed in ten thousand shares of one pound each; but that the said original capital may be increased by the creation of an additional number of shares: And whereas by the said memorandum and articles of

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of association, provision has been made for the payment of dividends, and for the disposal and application of the profits, and also for the due management of the affairs of the said Company: And whereas it would be of great advantage and convenience if powers were given to the said Company effectually to light the said gold field of Gympie with gas and to erect all necessary works for that purpose, but the same cannot be effected without the aid and authority of an Act of Parliament: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Power to manufacture gas.

1. The said Company are hereby empowered to enter upon and continue the manufacture of gas and such other materials as arise from the conversion and manufacture of the residuum occasioned by the production of gas and the processes connected therewith by means of any apparatus or other appliance, and by any process, art, or invention now or hereafter to be known or used, and from any substance that now is or may hereafter be used for such purposes, subject to the provisions and restrictions hereinafter contained.

Limited power to take and hold lands, &c.

2. It shall be lawful for the said Company, notwithstanding any statute or law to the contrary, and notwithstanding any clause or provision herein contained, to purchase or acquire, take, hold, and enjoy to them and their successors for any estate, term of years, or interest, such buildings, works, mains, pipes, and apparatus and lands as they may think requisite for any of the purposes of this Bill.

Power to other persons to convey real estate to the Company.

3. It shall be lawful for any persons or person who are otherwise competent to grant, sell, alien, and convey, assure, and dispose of unto and to the use of the said Company and their successors for the purposes aforesaid, or any of them, any such houses, offices, lands, and other real estate as aforesaid.

Power to convey lands.

4. It shall be lawful for the said Company to sell and dispose of, and by indenture under the signatures of the directors of the said Company, or a majority of them, and under the corporate seal of the Company, to grant and convey by way of absolute sale in fee-simple for a consideration in money, all or any part of the said lands which may be so purchased or acquired, and which shall not be wanted for the purposes of this Bill; and upon payment of the money which shall arise by or from the sale of such lands, or of any part thereof, it shall be lawful for the secretary for the time being of the said Company to sign and give a receipt for the money for which the same shall be sold, which receipt shall be a sufficient discharge to any person for the money therein expressed to be received.

5. Nothing

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5. Nothing herein contained shall prejudice or be deemed to prejudice any deposit or instalment due by any contract, or other act, deed, or thing entered into, made, or done by the said Company under or by virtue of the said memorandum and articles of association before this Bill shall come into operation, but the same deposit, instalment, contract, act, deed, matter, or thing shall be as valid and effectual to all intents and purposes as if this Bill had not been passed.

Instalments, contracts, &c., due, made, or done under the articles of association before this Bill in operation not to be prejudiced by it.

6. That no judgment or other special or simple contract creditor of the said Company, or other person, shall by reason of any covenant, judgment, execution, distress, or other process authorised by this Bill, or the said articles of association, or by or under any law, title, or pretence whatsoever levy, or seize in execution, or in any way attempt to recover payment of any sum of money due or payable to him from the said Company by taking or removing any of the pipes or lamps of the said Company laid, placed, and running in, under, or through any street or bridge in the said gold field of Gympie, or in any building not being in the occupation of the said Company.

Certain property protected from execution.

7. All salaried officers of the Company shall be competent to hold any share or shares, estate, or interest in the capital, stock, funds, or property thereof, either solely or jointly for themselves or in trust for others.

Salaried officers may hold shares.

8. It shall not be necessary to use the corporate seal in respect of any of the ordinary business of the Company, and any person duly authorised and empowered under the corporate seal may without such seal execute any deed, and do all other acts, matters, and things as may be required to be executed and done on behalf of the said Company, and in conformity with the provisions of the articles of association and this Bill.

In what matters corporate seal not required to be used.

9. That in all cases in which by any Act of Parliament, or by any rule or order of the Supreme Court, or any District Court, now or hereafter to be in force in this Colony, the plaintiff or defendant in any action, suit, or other proceeding, or any creditor of an insolvent estate, or any person being a party to or interested in any process or proceeding whatsoever, is or shall be authorised, empowered, or required to make any affidavit, or to sign or present any petition, or to do any other act, it shall be lawful for the secretary or other authorised officer or agent of the Company (where such Company shall be such plaintiff, defendant, or creditor, or be a party to or otherwise interested in any process or proceeding whatsoever as aforesaid), or on behalf of the Company, to make any such affidavit, sign, or present any such petition, or do such other act as aforesaid.

Power to secretary, officers, or agents, to do certain things.

10. It



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Power to erect  
gasometer, &c.,  
break up soil,  
pavements, and  
materials of streets  
and bridges.

Erect lamps.

Lay pipes.

And alter them.

To erect apparatus,  
&c.

**10.** It shall be lawful for the said Company, and they are hereby fully authorised and empowered, subject to the provisions and restrictions hereinafter mentioned, by their servants, agent, or workmen, and others, from time to time to erect, sink, cut, lay, place, and fix such retorts, gasometers, receivers, buildings, cisterns, engines, machines, drains, sewers, watercourses, pipes, reservoirs, and other apparatus, works, and devices of such construction, and in such manner as the said Company shall think necessary or proper for carrying the objects and purposes of the said Company and of this Bill into execution, and also, subject to provisions and clauses hereinafter mentioned, to break up the soil and pavements of and cut into and remove the materials of any streets, highways, roads, ways, lanes, bridges, passages, and other public places, or any part of them, or either of them, and to erect posts, pillars, pilasters, lamp-irons, lamps, and other apparatus in and upon the same streets, highways, roads, ways, lanes, bridges, passages, and other public places, or any of them, against any wall or walls erected on or adjoining to them, or any of them, and to dig and sink trenches and drains, and to lay and place meters, mains, and pipes, and put stop-cocks, syphons, plugs, or branches from such pipes in, under, across, and along places, streets, ways, lanes, bridges, or public passages, and also, with the consent of the owners or occupiers thereof in, under, across, and along any private ways, buildings, passages, grounds, and other places in such manner as shall be necessary for the purpose of carrying this Bill into execution, or supplying any such lights as aforesaid, and from time to time alter the position of and to repair, relay, and maintain such pipes, stop-cocks, syphons, and plugs, or branches, or other necessary apparatus from any main or pipe laid in or upon any street, road, highway, lane, bridge, passage, or public or private place by the said Company, by virtue of this Bill, into or through any dwelling-house or houses, manufactories, public or private buildings or grounds, for the purpose of lighting the same, or any other public or private lamp or lamps from any such mains or pipes, and to erect and set up any machine or other apparatus necessary or requisite for securing to any dwelling-house or houses, manufactories, public or private buildings, a proper and competent supply of gas, or for measuring and ascertaining the extent of such supply, and also to alter and amend any bad or imperfect work which shall have been placed, or which shall be injured or damaged in such dwelling-house or houses, manufactories, public or private buildings, and to do all such other acts, matters, and things as the said Company shall from time to time think necessary and convenient for completing, amending, repairing, improving, supplying, and using the same, and for carrying into effect the purposes and meaning of this Bill, provided a proper compensation be made for any damage done thereby.

**11.** The

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**11.** The directors of the said Company shall have full power and authority, either by themselves or their agents, surveyor, or other officer appointed for that purpose, at all reasonable times and as often as they shall think necessary, to inspect and examine all pipes and lamps in any building and on any part of the same in the occupation or possession of any person with whom the said Company shall at any time enter or have entered into any contract or agreement for the sale or supply of gas, and to repair and amend such pipes and lamps in all respects if necessary, and to take account of the amount of cubic feet of gas consumed under all or any of such contracts or agreements as aforesaid, and to compare the amount so ascertained to be consumed with the tenor and nature of the contract in relation to such supply and consumption, and to regulate the same in accordance therewith, and for any other lawful and reasonable purpose consistent with and relating to any contract entered into by the said Company under the powers contained in the said articles of association or in this Bill.

Power to enter and inspect pipes and lamps and meters.

**12.** It shall be lawful for the directors of the said Company, or their duly authorised surveyor or servants, to inspect and examine at all reasonable times any gas-fittings or works which shall have been made, erected, and put up by any person with whom the said Company shall have contracted for the supply of gas; and if such surveyor or other servant of the said Company shall consider any such gas-fittings or works to be incomplete or otherwise defective, the person so contracting with the said Company, and having erected and put up such fittings or works, shall not be entitled to call on the said Company for the fulfilment of any contract for the supply of gas until such fittings and such works shall have been amended and altered or removed and other fittings and works substituted in lieu thereof to the satisfaction of the surveyor or other officer of the said Company inspecting the same.

Power to inspect all fittings, and to order the removal of bad work.

**13.** It shall be lawful for the said Company to contract with the Corporation of the Municipality of Gympie, the Glastonbury Divisional Board, or persons having the control, direction, or management of the highways, or any of them, within the limits of this Bill, for supplying the same with gas, and also to contract with any person for supplying with gas any such person, or any streets, ways, lanes, bridges, or passages, manufactories, shops, warehouses, public or private houses or buildings, belonging to him or in which he is interested or over which he has the direction or control, and also to contract with any person whomsoever for lighting or supplying with gas any shops, manufactories, warehouses, public or private buildings or places whatsoever within the limits of this Bill, in such manner and under such stipulation as the said Company shall think proper, consistent with the powers contained in the said articles of association and this Bill. And provided always that if the charges that may be made

Power for the Company to contract for lighting of streets and houses.

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*Gympie Gas Company (Limited) Act.*

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made by the said Company under and by virtue of this Bill for such supply of gas shall be found to produce a greater sum than twenty pounds per annum for every one hundred pounds of the paid-up capital of the said Company, then, and in such case, the said Company shall, at their first meeting after it shall have been ascertained that such greater sum has been produced, reduce the said charges so as that the same shall not produce to the said Company a greater rate of clear annual profits divisible upon the subscribed and paid-up capital stock of the said Company than the said sum of twenty pounds annually for every one hundred pounds of such capital; and in order that the true state of the profits may be known, it shall be the duty of the Directors of the said Company, so soon as the profits of the said Company exceed twenty pounds for every one hundred pounds by the year, to publish in the *Queensland Government Gazette* annually a full and true statement and account of the moneys received, disbursed, and expended by them, and every such statement and account shall be verified by the secretary of the said Company by solemn declaration to be made before a justice of the peace. Provided that it shall not be compulsory on the said Company to reduce the said charges before the sum of twenty pounds per annum for every one hundred pounds of the paid-up capital of the said Company shall have been received by each shareholder of the said Company in respect of his share or shares therein from the commencement of the said Company.

Company may lay pipes of communication from main.

**14.** It shall be lawful for the said Company, and they are hereby fully authorised and empowered (subject to the regulations herein contained) from time to time to carry, fit up, and furnish any pipes, cocks, or branches, or other necessary apparatus, from any main pipes in any roadway, street, lane, bridge, or other public passage or place laid by or belonging to the said Company in or through any dwelling-house, manufactories, public or private buildings, for the purpose of lighting the same, or any public or private lamps, with the consent of the owner and occupier of such dwelling-houses, manufactories, private or public buildings.

Notice to be given of breaking up pavements, roads, &c.

**15.** It shall not be lawful for the said Company to break, or take up, or remove any of the pavements, ground, or material in any road, street, lane, bridge, way, or other public passage or place for the purpose of laying down or repairing any main pipes, or of altering the position of any such main pipes, unless notice in writing of their intention to break or take up such pavement, ground, or material, signed by the secretary of the said Company, specifying the road, street, way, lane, bridge, or other public passage or place, and the particular part thereof intended to be broken, taken up, or removed shall have been given to the mayor of the municipality of Gympie, or the chairman of the Glastonbury Divisional Board, or shall have been left for him at his public office at least twenty-four hours before such pavement,

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ment, ground, or material, or any part thereof shall be so broken or taken up, except in cases of emergency arising from defects in any of the pipes, or in any other case of great emergency, when such notice shall be given as soon as possible after such pavement, ground, or material, or any part thereof shall be broken or taken up.

16. When and as often as the said Company shall have lawfully broken up or removed the stones, ground, soil, pavement, or material in or of any road, street, way, lane, bridge, or other public passage or place, or any part thereof, the said Company shall, and they are hereby required, immediately thereafter to reinstate and make good such ground, soil, pavement, or material to the satisfaction of the person having the control, direction, or superintendence of such pavement, soil, ground, or material respectively, and the said Company shall carry or cause to be carried away all the surplus earth, filth, and rubbish occasioned thereby, at their own costs and charges, and during the time that such works are carrying on; and until such ground, soil, pavement, or material is reinstated as aforesaid, the said Company shall provide necessary lights at night and otherwise guard the said works so as to prevent any damage or inconvenience happening to passengers, cattle, or carriages; and in case the said Company shall make default in reinstating such ground, soil, pavement, or material as aforesaid, or removing any rubbish occasioned thereby, or in placing and setting up such lights at night and otherwise guarding the said works so as to prevent accidents to passengers, cattle, and carriages, then and in every such case it shall be lawful for the said person having such control, direction, or superintendence as aforesaid, to reinstate such ground, soil, pavement, and material, and carry away all rubbish occasioned thereby, and during the time that such works are carried on to provide necessary lights at night, and the expenses thereof shall be repaid by the said Company to the person so reinstating the same; and in default of payment thereof within twenty-eight days next after demand thereof in writing shall have been made by such person aforesaid (proof being made thereof by the oath of one credible witness before one or more justice or justices of the peace), all such sums of money so paid, together with any sum not exceeding twenty shillings by way of penalty, shall and may be levied and recovered for the use of such person by distress and sale of the goods and chattels of the said Company, except as hereinbefore provided, together with the charges of such distress and sale, by warrant under the hand and seal or hands and seals of any justice or justices who is and are hereby empowered to grant the same.

Company to relay pavements or roads broken up.

And to remove rubbish, &c.

Until pavements be relaid, Company to provide necessary lights at night.

17. In case the Corporation of the Municipality of Gympie, or the Glastonbury Divisional Board, or other person having the control, direction, or superintendence of the said roads, streets, ways, lanes, bridges, and other public passages and places respectively, shall from time

Corporation or board to give the level of streets for the Company.

*Gympie Gas Company (Limited) Act.*

time to time supply full information to the said Company respecting the permanent levels of the said roads, streets, ways, lanes, and other public passages, either without notice requiring such information, or within fourteen days after they shall have received notice from the said Company so to do, the said Company shall lay and place their mains, main pipes, stop-cocks, plugs, and branches, and fix their lamps and other means of lighting, so as to accommodate them to the said levels; and in case the said Corporation or other person as aforesaid shall neglect or refuse to supply such information after such notice from the said Company, and shall at any time thereafter change or vary any of the said levels so as to raise, or sink, or otherwise alter the situation, line, or direction of any of the main pipes, stop-cocks, plugs, or branches which shall have been laid down for the purposes aforesaid and in accordance with this Bill, it shall and may be lawful for the said Company to raise, or sink, or alter the situation, line, or direction of such main pipes, stop-cocks, plugs, or branches, and the reasonable costs and charges of doing the same shall immediately thereafter be paid by the said Corporation or other person, and in default thereof the same may be recovered and levied in such manner as forfeitures and penalties imposed by this Bill are directed to be levied and recovered.

Damages to be made good.

**18.** Provided always that if by raising, sinking, or altering any of the said main pipes, cocks, syphons, plugs, or branches of the said Company any damage or injury shall be wilfully or negligently done to the same by the said Corporation or its servants, or such other person aforesaid, then and in such case such damage or injury shall be made good to the said Company as soon as circumstances will permit, and the costs, charges, and expenses thereof shall be made good to them on demand by the said Corporation or other person aforesaid, and recovered in the same manner as any penalty hereby inflicted not specially provided for is to be recovered under this Bill.

No pipes of communication to be laid without the consent of the Company.

**19.** No person shall lay any pipe to communicate with any pipe belonging to the said Company without the consent in writing first had and obtained of the secretary or surveyor of the said Company or other person duly authorised for such purpose by the said Company, nor use burners of larger dimensions or in any other manner than he, she, or they shall contract to pay for, or supply any other person with any part of such gas on pain of forfeiting and paying to the said Company the sum of forty shillings per day for every day such pipes shall so remain, or such excess be committed, or such supply furnished, to be recovered and levied in such manner as other penalties and forfeitures by this Bill imposed are directed to be levied and recovered.

Damaging pipes, &c.

**20.** If any person shall wilfully, maliciously, or negligently do or commit, or cause to be done or committed, any injury or damage to any of the mains or service pipes of the said Company, either by  
removing

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*Gympie Gas Company (Limited) Act.*

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removing or disturbing the ground, soil, or material whereon or wherein the same is laid or placed, or by the compression or subsequently settling or lowering of the same at any time or times afterwards, or by any other means whatsoever, or if any person whomsoever shall wilfully and maliciously remove, destroy, damage, or injure any or any part of any pipe, post, plug, lamp, or other apparatus, matter, or thing belonging to the said Company, or shall wilfully or maliciously waste or improperly use any of the inflammable air or gas supplied by the said Company, or shall alter, exchange, or remove the burners belonging to the said Company from the pipes of supply; any person so offending in any of the respective premises, and being thereof lawfully convicted before one or more justice or justices of the peace, shall for every separate act or offence forfeit and pay to the said Company any sum not exceeding five pounds and three times the amount of damages to be done, as the same shall be ascertained by such justice or justices, such penalty and damage to be recovered and levied in such manner as other penalties and forfeitures by this Bill imposed are directed to be levied and recovered.

**21.** If any person shall carelessly and accidentally break, destroy, throw down, damage, or injure any lamp hung out, set up, or belonging to the said Company, or by any person at his private expense, or any part of any pipe, pillar, pedestal, lamp-post, lamp-iron, plug, or other apparatus, matter, or thing set up by or belonging to the said Company, or belonging to any person and set up by him at his private expense, or carelessly or accidentally waste any of the inflammable air or gas supplied by the said Company, or keep the light or lights burning for a longer time than he shall contract to pay for, and shall not upon any demand by the said Company or their said Board of Directors, or their clerk or superintendent, or other person authorised by them, make satisfaction for the damage done for the excess of gas so wasted or used, or keeping the lights burning longer than they shall have contracted for as aforesaid, then and in every such case it shall and may be lawful to and for any one or more justice or justices of the peace, and he and they is and are hereby empowered and required upon complaint to him or them made to summon before him or them the party against whom such complaint shall be preferred, and upon hearing the allegations and proof on both sides, or on non-appearance of the party so complained against, to proceed *ex parte* and to award such sum of money by way of satisfaction to the said Company, or to such other person (as the case may require), for such damage or excess or waste, as such justice or justices shall think reasonable, not exceeding the sum of ten pounds, to be recovered and levied in such manner as other penalties and forfeitures by this Bill imposed are directed to be levied and recovered.

Satisfaction for  
accidental damage to  
lamps, &c.

**22.** When

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*Gympie Gas Company (Limited) Act.*

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**Escape of gas.**

**22.** When any gas shall be found to escape from any of the pipes which shall be laid down in any market, street, square, lane, public passage, or place within the said Municipality of Gympie or the Division of Glastonbury, the said Company or the person being the owner of such pipe so laying down, or causing the same to be laid down in any such market, street, square, lane, public passage or place, shall, immediately after notice shall be given to them or him, in writing, from any inhabitant of the said Municipality of Gympie or Division of Glastonbury of any such escape of gas, cause the most speedy and effectual measures to be taken to stop and prevent such gas from escaping; and in case the said Company, or such person as aforesaid, shall not within forty-eight hours next after such notice given effectually stop and prevent any future escapes, and wholly and satisfactorily remove the cause of complaint, then and in every such case the said Company, or person as aforesaid, shall for every such offence forfeit and pay any sum not exceeding five pounds for each day after the expiration of forty-eight hours from the time of giving such notice during which the gas shall be suffered to escape as aforesaid, which penalties shall from time to time be recovered and levied in such manner as other penalties and forfeitures by this Bill imposed are directed to be levied and recovered.

**Contamination of water by Gas Company.**

**23.** Whenever the water which may hereafter be supplied by the Government for the use of the gold field of Gympie, or the water of the owner or company of proprietors of waterworks, or of any other person serving the Municipality of Gympie or the Division of Glastonbury, or any part thereof with water, shall be contaminated or affected by the gas of the said Company, and such Company shall not within forty-eight hours next after such notice thereof in writing (signed by any person consuming the said water), to be left at the usual office of transacting business of the said Company, effectually stop and prevent gas from so escaping, and wholly and satisfactorily remove the cause of every such complaint, and prevent all and every such contamination whereof such notice shall be given as aforesaid, then and in every such case the said Company shall, on each and every complaint whereof notice shall be given as aforesaid, forfeit and pay to the Colonial Treasurer, or the Treasurer for the time being, or to any one of the directors for the time being, or owner or proprietor of such waterworks for the use and benefit of the Government or of the same proprietors, as the case may be, any sum not exceeding the sum of ten pounds for each and every day during which the said water shall be and remain contaminated, tainted, or affected by the gas of the said Company or person as aforesaid; and such penalties shall and may be recovered and levied in such manner as the penalties and forfeitures by this Bill imposed are directed to be levied and recovered.

**24. In**

*Gympie Gas Company (Limited) Act.*

24. In case a question shall arise upon such complaint as aforesaid whether the said water be contaminated or affected by the gas of the said Company, it shall be lawful to and for the Government or for the mayor of the said Municipality of Gympie, or the chairman of the Glastonbury Divisional Board, or other duly authorised person, or for the said Company of proprietors, or other person as aforesaid, so supplying water as aforesaid, to dig to and about and search and examine the mains, pipes, conduits, and apparatus of the said Gympie Gas Company (Limited) for the purpose of ascertaining whether such contamination proceed from or be occasioned by the gas of the said Company; and if it shall appear that the said water has been contaminated by any escape of gas of the said Gympie Gas Company (Limited), the costs and expenses of the said diggings, search, and examination and repair of the ground and pavement of the street which shall be taken up and disturbed shall be borne and paid by the said Gympie Gas Company (Limited), which costs and expenses shall be ascertained and determined (if necessary) by such justice or justices of the peace as aforesaid, and be recovered in like manner as any penalty may be recovered by virtue of this Bill: Provided always that if upon such examination it shall appear that such contamination has not arisen from any such escape of gas from any of the main pipes or conduits of the said Gympie Gas Company (Limited), then and in every such case the Government, or the said mayor or chairman, or other authorised persons aforesaid, or such company of proprietors of such owner of such waterworks, shall bear and pay all the expenses of such examination, repair, and search, and also shall make good to the said Gympie Gas Company (Limited) any injury, loss, or damage which may be occasioned to the said main pipes, conduits, or apparatus of the said Gympie Gas Company (Limited) in and by such search and examination, and also to the ground and pavements of the streets so broken or disturbed in such search or examination the amount of such injury, loss, or damage, to be ascertained and determined (if necessary) by such justice or justices of the peace as aforesaid, and recoverable in like manner as any penalty may be recovered by virtue of this Bill.

Power for owners of waterworks to dig streets and examine the pipes of the Gas Company.

Company to pay the costs of contamination of water contaminated by escape of gas.

If water not contaminated by the escape of gas, the expense of digging to be paid by the party making the search.

25. In case any person who shall contract with the said Company, or agree to take, or shall use and enjoy the said gas, either in private dwellings, shops, inns, taverns, or other buildings or manufactories, grounds, or premises, or otherwise shall refuse or neglect for the space of twenty-one days after demand to pay the sum of money then due under his contract for the same to the said Company according to the terms and stipulations of the respective persons with the said Company, it shall be lawful for the said Company, or their secretary, or any person acting under their authority, by warrant under the hand and seal of such justice of the peace as aforesaid, which warrant such justice is hereby required to grant upon confession or upon proof of such sum being due to such Company and of demand having been made

Remedy for recovery of rents.



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*Gympie Gas Company (Limited) Act.*

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made by the oath of one credible witness, to levy the said sum of money in respect whereof such refusal or neglect shall happen, by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, rendering the surplus (if any) to such person so refusing or neglecting after the necessary charges of making such distress and sale shall be first deducted, and it shall also be lawful for the said Company to cut off and take away the supply of gas from the house, inn, tavern, shop, manufactory, warehouse, or other buildings, premises, or places of every such person so making default in payment of such sum of money when due by his contract to the said Company for the space of twenty-one days after such demand as aforesaid, and thenceforth to discontinue the supply of gas contracted for with the said Company by such person.

Penalty for interrupting Company's workmen.

**26.** If any person shall wantonly or maliciously hinder or interrupt the said Company or their respective agents, workmen, or servants, or any of them, in lawfully doing or performing any of the works, or in the exercise of any of the powers and authorities by this Bill granted, or shall in any wise cause or procure such interruption to take place, and shall be thereof convicted before any such justice or justices of the peace as aforesaid, either on evidence or on confession, every such person so offending shall for every such offence forfeit and pay to the said Company such sum or sums of money as shall be adjudged by such justice or justices, not exceeding five pounds, and also the full amount of the damage which shall be sustained by such hindrance or interruption; and such sum or sums of money so adjudged shall be recovered in like manner as any penalty or forfeiture can or may by virtue of this Bill be recovered, or the said Company may at their own option sue for the damage sustained by them for such hindrance or interruption.

Damages and charges in case of dispute to be settled by justices.

**27.** Where by this Bill any damages or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Bill mentioned, the amount of such damages or charges, in case of dispute respecting the same, shall be settled, ascertained, and determined by the justice or justices of the peace by or before whom any offender shall be convicted of any such offence, and such justice or justices are hereby authorised and required, on non-payment thereof, to levy such damages or charges by distress and sale of the offender's goods and chattels in manner directed by this Bill for the levying of any penalties or forfeitures.

In case of non-payment of compensation or damages the same to be levied by distress of the goods of the Company.

**28.** When and as often as any sum of money shall be directed or ordered by any justice or justices of the peace, in pursuance of this Bill, to be paid by the said Company as or by way of compensation or satisfaction for any materials or costs, or for any damage, spoil, or injury of any nature or kind whatsoever done or committed by the  
said

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*Gympie Gas Company (Limited) Act.*

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said Company, or by any person acting by or under their authority, and such sum of money shall not be paid by the said Company to the party entitled to receive the same within ten days after the demand in writing shall have been made upon the said Company or their secretary, in pursuance of the direction or order made by such justice or justices (and in which demand the order of such justice or justices shall be stated), then and in such cases the amount of such compensation or satisfaction shall and may be levied and recovered by action at law against the said Company, or by distress and sale of the goods and chattels vested in the said Company by virtue of this Bill, except as hereinbefore provided, under a warrant to be issued for that purpose by such justice or justices, which warrant any such justice or justices is and are hereby authorised and required to grant under his hand and seal, or their hands and seals, on application made to him or them for that purpose by the party entitled to receive such sum of money as by way of compensation or satisfaction for any such materials, costs, damages, spoil, or injury as aforesaid, and in case any overplus shall remain after payment of such sum of money and the costs and expenses of hearing and determining the matter in dispute, and also the costs and expenses of such distress and sale, then and in such case such overplus shall be returned on demand to the said Company.

**29.** All fines, penalties, and forfeitures for all and every offence in this Bill mentioned, or by any rule, order, or by-law inflicted or imposed, in relation to which the manner of convicting the offender or applying the penalties is not particularly mentioned or directed, or which shall be inflicted or imposed by any rule, order, or by-law to be made under the authority of this Bill, shall, in case of non-payment thereof, be adjudged by and be recovered before any justice or justices of the peace for the said Colony of Queensland in a summary way; and, in default of such forfeitures or penalties, the same shall be levied by distress and sale of the offender's goods and chattels, or of the goods and chattels of the said Company, except as hereinbefore provided, if they shall offend and be convicted as aforesaid of any offence in this Bill mentioned, by warrant under the hand and seal of such justice; the whole of the penalties and forfeitures, when recovered, after rendering the overplus (if any), on demand, to the party whose goods and chattels shall be so distrained (the reasonable charges of such distress and sale being first deducted), shall be paid to the Colonial Treasurer for the time being for the public uses of the said Colony and the support of the Government thereof; and in case such sufficient distress cannot be found, and such penalties and forfeitures shall not be forthwith paid upon such conviction by any person offending and convicted, then it shall be lawful for such justice to order the offender so convicted to be retained in safe custody until return can be conveniently made to such warrant of distress, unless the offender shall

Recovery and application of penalties.

*Gympie Gas Company (Limited) Act.*

shall give sufficient security to the satisfaction of such justice of his appearance before him on such day as shall be appointed for the return of such warrant of distress, such day not being more than five days from the time of taking such security, and which security the said justice is hereby empowered to take by way of recognisance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of any justice, either by the confession of the offender or otherwise, he hath or have not sufficient goods and chattels whereon such penalties, forfeitures, fines, costs, and charges can be levied if a warrant of distress were issued, such justice shall not be required to issue such warrant of distress, and thereupon it shall be lawful for any such justice of the peace, and he is hereby authorised and required, by warrant under his hand and seal, to commit such offender to the nearest house of correction or common gaol for any time not exceeding three months.

Form of conviction.

**30.** And for the more easy conviction of offenders against this Bill, be it further enacted that a conviction in the form or to the effect following shall be good without alleging more than the substance of the offence (that is to say)—

Queensland, } Be it remembered that on the                      day of                      in the year  
to wit.        }                      of our Lord                      is (or are) convicted by  
me (or us)        }                      of Her Majesty's Justices of the Peace for the Colony  
of Queensland, by virtue of "*The Gympie Gas Company (Limited) Act of*"  
(specifying the offence and the time and place when and where the same was committed), contrary to the said Act, and for which I (or we) adjudge the said  
to have forfeited the sum of £

Given under my hand and seal (or our hands and seals) the day and year first above written.

For compelling witnesses to attend.

**31.** If any person who shall be summoned as a witness to attend and give evidence before any justice or justices of the peace touching any matter of fact contained in any information or complaint for any offence committed against this Bill either on the part of the prosecutor or in behalf of the person accused, shall refuse or neglect to appear at the time and place to be for that purpose appointed, after having been paid or tendered a reasonable sum for his loss of time, charges, and expenses, without a reasonable excuse for his refusal or neglect, or appearing, shall refuse to be examined upon oath and give evidence before such justice of the peace; then and in every such case every such person shall forfeit and pay for every such offence any sum not exceeding five pounds.

Appeal to the judge of the nearest District Court.

**32.** Any person whomsoever thinking himself aggrieved by the order or determination of any justice or justices of the peace in pursuance of this Bill, may appeal to the judge of any District Court to be holden within the said town of Gympie within six calendar months

*Gympie Gas Company (Limited) Act.*

months after the cause of appeal shall have arisen (the person appealing having first given at least twenty-one days' notice in writing of such appeal and the particular nature and matter thereof to the person appealed against, and forthwith after such notice entering into, a recognisance before the convicting justice or justices with two sufficient sureties conditioned to try such appeal and to abide the order and award of the said judge thereon), and such judge, upon due proof of such notice and recognisance having been given and entered into, shall in a summary way hear and determine such complaint, and if he shall see cause may reverse any such judgment, order, or determination, or may mitigate any forfeiture or fine, and may order any money to be returned which shall have been levied in pursuance of such order, rule, by-law, or determination, and shall and may also award such further satisfaction to be made to the party injured, or such costs to either of the parties as he shall think reasonable and proper, and every such determination of such judge shall be binding, final, and conclusive upon all parties to all intents and purposes whatsoever.

**33.** No person whomsoever shall be subject or liable to the payment of any of the penalties or forfeitures inflicted by virtue of this Bill for any offence against this Bill, unless an action shall have been brought or information respecting such offence or offences shall have been lodged before some justice of the peace within three calendar months next after such offence committed.

Proceedings to be within three calendar months.

**34.** No proceedings to be had and taken in pursuance of this Bill shall be removed by *certiorari*, or any other writ or process whatsoever, into Her Majesty's Supreme Court of Queensland.

Proceedings not to be quashed for want of form or removed by *certiorari*.

**35.** When any distress shall be made for any sum of money to be levied under the authority of this Bill, or any order or by-law made in pursuance thereof, the distress itself shall not be deemed unlawful, nor shall the party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, conviction, warrant, or distress, or any other proceedings relating thereto, nor shall the party distraining be deemed a trespasser *ab initio* on account of any subsequent irregularity which shall be afterwards done by the party distraining, but the person aggrieved by such irregularity shall and may recover full satisfaction for the special damage in an action on the case.

Persons making distress irregularly not to be deemed trespassers *ab initio*.

**36.** All the costs, charges, and expenses attending the applying for, obtaining, and passing this Bill shall be paid and discharged by the said Company out of the moneys already subscribed, or to be subscribed, or to be received for the purpose of this Bill in preference to all other payments whatsoever.

Costs of obtaining this Bill to be paid before all other claims.

**37.** That

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*Gympie Gas Company (Limited) Act.*

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Not to affect other rights than those herein mentioned.

**37.** That nothing in this Bill contained shall be deemed to affect or apply to any right, title, or interest of Her Majesty, her heirs and successors, or of the body corporate and politic known by the name, style, and title of the Municipality of Gympie, or the Glastonbury Divisional Board, or of any body or bodies politic or corporate, whomsoever, or of any other person or persons excepting such as are mentioned therein, or of those claiming by or under her, it, or them.

Power of local authority to purchase Company's undertaking after fourteen years.

**38.** At any time after the expiration of fourteen years from the passing of this Act the local authority within whose jurisdiction the Company carries on its operations may purchase and take from the Company the whole of the lands, buildings, works, mains, pipes, and apparatus of the Company on such terms as to ascertainment and payment of the purchase money as may be from time to time prescribed by Parliament.

In the event of the Company carrying on its operations within the jurisdiction of more than one local authority, such purchase may be made by such one of the local authorities as may be prescribed by Parliament.

Interpretation clause.

**39.** The following words and expressions in this Bill shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such a construction (that is to say) :—

The word "street" shall mean public street, market place, square, crescent, highway, roadway, lane, bridge, passage, or other place.

The word "lamp" shall mean lamp, whether on a post or affixed to any building, lamp-post, pillar, pilaster, or lamp-iron.

The expression "private way" shall mean private way, lane, building passage, or grounds.

The word "building" shall mean place of public worship or public amusement, public institution, public or private office, manufactory, house, shop, dwelling, inn, tavern, or other building whatsoever, court, garden, or yard.

The word "pipe" shall mean main, main pipe, supply pipe, stop-cock, water-cock, syphon, plug, branch, apparatus, conduit.

The word "ground" shall mean stones, ground, soil, pavement, material, or roadway of any street.

The word "material" shall include any iron, wood, stone, or other substance used in the construction of any bridge.

The

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*Gympie Gas Company (Limited) Act.*

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The words "justice or justices" shall mean justice or justices of the peace for the Colony of Queensland.

The words "Corporation of the Municipality of Gympie" shall mean the mayor, aldermen, and citizens of the town of Gympie, or the Municipality of Gympie, or the municipal authority representing the citizens thereof, or exercising for the time being municipal authority therein.

The words "the Glastonbury Divisional Board" shall mean the chairman, members, and ratepayers of the division known as Glastonbury.

**40.** This Act shall be styled and may be cited as "*The Gympie* short title.  
*Gas Company (Limited) Act of 1884.*"



# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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**An Act to enable the Council of the Municipality of Maryborough to Sell or Mortgage certain Land granted to the said Council as a site for the erection of a Town Hall, and to apply the proceeds to the building of a New Town Hall on other Land granted to the said Council as a Reserve for a Town Hall.**

[ASSENTED TO 13TH OCTOBER, 1884.]

**W**HEREAS by a Deed of Grant under the hand of His Excellency Preamble. the Honourable Maurice Charles O'Connell, President of the Legislative Council of the Colony of Queensland and Administrator of the Government thereof, and the seal of the said Colony, dated the seventh day of May, one thousand eight hundred and sixty-eight, and numbered 18465, all that piece or parcel of land therein described, and containing by admeasurement one rood and thirty-six perches and three-quarters of a perch, be the same more or less, situated in the county of March, parish of Maryborough, and town of Maryborough, being allotment number 9 of section number 85, was granted by Her Majesty to the Municipal Council of Maryborough, to hold the same unto the said Municipal Council of Maryborough and their successors for ever upon trust for the erection thereon of a Town Hall, and for no other purpose whatsoever: And whereas, in pursuance of the trust of the said Deed of Grant, the said Municipal Council have  
**erected**



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*Maryborough Town Hall Act.*

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erected a Town Hall upon the said piece or parcel of land: And whereas, by another Deed of Grant under the hand of His Excellency Sir Arthur Kennedy, K.C.M.G., C.B., formerly Governor of the Colony of Queensland, and the seal of the said Colony, dated the twentieth day of October, one thousand eight hundred and eighty-two, and numbered 48616, all that piece or parcel of land therein described, and containing by admeasurement three acres two roods and twenty-seven perches, be the same more or less, situated in the county of March, parish of Maryborough, town of Maryborough, being allotment 2 of section 90A, Town Hall Reserve, was granted by Her Majesty to the said Municipal Council of Maryborough as Trustees, and to their successors, upon trust as a reserve for a Town Hall, and for no other purpose whatsoever: And whereas it is desirable that the said Municipal Council should have the power to sell or mortgage the whole or any portion or portions of the said allotment 9 of section 85 and the Town Hall and the appurtenances erected thereon, and also that the proceeds of such sale or mortgage should be used, expended in, or applied for the erection of a New Town Hall, offices, and premises, upon allotment 2 of section 90A, Town Hall Reserve aforesaid, as hereinafter mentioned: Be it enacted by the Queen's Most Excellent Majesty, with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same as follows:—

Power to sell, &c.

**1.** The said Municipal Council of the Municipality of Maryborough may at any time after the passing of this Act sell the whole or any portion or portions of allotment 9 of section 85 aforesaid, together with the Town Hall thereon, and the appurtenances thereto, or may raise by way of mortgage or otherwise a sum or sums of money on the security of the said land or any portion or portions thereof.

Conveyance to be under seal of Municipal Council.

**2.** In the event of any such sale as aforesaid the same may be in one or more lots, and either by public auction or private contract, and any lot or lots so sold shall be conveyed to the purchaser thereof in fee-simple, by a conveyance under the seal of the said Municipal Council of the Municipality of Maryborough, and the purchaser shall hold the same freed from any trust to which the same may for the time being be subject; and upon payment of the purchase money to the said Council, such conveyance shall be binding and valid for all purposes whatsoever, and shall be registered by the Registrar-General.

Security for repayment of moneys raised by mortgage.

**3.** In the event of any sum or sums of money being raised on mortgage of the whole or any portion or portions of allotment 9 of section 85 aforesaid, it shall be lawful for the said Municipal Council to secure the repayment of such moneys so raised as aforesaid, with interest at such rate as may be thought proper, by a mortgage in fee-simple of the said land so mortgaged, and either with or without a power

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*Maryborough Town Hall Act.*

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power of sale, and with such other powers and provisions and upon such terms in all respects as the said Municipal Council may think proper: Provided that no mortgagee, or his executors, administrators, or assigns, shall be bound to see to the application of any such loan, and in the case of sale or foreclosure the purchaser shall hold the said land and premises freed and absolutely discharged from the trusts to which the same may for the time being be subject.

4. The proceeds of such sale, or the amount borrowed on such mortgage as aforesaid, shall, in the first place, be expended in paying Application of moneys raised by sale or mortgage. the reasonable expenses connected with such sale or mortgage, and the balance shall be expended in the erection of a Town Hall, offices, and premises for the public accommodation of the citizens of Maryborough and of the said Municipal Council, on allotment 2 of section 90A, Town Hall Reserve aforesaid.

5. The said Council may, from time to time, make such by- Power to make by-laws. laws, rules, and regulations as they may deem necessary for the letting, leasing, and management of the Town Hall, offices, and premises hereby empowered to be built, for the collection of the rents accruing therefrom, and for the proper conservation and repair of the buildings: Provided always that such by-laws shall be in all respects subject to the same conditions and provisions as to enactment, approval, and publication, as other by-laws of the said Council.

6. This Act may be cited as "*The Maryborough Town Hall* Short title. Act of 1884."



# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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**An Act to close a Road privately dedicated to the Public over Subdivision  
"A," of Portion Fifty-nine, Parish of North Brisbane, County of  
Stanley, and to open in its stead a Road over Subdivisions "d a"  
and "d b" of the said Portion.**

[ASSENTED TO 13TH OCTOBER, 1884.]

**W**HEREAS Daniel Skyring, late of Brisbane, freeholder, deceased, Preamble.  
was at the time of his decease registered proprietor in fee-  
simple of Portion fifty-nine in the Parish of North Brisbane County of  
Stanley, and some time previous to his death he subdivided the said  
Portion and laid out certain roads over the same, but did not throw  
open for public use the said roads or any of them, and amongst other  
parts of the said Portion fifty-nine was a part in this Act referred to as  
Subdivision "A," a full description whereof is contained in the first  
Schedule hereto: And whereas the said Daniel Skyring by his Will  
and a Codicil thereto bearing date respectively the twenty-fourth day  
of June one thousand eight hundred and seventy-eight, and the  
twentieth day of August one thousand eight hundred and seventy-  
nine, devised the various subdivisions of the said Portion unto  
his four sons therein mentioned, and after other specific devises  
he devised the residue of his real estate (including the said Subdivision  
"A") to his son Thomas Skyring and Thomas Hill, of Brisbane,  
upon

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*Skyring's Road Act.*


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upon trust to sell the same and otherwise as therein mentioned: And whereas the said testator died on the twenty-first day of February one thousand eight hundred and eighty-two, without having revoked his said Will and Codicil: And whereas Charles Frederick Skyring, of Baffle Creek, gentleman, is the registered proprietor in fee-simple of other parts of the said Portion fifty-nine, herein called respectively subdivision "d a" and subdivision "d b," full descriptions whereof are contained in the second Schedule hereto: And whereas it has since the decease of the said Daniel Skyring been discovered that the use of the said Subdivision "A" as a road as laid out by him, the said Daniel Skyring, is inconvenient and injurious to the use and value of the other parts of the said Portion fifty-nine, and that the said subdivisions "d a" and "d b" if used in connection with other parts of the road so laid out as aforesaid are much better suited for the purposes of a road than the said Subdivision "A," and that the value of the other parts of Portion fifty-nine will be very greatly increased if the said subdivisions "d a" and "d b" are devoted to the purposes of a road: And whereas the said Charles Frederick Skyring is willing to devote the said subdivisions "d a" and "d b" to the purposes of a road in consideration of having a transfer of the said Subdivision "A" made to him in exchange therefor: And whereas doubts have arisen whether or not the said Subdivision "A" was in fact dedicated to the public by the said Daniel Skyring, and it is expedient that the said Thomas Skyring and Thomas Hill should be authorised to transfer the said Subdivision to the said Charles Frederick Skyring discharged from such dedication (if any) upon his throwing open the said Subdivisions "d a" and "d b" for the purposes of a public road:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Dedication for road of subdivisions "d a" and "d b" in schedule.

1. The said Charles Frederick Skyring shall forthwith throw open as a public road the said Subdivisions "d a" and "d b," being the pieces of land particularly mentioned and described in the second Schedule hereto.

Revesting of subdivision "A" in schedule.

2. The said Thomas Skyring and Thomas Hill shall, from and after the passing of this Act, stand seized of the said Subdivision "A," being the piece of land particularly mentioned and described in the first Schedule hereto upon the trusts to which the same are now liable under the said Will of the said Daniel Skyring, until the said subdivisions "d a" and "d b" shall have been so thrown open as aforesaid, and from and immediately after that event, upon trust, to transfer the same to the said Charles Frederick Skyring in fee-simple free from all incumbrances: And so that the said Charles Frederick Skyring shall be entitled forthwith to enter a Caveat under "*The Real Property Act of 1861*" with respect to the said Subdivision "A."

3. It

*Skyring's Road Act.*

3. It is hereby expressly enacted that the said Subdivision "A" shall not be held to have ever been dedicated to the public as a public highway. Subdivision "A" not to be held dedicated as public highway.

4. This Act may be cited as "*The Skyring's Road Act of 1884.*" Short title.

## THE FIRST SCHEDULE.

All that piece of land, hereinbefore called Subdivision "A," being part of the said Portion fifty-nine, containing one acre one rood and twenty-three perches, a little more or less, commencing at the south corner of subdivision eighty-one, and bounded thence on the south-east by the Bulimba Road bearing two hundred and eleven degrees twenty-six minutes one chain seven links and three-tenths of a link; on the south-west by the north-east boundaries of subdivisions fifty-five to fifty-eight, both inclusive, bearing three hundred and twenty-two degrees forty-seven minutes, four chains fifty links and eight-tenths of a link; on the south-east by part of the north-west boundary of subdivision fifty-eight bearing two hundred and eleven degrees twenty-six minutes one chain two links and five-tenths of a link; on the south-west by a line bearing three hundred and fifteen degrees thirty minutes one chain three links and one-tenth of a link; on the north-west by part of the south-east boundary of subdivision twenty bearing thirty-one degrees twenty-six minutes one chain and seventeen links, and on the south-west by the north-east boundaries of subdivisions twenty to twenty-three, both inclusive, bearing three hundred and twenty-two degrees forty-seven minutes four chains fifty links and eight-tenths of a link, and on the south-east by part of the north-west boundary of subdivision twenty-three bearing two hundred and eleven degrees twenty-six minutes one chain seventy-five links and three-quarters of a link; on the south-west by a line bearing three hundred and fifteen degrees thirty minutes ninety-seven links and nine-tenths of a link to subdivision eighty-two, and on the north-west by part of the south-east boundary of that subdivision bearing thirty-one degrees twenty-six minutes two chains ninety-six links and one-half of a link; on the north-east by a line bearing one hundred and forty-two degrees forty-seven minutes eleven chains eleven links and one quarter of a link to the point of commencement.

## THE SECOND SCHEDULE.

All that piece of land hereinbefore called Subdivision "d a," being part of Subdivisions fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, and fifty-nine of the said Portion fifty-nine, containing one rood twenty-nine perches and one-quarter of a perch, commencing on the road to Bulimba Ferry, distant forty-three links and three-quarters of a link on a bearing of south thirty-one degrees twenty-six minutes west from the east corner of Subdivision fifty-five, and bounded thence on the south-east by the Bulimba Road bearing two hundred and eleven degrees twenty-six minutes one chain three links and one-tenth of a link; on the south-west by Block F bearing three hundred and fifteen degrees thirty minutes four chains thirty-three links to another road; on the north-west by that road bearing thirty-one degrees twenty-six minutes one chain three links and one-tenth of a link; on the north east by Block C bearing one hundred and thirty-five degrees thirty minutes four chains thirty-three links to the point of commencement.

And

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*Skyring's Road Act.*

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And also all that piece of land hereinbefore called Subdivision "d b," part of Subdivisions nineteen, twenty, twenty-one, twenty-three, twenty-four, and twenty-five of the said Portion fifty-nine, containing one rood twenty-nine perches and one-quarter of a perch, a little more or less, commencing on the south-east side of a road ninety-five links wide, distant one chain seventy-five links and three-quarters of a link on a bearing of south thirty-one degrees twenty-six minutes west from the north corner of Subdivision twenty-three, and bounded thence on the north-east by the south-west boundary of Block B bearing one hundred and thirty-five degrees thirty minutes four chains thirty-three links to another road; on the south-east by that road bearing two hundred and eleven degrees twenty-six minutes one chain three links and one-tenth of a link; on the south-west by Block E bearing three hundred and fifteen degrees thirty minutes four chains thirty-three links to the first-mentioned road; on the north-west by part of the south-east boundary of that road bearing thirty-one degrees twenty-six minutes one chain three links and one-tenth of a link to the point of commencement.

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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**An Act to enable the Trustees of the Land described in Deed of Grant Number 17135, being the Racecourse Reserve, being the whole of the Land described in the said Deed, and situated in the Parish of Maryborough and County of March, to Sell certain portions thereof.**

[ASSENTED TO 17TH OCTOBER, 1884.]

**W**HEREAS by Deed poll or Grant from the Crown bearing date Preamble. the twenty-eighth day of June, one thousand eight hundred and sixty-seven, under the hand of Sir George Ferguson Bowen, then Captain-General and Governor-in-Chief of the Colony of Queensland, and under the seal of the said Colony, all that piece or parcel of land in the said Colony, containing by admeasurement one hundred and forty-six acres one rood, be the same more or less, situated in the county of March, parish of Maryborough,—commencing at a point bearing west thirty degrees thirty minutes north and distant one chain from the west corner of allotment ten of section two hundred and nine, and bounded thence on the south-west by a road one chain wide bearing west thirty degrees thirty minutes north thirty-five chains; on the north-west by a line bearing north thirty degrees thirty minutes east forty-three chains; on the north-east by a line bearing east thirty degrees thirty minutes south thirty-five chains; and on the south-east by another road one chain wide bearing south thirty degrees thirty minutes west forty-three chains to the point of commencement; exclusive of a reserved road from Maryborough to Saltwater



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*Maryborough Racecourse Act.*

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Saltwater Creek one chain and fifty links wide, passing through this land in a northerly direction, the area of which has been deducted from the total area, being Deed numbered 17135, with all rights and appurtenances whatsoever thereto belonging,—was granted to the Honourable Berkeley Basil Moreton, John Eaton, and James Edwin Brown, and the survivors and survivor of them and his heirs, upon trust as a site for a Racecourse, and for no other purposes whatsoever. And whereas it is desirable that the said Trustees, and the survivors or survivor, or their successors in office, should have the powers hereinafter conferred upon them. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of same as follows:—

**Interpretation.**

1. In this Act the term “building” shall mean any house, outhouse, stand, booth, stable, shed, tent, fence, or other building, edifice, or erection of any description whatsoever.

The term “Trustees” shall mean and include the said the Honourable Berkeley Basil Moreton, John Eaton, and James Edwin Brown, and their successors in office, in whom the said land shall for the time being be invested.

**Trusts.**

2. The Governor in Council shall, in the event of the death, resignation, or other removal from office of the Trustees, or any of them, appoint new Trustees or Trustee.

**Power to sell subject to approval of Governor in Council.**

3. It shall be lawful for the Trustees to sell the portion of the said lands particularised in the Schedule hereto: Provided that no such sale shall be made except with the approval of the Governor in Council, and provided that the purchase money shall be applied towards the erection of buildings on the remainder of the said land, or other improvements for Racing purposes, but the purchaser or purchasers shall not be called upon to see to the application of the purchase moneys.

**Short title.**

4. This Act may be cited for all purposes as “*The Maryborough Racecourse Act of 1884.*”

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SCHEDULE.

All that piece or parcel of land situated in the county of March, parish Maryborough,—commencing at a point bearing 120° 12' and distant one chain from the east corner of allt. 6 of sect. 191<sup>A</sup>, and bounded thence by a road one chain wide bearing 210° 16' twenty-two chains and eighty-five links; thence by a road one chain wide bearing 120° 13' thirteen chains and thirty-two links; thence by the Saltwater Creek road bearing north twenty-six chains and forty-three links to the point of commencement.

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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**An Act to enable the Trustees of an Allotment of Land in the Town of Maryborough, granted for the purposes of a School of Arts, to Sell the same or any part or portion thereof, together with the buildings erected thereon, and to devote the proceeds to the building of a new School of Arts.**

[ASSENTED TO 17TH NOVEMBER, 1884.]

**W**HEREAS by a Deed of Grant under the hand of His Excellency Preamble.  
Sir George Ferguson Bowen, Knight Grand Cross and Governor-in-Chief of the Colony of Queensland, and the seal of the said Colony, and numbered five thousand and forty-one, a certain piece or parcel of land therein described, containing by admeasurement two roods, be the same more or less, being allotment number four of section eighty-five, and situated in the town of Maryborough, parish of Maryborough, was granted by Her Majesty to Andrew Wedderburn Melville, Edmond Blucher Uhr, and Richard Bingham Sheridan, and to their heirs, subject to certain trusts, conditions, reservations, and provisions thereafter contained, upon trust for the erection thereon of a School of Arts, and for no other purposes whatsoever, on condition that the said Andrew Wedderburn Melville, Edmond Blucher Uhr, and Richard Bingham Sheridan should construct proper drains through and from the same to the nearest common drains and sewer when

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*Maryborough School of Arts Act.*

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when required so to do, and that they should in every respect and at all times thereafter conform to the Government regulations now or thereafter to be in force, for the better regulating the alignment of streets in the said territory so far as the same may be applicable. And whereas the said Edmond Blucher Uhr departed this life on or about the thirteenth day of July, one thousand eight hundred and seventy-four, and Charles Robert Powell, of Adelaide street, Maryborough, was appointed in his stead; and whereas the said Charles Robert Powell resigned on the twenty-eighth day of January, one thousand eight hundred and seventy-nine, and Thomas Braddock, of Ellena street, Maryborough, was appointed in his stead. And whereas the said Andrew Wedderburn Melville departed this life on or about the fifth day of November, one thousand eight hundred and eighty-two, and Nicholas Edward Nelson Tooth, of Ferry street, Maryborough, was appointed in his stead. And whereas it is expedient that the said Trustees should be empowered to sell and dispose of the whole or part or portion of the said allotment of land, together with the buildings erected thereon, and to use the proceeds of such sale for the erection and building of a new Hall, to be called the Maryborough School of Arts, on the remaining part or portion of the said land, or on another more convenient portion of land within the county, parish, and town aforesaid. Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same as follows:—

Repeal of "*Maryborough School of Arts Lands Sale Act of 1876.*"

Trustees may sell

and convey.

1. "*The Maryborough School of Arts Lands Sale Act of 1876*" is hereby repealed.

2. The said Trustees or their successors shall be empowered, at any time after the passing of this Act, to sell the said piece or parcel of land, or such part or portion thereof as the said Trustees or their successors may consider advisable, together with the buildings erected thereon, situated in the county of March, parish of Maryborough, town of Maryborough, described in the Deed of Grant and numbered five thousand and forty-one, containing two roods, more or less, by public auction, in one or more lots, and not otherwise, due notice of which shall be given in one or more of Maryborough newspapers at least one fortnight before the day on which the said piece or parcel of land will be offered for sale, and the highest bidder shall be the purchaser; and on payment of the purchase money into the hands of the said Trustees or their successors, they shall convey the land as aforesaid to the purchaser or purchasers, and such conveyances shall be valid and effectual in law and equity for all purposes whatsoever, anything contained in "*The Trustees of Public Lands Act of 1869*" to the contrary notwithstanding.

3. Immediately

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*Maryborough School of Arts Act.*

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3. Immediately after the receipt of the moneys realised by the sale of the said land the Trustees or their successors shall pay the reasonable expenses of such sale, and shall deposit the remainder of the purchase moneys in the Queensland National Bank, and shall not withdraw the same or apply any part thereof for any purposes except for the purpose of labour done or materials actually supplied for the building of the said new School of Arts.

Application of  
proceeds of sale.

4. This Act may be cited as "*The Maryborough School of Arts Lands Sale Act of 1884.*"



# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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An Act to enable the Townsville Gas and Coke Company (Limited), incorporated under the provisions of the "Companies Act of 1863," to light with Gas the Town of Townsville and its suburbs, and for other purposes therein mentioned.

[ASSENTED TO 18TH NOVEMBER, 1884.]

**W**HEREAS a Company called the Townsville Gas and Coke Preamble. Company (Limited) has lately been incorporated under the provisions of "*The Companies Act, 1863*," under and subject to the rules, regulations, and provisions contained in the Memorandum and Articles of Association of the said Townsville Gas and Coke Company (Limited), for the purpose of manufacturing gas and coke and supplying the same to the inhabitants of the town of Townsville and its suburbs, and disposing of the residuum from the said manufacture, and the doing all such other things as are incidental or conducive to the attainments of the said objects: And whereas by the said Memorandum and Articles of Association it was agreed that the capital of the said Company should consist of ten thousand pounds, to be contributed in ten thousand shares of one pound each, but that the said original capital might be increased by the creation of an additional number of shares: And whereas the said original capital has been increased by the

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*Townsville Gas and Coke Company (Limited) Act.*

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the creation of five thousand additional shares of one pound each : And whereas by the said Memorandum and Articles of Association provision has been made for the payment of dividends and for the disposal and application of the profits, and also for the due management of the affairs of the said Company : And whereas it would be of great advantage and convenience if powers were given to the said Company effectually to light the said town of Townsville and its suburbs with gas and to erect all necessary works for that purpose, but the same cannot be effected without the aid and authority of an Act of Parliament : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same as follows :—

Power to manufacture gas.

**1.** The said Company are hereby empowered to enter upon and continue the manufacture of gas and such other materials as arise from the conversion and manufacture of the residuum occasioned by the production of gas and the processes connected therewith, by means of any apparatus or other appliance, and by any process, art, or invention, now or hereafter to be known or used, and from any substance that now is or may hereafter be used for such purposes, subject to the provisions and restrictions hereinafter contained.

Limited power to take and hold lands, &c.

**2.** It shall be lawful for the said Company, notwithstanding any statute or law to the contrary, and notwithstanding any clause or provision herein contained, to purchase or acquire, take, hold, and enjoy, to them and their successors for any estate, term of years, or interest, such buildings, works, mains, pipes, and apparatus, and lands as they may think requisite for any of the purposes of this Act.

Power to other persons to convey real estate to the Company.

**3.** It shall be lawful for any person or persons, who are otherwise competent, to grant, sell, alien, and convey, assure and dispose of unto and to the use of the said Company and their successors, for the purposes aforesaid, or any of them, any such houses, offices, lands, and other real estate as aforesaid.

Power to convey lands.

**4.** It shall be lawful for the said Company to sell and dispose of, and by indenture or indentures under the signatures of the directors of the said Company or a majority of them and under the corporate seal of the Company, to grant and convey by way of absolute sale in fee-simple for a consideration in money, all or any part or parts of the said lands which may be so purchased or acquired, and which shall not be wanted for the purposes of this Act, and upon payment of the money which shall arise by or from the sale or sales of such lands, or of any part or parts thereof, it shall be lawful for the secretary for the time being of the said Company to sign and give a receipt or receipts for the money for which the same shall be sold, which receipt or receipts shall be a sufficient discharge, or sufficient discharges to any person or persons for the money therein expressed to be received.

**5.** Nothing

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*Townsville Gas and Coke Company (Limited) Act.*

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**5.** Nothing herein contained shall prejudice or be deemed to prejudice any deposit or instalment due by any contract or other act, deed, or thing entered into, made, or done by the said Company under or by virtue of the said Memorandum and Articles of Association before this Act shall come into operation, but the same deposit, instalment, contract, act, deed, matter, or thing shall be as valid and effectual to all intents and purposes as if this Act had not been passed.

Instalments, contracts, &c., due, made, or done, under the Articles of Association before this Act in operation, not to be prejudiced by it.

**6.** That no judgment or other special or simple contract creditor of the said Company or other person shall, by reason of any covenant, judgment, execution, distress, or other process authorised by this Act, or the said Articles of Association, or by or under any law, title, or pretence whatsoever levy or seize in execution, or in any way attempt to recover payment of any sum of money due or payable to him from the said Company by taking or removing any of the pipes or lamps of the said Company, laid, placed, and running in, under, or through any street or bridge in the said town of Townsville, or its suburbs, or in any building not being in the occupation of the said Company.

Certain property protected from execution.

**7.** All salaried officers of the Company shall be competent to hold any share or shares, estate, or interest in the capital stock, funds, or property thereof, either solely or jointly, for themselves or in trust for others.

Salaried officers may hold shares.

**8.** It shall not be necessary to use the corporate seal in respect of any of the ordinary business of the Company, and any person duly authorised and empowered under the corporate seal may without such seal execute any deed and do all other acts, matters, and things as may be required to be executed and done on behalf of the said Company and in conformity with the provisions of the Articles of Association and of this Act.

In what matters corporate seal not required to be used.

**9.** That in all cases in which by any Act of Parliament, or by any rule or order of the Supreme Court or any District Court now or hereafter to be in force in this colony, the plaintiff or defendant in any action, suit, or other proceeding, or any creditor of an insolvent estate, or any person being a party to or interested in any process or proceeding whatsoever, is or shall be authorised, empowered, or required to make any affidavit, or to sign or present any petition, or to do any other act, it shall be lawful for the secretary or any other authorised officer or agent of the Company (where such Company shall be such plaintiff, defendant, or creditor, or be a party to or otherwise interested in any process or proceeding whatsoever as aforesaid), for or on behalf of the Company, to make any such affidavit, sign or present any such petition, or do such other act as aforesaid.

Power to secretary, officers, or agents, to do certain things.

**10.** It



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*Townsville Gas and Coke Company (Limited) Act.*

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Power to erect  
gasometer, &c., break  
up the soil, pavements,  
and materials of  
streets and bridges.

Erect lamps.

Lay pipes.

And alter them.

To erect apparatus,  
&c.

**10.** It shall be lawful for the said Company, and they are hereby fully authorised and empowered, subject to the provisions and restrictions hereinafter mentioned, by their servants, agents, or workmen and others, from time to time to erect, sink, cut, lay, place, and fix such retorts, gasometers, receivers, buildings, cisterns, engines, machines, drains, sewers, watercourses, pipes, reservoirs, and other apparatus, works, and devices of such construction, and in such manner as the said Company shall think necessary or proper for carrying the objects and purposes of the said Company and of this Act into execution, and also, subject to the provisions and clauses hereinafter mentioned, to break up the soil and pavements of and cut into and remove the materials of any streets, highways, roads, ways, lanes, bridges, passages, and other public places, or any part of them, or either of them, and to erect posts, pillars, pilasters, lamp-irons, lamps, and other apparatus in and upon the same streets, highways, roads, ways, lanes, bridges, passages, and other public places or any of them, against any wall or walls erected on or adjoining to them or any of them, and to dig and sink trenches and drains, and to lay and place meters, mains, and pipes, and put stop-cocks, syphons, plugs, or branches from such pipes in, under, across, and along places, streets, ways, lanes, bridges, or public passages, and also with the consent of the owners or occupiers thereof, in, under, across, and along any private ways, buildings, passages, grounds, and other places, in such manner as shall be necessary for the purpose of carrying this Act into execution, or supplying any such lights as aforesaid, and from time to time alter the position of and to repair, relay, and maintain such pipes, stop-cocks, syphons, and plugs, or branches, or other necessary apparatus from any main or pipe laid in or upon any street, road, highway, lane, bridge, passage, or public or private place, by the said Company, by virtue of this Act, into or through any dwelling-house or houses, manufactories, public or private buildings or grounds for the purpose of lighting the same, or any other public or private lamp or lamps from any of such mains or pipes, and to erect and set up any machine or other apparatus necessary or requisite for securing to any dwelling-house or houses, manufactories, public or private buildings, a proper and competent supply of gas, or for measuring and ascertaining the extent of such supply, and also to alter and amend any bad or imperfect work which shall have been placed or which shall be injured or damaged in such dwelling-house or houses, manufactories, public or private buildings, and to do all such other acts, matters, and things as the said Company shall from time to time think necessary and convenient for completing, amending, repairing, improving, supplying, and using the same, and for carrying into effect the purposes and meaning of this Act, provided a proper compensation be made for any damage done thereby.

11. The

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*Townsville Gas and Coke Company (Limited) Act.*

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**11.** The directors of the said Company shall have full power and authority, either by themselves or their agents, surveyor, or other officer appointed for that purpose, at all reasonable times and as often as they shall think necessary, to examine and inspect all pipes and lamps in any building and on any part of the same in the occupation or possession of any person with whom the said Company shall at any time enter or have entered into any contract or agreement for the sale or supply of gas, and to repair and amend such pipes and lamps in all respects if necessary, and to take account of the amount of cubic feet of gas consumed under all or any of such contracts or agreements as aforesaid, and to compare the amount so ascertained to be consumed with the tenor and nature of the contract in relation to such supply and consumption, and to regulate the same in accordance therewith, and for any other lawful and reasonable purpose consistent with and relating to any contract entered into by the said Company under the powers contained in the said Articles of Association or in this Act.

Power to enter and inspect pipes and lamps and meters.

**12.** It shall be lawful for the directors of the said Company or their duly authorised surveyor or servants, to inspect and examine at all reasonable times any gas-fittings or works which shall have been made, erected, and put up by any person with whom the said Company shall have contracted for the supply of gas, and if such surveyor or other servant of the said Company shall consider any such gas-fittings or works to be incomplete or otherwise defective, the person so contracting with the said Company and having erected and put up such fittings or works shall not be entitled to call on the said Company for the fulfilment of any contract for the supply of gas until such fittings and such works shall have been amended and altered or removed and other fittings and works substituted in lieu thereof to the satisfaction of the surveyor or other officer of the said Company inspecting the same.

Power to inspect all fittings and to order the removal of bad work.

**13.** It shall be lawful for the said Company to contract with the Corporation of the Municipality of Townsville, or persons having control, direction, or management of the highways or any of them within the limits of this Act for supplying the same with gas, and also to contract with any person for supplying with gas any such person or any streets, ways, lanes, bridges, or passages, manufactories, shops, warehouses, public or private houses or buildings belonging to him or in which he is interested or over which he has the direction or control, and also to contract with any person whomsoever for lighting or supplying with gas any shops, manufactories, warehouses, public or private buildings or places whatsoever, within the limits of this Act, in such manner and under such stipulation as the said Company shall think proper consistent with the powers contained in the said Articles of Association and in this Act. And provided always that if the charges that may be made by the said Company, under and by virtue of this Act, for such supply of gas shall be found to produce a greater sum than

Power for the Company to contract for lighting of streets and houses.

*Townsville Gas and Coke Company (Limited) Act.*

than twenty pounds per annum for every one hundred pounds of the paid-up capital of the said Company, then and in such case the said Company shall, at their first meeting after it shall have been ascertained that such greater sum has been produced, reduce the said charges so as that the same shall not produce to the said Company a greater rate of clear annual profits divisible upon the subscribed and paid-up capital stock of the said Company than the said sum of twenty pounds annually for every one hundred pounds of such capital; and in order that the true state of such profits may be known, it shall be the duty of the directors of the said Company, as soon as the profits of the said Company exceed twenty pounds for every one hundred pounds by the year, to publish in the *Queensland Government Gazette* annually a full and true statement and account of the moneys received, disbursed, and expended by them, and every such statement and account shall be verified by the secretary of the said Company by solemn declaration to be made before a justice of the peace. Provided that it shall not be compulsory on the said Company to reduce the said charges before the sum of twenty pounds per annum for every one hundred pounds of the paid-up capital of the said Company shall have been received by each shareholder in the said Company in respect of his share or shares therein from the commencement of the said Company.

Company may lay pipes of communication from main.

**14.** It shall be lawful for the said Company, and they are hereby fully authorised and empowered (subject to the regulations herein contained), from time to time to carry, fit up, and furnish any pipes, cocks, or branches, or other necessary apparatus, from any main pipes in any roadway, street, lane, bridge, or other public passage or place, laid by or belonging to the said company in or through any dwelling-house, manufactories, public or private buildings, for the purpose of lighting the same or any public or private lamps, with the consent of the owner and occupier of such dwelling-houses, manufactories, public or private buildings.

Notice to be given of breaking up pavements, roads, &c.

**15.** It shall not be lawful for the said Company to break or take up, remove or disturb any of the pavements, ground, or materials in any road, street, lane, bridge, way, or other public passage or place for the purpose of laying down or repairing any main pipes, or of altering the position of any such main pipes, unless notice in writing of their intention to break or take up such pavement, ground, or material, signed by the secretary of the said Company, specifying the road, street, way, lane, bridge, or other public passage or place, and the particular part thereof intended to be broken, taken up, disturbed, or removed, shall have been given to the surveyor of the municipality of Townsville, or shall have been left for him at his public office at least twenty-four hours before such pavement, ground, or material, or any part thereof, shall be so broken or taken up, except in cases of emergency arising from

*Townsville Gas and Coke Company (Limited) Act.*

from defects in any of the pipes, or in any other case of great emergency, when such notice shall be given as soon as possible after such pavement, ground, or material, or any part thereof, shall be broken or taken up: provided that in case there shall be no such surveyor all notices which in and by this Act are directed to be given to the surveyor of the municipality of Townsville shall and lawfully may be given to the mayor or town clerk of the said municipality of Townsville.

**16.** When and as often as the said Company shall have lawfully broken up or removed the stones, ground, soil, pavement, or material in or of any road, street, way, lane, bridge, or other public passage or place, or any part thereof, the said Company shall, and they are hereby required immediately thereafter to reinstate and make good such ground, soil, pavement, or material, to the satisfaction of the person having the control, direction, or superintendence of such pavement, soil, ground, or material respectively, and the said Company shall carry or cause to be carried away all the surplus earth, filth, and rubbish occasioned thereby at their own costs and charges; and during the time that such works are carrying on, and until such ground, soil, pavement, or material is reinstated as aforesaid, the said Company shall provide necessary lights at night and otherwise guard the said works so as to prevent any damage or inconvenience happening to passengers, cattle, or carriages; and in case the said Company shall make default in reinstating such ground, soil, pavement, or material as aforesaid, or removing any rubbish occasioned thereby, or in placing and setting up such lights at night, and otherwise guarding the said works so as to prevent accidents to passengers, cattle, and carriages, then and in every such case it shall be lawful for the said person having such control, direction, or superintendence as aforesaid to reinstate such ground, soil, pavement, and material and carry away all rubbish occasioned thereby, and during the time that such works are carried on to provide necessary lights at night, and the expenses thereof shall be repaid by the said Company to the person so reinstating the same, and in default of payment thereof within twenty-eight days next after demand thereof in writing shall have been made by such person as aforesaid (proof being made thereof by the oath of one credible witness before one or more justice or justices of the peace), all such sums of money so paid, together with any sum not exceeding twenty shillings by way of penalty, shall and may be levied and recovered for the use of such person by distress and sale of the goods and chattels of the said Company, except as hereinbefore provided, together with the charges of such distress and sale, by warrant under the hand and seal or hands and seals of any such justice or justices, who is and are hereby empowered to grant the same.

Company to relay pavements or roads broken up.

And to remove rubbish, &c.

Until pavements be relaid company to provide necessary lights, &c.

**17.** In case the Corporation of the Municipality of Townsville, or other person having the control, direction, or superintendence of the said roads, streets, ways, lanes, bridges, and other public passages and places

Corporation to give the levels of streets for the Company.

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*Townsville Gas and Coke Company (Limited) Act.*

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places respectively, shall from time to time supply full information to the said Company respecting the permanent levels of the said roads, streets, ways, lanes, and other public passages, either without notice requiring such information or within fourteen days after they shall have received notice from the said Corporation so to do, the said Company shall lay and place their mains, main pipes, stop-cocks, plugs and branches, and fix their lamps and other means of lighting so as to accommodate them to the said levels; and in case the said corporation or other person as aforesaid, shall neglect or refuse to supply such information after such notice from the said Company, and shall at any time thereafter change or vary any of the said levels so as to raise or sink or otherwise alter the situation, line, or direction of any of the main pipes, stop-cocks, plugs, or branches which shall have been laid down for the purposes aforesaid and in accordance with this Act, it shall and may be lawful for the said Company to raise or sink or alter the situation, line, or direction of such main pipes, stop-cocks, plugs, or branches, and the reasonable costs and charges of doing the same shall immediately thereafter be paid by the said Corporation or other persons; in default thereof the same may be recovered and levied in such manner as forfeitures and penalties imposed by this Act are directed to be levied and recovered.

Damages to be made good.

**18.** Provided always that if by raising, sinking, or altering any of the said main pipes, cocks, syphons, plugs, or branches of the said Company any damage or injury shall be wilfully or negligently done to the same by the said Corporation or its servants, or such other person aforesaid, then and in such case such damage or injury shall be made good to the said Company as soon as circumstances will permit, and the costs, charges, and expenses thereof shall be made good to them on demand by the said Corporation or other person aforesaid, and recovered in the same manner as any penalty hereby inflicted not specially provided for is to be recovered under this Act.

No pipes of communication to be laid without the consent of the Company.

**19.** No person shall lay any pipe to communicate with any pipe belonging to the said Company without the consent in writing first had and obtained of the secretary or surveyor of the said Company, or other person duly authorised for such purpose by the said Company, nor use burners of larger dimensions, or in any other manner than he, she, or they shall contract to pay for, or supply any other person with any part of such gas on pain of forfeiting and paying to the said Company the sum of forty shillings per day for every day such pipe shall so remain or such excess be committed or such supply furnished, to be recovered and levied in such manner as other penalties and forfeitures by this Act imposed are directed to be levied and recovered.

Damaging pipes, &c.

**20.** If any person shall wilfully, maliciously, or negligently do or commit, or cause to be done or committed, any injury or damage to any of the mains or service pipes of the said Company, either by removing or

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*Townsville Gas and Coke Company (Limited) Act.*

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or disturbing the ground soil or material whereon or wherein the same is laid or placed, or by the compression or subsequently settling or lowering of the same at any time or times afterwards, or by any other means whatsoever, or if any person whomsoever shall wilfully and maliciously remove, destroy, damage, or injure any or any part of any pipe, post, plug, lamp, or other apparatus, matter, or thing belonging to the said Company, or shall wilfully or maliciously waste or improperly use any of the inflammable air or gas supplied by the said Company, or shall alter, exchange, or remove the burners belonging to the said Company from the pipes of supply, every person so offending in any of the respective premises, and being thereof lawfully convicted before one or more justice or justices of the peace, shall for every separate act or offence forfeit and pay to the said Company any sum not exceeding five pounds, and three times the amount of damages to be done as the same shall be ascertained by such justice or justices, such penalty and damage to be recovered and levied in such manner as other penalties and forfeitures by this Act imposed are directed to be levied and recovered.

**21.** If any person shall carelessly or accidentally break, destroy, throw down, damage, or injure any lamp hung out, set up, or belonging to the said Company, or by any person at his private expense, or any part of any pipe, pillar, pedestal, lamp-post, lamp-iron, plug, or other apparatus matter or thing set up by or belonging to the said Company, or belonging to any person, and set up by him at his private expense, or carelessly or accidentally waste any of the inflammable air or gas supplied by the said Company, or keep the light or lights burning for a longer time than he shall contract to pay for, and shall not upon any demand by the said Company, or their said board of directors, or their clerk, or superintendent, or other person authorised by them, make satisfaction for the damage done for the excess of gas so wasted or used, or keeping the lights burning longer than they shall have contracted for as aforesaid, then and in every such case it shall and may be lawful to and for any one or more justice or justices of the peace, and he and they is and are hereby empowered and required upon complaint to him or them made to summon before him or them the party against whom such complaint shall be preferred, and upon hearing the allegations and proofs on both sides, or on non-appearance of the party so complained against, to proceed *ex parte* and to award such sum of money by way of satisfaction to the said Company, or to such other person (as the case may require), for such damage or excess or waste as such justice or justices shall think reasonable, not exceeding the sum of ten pounds, to be recovered and levied in such manner as other penalties and forfeitures by this Act imposed are directed to be levied and recovered.

Satisfaction for  
accidental damage to  
lamps.

**22.** When

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*Townsville Gas and Coke Company (Limited) Act.*

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The escape of gas.

**22.** When any gas shall be found to escape from any of the pipes which shall be laid down in any market, street, square, lane, bridge, public passage, or place within the said municipality of Townsville, the said Company or the person being the owner of such pipe so laying down or causing the same to be laid down in any such market, street, square, lane, bridge, public passage or place shall, immediately after notice given to them or him in writing from any inhabitant of the said municipality of Townsville of any such escape of gas, cause the most speedy and effectual measures to be taken to stop and prevent such gas from escaping, and in case the said Company or such person as aforesaid shall not, within forty-eight hours next after such notice given, effectually stop and prevent any future escapes, and wholly and satisfactorily remove the cause of complaint, then and in every such case the said Company or person aforesaid shall for every such offence forfeit and pay any sum not exceeding five pounds for each day after the expiration of forty-eight hours from the time of giving such notice during which the gas shall be suffered to escape as aforesaid, which penalties shall from time to time be recovered and levied in such manner as other penalties and forfeitures by this Act imposed are directed to be levied and recovered.

Contamination of  
water by gas  
Company.

**23.** Whenever the water which may hereafter be supplied by the Government for the use of the municipality of Townsville, or the water of the owner or company of proprietors of waterworks, or of any other person serving the municipality of Townsville or any part thereof with water, shall be contaminated or affected by the gas of the said Company, and such Company shall not within forty-eight hours next after such notice thereof in writing (signed by any person consuming the said water) to be left at the usual office of transacting business of the said Company, effectually stop and prevent gas from so escaping, and wholly and satisfactorily remove the cause of every such complaint, and prevent all and every such contamination whereof such notice shall be given as aforesaid, then and in every such case the said Company shall, on each and every complaint whereof notice shall be given as aforesaid, forfeit and pay to the Colonial Treasurer, or the Treasurer for the time being, or to any one of the directors for the time being, or owner or proprietor of such waterworks, for the use and benefit of the Government or of the same proprietors, as the case may be, any sum not exceeding the sum of ten pounds for each and every day during which the said water shall be and remain contaminated, tainted, or affected by the gas of the said Company or person as aforesaid; and such penalties shall and may be recovered and levied in such manner as the penalties and forfeitures by this Act imposed are directed to be levied and recovered.

24. In

*Townsville Gas and Coke Company (Limited) Act.*

**24.** In case a question shall arise upon such complaint as aforesaid, whether the said water be contaminated or affected by the gas of the said Company, it shall be lawful to and for the Government, or for the surveyor of the said municipality of Townsville, or other duly authorised person, or for the said Company of proprietors, or other person as aforesaid, so supplying water as aforesaid, to dig to and about, and search and examine the mains, pipes, conduits, and apparatus of the said Townsville Gas and Coke Company (Limited), for the purpose of ascertaining whether such contamination proceed from or be occasioned by the gas of the said Company; and if it shall appear that the said water has been contaminated by any escape of gas of the said Townsville Gas and Coke Company (Limited), the costs and expenses of the said diggings, search, and examination and repair of the ground and pavement of the street which shall be taken up and disturbed shall be borne and paid by the said Townsville Gas and Coke Company (Limited), which costs and expenses shall be ascertained and determined (if necessary) by such justice or justices of the peace as aforesaid, and be recovered in like manner as any penalty may be recovered by virtue of this Act: Provided always, that if upon such examination it shall appear that such contamination has not arisen from any such escape of gas from any of the mains, pipes, or conduits of the said Townsville Gas and Coke Company (Limited), then and in such case the Government, or the said surveyor of the said municipality of Townsville, or other authorised persons aforesaid, or such company of proprietors, or such owner of such waterworks, shall bear and pay all the expenses of such examination, repair, and search, and also shall make good to the said Townsville Gas and Coke Company (Limited) any injury, loss, or damage which may be occasioned to the said main pipes, conduits, or apparatus of the said Townsville Gas and Coke Company (Limited) in and by such search and examination, and also to the ground and pavements of the streets so broken or disturbed in such search or examination, the amount of such injury, loss, or damage to be ascertained and determined (if necessary) by such justice or justices of the peace as aforesaid, and recoverable in like manner as any penalty may be recovered by virtue of this Act.

Power for owners of waterworks to dig street and examine the pipes of Gas Company.

Company to pay the expense of examination of water contaminated by escape of gas.

If water not contaminated by the escape of gas the expense of digging to be paid by the party making the search.

**25.** In case any person who shall contract with the said Company, or agree to take, or shall use and enjoy the said gas either in private dwellings, shops, inns, taverns, or other buildings or manufactories, grounds or premises, or otherwise shall refuse or neglect, for the space of twenty-one days after demand, to pay the sum of money then due under his contract for the same to the said Company, according to the term and stipulations of the respective persons with the said Company, it shall be lawful for the said Company, or their secretary, or any person acting under their authority, by warrant under the hand and seal of such justice of the peace as aforesaid, which warrant such justice is hereby required to grant upon confession or upon proof of such sum being

Remedy for recovery of rents.



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being due to such Company, and of demand having been made by the oath of one credible witness, to levy the said sum of money in respect whereof such refusal or neglect shall happen by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, rendering the surplus (if any) to such person so refusing or neglecting, after the necessary charges of making such distress and sale shall be first deducted; and it shall also be lawful for the said Company to cut off and take away the supply of gas from the house, inn, tavern, shop, manufactory, warehouse, or other buildings, premises, or places of every such person so making default in payment of such sum of money, when due by his contract to the said Company, for the space of twenty-one days after such demand as aforesaid, and thenceforth to discontinue the supply of gas contracted for with the said Company by such person.

Penalty for interrupting Company's workmen.

**26.** If any person shall wantonly or maliciously hinder or interrupt the said Company, or their respective agents, workmen, or servants, or any of them, in lawfully doing or performing any of the works, or in the exercise of any of the powers and authorities by this Act granted, or shall in anywise cause or procure such interruption to take place, and shall thereof be convicted before any such justice or justices of the peace as aforesaid, either on evidence or on confession, every such person so offending shall for every such offence forfeit and pay to the said Company such sum or sums of money as shall be adjudged by such justice or justices not exceeding five pounds, and also the full amount of the damage which shall be sustained by such hindrance or interruption, and such sum or sums of money so adjudged shall be recovered in like manner as any penalty or forfeiture can or may by virtue of this Act be recovered, or the said Company may at their own option sue for the damage sustained by them for such hindrance or interruption.

Damages and charges in case of dispute to be settled by justices.

**27.** Where by this Act any damages or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Act mentioned, the amount of such damages or charges in case of dispute respecting the same shall be settled, ascertained, and determined by the justice or justices of the peace by or before whom any offender shall be convicted of any such offence, and which such justice or justices are hereby authorised and required, on non-payment thereof, to levy such damages or charges by distress and sale of the offender's goods and chattels in manner directed by this Act for the levying of any penalties or forfeitures.

In case of non-payment of compensation or damages the same to be levied by distress of the goods of the Company.

**28.** When and so often as any sum of money shall be directed or ordered by any justice or justices of the peace, in pursuance of this Act, to be paid by the said Company as or by way of compensation or satisfaction for any materials or costs or for any damage, spoil, or injury of

*Townsville Gas and Coke Company (Limited) Act.*

of any nature or kind whatsoever, done or committed by the said Company or by any person acting by or under their authority, and such sum of money shall not be paid by the said Company to the party entitled to receive the same within ten days after demand in writing shall have been made upon the said Company or their secretary in pursuance of the direction or order made by such justice or justices (and in which demand the order of such justice or justices shall be stated), then and in such cases the amount of such compensation or satisfaction shall and may be levied and recovered by action at law against the said Company, or by distress and sale of the goods and chattels vested in the said Company by virtue of this Act, except as hereinbefore provided, under a warrant to be issued for that purpose by such justice or justices, which warrant any such justice or justices is and are hereby authorised and required to grant under his hand and seal, or their hands and seals, on application made to him or them for that purpose by the party entitled to receive such sum of money as by way of compensation or satisfaction for any such materials, costs, damages, spoil, or injury as aforesaid; and in case any overplus shall remain after payment of such sum of money and the costs and expenses of hearing and determining the matter in dispute, and also the costs and expenses of such distress and sale, then and in such case such overplus shall be returned on demand to the said Company.

**29.** All fines, penalties, and forfeitures for all and every offence in this Act mentioned, or by any rule, order, or by-law inflicted or imposed in relation to which the manner of convicting the offender or applying the penalties is not particularly mentioned or directed, or which shall be inflicted or imposed by any rule, order, or by-law to be made under the authority of this Act, shall, in case of non-payment thereof, be adjudged by and be recovered before any justice or justices of the peace for the said Colony of Queensland, or for the municipality of Townsville, in a summary way, and in default of such forfeitures or penalties the same shall be levied by distress and sale of the offender's goods and chattels, or of the goods and chattels of the said Company, except as hereinbefore provided, if they shall offend and be convicted as aforesaid of any offence in this Act mentioned, by warrant under the hand and seal of such justice, the whole of the penalties and forfeitures when recovered, after rendering the overplus (if any) on demand to the party whose goods and chattels shall be so distrained (the reasonable charges of such distress and sale being first deducted), shall be paid to the Colonial Treasurer for the time being for the public uses of the said colony and the support of the Government thereof; and in case such sufficient distress cannot be found and such penalties and forfeitures shall not be forthwith paid upon such conviction by any person offending and convicted, then it shall be lawful for such justice to order the offender so convicted to be retained in safe custody until return can be conveniently made to such warrant of distress, unless the offender shall

Recovery and application of penalties.

*Townsville Gas and Coke Company (Limited) Act.*

shall give sufficient security to the satisfaction of such justice of his appearance before him on such day as shall be appointed for the return of such warrant of distress, such day not being more than five days from the time of taking any such security, and which security the said justice is hereby empowered to take by way of recognisance or otherwise, but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of any justice, either by the confession of the offender or otherwise, he hath or have not sufficient goods and chattels whereon such penalties, forfeitures, fines, costs and charges can be levied if a warrant of distress were issued, such justice shall not be required to issue such warrant of distress, and thereupon it shall be lawful for any such justice of the peace, and he is hereby authorised and required by warrant under his hand and seal to commit such offender to the nearest house of correction or common gaol for any time not exceeding three months.

Form of conviction.

**30.** And for the more easy conviction of offenders against this Act, be it further enacted that a conviction in the form or to the effect following shall be good, without alleging more than the substance of the offence (that is to say)—

QUEENSLAND } Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_ in the  
 TO WIT. } year of Our Lord \_\_\_\_\_ is [or are] convicted  
 by me [or us] \_\_\_\_\_ of Her Majesty's justices  
 of the Colony of Queensland by virtue of "*The Townsville Gas and Coke Company (Limited) Act of 1884*" [specifying the offence and the time and place when and where the same was committed] contrary to the said Act and for which I [or we] adjudge the said \_\_\_\_\_ to have forfeited the  
 sum of £ \_\_\_\_\_  
 Given under my hand and seal [or our hands and seals] the day and year first above written.

For compelling witnesses to attend.

**31.** If any person who shall be summoned as a witness to attend and give evidence before any justice or justices of the peace touching any matter of fact contained in any information or complaint for any offence committed against this Act, either on the part of the prosecutor or in behalf of the person accused, shall refuse or neglect to appear at the time and place to be for that purpose appointed after having been paid or tendered a reasonable sum for his loss of time, charges, and expenses, without a reasonable excuse for his refusal or neglect, or appearing shall refuse to be examined upon oath and give evidence before such justice of the peace, then and in every such case every such person shall forfeit and pay for every such offence any sum not exceeding five pounds.

Appeal to the judge of the nearest district court.

**32.** Any person whomsoever thinking himself aggrieved by the order or determination of any justice or justices of the peace in pursuance of this Act may appeal to the judge of any District Court to be holden within the said town or municipality of Townsville within four calendar \_\_\_\_\_

*Townsville Gas and Coke Company (Limited) Act.*

calendar months after the cause of appeal shall have arisen (the person appealing having first given at least twenty-one days' notice in writing of such appeal and the particular nature and matter thereof to the person appealed against, and forthwith after such notice entering into a recognisance before the convicting justice or justices with two sufficient sureties conditioned to try such appeal and to abide the order and award of the said judge thereon), and such judge, upon due proof of such notice and recognisance having been given and entered into, shall in a summary way hear and determine such complaint, and if he shall see cause may reverse any such judgment order or determination or may mitigate any forfeiture or fine, and may order any money to be returned which shall have been levied in pursuance of such order, rule, by-law or determination, and shall and may also award such further satisfaction to be made to the party injured, or such costs to either of the parties, as he shall think reasonable and proper; and every such determination of such judge shall be binding, final, and conclusive upon all parties to all intents and purposes whatsoever.

**33.** No person whomsoever shall be subject or liable to the payment of any of the penalties or forfeitures inflicted by virtue of this Act for any offence against this Act, unless an action shall have been brought, or information respecting such offence or offences shall have been lodged, before some justice of the peace within three calendar months next after such offence committed.

Proceedings to be within three calendar months.

**34.** No proceedings to be had and taken in pursuance of this Act shall be removed by *certiorari*, or any other writ or process whatsoever, into Her Majesty's Supreme Court of Queensland.

Proceedings not to be removed by *certiorari*.

**35.** When any distress shall be made for any sum of money to be levied under the authority of this Act, or any order or by-law made in pursuance thereof, the distress itself shall not be deemed unlawful, nor shall the party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant, or distress, or any other proceedings relating thereto; nor shall the party distraining be deemed a trespasser *ab initio* on account of any subsequent irregularity which shall be afterwards done by the party distraining, but the person aggrieved by such irregularity shall and may recover full satisfaction for the special damages in an action on the case.

Persons making distress irregularly not to be deemed trespasser *ab initio*.

**36.** All the costs, charges, and expenses attending the applying for, obtaining, and passing of this Act shall be paid and discharged by the said Company out of the moneys already subscribed, or to be subscribed, or to be received for the purpose of this Act, in preference to all other payments whatsoever.

Costs of obtaining this Act to be paid before all other claims.

37. That

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*Townsville Gas and Coke Company (Limited) Act.*

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Not to affect other rights than those herein mentioned.

**37.** That nothing in this Act contained shall be deemed to affect or apply to any right, title, or interest of Her Majesty, her heirs and successors, or of the body corporate and politic known by the name, style, and title of the Municipality of Townsville, or of any body or bodies politic or corporate whomsoever, or of any other person or persons, excepting such as are mentioned therein, or of those claiming by or under her, it, or them.

Power of local authority to purchase Company's undertaking after fourteen years.

**38.** At any time after the expiration of fourteen years from the passing of this Act the local authority within whose jurisdiction the Company carries on its operations may purchase and take from the Company the whole of the lands, buildings, works, mains, pipes, and apparatus of the Company on such terms as to ascertainment and payment of the purchase money as may be from to time prescribed by Parliament.

In the event of the Company carrying on its operations within the jurisdiction of more than one local authority, such purchase may be made by such one of the local authorities as may be prescribed by Parliament.

Interpretation.

**39.** The following words and expressions in this Act shall have the several meanings hereby assigned to them unless there be something in the subject or the context repugnant to such a construction (that is to say)—

The word "street" shall mean public street, market, place, square, crescent, highway, roadway, lane, bridge, passage, or other public place.

The word "lamp" shall mean lamp, whether on a post or affixed to any building, lamp-post, pillar, pilaster, or lamp-iron.

The expression "private way" shall mean private way, lane, building, passage, or grounds.

The word "building" shall mean place of public worship or public amusement, public institution, public or private office, manufactory, house, shop, dwelling, inn, tavern, or other building whatsoever, court, garden, or yard.

The word "pipe" shall mean main, main-pipe, supply-pipe, stop-cock, water-cock, syphon, plug, branch, or apparatus conduit.

The word "ground" shall mean stones, ground, soil, pavement, material, or roadway of any street.

The word "material" shall include any iron, wood, stone, or other substance used in the construction of any bridge.

The

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*Townsville Gas and Coke Company (Limited) Act.*

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The word "justice" or "justices" shall mean justice or justices of the peace for the town or municipality of Townsville, or for the Colony of Queensland, as the case may require.

The words "Corporation of the Municipality of Townsville" shall mean the mayor, aldermen, and citizens of the town of Townsville or the municipality of Townsville, or the municipal authority representing the citizens thereof, or exercising for the time being municipal authority therein.

The expression "the town of Townsville and its suburbs" shall mean and include the corporate limits of the municipality of Townsville.

40. This Act shall be styled and may be cited as "*The* Short title.  
*Townsville Gas and Coke Company (Limited) Act of 1884.*"



# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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**An Act to authorise the Vernon Coal and Railway Company (Limited) to construct and maintain certain lines of railway in the Wide Bay District, to be called the Maryborough and Urangan Railway, and to enable the said Company to acquire certain lands in the Burrum Coal Reserve, and for other purposes.**

[ASSENTED TO 23RD DECEMBER, 1884.]

**W**HEREAS the Vernon Coal and Railway Company (Limited) is Preamble.  
a Company incorporated under "*The Companies Act, 1863*":  
And whereas, by the Memorandum of Association of the Company,  
it was declared that, *inter alia*, the objects of the Company should  
be the carrying on of the business of a Railway Company, and the  
Company was thereby expressly authorised to construct and maintain  
the railway and works in this Act described: And whereas the  
making and maintenance of the said railway and works would be  
advantageous and of benefit to the colony: And whereas the Com-  
pany is willing to undertake the construction and maintenance of the  
said railway and works upon the terms and subject to the conditions  
in this Act contained: And whereas it is expedient that the Com-  
pany should be authorised to construct and maintain the said railway  
and



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*Maryborough and Urangan Railway Act.*

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and works, and should be granted the powers, authorities, and concessions by this Act conferred upon them: And whereas plans and sections of the railway showing the lines and levels thereof, and also books of reference thereto containing the names of the owners and lessees and of the occupiers of the lands required, or which may be taken for or under the powers of this Act, were deposited in the office of the Minister on the twenty-ninth day of September, one thousand eight hundred and eighty-four, and are hereinafter respectively referred to as the deposited plans, sections, and books of reference: And whereas the objects of this Act cannot be attained without the authority of Parliament. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same as follows:—

**Interpretation.**

1. In this Act the several words and expressions to which meanings are assigned by "*The Public Works Lands Resumption Act of 1878*," herein extended and made applicable to the undertaking hereby authorised, have the same respective meanings, unless there be something in the subject or context repugnant to such construction:—

The expression "The Company" means "The Vernon Coal and Railway Company (Limited)," and any person or persons or corporate body authorised by them."

The expression "Railway" or "Line" means the several lines of railway branches, stations, and works thereon, or connected therewith, authorised by this Act to be constructed, maintained, or used.

The expression "Railway Wharf" means the main wharf or wharves to be constructed at Urangan at the termination of the railway.

The expression "Undertaking" means the several lines of railway and branches, and all stations, wharves, buildings, erections, and works constructed by or necessary for the purposes of the Company.

The expression "Main Line of Railway" means the line of railway from the junction with the Maryborough and Burrum Railway at a point seven miles, or thereabouts, from Maryborough to Urangan, and also the Mineral Loop Line commencing on the said Maryborough and Burrum Railway at a point twelve miles twenty-four chains, or thereabouts, from Maryborough and terminating on the said Government surveyed line known as the Pialba Survey at a point four miles thirty-nine chains, or thereabouts, from its junction with the said Maryborough and Burrum Railway, as shown upon the deposited plans and sections.

**The**

*Maryborough and Urangan Railway Act.*

The expression "The said Act" means "*The Public Works Lands Resumption Act of 1878.*"

The expression "The Minister" means the Secretary for Public Works or other Minister of the Crown charged with the administration of the Railway Acts in force for the time being.

The expression "Engineer" means an inspecting engineer appointed by the Minister.

The expression "Toll" includes any rate, charge, or other payment for any passenger, animal, carriage, goods, merchandise, articles, matters, or things conveyed on the line.

The expression "Goods" includes goods of every description conveyed on the railway.

The expression "Crown Lands" means all lands vested in Her Majesty which are not, for the time being, subject to any deed of grant, lease, contract, promise, or engagement made by or on behalf of Her Majesty, or situated within the limits of any proclaimed goldfield, and all lands comprised in any pastoral lease which are by law subject, for the time being, to reservation, selection, or alienation.

2. This Act may be cited as "*The Maryborough and Urangan Railway Act.*" Short title.

3. The Company shall be entitled to purchase, at the price of thirty shillings per acre, any Crown lands in the Burrum Coal Field Reserve, not exceeding one thousand acres, to be selected by or on behalf of the Company, within six months after the passing of this Act, in one block or in two blocks of nine hundred and sixty acres and forty acres respectively: Provided that the boundary of such blocks shall, as nearly as the natural features of the country and the adjacent boundaries will allow, be equilateral and rectangular. Power to purchase lands in the Burrum Coal Field Reserve.

4. Subject to the provisions of this and the said Act the Company may with all convenient speed make and maintain a line of railway one mile and seventy-six chains, or thereabout, in length, commencing at a point in the School Reserve in Kent street, Maryborough, and thence running parallel with the Maryborough and Gympie Railway line to Croydon, and there terminating by a junction with the Maryborough and Burrum Railway line, and also a line of railway twenty-one miles, or thereabout, in length, commencing by a junction with the said Maryborough and Burrum Railway line at a point on the said line seven miles, or thereabout, from Maryborough, and thence running in a north-easterly direction along the Government surveyed Power to make railway.  
line

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*Maryborough and Urangan Railway Act.*

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line known as the Pialba survey, to a marked peg in portion thirty-seven in the parish of Urangan, and thence in an easterly direction to Urangan, and also the Mineral Loop line commencing on the said Maryborough and Burrum Railway at a point twelve miles twenty-four chains, or thereabouts, from Maryborough and terminating on the said Government surveyed line known as the Pialba Survey at a point four miles thirty-nine chains, or thereabouts, from its commencement on the said Maryborough and Burrum Railway at a point seven miles, or thereabouts, from Maryborough, in accordance with the deposited plans, sections, and books of reference and the various branch lines thereon and therein delineated and described, and all such other branch lines from the Company's line or the said Maryborough and Burrum line, as shall be in accordance with plans, sections, and books of reference that may be hereafter approved of by resolution of both Houses of Parliament, with all proper stations, sidings, approaches, wharves, jetties, piers, warehouses, buildings, works, and conveniences connected therewith, and may enter upon, take and use such of the lands delineated on the said plans and described in the said books of reference as may be required for that purpose.

Company to have sufficient capital before beginning construction of line.

5. Before they begin the construction of the line the Company shall prove to the satisfaction of the Minister that they have a capital subscribed in good faith, and by responsible persons, equal to one thousand pounds for every mile of railway as shown on the deposited plans, and a paid-up capital actually available for the purpose of the construction of the said railway equal to not less than one-tenth of such subscribed capital.

Security for completion of line.

6. The Company shall, before the commencement of the railway or entering into possession of the lands to be selected under the third section of this Act, and within six months from the passing of this Act deposit to the credit of the Minister in some Bank carrying on business in Queensland a sum equal to one-twentieth part of the estimated cost of the main line of railway, which sum shall be retained as security for the due completion of the same, and upon such completion shall be returned to the Company. The sum so to be deposited may be determined by agreement between the Minister and the Company; but if such sum cannot be so agreed upon, or if any dispute or difference shall arise with respect thereto, the same shall be determined by arbitration.

Breadth of land to be taken for railway.

7. The lands to be taken or used for the line of railway shall not exceed twenty-two yards in width except where a greater width is necessary for an approach to the railway or for wagons and other carriages to turn, remain, stand in, lie, or pass each other, or for raising embankments for crossing valleys or low grounds, or in cutting through high ground, or for the erection or establishment of any fixed

OR

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or permanent machinery, stations, toll-house, warehouses, wharf, or other erections and buildings, or for excavating, removing, or depositing earth or other materials.

**8.** It shall be lawful for the Company to deviate from the line delineated on the deposited plans or any plans that may hereafter be approved of by Parliament, provided that no such deviation shall extend to a greater distance than the limits of deviation delineated upon the deposited plans, nor to a greater extent in passing through lands continuously built upon than ten yards, and that the railway by means of such deviation be not made to extend into the lands of any person, whether owner, lessee, or occupier, whose name is not mentioned in the books of reference without the previous consent in writing of such person, unless the name of such person shall have been omitted by mistake and the deposited books of reference shall have been amended or corrected in manner in the said Act provided for in cases of errors in the deposited books of reference. Lateral deviations.

**9.** The railway shall be constructed of sound material and upon the gauge upon which the Government railways are at present constructed, and shall in regard to strength and durability be equal to such railways. Gauge.

**10.** Particulars of all expenditure upon the railway and railway wharf, with proper vouchers, shall from time to time be submitted by the Company to the Engineer. Company to submit vouchers, &c, to Engineer.

**11.** The Company shall be entitled to take, use, occupy, and purchase, at a price per acre to be agreed upon between the Minister and the Company, so much Crown lands as are necessary for the proper construction of the undertaking and working of the line, and the erection of stations, with usual buildings, turnouts, and other appliances ordinarily required in the maintenance and management of railways. Provided if the Minister and the Company are unable to agree upon the price, the same shall be decided by arbitration, but this section shall not authorise the purchase by the Company of any land vested in or occupied by the Commissioner for Railways. Provided, however, that it shall be lawful for the Commissioner for Railways to lease, or grant to the Company a license to use and occupy, on such terms and conditions as the Minister shall think reasonable, any such land so vested in the Commissioner for Railways as shall be required for the purposes of the Company. Company to use and purchase Crownlands required for purposes of this undertaking.

**12.** As soon as the whole of the main line of railway shall have been faithfully constructed according to the deposited plans and books of reference, and is complete and ready for public traffic, the Company shall be entitled to deeds of grant in fee-simple for all lands purchased as mentioned in sections 3 and 11 of this Act. Company to be entitled to grant of Crown lands taken for the purposes of the railway.

**13.** All

*Maryborough and Urangan Railway Act.*

Alienated lands to be resumed under "Public Works Lands Resumption Act of 1878."

**13.** All lands other than Crown lands required for the purpose of the undertaking may be taken by the Company, under and subject to the provisions of "*The Public Works Lands Resumption Act of 1878*," and the Company shall be deemed and taken to be a "constructing authority" within the meaning of the said Act, the provisions whereof, so far as the same are not inconsistent with the provisions of this Act, are hereby extended and made applicable to the said undertaking.

Power to purchase lands for additional accommodation.

**14.** It shall be lawful for the Company, in addition to the lands authorised to be taken by this and the said Act, to contract with any party willing to sell the same for the purchase of any lands distant not more than one mile from the main line of railway that are requisite or convenient for the business or purposes of the Company, and it shall be lawful for all parties who, under the provisions of the said Act, would be enabled to sell and convey lands, to sell and convey the lands so authorised to be purchased for the last-mentioned purposes.

Lands held under conditional purchase may be transferred.

**15.** Any lands authorised by this or the said Act to be taken or purchased which are held upon conditional purchase under the provisions of "*The Crown Lands Alienation Act of 1868*," or "*The Crown Lands Alienation Act of 1876*," or any other Act in force for the time being regulating the alienation of Crown lands, shall be transferable to the Company notwithstanding that the conditions required by the said Act or Acts to entitle the holder to transfer the same shall not have been performed, and any contract or agreement heretofore or hereafter made for or on behalf of the Company to purchase any such land is hereby declared to be valid and effectual notwithstanding anything in the said last-mentioned Act or Acts to the contrary.

May cut timber, &c. on Crown lands.

**16.** For the purposes of procuring timber for the construction of the Company's said railway and wharves, the officers and servants of the Company may at all times, if and when duly licensed in that behalf, enter upon Fraser's Island and any other Crown lands, and cut and remove timber growing upon such lands.

May procure stone, gravel, &c., from Crown lands.

**17.** For the purposes of procuring stone, gravel, and any other materials for the Company's said railway and wharves, the officers and servants of the Company may at all times enter upon any Crown lands, and quarry and remove stone, gravel, and any other materials found thereon.

Materials imported duty free.

**18.** Imported rails, fastenings, iron sleepers, locomotives, and any other article or thing composed either wholly or in part of iron, required for the construction of the railway, and to be used thereupon, shall, notwithstanding any Act to the contrary, be admitted duty free at any port in the colony during the construction of the line.

**19. All**

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**19.** All materials, plant, and rolling-stock required by the Company in the construction of the railway shall be carried on the Government railways at a cost to the Company not exceeding twopence per ton per mile. To be carried at twopence per ton per mile.

**20.** This Act shall not prevent the owners or occupiers of lands adjoining to the railway, or any other persons, from laying down, either upon their own lands or upon the lands of other persons with the consent of such persons, any collateral branches of railway to communicate with the railway to be made under this Act, for the purpose of bringing carriages to or from or upon the railway, but under and subject to the provisions and restrictions of this Act, and subject to any regulations that shall be made by the Company subject to the approval of the Governor in Council in respect thereof; and the Company shall, if required, at the expense of such owners and occupiers and other persons, make openings in the rails and such additional lines of rail as may be necessary for effecting such communication in places where the communication can be made with safety to the public and without injury to the railway, and without inconvenience to the traffic thereon, and the Company shall not take any rate or toll or other moneys for the passing of any passenger, goods, or other things along any branch so to be made by any such owner or occupier or other person; but this enactment shall be subject to the following restrictions and conditions (that is to say)—

No such branch railway shall run parallel to the railway.

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any inclined plane or bridge, nor in any tunnel.

The persons making or using such branch railways shall be subject to all by-laws and regulations of the Company from time to time made with respect to passing upon or crossing the railway, and otherwise, and the persons making or using such branch railways shall be bound to construct, and from time to time, as need may require, to renew the rails, crossings, switches, and sleepers according to the most approved plan adopted by the Company.

**21.** Before it is deemed complete and ready for traffic the railway shall be inspected by the engineer acting under the authority of the Minister, and such engineer shall certify that it has been proved to his satisfaction that the railway has been faithfully constructed of sound materials and is equal in regard to strength and durability to the railways heretofore constructed by the Government, and is safe and fit for public traffic. Line to be inspected before deemed complete.

**22.** The

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Minister may  
interdict traffic when  
line is unsafe.

**22.** The engineer acting under the authority of the Minister shall at all times during the construction of the line and after its completion be allowed to inspect the railway without let or hindrance, and on his report that the line or any part thereof is at any time unsafe the Minister may interdict the continuance of traffic thereupon until the engineer certifies that the railway is safe and fit for public traffic; and if the Company run any train upon any part of the line upon which traffic is so interdicted during the time whilst such interdict is in force, they shall be liable to a penalty of one hundred pounds for every day during which they shall so offend.

Company to employ  
locomotive power,  
carriages, &c.

**23.** It shall be lawful for the Company to use and employ locomotive engines or other moving power, and carriages, wagons, and trucks to be drawn or propelled thereby, and to carry and convey upon the railway all such passengers and goods as shall be offered to them for that purpose, and to make such reasonable charges in respect thereof as they may, from time to time, be entitled to levy under the regulations hereinafter mentioned.

May demand toll.

Company not to be  
liable to a greater  
extent than common  
carriers.

**24.** Nothing in this Act contained shall extend to charge or make liable the Company further or in any other case than where, according to the laws of this colony, stage coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the Company of any protection or privilege which common carriers or stage coach proprietors may be entitled to; but, on the contrary, the Company shall at all times be entitled to the benefit of every such protection and privilege.

Line open to traffic.

**25.** The line shall, at all reasonable times, be open to and freely used by every person who complies with the regulations for the time being in force on the railway.

Mails to be carried  
free

**26.** The Company shall, free of charge and with all reasonable despatch, carry on the public service all such mails, together with the officers in charge thereof, as the Minister from time to time requires to be conveyed upon the railway, and shall allow to all members of the Legislative Council and members of the Legislative Assembly the same privileges of travelling over the railway free as are enjoyed by such members on Government railways.

Company and  
Minister to have  
running powers on  
each other's lines.

**27.** If at any time after the completion of the railway the Company desire to have any of their engines, carriages, wagons, trucks, or other vehicles forwarded over any Government line of railway, forming a continuous line of communication with the said railway, or the Minister desires to have any engines, carriages, wagons, trucks, or other vehicles forwarded over the said railway from any Government line of railway forming a continuous line of communication therewith,  
each

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each of them (the Company and the Minister) shall afford to the other all reasonable facilities for the receiving, forwarding, and delivering of such engines, carriages, wagons, trucks, or other vehicles without any unreasonable delay, and so that no obstruction may be offered to the public desirous of using such lines as a continuous means of communication.

**28.** If at any time after the completion of the first section of the main line of railway as far as the fifteen-mile peg in portion 37, parish of Urangan, the Company shall desire to use, in conjunction with the Government, that portion of the Government railway line between Croydon and the junction of the Company's railway with the Maryborough and Burrum railway line for the purpose of connecting the traffic of the Company's lines, the Minister shall afford to the Company all reasonable facilities for using the aforesaid portion of the Government railway line and for running thereon with their engines, carriages, trucks, and wagons for the ordinary purposes or business of the Company, subject to such terms and conditions as may be agreed upon between the Minister and the Company for the safety and protection of the interests of the public.

Company to be entitled to use Government line between Companies' lines.

**29.** The terms upon which any of the facilities mentioned in the two last preceding sections shall be afforded may be mutually agreed upon between the Company and the Minister; but if such terms cannot be so agreed upon, or any dispute or difference arises, the same shall be determined by arbitration.

Terms to be settled by arbitration.

**30.** If either party fails to afford such facilities as aforesaid, after the terms have been so settled, the party so failing shall be liable to pay to the other the sum of one hundred pounds for every day during which he so fails as liquidated damages.

Penalty for not giving due facilities.

**31.** The Company shall be at liberty to use in conjunction with the Government and free of charge, any telegraph post, poles, or standards erected, or which may be hereafter erected, on any Government line of railway forming a continuous line of communication between any portions of the said railway, for the purpose of establishing a telegraph or telephone thereon, and to affix thereon or suspend therefrom any telegraph and telephone wires, and such telegraph or telephone shall be exclusively used by and for the purposes of the Company.

Right to use Government telegraph posts.

**32.** The railway shall be deemed to be ratable property within the meaning of the laws in force for the time being for the government of municipalities or divisions. Provided that for the purpose of determining the rates to be levied or made by the municipal council or divisional

Municipal and divisional boards' rates.



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divisional board of any municipality or division through which the line passes, the net annual value of such portion of the line shall be deemed not to exceed such proportion of the net income of the entire line as the length of the line so passing through such municipality or division bears to the length of the entire line of railway.

List of tolls to be exhibited on board.

**33.** A list of tolls authorised by the regulations of the Company, duly approved of by the Governor in Council, as hereinafter provided, and which shall be exacted by the Company, shall be published by the same being painted upon one toll board or more in distinct black letters on a white ground, or white letters on a black ground, or by the same being printed in legible characters on paper affixed to such board, and by such board being exhibited in some conspicuous place at each station or place where such tolls shall be made payable.

Tolls to be taken only whilst board exhibited.

**34.** No tolls shall be demanded or taken by the Company for the use of the railway during any time at which the boards hereinbefore directed to be exhibited shall not be so exhibited, and if any person wilfully pull down, deface, or destroy any such board, he shall forfeit a sum not exceeding five pounds for every such offence.

Tolls to be paid as directed.

**35.** The tolls shall be paid to such persons and at such places upon or near to the railway, and in such manner and under such regulations as the Company shall, by notice to be annexed to the list of tolls, appoint.

In default of payment of tolls, goods, &c., may be detained and sold.

**36.** If on demand any person fail to pay the tolls due in respect of any carriage or goods, it shall be lawful for the Company to detain and sell such carriage, or all or any part of such goods, or if the same shall have been removed from the railway premises, to detain and sell any other carriages or goods within such premises belonging to the party liable to pay such tolls, and out of the moneys arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention of sale, rendering the overplus, if any, of the moneys arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto, or it shall be lawful for the Company to recover any such tolls by action at law.

Account of lading, &c., to be given.

**37.** Every person, being the owner or having the care of any carriage or goods passing or being upon the railway shall, on demand, give to the collector of tolls at the places where he attends for the purpose of receiving goods or of collecting tolls for the part of the railway on which such carriage or goods may have travelled or be about to travel, an exact account, in writing, signed by him, of the number or quantity of goods conveyed by any such carriage and of the point on the railway from which such carriage or goods have set out or are about to set out, and at what point the same are intended to be unloaded

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unloaded or taken off the railway, and if the goods conveyed by any such carriage, or brought for conveyance as aforesaid, be liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

**38.** If any such owner or other such person fail to give such account, or to produce his way-bill or bill of lading to such collector or other officer or servant of the Company demanding the same, or if he give a false account, or if he unload or take off any part of his lading or goods at any other place than shall be mentioned in such account with intent to avoid the payment of any tolls payable in respect thereof, he shall for every such offence forfeit to the Company a sum not exceeding ten pounds for every ton of goods or for any parcel not exceeding one hundredweight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundredweight (as the case may be) which shall be upon any such carriage, and such penalty shall be in addition to the toll to which such goods may be liable.

Penalty for not giving account of lading.

**39.** If any dispute arise concerning the amount of the tolls due to the Company, or concerning the charges occasioned by any detention or sale thereof under the provisions herein contained, the same shall be settled by two Justices, and it shall be lawful for the Company in the meanwhile to detain the goods, or (if the case so require) the proceeds of the sale thereof.

Disputes as to amount of tolls chargeable.

**40.** If any difference arise between any toll collector or other officer or servant of the Company, and any owner of or person having the charge of any carriage passing or being upon the railway, or of any goods conveyed or to be conveyed by such carriages, respecting the weight, quantity, quality, or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same, and if upon such measuring or examination such goods appear to be of greater weight or quantity, or of other nature than shall have been stated in the account given thereof, then the person who shall have given such account shall pay, and the owner of such carriage or the respective owners of such goods shall also at the option of the Company be liable to pay the costs of such measuring and examining; but if such goods appear to be of the same or less weight or quantity than and of the same nature as shall have been stated in such account, then the Company shall pay such costs, and they shall also pay to such owner of or person having charge of such carriage and to the respective owners of such goods such damage (if any) as shall appear to any two Justices on a summary application to them for that purpose to have arisen from such detention.

Differences as to weights, &c.

**41.** If

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Toll collector to be liable for wrongful detention of goods.

**41.** If at any time it be made to appear to any two Justices, upon the complaint of the Company, that any such detention, measuring, or examining of any carriage or goods as hereinbefore mentioned was without reasonable ground, or that it was vexatious on the part of such collector or other officer, then the collector or other officer shall himself pay the costs of such detention and measuring and the damage occasioned thereby, and in default of immediate payment of any such costs or damage, the same may be recovered by distress of the goods of such collector, and such Justices shall issue their warrant accordingly.

Penalty on passengers practising frauds on the Company.

**42.** If any person travel, or attempt to travel, in any carriage employed on the railway without having previously paid his fare, and with intent to avoid payment thereof, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof, or if any person knowingly and wilfully refuse or neglect, on arriving at the point to which he has paid his fare, to quit such carriage, every such person shall for every such offence forfeit to the Company a sum not exceeding forty shillings.

Detention of offenders.

**43.** If any person be discovered either in or after committing or attempting to commit any such offence as in the preceding enactment mentioned, all officers and servants, and other persons on behalf of the Company, and all constables, gaolers, and peace officers, may lawfully apprehend and detain such person until he can conveniently be taken before two Justices, or until he be otherwise discharged by due course of law.

Penalty for bringing dangerous goods on the railway.

**44.** No person shall be entitled to carry, or to require the Company to carry, upon the railway any aquafortis, oil of vitriol, gunpowder, lucifer matches, or any other goods which, in the judgment of the Company, may be of a dangerous nature; and if any person send by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other servant of the Company with whom the same are left, at the time of so sending, he shall forfeit to the Company a sum not exceeding fifty pounds for every such offence; and it shall be lawful for the Company to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Delivery of matter in possession of custody of toll collector at removal.

**45.** If any collector of tolls or other officer employed by the Company be discharged or suspended from his office, or die, abscond, or absent himself, and if such collector or other officer, or the wife, widow,

Or

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or any of the family or representatives of any such collector or other officer refuse or neglect, after seven days' notice in writing for that purpose, to deliver up to the Company, or to any person appointed by the Company for that purpose, any station, dwelling-house, office or other building with its appurtenances, or any books, papers, or other matters belonging to the Company in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid, then, upon application being made by the Company to any Justice, it shall be lawful for such Justice to order any constable, with proper assistance, to enter upon such station or other building, and to remove any person found therein, and to take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the Company or any person appointed by them for that purpose.

**46.** It shall be lawful for the Company from time to time, Company to regulate the use of the railway. subject to the approval of the Governor and Executive Council, and subject to the provisions and restrictions in this Act contained, to make regulations for the following purposes (that is to say)—

- For regulating the levying of tolls.
- For regulating the mode by which, and the speed at which carriages using the railway are to be moved or propelled.
- For regulating the times of the arrival and departure of any such carriages.
- For regulating the loading or unloading of such carriages, and the weights which they are respectively to carry.
- For regulating the receipt and delivery of goods and other things which are to be conveyed upon such carriages.
- For preventing the smoking of tobacco and the commission of any other nuisance in or upon such carriages or in any of the railway stations or premises.
- And generally for regulating the travelling upon or using and working of the railway, and the maintenance of good order, and for regulating the conduct of the railway officers and servants, and for the providing for the due management of the affairs under charge of the Company, and the protection of the railway and other works from trespass and injury.

But no such regulation shall authorise the closing of the railway or prevent the passage of engines or carriages on the railway at reasonable times, except at any time when, in consequence of any of the works being out of repair, or from any other sufficient cause, it shall be necessary to close the railway or any part thereof.

**47.** The Governor in Council may from time to time revise and Governor in Council may reduce tolls. reduce the tolls prescribed by any regulations made as aforesaid for the conveyance and transport of passengers and goods; but such tolls shall not,

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not, unless with the sanction of the Company, be so reduced below the scale of tolls for the time being charged by the Government upon the Government railways.

Power to make regulations and by-laws.

**48.** For better enforcing the observance of all or any of such regulations it shall be lawful for the Company, subject to the provisions herein contained, and with the approval of the Governor in Council, to make by-laws and, from time to time, to repeal or alter such by-laws, and make others, provided that such by-laws be not repugnant to the laws of this colony or to the provisions of this Act; and such by-laws shall be reduced into writing and shall have affixed thereto the official seal of the Company. And any person offending against any such by-law shall forfeit, for every such offence, any sum not exceeding ten pounds, to be imposed by such by-laws as a penalty for any such offence; and if the infraction or non-observance of any such by-law or other such regulation as aforesaid be attended with danger or annoyance to the public, or hindrance in the lawful use of the railway, it shall be lawful for the Company summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the infraction of any such by-law.

Publication of by-laws.

**49.** The substance of such last-mentioned by-laws shall be painted on boards, or printed, or written on paper, and pasted on boards and hung up and affixed and continued on the front or other conspicuous part of every wharf or station pertaining to the railway, according to the nature or subject matter of such by-laws respectively, and so as to give public notice thereof to the parties interested therein or affected thereby, and such boards shall, from time to time be renewed as often as the by-laws thereon, or any part thereof, shall be obliterated or destroyed, and no penalty imposed by any such by-law shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

Such by-laws to be binding on all parties.

**50.** Such by-laws, when so published and affixed, shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same; and for proof of the publication of any such by-laws it shall be sufficient to prove that a printed or written paper or painted board containing a copy of such by-laws was affixed and continued in manner by this Act directed, and in case of its being afterwards displaced or damaged, then that such paper or board was replaced as soon as conveniently might be by the Company.

Proof of making regulations and by-laws.

**51.** The production of a printed copy of any such regulations or by-laws under the common seal of the Company shall be received in all courts of justice as sufficient *primâ facie* evidence of the making and approval thereof.

**52. Subject**

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**52.** Subject to the provisions of this Act and to the right of the Government to purchase the railway as hereinafter provided, it shall be lawful for the Company to lease the railway, or any part thereof, to any person willing to accept the same at such rate and for such period, not exceeding seven years, as shall be agreed on, and the lease to be executed shall contain all usual and proper covenants on the part of the lessee for maintaining the railway, or the portion thereof comprised in such lease, in good and efficient repair and working condition during the continuance thereof, and for so leaving the same at the expiration of the term thereby granted, and such other provisions, conditions, covenants, and agreements as are usually inserted in leases of a like nature. Provided always that no such lease shall contain any authority to make or be construed to authorise any assignment, transfer, or underlease of the said railway, or demised premises, or any part thereof, without the assent of the said Company joining in such assignment, transfer, or underlease.

Power to lease the railway.

**53.** Such lease shall entitle the lessee to whom the same shall be granted to the free use of the railway, or portion of railway comprised therein, and during the continuance of any such lease all the powers and privileges granted to, and which might otherwise be exercised and enjoyed by the Company or the directors thereof, or their officers, agents, or servants by virtue of this Act, with regard to the possession, enjoyment, and management of the railway, or of the part thereof comprised in such lease, and the tolls to be taken thereon, shall be exercised and enjoyed by the lessee and the officers and servants of such lessee under the same regulations and instructions as are by this Act imposed on the Company and their directors, officers, and servants; and such lessee shall, with respect to the railway comprised in such lease, be subject to all the obligations hereby imposed on the Company.

Powers vested in the Company may be exercised by the lessee.

**54.** The Company shall cause trains to be regularly run at such intervals and at such minimum rate of speed as may be agreed upon between the Minister and the Company, or, if they cannot agree, may be determined by arbitration.

Trains to be run regularly.

**55.** If at any time after the completion of the railway it is proved to the satisfaction of the Minister that the Company—

Minister may take possession of railway if Company fail to work it.

- (1.) Fail or refuse for a period of one month to work the traffic on the railway pursuant to the regulations in that behalf; or
- (2.) Fail after traffic has been interdicted by the Minister by reason of the line being unsafe for traffic, to render it fit for traffic within a reasonable time in that behalf;

the Governor in Council may, after one month's notice of his intention, served upon the Company at their principal office in the Colony, and published

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published in the *Gazette*, direct the Minister to forthwith enter upon and take and retain possession of such railway and to work the same at the risk and expense of the Company until he is directed by the Governor in Council to relinquish possession of the same. And the Minister shall thereupon assume the entire charge and control of the railway, and shall for the time being have and exercise all such privileges and powers, and incur the same liabilities and obligations, as are respectively exercised and incurred by the Company under the provisions of this Act.

Penalty for refusing to give up possession of railway.

**56.** If after lawful demand made therefor by the Minister, any persons in the employment of the Company, or acting on their behalf, refuse to give up peaceable and quiet possession of the railway to the Minister or to any person duly authorised by him to take possession of the same, such persons shall be deemed guilty of a misdemeanor, and shall each and every of them be liable for each such offence to a penalty not exceeding five hundred pounds, or to imprisonment with hard labour for a term not exceeding twelve months.

Governor in Council may purchase railway and wharf.

**57.** At any time after the expiration of five years from the final completion of the railway and railway wharf the Governor in Council may purchase from the Company the railway and railway wharf with the rolling-stock and all appurtenances thereof at a sum equal to the cost price of the said railway with five pounds per annum calculated from the date of such final completion for every one hundred pounds of the said cost price added thereto, together with a sum equal to the then value of the said rolling-stock, appurtenances and railway wharf. The amount of such purchase money shall be certified to by the engineer before the same shall be paid to the Company; but if any dispute or difference shall arise between the Company and the engineer or the Minister as to the sum to be inserted in the engineer's certificate, or as to the said purchase money, the same shall be determined by arbitration.

Governor in Council may purchase railway.

**58.** At any time after the final completion of the railway the Governor in Council may purchase from the Company that part of the railway between the school reserve in Kent street, Maryborough, and Croydon, at a sum equal to the cost price of such part with five pounds per annum calculated from the date of such final completion for every one hundred pounds of the said cost price added thereto. The amount of such purchase money shall be certified to by the engineer before the same shall be paid to the Company.

Arbitration.

**59.** When any dispute, difference, valuation, matter, or thing authorised or directed by this Act to be settled or determined by arbitration shall have arisen or become necessary to be settled or determined, the same shall be settled or determined by arbitration in the manner provided by the said Act for determining the amount of compensation to be paid for lands taken under the provisions thereof.

**60. Any**

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**60.** Any summons or notice, or any writ or other proceeding in any suit or action, or any legal proceeding requiring to be served on the Company, may be served by the same being left at or transmitted through the post directed to the office of the Company in Maryborough. Service of notice upon Company.

**61.** If any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this Act, or by virtue of any power or authority hereby given, and if before action brought in respect thereof such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action, and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases were defendants are allowed to pay money into court. Tender of amends.

**62.** If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit to the Company for every such offence any sum not exceeding ten pounds. Penalty on persons omitting to fasten gates.

**63.** If any person shall throw any gravel, stones, or rubbish, or any matter or thing upon any part of the railway, or shall drive, or permit to wander, stray, or be driven upon the railway, or the approaches thereto, any horse, ass, sheep, swine, or other beast or cattle of any kind, or shall do any other act, matter, or thing to obstruct the free passage of the railway, or any part thereof, every person so offending in any of the cases aforesaid shall, upon conviction before two justices, forfeit and pay for every such offence any sum not exceeding fifty pounds, and in default of payment thereof shall be imprisoned with or without hard labour for such period not exceeding six months as such Justices shall appoint, unless the said penalty shall be sooner paid, and such penalty may be recovered before any two Justices of the Peace on complaint to them for that purpose exhibited by any person on behalf of the Company. Penalty on persons obstructing a free course of railway.

**64.** If any person shall wilfully and maliciously and to the prejudice of the public, break, injure, damage, throw down, or destroy any part of the railway or other works connected therewith, every such person shall be guilty of misdemeanor, and every person so offending, and being thereof lawfully convicted, shall be liable at the discretion of the Court to be kept in penal servitude for any term not exceeding ten years, or to be imprisoned with or without hard labour for any period not exceeding three years. Punishment for destroying works, &c.

65. It



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Punishment for persons employed on railway guilty of misconduct.

**65.** It shall be lawful for any railway officer or agent, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine-driver, wagon-driver, guard, porter, servant, or other person employed upon the railway, or in repairing and maintaining the works of the said railway, who shall be found drunk whilst so employed upon the said railway, or who shall commit any offence against any of the regulations or by-laws of the Company, or who shall wilfully, maliciously, or negligently do any act, or shall be guilty of any omission of duty whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered, or whereby the passage of any engine, carriage, or train shall be or might be obstructed or impeded, and to convey such engine-driver, guard, porter, servant, or other person so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch before any two or more Justices of the Peace, without any other warrant or authority than this Act, to be dealt with according to law; and every person so offending as aforesaid, and every person counselling, aiding, or assisting therein, shall upon conviction before such Justices (upon a complaint in writing), in the discretion of such Justices, be imprisoned with or without hard labour for any term not exceeding six months, or shall in the like discretion forfeit any sums not exceeding fifty pounds, and in default of payment thereof shall be imprisoned, with or without hard labour, for such period not exceeding six months as such Justices shall appoint, unless the penalty be sooner paid.

Method of proceeding before Justices in question of damage, &c.

**66.** Where in this Act any question of compensation, expenses, charges, or damages, or other matter is referred to the determination of any one Justice or more, it shall be lawful for any Justice upon the application of either party to summon the other party to appear before one Justice, or before two Justices, as the case may require, at a time and place to be named in such summons, and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one Justice, or such two Justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses on oath, and the cost of every such inquiry shall be in the discretion of such Justices, and they shall determine the amount thereof.

Publication of penalties.

**67.** The Company shall publish the short particulars of the several offences for which any penalty is imposed by this Act, or by any by-law of the Company, affecting other persons than the railway officers or servants of the Company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board or printed upon paper and pasted thereon, and shall cause such board to be

*Maryborough and Urangan Railway Act.*

be hung up or affixed in some conspicuous part of the principal place of business of the Company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference, and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed, and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

**68.** If any person pull down or injure any board put up or affixed as required by this Act for the purpose of publishing any by-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalty for defacing boards used for publication.

**69.** Every penalty or forfeiture imposed by this Act, or by any by-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before two justices.

Penalties to be summarily recovered before two Justices.

**70.** If, through any neglect or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to the railway or other property used in connection therewith shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty; and the amount of such damages shall, in a case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted, and on non-payment of such damages on demand, the same shall be levied by distress and sale, and such justices, or one of them, shall issue their warrant accordingly.

Damage to be made good in addition to penalty.

**71.** It shall be lawful for any officer or servant of the Company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this Act, and whose name and residence shall be unknown to such officer or servant, and convey him with all convenient despatch before some Justice without any warrant or any authority than this Act, and such Justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Transient offenders.

**72.** If any party shall feel aggrieved by any determination or adjudication of any Justice or Justices with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the next District Court to be holden at or nearest to the place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice

Parties allowed to appeal to next District Court on giving security.

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*Maryborough and Urangan Railway Act.*

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notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith, after such notice, enter into recognisances with two sufficient sureties before a Justice, conditioned duly to prosecute such appeal and to abide the order of the Court thereon.

Court to make such order as they think reasonable.

**73.** At the District Court for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sittings of the Court, and upon the hearing of such appeal the Court may, if it think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and also may order such further satisfaction to be made to the party injured as it may judge reasonable, and may make such order concerning the costs both of the adjudication and of the appeal as it may think reasonable.

Members of the Company may be registered at an office out of the Colony.

**74.** Whenever the Company shall have established a branch or other office in any place beyond the limits of this Colony, and shall have registered the same with the Registrar of Joint Stock Companies, the Company may at the request of any purchaser or holder of shares cause him to be registered at any such office as a member of the Company, and shall thereupon, if such member was theretofore registered at any other office, cancel the registration of such person at such other office.

Such office to be registered office for certain purposes.

**75.** With respect to shares the proprietor whereof is registered at any office out of the Colony, such office shall so far as is necessary be deemed and taken to be the registered office of the Company, and all the provisions of "*The Companies Act, 1863*," except so far as the same are hereby altered or varied, and the Memorandum and Articles of Association, so far as the same relate to dealings with the said shares and acts to be done by the Company or any shareholder in respect of the same, shall be read and construed as if the office at which such member is so registered was the registered office of the Company.

Duplicate seal.

**76.** The Company may have and use for the purpose of all dealings relating to shares, the proprietor whereof is registered at any such office under the provisions of this Act, a duplicate seal, which shall be inscribed with the word "duplicate" and the name of the office at which the same shall be used, and with respect to all acts done at the said office the said duplicate seal shall be deemed to be the common seal of the said Company.

**77.** With

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*Maryborough and Urangan Railway Act.*

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77. With respect to persons registered as members of the Company at any such office as aforesaid, the list of persons required to be made by the twenty-fifth section of "*The Companies Act, 1863*," shall be made as of a day one month preceding the day therein mentioned. Annual list of members.

78. A copy of the register of members kept at any such office as aforesaid shall be forwarded to the registered office of the Company in the Colony once in every month, there to be kept and form part of the register of members of the Company, and no other register shall be kept at the registered office in the colony of members registered as members of the Company at such first-mentioned office. Register of members.

79. Notice of the situation of every branch or other office situated beyond the limits of the Colony at which the Company proposes to register members, and of every change therein, shall be given to the Registrar of Joint Stock Companies, and recorded by him, and until such notice is given the Company shall incur a penalty not exceeding five pounds for every day during which shares shall be issued from such office. Notice of situation.

80. All other acts, matters, and things necessary to be done by the Company at any such office as aforesaid shall be done within one month of the time when the same would be required to be done if the same were done at the registered office of the Company in the Colony. Time extended.

81. If the main line of railway referred to in the deposited plans, sections, and books of reference, and railway wharf are not completed within three years from the passing of this Act, then, on the expiration of that period, the powers, rights, and privileges by this Act granted to the Company for acquiring land by purchase or otherwise and for working and completing the railway, or otherwise in relation thereto, shall cease and determine, and thereupon the sum deposited by the Company to the credit of the Minister as aforesaid as security for the due completion of the main line of railway shall be and become absolutely forfeited to Her Majesty. Penalty for non-completion of line within three years.

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# Queensland.



ANNO QUADRAGESIMO OCTAVO

## VICTORIÆ REGINÆ.

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**An Act to enable the Bundaberg Gas and Coke Company (Limited),  
incorporated under the provisions of "The Companies Act, 1863,"  
to light with Gas the Town of Bundaberg and its Suburbs, and  
for other purposes therein mentioned.**

[ASSENTED TO 23RD DECEMBER, 1884.]

**W**HEREAS by an indenture made the twenty-seventh day of <sup>Preamble.</sup> September, one thousand eight hundred and eighty-three, between Robert Fleming therein described of the one part and the Municipal Corporation of the town of Bundaberg, in the Colony of Queensland, of the other part, and a copy whereof is set forth in the schedule hereto, the said Robert Fleming, for the consideration hereinafter mentioned and therein contained, agreed with the said Municipal Council to manufacture gas and coke and to supply the same to the inhabitants of the town of Bundaberg aforesaid, and its suburbs, and to do all such things as might be incidental or conducive to the attainment of such objects. And by the same indenture now in recital, the said Robert Fleming was empowered by the said Municipal Council (amongst other things) to break up the soil and pavements of, and cut into and remove the materials of any streets, highways, roads,

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*Bundaberg Gas and Coke Company (Limited) Act.*

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roads, ways, lanes, bridges, passages, and other places or any part of them or either of them, and to erect posts, pillars, pilasters, lamp-irons, lamps, and other apparatus in and upon the same streets, highways, roads, lanes, ways, bridges, passages, and other public places or any of them, and against any wall or walls, erected on or adjoining to them or any of them, and to dig and sink trenches and drains for such purposes, with liberty to the said Robert Fleming or any Company to be formed for such purpose to apply to the Parliament of the Colony of Queensland for an Act enabling the provisions of such recited agreement to be carried into effect. And whereas a Company called the "Bundaberg Gas and Coke Company (Limited)" has lately been incorporated under the provisions of "*The Companies Act of 1863*," under and subject to the rules, regulations, and provisions contained in the memorandum and articles of association of the said Bundaberg Gas and Coke Company (Limited), for the purpose of manufacturing gas and coke and supplying the same to the inhabitants of the town of Bundaberg and its suburbs, and disposing of the residuum from the said manufacture, and the doing all such other things as are incidental or conducive to the attainment of the said objects. And whereas by the said memorandum and articles of association it was agreed that the capital of the said Company should consist of eight thousand pounds to be contributed in eight hundred shares of ten pounds each, but that the said original capital may be increased by the creation of an additional number of shares. And whereas by the said memorandum and articles of association provision has been made for the payment of dividends and for the disposal and application of the profits and also for the due management of the affairs of the said Company. And whereas it would be of great advantage and convenience if powers were given to the said Company effectually to light the said town of Bundaberg and its suburbs with gas and to erect all necessary works for that purpose, but the same cannot be effected without the aid and authority of an Act of Parliament. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Power to manufac-  
ture.

1. The said Company are hereby empowered to enter upon and continue the manufacture of gas and such other materials as arise from the conversion and manufacture of the residuum occasioned by the production of gas and the processes connected therewith by means of any apparatus or other appliance and by any process, art, or invention now or hereafter to be known or used, and from any substance that now is or may hereafter be used for such purposes, subject to the provisions and restrictions hereinafter contained.

Limited power to  
take and hold lands,  
&c.

2. It shall be lawful for the said Company, notwithstanding any statute or law to the contrary and notwithstanding any clause or provision herein contained, to purchase or acquire, take, hold, and enjoy  
to

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*Bundaberg Gas and Coke Company (Limited) Act.*

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to them and their successors for any estate, term of years, or interest, such buildings, works, mains, pipes, and apparatus and lands as they may think requisite for any of the purposes of this Act.

**3.** It shall be lawful for any person or persons who are otherwise competent to grant, sell, alien, and convey, assure, and dispose of unto and to the use of the said Company and their successors for the purposes aforesaid or any of them, any such houses, offices, lands, and other real estate as aforesaid.

Power to other persons to convey real estate to the Company.

**4.** It shall be lawful for the said Company to sell and dispose of, and by indenture or indentures under the signatures of the directors of the said Company or a majority of them and under the corporate seal of the Company to grant and convey by way of absolute sale in fee simple for a consideration in money, all or any part or parts of the said lands which may be so purchased or acquired, and which shall not be wanted for the purposes of this Act, and upon payment of the money which shall arise by or from the sale or sales of such lands or of any part or parts thereof it shall be lawful for the secretary for the time being of the said Company to sign and give a receipt or receipts for the money for which the same shall be sold, which receipt or receipts shall be a sufficient discharge or sufficient discharges to any person or persons for the money therein expressed to be received.

Power to convey lands

**5.** Nothing herein contained shall prejudice or be deemed to prejudice any deposit or instalment due by any contract or other act, deed, or thing entered into, made, or done by the said Company, under or by virtue of the said Memorandum and Articles of Association before this Act shall come into operation, but the same deposit, instalment, contract, act, deed, matter, or thing, shall be as valid and effectual to all intents and purposes as if this Act had not been passed.

Instalments, contracts, &c., due, made, or done under the Articles of Association before this Act in operation not to be prejudiced by it.

**6.** That no judgment or other special or simple contract creditor of the said Company or other person shall, by reason of any covenant, judgment, execution, distress, or other process authorised by this Act or the said articles of association, or by or under any law, title, or pretence whatsoever, levy or seize in execution or in any way attempt to recover payment of any sum of money due or payable to him from the said Company, by taking or removing any of the pipes or lamps of the said Company laid, placed, and running in, under, or through any street or bridge in the said town of Bundaberg or its suburbs, or in any building not being in the occupation of the said Company.

Certain property protected from execution.

**7.** All salaried officers of the Company shall be competent to hold any share or shares, estate, or interest in the capital, stock, funds, or property thereof, either solely or jointly for themselves or in trust for others.

Salaried officers may hold shares.

8. It



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*Bundaberg Gas and Coke Company (Limited) Act.*

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In what matters  
corporate seal not  
required to be used.

8. It shall not be necessary to use the corporate seal in respect of any of the ordinary business of the Company, and any person duly authorised and empowered under the corporate seal may, without such seal, execute any deed and do all other acts, matters, and things as may be required to be executed and done on behalf of the said Company and in conformity with the provisions of the Articles of Association and of this Act.

Power to secretary,  
officers, or agents to  
do certain things.

9. That in all cases in which by any Act of Parliament or by any rule or order of the Supreme Court or any District Court now or hereafter to be in force in this colony, the plaintiff or defendant in any action, suit, or other proceeding, or any creditor of an insolvent estate, or any person being a party to or interested in any process or proceeding whatsoever is or shall be authorised, empowered, or required to make any affidavit, or to sign or present any petition, or to do any other act, it shall be lawful for the secretary or other authorised officer or agent of the Company (where such company shall be such plaintiff, defendant, or creditor, or be a party to or otherwise interested in any process or proceeding whatsoever as aforesaid) for or on behalf of the Company to make any such affidavit, sign, or present any such petition or do such other act as aforesaid.

Power to erect  
gasometer, &c., break  
up the soil, pave-  
ments, and materials  
of streets and bridges.

10. It shall be lawful for the said Company, and they are hereby fully authorised and empowered subject to the provisions and restrictions hereinafter mentioned, by their servants, agent, or workmen and others, from time to time to erect, sink, cut, lay, place, and fix such retorts, gasometers, receivers, buildings, cisterns, engines, machines, drains, sewers, watercourses, pipes, reservoirs, and other apparatus works and devices of such construction and in such manner as the said Company shall think necessary or proper for carrying the objects and purposes of the said Company and of this Act into execution, and also, subject to provisions and clauses hereinafter mentioned, to break up the soil and pavements of, and cut into and remove the materials of any streets, highways, roads, ways, lanes, bridges, passages, and other public places, or any part of them or either of them, and to erect posts, pillars, pilasters, lampirons, lamps, and other apparatus in and upon the same streets, highways, roads, ways, and lanes, bridges, passages, and other public places, or any of them, against any wall or walls erected on or adjoining to them, or any of them, and to dig and sink trenches and drains, and to lay and place meters, mains, and pipes, and put stop-cocks, syphons, plugs, or branches from such pipes in, under, across, and along places, streets, ways, lanes, bridges, or public passages, and also, with the consent of the owners or occupiers thereof in, under, across, and along any private ways, buildings, passages, grounds, and other places in such manner as shall be necessary for the purpose of carrying this Act into execution, or supplying any such lights as aforesaid, and from time to time alter the position of and to repair, re-lay, and maintain such pipes,

Erect lamps.

Lay pipes.

And alter them.

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*Bundaberg Gas and Coke Company (Limited) Act.*

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pipes, stop-cocks, syphons, and plugs or branches or other necessary apparatus from any main or pipe laid in or upon any street, road, highway, lane, bridge, passage, or public or private place by the said Company by virtue of this Act into or through any dwelling-house or houses, manufactories, public or private buildings or grounds for the purpose of lighting the same or any other public or private lamp or lamps from any of such mains or pipes, and to erect and set up any machine or other apparatus necessary or requisite for securing to any dwelling-house or houses, manufactories, public or private buildings, a proper and competent supply of gas, or for measuring and ascertaining the extent of such supply, and also to alter and amend any bad or imperfect work which shall have been placed or which shall be injured or damaged in such dwelling-house or houses, manufactories, public or private buildings, and to do all such other acts, matters, and things as the said Company shall from time to time think necessary and convenient for completing, amending, repairing, improving, supplying, and using the same, and for carrying into effect the purposes and meaning of this Act. Provided a proper compensation be made for any damage done thereby.

To erect apparatus,  
&c.

11. The directors of the said Company shall have full power and authority, either by themselves or their agents, surveyor, or other officer appointed for that purpose, at all reasonable times and as often as they shall think necessary to inspect and examine all pipes and lamps in any building and on any part of the same in the occupation or possession of any person with whom the said Company shall at any time enter or have entered into any contract or agreement for the sale or supply of gas, and to repair and amend such pipes and lamps in all respects if necessary, and to take account of the amount of cubic feet of gas consumed under all or any of such contracts or agreements as aforesaid, and to compare the amount so ascertained to be consumed with the tenor and nature of the contract in relation to such supply and consumption, and to regulate the same in accordance therewith, and for any other lawful and reasonable purpose consistent with and relating to any contract entered into by the said Company under the powers contained in the said Articles of Association or in this Act.

Power to enter and  
inspect pipes and  
lamps and meters.

12. It shall be lawful for the directors of the said Company or their duly authorised surveyor or servants to inspect and examine at all reasonable times any gas fittings or works which shall have been made, erected, and put up by any person with whom the said Company shall have contracted for the supply of gas, and if such surveyor or other servant of the said Company shall consider any such gas fittings or works to be incomplete or otherwise defective, the person so contracting with the said Company and having erected and put up such fittings or works shall not be entitled to call on the said Company for the fulfilment of any contract for the supply of gas until such fittings and such works shall

Power to inspect all  
fittings and to order  
the removal of bad  
work.

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shall have been amended and altered or removed and other fittings and works substituted in lieu thereof, to the satisfaction of the surveyor or other officer of the said Company inspecting the same.

Power for the Company to contract for lighting of streets and houses.

**13.** It shall be lawful for the said Company to contract with the Corporation of the Municipality of Bundaberg, or persons having the control, direction, or management of the highways or any of them within the limits of this Act for supplying the same with gas, and also to contract with any person for supplying with gas any such person or any streets, ways, lanes, bridges, or passages, manufactories, shops, warehouses, public or private houses, or buildings belonging to him or in which he is interested or over which he has the direction or control, and also to contract with any person whomsoever for lighting or supplying with gas any shops, manufactories, warehouses, public or private buildings or places whatsoever within the limits of this Act, in such manner and under such stipulation as the said Company shall think proper, consistent with the powers contained in the said Articles of Association and in this Act. And provided always that if the charges that may be made by the said Company under and by virtue of this Act, for such supply of gas, shall be found to produce a greater sum than twenty pounds per annum for every one hundred pounds of the paid up capital of the said Company, then and in such case the said Company shall at their first meeting after it shall have been ascertained that such greater sum has been produced, reduce the said charges so as that the same shall not produce to the said Company a greater rate of clear annual profits divisible upon the subscribed and paid up capital stock of the said Company than the said sum of twenty pounds annually for every one hundred pounds of such capital; and in order that the true state of the profits may be known, it shall be the duty of the directors of the said Company so soon as the profits of the said Company exceed twenty pounds for every one hundred pounds by the year, to publish in the *Queensland Government Gazette* annually a full and true statement and account of the moneys received, disbursed, and expended by them, and every such statement and account shall be verified by the secretary of the said Company by solemn declaration to be made before a justice of the peace. Provide that it shall not be compulsory on the said Company to reduce the said charges before the sum of twenty pounds per annum for every one hundred pounds of the paid up capital of the said Company shall have been received by each shareholder of the said Company in respect of his share or shares therein from the commencement of the said Company.

Provided nevertheless that notwithstanding anything hereinbefore contained it shall be obligatory on the said Company to reduce the said charges from time to time as in the said recited indenture is provided.

14. It

*Bundaberg Gas and Coke Company (Limited) Act.*

14. It shall be lawful for the said Company, and they are hereby fully authorised and empowered (subject to the regulations herein contained), from time to time to carry, fit up, and furnish any pipes, cocks, or branches or other necessary apparatus from any main pipes in any roadway, street, lane, bridge, or other public passage or place laid by or belonging to the said Company in or through any dwelling-house, manufactories, public or private buildings for the purpose of lighting the same or any public or private lamps, with the consent of the owner and occupier of such dwelling-houses, manufactories, public or private buildings.

Company may lay pipes of communication from main.

15. It shall not be lawful for the said Company to break or take up or remove any of the pavements, ground, or material in any road, street, lane, bridge, way, or other public passage or place for the purpose of laying down or repairing any main pipes or of altering the position of any such main pipes unless notice in writing of their intention to break or take up such pavement, ground, or material, signed by the secretary of the said Company, specifying the road, street, way, lane, bridge, or other public passage or place and the particular part thereof intended to be broken, taken up, or removed, shall have been given to the surveyor of the Municipality of Bundaberg, or shall have been left for him at his public office, at least twenty-four hours before such pavement, ground, or material, or any part thereof, shall be so broken or taken up, except in cases of emergency arising from defects in any of the pipes, or in any other case of great emergency, when such notice shall be given as soon as possible after such pavement, ground, or material, or any part thereof, shall be broken or taken up. Provided that in case there shall be no such surveyor all notices which in and by this Act are directed to be given to the surveyor of the Municipality of Bundaberg shall and lawfully may be given to the mayor or town clerk of the said Municipality of Bundaberg.

Notice to be given of breaking up pavements, roads, &c.

16. When, and as often as the said Company shall have lawfully broken up or removed the stones, ground, soil, pavement, or material in or of any road, street, way, lane, bridge, or other public passage or place, or any part thereof, the said Company shall, and they are hereby required immediately thereafter to reinstate and make good such ground, soil, pavement, or material, to the satisfaction of the person having the control, direction, or superintendence of such pavement, soil, ground, or material respectively, and the said Company shall carry, or cause to be carried away, all the surplus earth, filth, and rubbish occasioned thereby at their own costs and charges, and during the time that such works are carrying on and until such ground, soil, pavement, or material is reinstated as aforesaid, the said Company shall provide necessary lights at night and otherwise guard the said works so as to prevent any damage or inconvenience happening to passengers, cattle, or carriages, and in case the said Company shall make default in reinstating

Company to re-lay pavements or roads broken up.

And to remove rubbish, &c.

Until pavements be re-laid Company to provide necessary lights, &c.

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reinstating such ground, soil, pavement, or material as aforesaid, or removing any rubbish occasioned thereby, or in placing and setting up such lights at night, and otherwise guarding the said works so as to prevent accidents to passengers, cattle, and carriages, then and in every such case it shall be lawful for the said person having such control, direction, or superintendence as aforesaid to reinstate such ground, soil, pavement, and material, and carry away all rubbish occasioned thereby, and during the time that such works are carried on to provide necessary lights at night, and the expenses thereof shall be repaid by the said Company to the person so reinstating the same, and in default of payment thereof within twenty-eight days next after demand thereof in writing shall have been made by such person as aforesaid (proof being made thereof by the oath of one credible witness before one or more justice or justices of the peace), all such sums of money so paid together with any sum not exceeding twenty shillings by way of penalty, shall and may be levied and recovered for the use of such person by distress and sale of the goods and chattels of the said Company, except as hereinbefore provided, together with the charges of such distress and sale by warrant, under the hand and seal or hands and seals of any such justice or justices who is and are hereby empowered to grant the same.

Corporation to give  
the level of streets  
for the Company.

**17.** In case the Corporation of the Municipality of Bundaberg or other person having the control, direction, or superintendence of the said roads, streets, ways, lanes, bridges, and other public passages and places respectively, shall, from time to time, supply full information to the said Company respecting the permanent levels of the said roads, streets, ways, lanes, and other public passages, either without notice requiring such information or within fourteen days after they shall have received notice from the said Company so to do, the said Company shall lay and place their mains, mainpipes, stopcocks, plugs, and branches, and fix their lamps and other means of lighting so as to accommodate them to the said levels, and in case the said Corporation or other person as aforesaid shall neglect or refuse to supply such information after such notice from the said Company, and shall at any time thereafter change or vary any of the said levels so as to raise or sink, or otherwise alter the situation, line, or direction of any of the main pipes, stopcocks, plugs, or branches, which shall have been laid down for the purposes aforesaid, and in accordance with this Act, it shall and may be lawful for the said Company to raise or sink or alter the situation, line, or direction of such main pipes, stopcocks, plugs, or branches, and the reasonable costs and charges of doing the same shall immediately thereafter be paid by the said Corporation or other person, and in default thereof the same may be recovered and levied in such manner as forfeitures and penalties imposed by this Act are directed to be levied and recovered.

**18.** Provided

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**18.** Provided always that if by raising, sinking, or altering any of the said main pipes, cocks, syphons, plugs, or branches of the said Company, any damage or injury shall be wilfully or negligently done to the same by the said Corporation or its servants or such other person aforesaid, then and in such case such damage or injury shall be made good to the said Company as soon as circumstances will permit, and the costs, charges, and expenses thereof shall be made good to them on demand by the said Corporation or other person aforesaid, and recovered in the same manner as any penalty hereby inflicted not specially provided for is to be recovered under this Act. Damages to be made good.

**19.** No person shall lay any pipe to communicate with any pipe belonging to the said Company without the consent in writing first had and obtained of the secretary or surveyor of the said Company or other person duly authorised for such purpose by the said Company, nor use burners of larger dimensions or in any other manner than he, she, or they shall contract to pay for or supply any other person with any part of such gas, on pain of forfeiting and paying to the said Company the sum of forty shillings per day for every day such pipes shall so remain or such excess be committed or such supply furnished, to be recovered and levied in such manner as other penalties and forfeitures by this Act imposed are directed to be levied and recovered. No pipes of communication to be laid without the consent of the Company.

**20.** If any person shall wilfully, maliciously, or negligently do or commit or cause to be done or committed any injury or damage to any of the mains or service-pipes of the said Company, either by removing or disturbing the ground, soil, or material whereon or wherein the same is laid or placed, or by the compression or subsequently settling or lowering of the same at any time or times afterwards, or by any other means whatsoever; or if any person whomsoever shall wilfully and maliciously remove, destroy, damage or injure any or any part of any pipe, post, plug, lamp, or other apparatus, matter, or thing belonging to the said Company, or shall wilfully or maliciously waste or improperly use any of the inflammable air or gas supplied by the said Company, or shall alter, exchange, or remove the burners belonging to the said Company, from the pipes of supply; every person so offending in any of the respective premises and being thereof lawfully convicted before one or more justice or justices of the peace, shall for every separate act or offence forfeit and pay to the said Company any sum not exceeding five pounds and three times the amount of damages to be done as the same shall be ascertained by such justice or justices; such penalty and damage to be recovered and levied in such manner as other penalties and forfeitures by this Act imposed are directed to be levied and recovered. Damaging pipes, &c.

**21.** If any person shall negligently break, destroy, throw down, damage, or injure any lamp hung out, set up, or belonging to the said Company, or by any person at his private expense, or any part Satisfaction for accidental damage to lamps, &c.

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*Bundaberg Gas and Coke Company (Limited) Act.*

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part of any pipe, pillar, pedestal, lamp-post, lamp-iron, plug, or other apparatus, matter, or thing set up by or belonging to the said Company, or belonging to any person and set up by him at his private expense, or negligently waste any of the inflammable air or gas supplied by the said Company, or keep the light or lights burning for a longer time than he shall contract to pay for, and shall not upon any demand by the said Company, or their said Board of Directors, or their clerk or superintendent, or other person authorised by them, make satisfaction for the damage done, for the excess of gas so wasted, or keeping the lights burning longer than they shall have contracted for as aforesaid, then and in every such case it shall and may be lawful to and for any one or more justice or justices of the peace, and he and they is and are hereby empowered and required upon complaint to him or them made, to summon before him or them the party against whom such complaint shall be preferred, and upon hearing the allegations and proof on both sides, or on non-appearance of the party so complained against, to proceed *ex parte*, and to award such sum of money by way of satisfaction to the said Company or to such other person (as the case may require) for such damage or excess or waste as such justice or justices shall think reasonable, not exceeding the sum of ten pounds to be recovered and levied in such manner as other penalties and forfeitures by this Act imposed are directed to be levied and recovered.

Escape of gas.

**22.** When any gas shall be found to escape from any of the pipes which shall be laid down in any market, street, square, lane, public passage, or place within the said Municipality of Bundaberg, the said company or the person being the owner of such pipe so laying down or causing the same to be laid down in any such market, street, square, lane, public passage, or place, shall, immediately after notice shall be given to them or him in writing from any inhabitant of the said Municipality of Bundaberg, of any such escape of gas, cause the most speedy and effectual measures to be taken to stop and prevent such gas from escaping; and in case the said Company, or such person as aforesaid, shall not, within forty-eight hours next after such notice given, effectually stop and prevent such gas from escaping, and wholly and satisfactorily remove the cause of complaint, then, and in every such case, the said Company or person as aforesaid shall for every such offence forfeit and pay any sum not exceeding five pounds for each day after the expiration of forty-eight hours from the time of giving such notice, during which the gas shall be suffered to escape as aforesaid, which penalties shall from time to time be recovered and levied in such manner as other penalties and forfeitures by this Act imposed are directed to be levied and recovered.

Contamination of  
water by Gas Com-  
pany.

**23.** Whenever the water, which may hereafter be supplied by the Government for the use of the Municipality of Bundaberg, or the water of the owner or company of proprietors of waterworks, or of any other

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other person serving the Municipality of Bundaberg or any part thereof with water, shall be contaminated or affected by the gas of the said Company, and such Company shall not, within forty-eight hours next after such notice thereof in writing (signed by any person consuming the said water), to be left at the usual office of transacting business of the said Company, effectually stop and prevent gas from so escaping, and wholly and satisfactorily remove the cause of every such complaint, and prevent all and every such contamination whereof such notice shall be given as aforesaid, then, and in every such case, the said Company shall, on each and every complaint whereof notice shall be given as aforesaid, forfeit and pay to the Colonial Treasurer or the treasurer for the time being, or to any one of the directors for the time being or owner or proprietor of such waterworks for the use and benefit of the Government or of the same proprietors, as the case may be, any sum not exceeding the sum of ten pounds for each and every day during which the said water shall be and remain contaminated, tainted, or affected by the gas of the said Company or person as aforesaid, and such penalties shall and may be recovered and levied in such manner as the penalties and forfeitures by this Act imposed are directed to be levied and recovered.

**24.** In case a question shall arise upon such complaint as aforesaid whether the said water be contaminated or affected by the gas of the said Company, it shall be lawful to and for the Government or for the surveyor of the said Municipality of Bundaberg, or other duly authorised person, or for the said company of proprietors or other person as aforesaid so supplying water as aforesaid, to dig to and about and search and examine the mains, pipes, conduits, and apparatus of the said Bundaberg Gas and Coke Company (Limited), for the purpose of ascertaining whether such contamination proceed from or be occasioned by the gas of the said Company, and if it shall appear that the said water has been contaminated by any escape of gas of the said Bundaberg Gas and Coke Company (Limited), the costs and expenses of the said diggings, search, and examination and repair of the ground and pavement of the street which shall be taken up and disturbed shall be borne and paid by the said Bundaberg Gas and Coke Company (Limited), which costs and expenses shall be ascertained and determined (if necessary) by such justice or justices of the peace as aforesaid, and be recovered in like manner as any penalty may be recovered by virtue of this Act. Provided always that if upon such examination it shall appear that such contamination has not arisen from any such escape of gas from any of the mains, pipes, or conduits of the said Bundaberg Gas and Coke Company (Limited), then and in such case the Government or the said surveyor of the said Municipality of Bundaberg, or other authorised persons aforesaid, or such company of proprietors or such owner of such waterworks, shall bear and pay all the expenses of such examination, repair, and search, and also

Power for owners of waterworks to dig street and examine the pipes of Gas Company.

Company to pay the expenses of examination of water contaminated by escape of gas.

If water not contaminated by the escape of gas the expense of digging to be paid by the party making the search.



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also shall make good to the said Bundaberg Gas and Coke Company (Limited), any injury, loss, or damage which may be occasioned to the said main-pipes, conduits, or apparatus of the said Bundaberg Gas and Coke Company (Limited) in and by such search and examination, and also to the ground and pavements of the streets so broken or disturbed in such search or examination, the amount of such injury, loss, or damage to be ascertained and determined (if necessary) by such justice or justices of the peace as aforesaid, and recoverable in like manner as any penalty may be recovered by virtue of this Act.

Remedy for recovery  
of rents.

**25.** In case any person who shall contract with the said Company, or agree to take, or shall use and enjoy the said gas either in private dwellings, shops, inns, taverns, or other buildings or manufactories, grounds, or premises, or otherwise shall refuse or neglect for the space of twenty-one days after demand to pay the sum of money then due under his contract for the same to the said Company, according to the terms and stipulations of the respective persons with the said Company, it shall be lawful for the said Company, or their secretary, or any person acting under their authority, by warrant, under the hand and seal of such justice of the peace as aforesaid, which warrant such justice is hereby required to grant, upon confession or upon proof of such sum being due to such Company, and of demand having been made by the oath of one credible witness to levy the said sum of money, in respect whereof such refusal or neglect shall happen by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, rendering the surplus (if any) to such person so refusing or neglecting after the necessary charges of making such distress and sale shall be first deducted; and it shall also be lawful for the said Company to cut off and take away the supply of gas from the house, inn, tavern, shop, manufactory, warehouse, or other buildings, premises, or places of every such person so making default in payment of such sum of money when due by his contract to the said Company for the space of twenty-one days after such demand as aforesaid, and thenceforth to discontinue the supply of gas contracted for with the said Company by such person.

Penalty for interrupt-  
ing Company's work-  
men.

**26.** If any person shall wantonly or maliciously hinder or interrupt the said Company or their respective agents, workmen, or servants, or any of them, in lawfully doing or performing any of the works, or in the exercise of any of the powers and authorities by this Act granted, or shall in anywise cause or procure such interruption to take place, and shall be thereof convicted before any such justice or justices of the peace as aforesaid, either on evidence or on confession, every such person so offending shall for every such offence forfeit and pay to the said Company such sum or sums of money as shall be adjudged by such justice or justices, not exceeding five pounds, and also the full amount of the damage which shall be sustained by such hindrance or interruption, and such sum or sums of money so adjudged shall

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shall be recovered in like manner as any penalty or forfeiture can or may by virtue of this Act be recovered, or the said Company may at their own option sue for the damage sustained by them for such hindrance or interruption.

**27.** Where by this Act any damages or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Act mentioned, the amount of such damages or charges in case of dispute respecting the same shall be settled, ascertained, and determined by the justice or justices of the peace by or before whom any offender shall be convicted of any such offence, and such justice or justices are hereby authorised and required on non-payment thereof to levy such damages or charges by distress and sale of the offender's goods and chattels in manner directed by this Act for the levying of any penalties or forfeitures.

Damages and charges in case of dispute to be settled by justices.

**28.** When and as often as any sum of money shall be directed or ordered by any justice or justices of the peace in pursuance of this Act to be paid by the said Company as or by way of compensation or satisfaction for any materials or costs or for any damage, spoil, or injury of any nature or kind whatsoever done or committed by the said Company or by any person acting by or under their authority, and such sum of money shall not be paid by the said Company to the party entitled to receive the same within ten days after demand in writing shall have been made upon the said Company or their secretary in pursuance of the direction or order made by such justice or justices (and in which demand the order of such justice or justices shall be stated), then and in such cases the amount of such compensation or satisfaction shall and may be levied and recovered by action at law against the said Company, or by distress and sale of the goods and chattels vested in the said Company by virtue of this Act, except as hereinbefore provided under a warrant to be issued for that purpose by such justice or justices, which warrant any such justice or justices is and are hereby authorised and required to grant under his hand and seal, or their hands and seals, on application made to him or them for that purpose by the party entitled to receive such sum of money as by way of compensation or satisfaction for any such materials, costs, damages, spoil or injury as aforesaid; and in case any overplus shall remain after payment of such sum of money and the costs and expenses of hearing and determining the matter in dispute, and also the costs and expenses of such distress and sale, then and in such case such overplus shall be returned on demand to the said Company.

In case of non-payment of compensation or damages the same to be levied by distress of the goods of the Company.

**29.** All fines, penalties, and forfeitures for all and every offence in this Act mentioned, or by any rule, order, or by-law inflicted or imposed, in relation to which the manner of convicting the offender or applying the penalties is not particularly mentioned or directed, or which shall be inflicted or imposed by any rule, order, or by-law to be made under

Recovery and application of penalties.

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under the authority of this Act, shall, in case of non-payment thereof, be adjudged by and be recovered before any justice or justices of the peace for the said Colony of Queensland or for the Municipality of Bundaberg in a summary way, and, in default of such forfeitures or penalties, the same shall be levied by distress and sale of the offender's goods and chattels, or of the goods and chattels of the said Company, except as hereinbefore provided, if they shall offend and be convicted as aforesaid of any offence in this Act mentioned by warrant under the hand and seal of such justice, the whole of the penalties and forfeitures when recovered, after rendering the overplus (if any) on demand to the party whose goods and chattels shall be so distrained (the reasonable charges of such distress and sale being first deducted) shall be paid to the Colonial Treasurer for the time being, for the public uses of the said colony and the support of the Government thereof; and in case such sufficient distress cannot be found and such penalties and forfeitures shall not be forthwith paid upon such conviction by any person offending and convicted, then it shall be lawful for such justice to order the offender so convicted to be retained in safe custody until return can be conveniently made to such warrant of distress, unless the offender shall give sufficient security to the satisfaction of such justice of his appearance before him on such day as shall be appointed for the return of such warrant of distress, such day not being more than five days from the time of taking any such security, and which security the said justice is hereby empowered to take by way of recognisance or otherwise; but if, upon the return of such warrant, it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of any justice, either by the confession of the offender or otherwise, he hath or have not sufficient goods and chattels whereon such penalties, forfeitures, fines, costs, and charges can be levied if a warrant of distress were issued, such justice shall not be required to issue such warrant of distress, and thereupon it shall be lawful for any such justice of the peace, and he is hereby authorised and required, by warrant under his hand and seal, to commit such offender to the nearest house of correction or common gaol for any time not exceeding three months.

Form of conviction.

**30.** And for the more easy conviction of offenders against this Act be it further enacted that a conviction in the form or to the effect following shall be good without alleging more than the substance of the offence (that is to say)—

Queensland, ) Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year  
to wit. ) of our Lord \_\_\_\_\_ is (or are) convicted by  
me (or us) \_\_\_\_\_ of Her Majesty's Justices of the Peace for the  
Colony of Queensland, by virtue of "*The Bundaberg Gas and Coke Company (Limited)  
Act of 1884*" (specifying the offence and the time and place when and where the same  
was committed), contrary to the said Act, and for which I (or we) adjudge the said  
to have forfeited the sum of £ \_\_\_\_\_

Given under my hand and seal (or our hands and seals), the day and year first  
above written.

**31. If**

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**31.** If any person who shall be summoned as a witness to attend and give evidence before any justice or justices of the peace, touching any matter of fact contained in any information or complaint for any offence committed against this Act, either on the part of the prosecutor or in behalf of the person accused, shall refuse or neglect to appear at the time and place to be for that purpose appointed, after having been paid or tendered a reasonable sum for his loss of time, charges, and expenses, without a reasonable excuse for his refusal or neglect or appearing, shall refuse to be examined upon oath and give evidence before such justice of the peace, then and in every such case every such person shall forfeit and pay for every such offence any sum not exceeding five pounds.

For compelling witness to attend.

**32.** Any person whosoever thinking himself aggrieved by the order or determination of any justice or justices of the peace in pursuance of this Act, may appeal to the judge of any District Court to be holden within the said town or Municipality of Bundaberg next after the cause of appeal shall have arisen (the person appealing having first given at least fourteen days' notice in writing of such appeal, and the particular nature and matter thereof, to the person appealed against, and forthwith after such notice entering into a recognizance before the convicting justice or justices with two sufficient sureties conditioned to try such appeal and to abide the order and award of the said judge thereon), and such judge, upon due proof of such notice and recognizance having been given and entered into, shall, in a summary way, hear and determine such complaint, and if he shall see cause, may reverse any such judgment, order, or determination, or may mitigate any forfeiture or fine, and may order any money to be returned which shall have been levied in pursuance of such order, rule, by-law, or determination, and shall and may also award such further satisfaction to be made to the party injured or such costs to either of the parties as he shall think reasonable and proper; and every such determination of such judge shall be binding, final, and conclusive upon all parties to all intents and purposes whatsoever.

Appeal to the judge of the nearest District Court.

**33.** No person whosoever shall be subject or liable to the payment of any of the penalties or forfeitures inflicted by virtue of this Act for any offence against this Act, unless an action shall have been brought, or information respecting such offence or offences shall have been lodged before some justice of the peace within three calendar months next after such offence committed.

Proceedings to be within three calendar months.

**34.** No proceedings to be had and taken in pursuance of this Act shall be removed by *certiorari*, or any other writ or process whatsoever, into Her Majesty's Supreme Court of Queensland.

Proceedings not to be quashed for want of form or removed by *certiorari*.

**35.** When

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Persons making distress irregularly not to be deemed trespassers *ab initio*.

**35.** When any distress shall be made for any sum of money to be levied under the authority of this Act, or any order or by-law made in pursuance thereof, the distress itself shall not be deemed unlawful, nor shall the party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, conviction, warrant, or distress, or any other proceedings relating thereto, nor shall the party distraining be deemed a trespasser (*ab initio*) on account of any subsequent irregularity which shall be afterwards done by the party distraining; but the person aggrieved by such irregularity shall and may recover full satisfaction for the special damages in an action on the case.

Costs of obtaining this Act to be paid before all other claims.

**36.** All the costs, charges, and expenses attending the applying for, obtaining, and passing this Act shall be paid and discharged by the said Company out of the moneys already subscribed, or to be subscribed, or to be received for the purpose of this Act in preference to all other payments whatsoever.

Not to affect other rights than those herein mentioned.

**37.** Nothing in this Act contained shall be deemed to affect or apply to any right, title, or interest of Her Majesty, her heirs and successors, or of the body corporate and politic, known by the name, style, and title of the Municipality of Bundaberg, or of any body or bodies politic or corporate whomsoever, or of any other person or persons, excepting such as are mentioned therein, or of those claiming by or under her, it, or them.

Certain clauses of agreement annulled.

**38.** The seventh, eighth, and ninth clauses of the said recited indenture are hereby annulled.

Power of local authority to purchase Company's undertaking after ten years.

**39.** At any time after the expiration of ten years from the passing of this Act the local authority within whose jurisdiction the Company carries on its operations may purchase and take from the Company the whole of the lands, buildings, works, mains, pipes, and apparatus of the Company on such terms as to ascertainment and payment of the purchase money as may be from time to time prescribed by Parliament.

In the event of the Company carrying on its operations within the jurisdiction of more than one local authority, such purchase may be made by such one of the local authorities as may be prescribed by Parliament.

Interpretation clause.

**40.** The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such a construction, (that is to say),—

The word "street" shall mean public street, market place, square, crescent, highway, roadway, lane, bridge, passage, or other place:

The

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The word "lamp" shall mean lamp, whether on a post or affixed to any building, lamp-post, pillar, pilaster, or lamp-iron :

The expression "private way" shall mean private way, lane, building, passage, or grounds :

The word "building" shall mean place of public worship or public amusement, public institution, public or private office, manufactory, house, shop, dwelling, inn, tavern, or other building whatsoever, court, garden, or yard :

The word "pipe" shall mean main, main pipe, supply pipe, stop-cock, water-cock, syphon, plug, branch, apparatus, conduit :

The word "ground" shall mean stones, ground, soil, pavement, material, or roadway of any street :

The word "material" shall include any iron, wood, stone, or other substance used in the construction of any bridge :

The words "justice or justices" shall mean justice or justices of the peace for the town or Municipality of Bundaberg, or for the Colony of Queensland, as the case may require :

The words "Corporation of the Municipality of Bundaberg" shall mean the mayor, aldermen, and citizens of the town of Bundaberg, or the Municipality of Bundaberg, or the municipal authority representing the citizens thereof, or exercising for the time being municipal authority therein :

The expression "town of Bundaberg and its suburbs" shall mean and include the corporate limits of the Municipality of Bundaberg.

**41.** This Act shall be styled and may be cited as "*The Bundaberg Gas and Coke Company (Limited) Act of 1878.*" Short title.

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THE SCHEDULE.

THIS INDENTURE, made the twenty-seventh day of September, in the year of our Lord one thousand eight hundred and eighty-three, between Robert Fleming, of the one part, and the Municipal Corporation of Bundaberg, of the other part: Whereas the said Robert Fleming has agreed to manufacture gas and coke, and to supply the same to the inhabitants of the town of Bundaberg and its suburbs, and to do all such things as are incidental or conducive to the attainment of the said objects, upon the terms and in the manner hereinafter mentioned: and also that the said Robert Fleming may at any time hereafter apply to and obtain an Act of Parliament for the purposes thereof: Now these presents witnesseth that the said Robert Fleming doth hereby for himself, his heirs, executors, and administrators, in consideration of the covenants hereinafter contained,

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contained, covenant with the said Municipal Corporation of Bundaberg and its successors, and the said Municipal Corporation of Bundaberg doth hereby for itself and its successors, in consideration of the covenants hereinafter contained on the part of the said Robert Fleming, covenant with him, the said Robert Fleming, his heirs, executors, and administrators, so far as the Agreements hereinafter contained are to be performed by the said parties respectively, according to the true intent and meaning of these presents, as follows: Now this Indenture witnesseth that it is hereby covenanted and agreed by and between the said parties hereto as follows:—

1. That the said Robert Fleming shall manufacture gas and coke, and shall supply the same to the inhabitants of the town of Bundaberg and its suburbs, and shall do all such things as are incidental or conducive to the attainment of the said objects.

2. That the said Municipal Corporation of Bundaberg shall authorise and empower the said Robert Fleming, subject to the provisions and restrictions hereinafter mentioned, by his servants, agent, or workmen, and others, from time to time, to erect, sink, cut, lay, place, and fix such retorts, gasometers, receivers, buildings, cisterns, engines, machines, drains, sewers, watercourses, pipes, reservoirs, and other apparatus, works, and devices of such construction, and in such manner as the said Robert Fleming shall think necessary or proper for carrying the objects and purposes of this Agreement into execution; and also, subject to provisions and clauses hereinafter mentioned, to break up the soil and pavements of and cut into and remove the materials of any streets, highways, roads, ways, lanes, bridges, passages, and other public places, or any part of them, or either of them, and to erect posts, pillars, pilasters, lamp-irons, lamps, and other apparatus in and upon the same streets, highways, roads, ways, lanes, bridges, passages, and other public places, or any of them, against any wall or walls erected on or adjoining to them, or any of them, and to dig and sink trenches and drains, and to lay and place meters, mains, and pipes, and put stop-cocks, syphons, plugs, or branches from such pipes in, under, across, and along places, streets, ways, lanes, bridges, or public passages, and also with the consent of the owners or occupiers thereof, in, under, across, and along any private ways, buildings, passages, grounds, and other places in such manner as shall be necessary for the purpose of carrying this Agreement into execution, or supplying any such lights as aforesaid, and from time to time alter the position of and to repair, relay, and maintain such pipes, stop-cocks, syphons, and plugs, or branches, or other necessary apparatus from any main or pipe laid in or upon any street, road, highway, lane, bridge, passage, or public or private place by the said Robert Fleming by virtue of this Agreement into or through any dwelling-house or houses, manufactories, public or private buildings or grounds, for the purpose of lighting the same, or any other public or private buildings or grounds for the purpose of lighting the same, or any other public or private lamp or lamps, from any such mains or pipes, and to erect and set up any machine or other apparatus necessary or requisite for securing to any dwelling-house or houses, manufactories, public or private buildings, a proper and competent supply of gas, or for measuring and ascertaining the extent of such supply. And also to alter and amend any bad or imperfect work which shall have been placed or which shall be injured or damaged in such dwelling-house or houses, or manufactories, public or private buildings, and to do all such other acts, matters, and things as the said Robert Fleming shall from time to time think necessary and convenient for completing, amending, repairing, improving, supplying, and using the same, and for carrying into effect the purposes and meaning of this Agreement, provided a proper compensation be made for any damage done thereby.

3. That the said Robert Fleming contracts with the Corporation of the Municipality of Bundaberg, or persons having control, direction, or management, of the highways or any of them within the limits of this Agreement, for supplying the same with gas. And also may contract with any person for supplying with gas any such person or any streets, ways, lanes, bridges, or passages, manufactories, shops, warehouses, public or private houses or buildings belonging to him or in which he is interested, or over which he has the direction or control within the limits of this Agreement in such manner and under such stipulation as the said Robert Fleming shall think proper, consistent with the powers contained in this Agreement.

4. That

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4. That the said Robert Fleming shall erect public lamps in such place or places as the said Municipal Corporation of Bundaberg shall think fit, but only at such places as the main pipes for carrying the said gas have been laid down and within the limits of the main pipes. And this Agreement provided that the said Municipal Corporation of Bundaberg undertake to order at least twenty lamps so soon as the said Robert Fleming is prepared to supply the same with gas; and that the said public lamps shall be lighted for a period of twenty-two nights per month from sunset until the hour of four o'clock in the following morning for a period of twenty-two days in each month; the remaining days of the month being days at which the moon shall be nearest its full. The said Municipal Corporation of Bundaberg paying to the said Robert Fleming the sum of six pounds per annum for each lamp so erected as aforesaid, the said money to be paid monthly, provided that the said Robert Fleming shall not be bound to carry or lay down any main or other pipes for the purpose of carrying gas if there shall be no consumers within one hundred yards of each other, except by special arrangement in the said town of Bundaberg or its suburbs.

5. That the said gas so made and provided by the said Robert Fleming shall be of that quality known as seventeen candle gas.

6. That the price charged by the said Robert Fleming for the said gas shall be, for the first four years of this Agreement, twelve shillings and sixpence per one thousand cubic feet, and shall be then decreased yearly by the sum of fivepence per one thousand cubic feet for a period of six years.

7. That the said Municipal Corporation of Bundaberg shall not for a period of ten years enter into any other contract for the purpose of supplying the inhabitants of the town of Bundaberg and its suburbs with gas other than this.

8. That the said Municipal Corporation of Bundaberg shall for such period of ten years grant and allow to the said Robert Fleming the sole right to manufacture gas and coke, and to supply the same to the inhabitants of the town of Bundaberg and its suburbs, and to do all such things as are incidental or conducive to the attainment of the said objects, the period of ten years to be computed from the time at which the said Robert Fleming shall commence to manufacture such gas, coke, &c., which he covenants and undertakes shall be within two years from the date of these presents.

9. That at the termination of the said ten years the said Municipal Corporation of Bundaberg shall have sole right of purchasing the said gas works and all things incidental thereto from the said Robert Fleming, at a valuation to be arrived at by two arbitrators, one of the said arbitrators to be appointed by the said Municipal Corporation of Bundaberg, and the other by the said Robert Fleming, provided that the said Corporation exercise their right of purchasing within a period of six months from the date of the expiration of the said ten years.

10. It shall be lawful for the said Robert Fleming, and he is hereby fully authorised and empowered (subject to the regulations herein contained) from time to time to carry, fit up, and furnish any pipes, cocks, or branches, or other necessary apparatus from any main pipes in any roadway, street, lane, bridge, or other public passage, or place laid by or belonging to the said Robert Fleming in or through any dwelling-house, manufactories, public or private buildings, for the purpose of lighting the same or any public or private lamps, with the consent of the owner and occupier of such dwelling-house, manufactories, public or private buildings.

11. That the said Municipal Corporation of Bundaberg shall empower and authorise the said Robert Fleming to break or take up or remove any of the pavements, ground, or material in any road, street, lane, bridge, way, or other public passage or place for the purpose of laying down or repairing any main pipes, or of altering the position of any such main pipes. Provided that notice in writing of his intention so to break or take up such pavements, ground, or material, specifying the road, street, way, lane, bridge, or other public passage or place, and the particular part thereof, intended to be broken, taken up, or removed, shall have been given to the surveyor of the Municipality of Bundaberg, or shall have been left for him at his public office at least twenty-four hours before such pavement, ground, or material, or any part thereof, shall be so broken up, except in cases of emergency, arising from defects in any of the pipes or in  
any



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any other case of great emergency, when such notice shall be given as soon as possible after such pavements, ground, or material, or any part thereof, shall be broken or taken up. Provided that in case there shall be no such surveyor, all notices which in and by this Agreement are directed to be given to the surveyor of the Municipality of Bundaberg, shall and lawfully may be given to the mayor or town clerk of the said Municipality of Bundaberg. And provided that when and as often as the said Robert Fleming shall have so broken up or removed the stones, ground, soil, pavement, or material in or of any road, street, way, lane, bridge, or other public passage or place, or any part thereof, the said Robert Fleming shall, and he is hereby required immediately thereafter to reinstate and make good such ground, soil, pavement, or material to the satisfaction of the person having the control, direction, or superintendence of such pavement, soil, ground, or material respectively; and the said Robert Fleming shall carry or cause to be carried away all the surplus earth, filth, and rubbish occasioned thereby at his own costs and charges; and during the time that such works are carrying on, and until such ground, soil, pavement or material is reinstated as aforesaid, the said Robert Fleming shall provide necessary lights at night, and otherwise guard the said works so as to prevent any damage or inconvenience happening to passengers, cattle, or carriages; and in case the said Robert Fleming shall make default in reinstating such ground, soil, pavement, or material as aforesaid, or removing any rubbish occasioned thereby, or in placing and setting up such lights at night, and otherwise guarding the said works so as to prevent accidents to passengers, cattle, and carriages, then and in every such case the person having for the time being control, direction, or superintendence as aforesaid, shall reinstate such ground, soil, pavement, and material, and carry away all rubbish occasioned thereby, and during the time that such works are carried on to provide necessary lights at night, and that then and in every such case the expenses thereof shall be paid by the said Robert Fleming to the persons so reinstating the same.

12. That the Municipality of Bundaberg, or other person having the control, direction, or superintendence of the said roads, streets, lanes, bridges, and other public passages and places respectively, shall from time to time supply full information to the said Robert Fleming respecting the permanent levels of the said roads, streets, ways, lanes, and other public passages, either without notice requiring such information, or within fourteen days after they shall have received notice from the said Robert Fleming so to do; the said Robert Fleming shall lay and place his mains, main pipes, stop-cocks, plugs, and branches, and fix his lamps and other means of lighting so as to accommodate them, the said levels, and in case the said Corporation, or other person as aforesaid, shall neglect or refuse to supply such information after such notice from the said Robert Fleming, and shall at any time thereafter change or vary any of the said levels, so as to raise, or sink, or otherwise alter the situation, line, or direction of any of the main pipes, stop-cocks, plugs, or branches which shall have been laid down for the purpose aforesaid, and in accordance with this Agreement, then the said Robert Fleming shall raise, or sink, or alter the situation, line, or direction of such main pipes, stop-cocks, plugs, or branches, and the reasonable costs and charges of doing the same shall immediately thereafter be paid to the said Corporation.

13. Provided always that if by raising, sinking, or altering any of the said main pipes, cocks, syphons, plugs, or branches of the said Robert Fleming any damage or injury shall be done to the same by the said Corporation or its servants, or such other person as aforesaid, then and in such case such damage or injury shall be made good to the said Robert Fleming as soon as circumstances will permit, and the costs, charges, and expenses thereof shall be made good to him on demand by the said Corporation or other person aforesaid.

14. The following words and expressions in this Agreement shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such a construction (that is to say)—The word "street" shall mean public street, market place, square, crescent, highway, roadway, lane, bridge, passage or other place. The word "lamp" shall mean lamp, whether on a post or affixed to any building, lamp-post, pillar, pilaster, or lamp-iron. The expression "private way" shall mean private way, lane, building, passage, or grounds. The word "building"

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*Bundaberg Gas and Coke Company (Limited) Act.*

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“building” shall mean place of public worship or public amusement, public institution, public or private office, building whatsoever, court, garden, or yard. The word “pipe” shall mean main pipe, supply pipe, stop-cock, water-cock, syphon, plug, branch, apparatus, conduit. The word “ground” shall mean stones, ground, soil, pavements, materials, or roadway of any street. The word “material” shall include any iron, wood, stone, or other substance used in the construction of any bridge. The words “Corporation of the Municipality of Bundaberg” shall mean the mayor, aldermen, and citizens of Bundaberg or the municipal authority representing the citizens therein.

In witness whereof the Common Seal of the said Corporation of the Municipality of Bundaberg hath been hereto affixed, and the said Robert Fleming hath hereunto set his hand and seal the day and year first before written.

The Common Seal of the said Corporation of  
Bundaberg was hereto affixed by me,  
Robert Thompson, Town Clerk, the proper  
officer thereof for such purpose, in the  
presence of

R. THOMPSON,  
Town Clerk.

} WALTER ADAMS, Mayor. [L.S.]

Signed, sealed, and delivered by the said Robert }  
Fleming in the presence of } ROBERT FLEMING.

THOS. GOODALL,  
Clerk to John Guthrie,  
Solicitor, Brisbane.

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# COLONIAL ATTORNEYS RELIEF ACT AMENDMENT ACT, 1884.

(Circular.)

Downing Street,  
23rd July, 1884.

SIR,

I have the honour to transmit to you, for your information and publication in the Colony under your Government, a copy of the Imperial Act, 47 and 48 Vic., chap. 24, entitled "*An Act to Amend the Colonial Attorneys Relief Act.*"

I have, &c.,

DERBY.

The Officer Administering the  
Government of Queensland.

## CHAPTER 24.

### AN ACT TO AMEND THE COLONIAL ATTORNEYS RELIEF ACT.

A.D. 1884.

[3rd July, 1884.]

20 and 21 Vic., c. 39.—37 and 38 Vic., c. 41.

WHEREAS it is expedient to extend the provisions of "*The Colonial Attorneys Relief Act*" as to certain colonies or dependencies:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Extension of 20 and 21 Vic., c. 39—37 and 38 Vic., c. 41—to Colony on application of Governor, &c.*

1. Upon application made by the Governor or person exercising the functions of Governor of any of Her Majesty's colonies or dependencies, and after it has been shown to the satisfaction of Her Majesty's Principal Secretary of State for the Colonies, that the system of jurisprudence as administered in such colony or dependency answers to and fulfils the conditions specified in section three of "*The Colonial Attorneys Relief Act*," and also that the attorneys and solicitors of the superior courts of law or equity in England are admitted as attorneys and solicitors of the superior courts of law or equity of such colony or dependency, on production of their certificates of admission in the English courts, without service in the colony or dependency, or examination, except in the laws of the colony or dependency in so far as they differ from the laws of England, Her Majesty may from time to time by Order in Council direct "*The Colonial Attorneys Relief Act*" to come into operation as to such colony or dependency, although persons may in certain cases be admitted as attorneys or solicitors in such colony or dependency without possessing all the qualifications for admission or having fulfilled the conditions specified in the said section three, and thereupon, but not otherwise, the provisions of "*The Colonial Attorneys Relief Act*" shall apply to persons duly admitted as attorneys and solicitors in such colony or dependency after service and examination; that is to say, no attorney or solicitor of any such colony or dependency shall be admitted as a solicitor of the Supreme Court in England unless, in addition to the requirements of "*The Colonial Attorneys Relief Act*," he prove by affidavit that he has served for five years under articles of clerkship to a solicitor or attorney-at-law in such colony or dependency, and passed an examination to test his fitness and capacity, before he was admitted an attorney or solicitor in such colony or dependency, and further that he has since been in actual practice as attorney or solicitor in such colony or dependency for the period of seven years at the least.

*Short Title.*

2. This Act may be cited as "*The Colonial Attorneys Relief Act Amendment Act, 1884.*"

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\* Published in *Queensland Government Gazette* of the 4th of October, 1884.



# COLONIAL PRISONERS REMOVAL ACT, 1884.

THE SECRETARY OF STATE FOR THE COLONIES to THE OFFICER ADMINISTERING THE GOVERNMENT OF QUEENSLAND.

(Circular.)

Downing Street,  
14th August, 1884.

SIR,

I have the honour to transmit to you, for information and publication in the Colony under your Government, a copy of the Imperial Act, 47 and 48 Vict., cap. 31, entitled "An Act to make further provision respecting the removal of Prisoners and Criminal Lunatics from Her Majesty's Possessions out of the United Kingdom."

I have, etc.,

DERBY.

The Officer Administering  
the Government of Queensland.

## ARRANGEMENT OF SECTIONS.

Section.

### *Preliminary.*

1. Short title.

### *Prisoners Removal.*

2. Removal of prisoners from British possessions in certain cases.
3. Return of removed prisoner.
4. Regulations as to removal.
5. Removing authority.
6. Evidence of act of Government of British possession or Secretary of State.
7. Warrant for removal of prisoner.
8. Dealing with removed prisoner.
9. Escape of prisoner from custody.

### *Criminal Lunatics.*

10. Application of Act to removal of criminal lunatics.

### *Miscellaneous.*

11. Cost of removal.
12. Power of legislature of British possession to pass laws for carrying Act into effect.
13. Power as to making and revocation of Orders in Council.
14. Application of Act to Channel Islands and Isle of Man.
15. Application of Act to place under foreign jurisdiction Acts.
16. Savings.
17. Application of Act to existing prisoners and criminal lunatics.
18. Definitions.

## CHAPTER 31.

AN ACT TO MAKE FURTHER PROVISION RESPECTING THE REMOVAL OF PRISONERS AND CRIMINAL LUNATICS FROM HER MAJESTY'S POSSESSIONS OUT OF THE UNITED KINGDOM.

A.D. 1884.

[28th July, 1884.]

WHEREAS it is expedient to provide for the removal of prisoners undergoing sentence, and of criminal lunatics from one British possession to another British possession, or to the United Kingdom:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PRELIMINARY.

#### *Short Title.*

1. This Act may be cited as "*The Colonial Prisoners Removal Act, 1884.*"

PRISONERS

\* Published in *Queensland Government Gazette* of the 11th of October, 1884.

## PRISONERS REMOVAL.

*Removal of Prisoners from British possessions in certain cases.*

2. Where as regards a prisoner undergoing sentence of imprisonment in any British possession for any offence it appears to the removing authority hereinafter mentioned either—

- (a.) That it is likely that the life of the prisoner will be endangered or his health permanently injured by further imprisonment in such British possession; or,
- (b.) That the prisoner belonged, at the time of committing the said offence, to the Royal Navy or to Her Majesty's regular military forces; or,
- (c.) That the offence was committed wholly or partly beyond the limits of the said British possession; or,
- (d.) That by reason of there being no prison in the said British possession in which the prisoner can properly undergo his sentence or otherwise the removal of the prisoner is expedient for his safer custody or for more efficiently carrying his sentence into effect; or
- (e.) That the prisoner belongs to a class of persons who under the law of the said British possession are subject to removal under this Act;

in any such case the removing authority may, subject nevertheless to the regulations in force under this Act, order such prisoner to be removed to any British possession or to the United Kingdom to undergo his sentence or the residue thereof.

*Return of removed prisoner.*

3.—(1.) Where a prisoner has been removed in pursuance of this Act, a Secretary of State or the Government of a British possession to which the prisoner has been so removed, may order the prisoner, for the purpose of undergoing the residue of his sentence, to be returned to the British possession from which he was removed.

(2.) If a Secretary of State or the Government of a British possession to which a prisoner is removed under this Act, requires the prisoner to be returned for discharge to the British possession from which he was removed, the prisoner shall, in accordance with the regulations under this Act, be returned to the said British possession for the purpose of being there discharged at the expiration of his sentence. In any other case a prisoner when discharged at the expiration of his sentence shall be entitled to be sent free of cost to the British possession from which he was removed:

Provided that where a prisoner at the date of his sentence belonged to the Royal Navy or to Her Majesty's regular military forces, nothing in this section shall require such prisoner to be returned to the British possession from which he was removed, or entitle him to be sent there free of cost.

*Regulations as to removal.*

4.—(1.) It shall be lawful for Her Majesty in Council from time to time to make, and when made, revoke and vary regulations as to the removal, return, and discharge of prisoners under this Act.

(2.) The regulations may provide for varying the conditions of a sentence of imprisonment passed in a British possession, where they differ from the conditions of a sentence of imprisonment in the part of Her Majesty's dominions to which the prisoner is removed, with a view to bringing them into conformity with the latter conditions, but the prisoner shall not by reason of such variation undergo an imprisonment of any longer duration; and where the latter conditions appear to a Secretary of State to be more severe than the former conditions, the Secretary of State may remit a portion of the imprisonment, so that the punishment undergone by the prisoner shall not in the opinion of the Secretary of State be more severe than the punishment to which the prisoner was originally sentenced, and the sentence of imprisonment shall, so long as the prisoner remains in the part of Her Majesty's dominions to which he is removed, be carried into effect as if the conditions thereof as so varied were the conditions of the original sentence.

(3.) The regulations may also provide for the forms to be used under this Act and generally for the execution of this Act.

(4.) All regulations made under this section shall be duly observed by all persons and shall be laid before both Houses of Parliament as soon as may be after they are made.

*Removing authority.*

5. The removing authority for the purposes of this Act shall be a Secretary of State acting with the concurrence of the Government of every British possession concerned.

*Evidence of act of Government of British possession or Secretary of State.*

6.—(1.) The concurrence of the Government of a British possession, and any requisition by the Government of a British possession may be given or made by the Governor in Council or such other authority as may be from time to time provided by the law of that possession, but shall be signified by writing under the hand of the Governor or of the Colonial Secretary or of any other officer appointed in this behalf by the law of that possession.

(2.) Any writing purporting to give such concurrence or make such requisition, and to be signed by the Governor or Colonial Secretary or other officer for the time being, shall be conclusive evidence that the concurrence of or requisition by the Government of the British possession has been duly given or made according to law; and any writing purporting to be under the hand of a Secretary of State, and to order the removal of a prisoner from a British possession, shall be conclusive evidence that such order has been duly given by the Secretary of State, and every such writing as above in this section mentioned shall be admissible in evidence in any court in Her Majesty's dominions without further proof.

*Warrant*

*Warrant for removal of prisoner.*

7.—(1.) Where the removal of a prisoner from a British possession is ordered in pursuance of this Act, a Secretary of State or the Governor of the British possession may by warrant under his hand direct the prisoner to be removed to the part of Her Majesty's dominions mentioned in the said order, and for that purpose to be delivered into the custody of the persons named or described in the warrant or some one or more of them, and to be held in custody and conveyed by sea or otherwise to the said part of Her Majesty's dominions, there to undergo his sentence, or the residue thereof, until returned in pursuance of this Act or discharged, and such warrant shall be forthwith executed according to the tenor thereof.

(2.) Where a prisoner is to be returned to a British possession, a Secretary of State or the Governor of the possession in which he has been undergoing his sentence, shall issue a like warrant, which shall be duly executed according to the tenor thereof.

(3.) Every warrant purporting to be issued in pursuance of this Act, and to be under the hand of a Secretary of State or Governor of a British possession, shall be received in evidence in every court of justice in Her Majesty's dominions without further proof, and shall be evidence of the facts therein stated, and all acts done in pursuance of such warrant shall be deemed to have been authorised by law.

*Dealing with removed prisoner.*

8.—(1.) Every prisoner removed in pursuance of this Act shall, until he is returned in pursuance of this Act, be dealt with in the part of Her Majesty's dominions to which he is removed, in like manner as if his sentence (with such variation, if any, of the conditions thereof as may have been duly made in pursuance of regulations under this Act) had been duly awarded in that part, and shall be subject accordingly to all laws and regulations in force in that part, with the following qualifications, that his conviction judgment and sentence may be questioned in the part of Her Majesty's dominions from which he has been removed in the same manner as if he had not been removed, and that his sentence may be remitted and his discharge ordered in the same manner and by the same authority as if he had not been removed.

(2.) The officer in charge of any prison, on request by any person having the custody of a prisoner under a warrant issued in pursuance of this Act, and on payment or tender of a reasonable amount for expenses, shall receive such prisoner and detain him for such reasonable time as may be requested by the said person for the purpose of the proper execution of the warrant.

*Escape of prisoner from custody.*

9.—(1.) If a prisoner while in custody in pursuance of this Act, or under a warrant issued in pursuance of this Act escapes, by breach of prison or otherwise, out of custody, he may be retaken in the same manner as a person convicted of a crime against the law of the place to which he escapes may be retaken upon an escape.

*37 and 38 Vict., c. 27.*

(2.) A person guilty of the offence of so escaping or of attempting so to escape, or of aiding or attempting to aid any such prisoner so to escape, may be tried in any of the following parts of Her Majesty's dominions, namely, the part to which and the part from which the prisoner is being removed or returned, and the part in which the prisoner escapes, and the part in which the offender is found, and such offence shall be deemed to be an offence against the law of the part of Her Majesty's dominions in which he may be so tried, and for all purposes of and incidental to the apprehension, trial, and punishment of the person accused of such offence, and of and incidental to any proceedings and matters preliminary, incidental to or consequential thereon, and of and incidental to the jurisdiction of any court constable or officer with reference to such offence, and to the person accused thereof, such offence shall be deemed to have been committed in the said part, and such person may be punished in accordance with "*The Courts (Colonial) Jurisdiction Act, 1874.*"

## CRIMINAL LUNATICS.

*Application of Act to removal of criminal lunatics.*

10.—(1.) The provisions of this Act shall apply to a person in custody as a criminal lunatic in like manner, so far as consistent with the tenor thereof, as they apply to a prisoner undergoing sentence of imprisonment; and separate regulations may be made by Her Majesty in Council under this Act in relation to criminal lunatics and (subject to those regulations) all laws and regulations in force in the part of Her Majesty's dominions in which a criminal lunatic removed or returned is for the time being in custody under a warrant issued in pursuance of this Act, shall apply to such criminal lunatic as if he had become a criminal lunatic in that part.

(2.) Where a person, who is a criminal lunatic by reason of being unfit to be tried for an offence, is removed in pursuance of this Act, and a Secretary of State or the Government of the British possession to or from which such person was removed considers that such person has become sufficiently sane to be tried for the said offence, and requires him to be returned for trial to the British possession from which he was removed, he shall, in accordance with the regulations under this Act, be returned as a prisoner to the said British possession for the purpose of being there tried for the said offence, and shall be removed thither in custody in like manner as if he had been arrested under a warrant on a charge for the said offence.

## MISCELLANEOUS.



## MISCELLANEOUS.

*Cost of removal.*

11.—(1.) The cost of the removal of any prisoner or criminal lunatic under this Act and of his maintenance while in confinement, and of his return, and of his being sent after discharge to any place, shall be paid in such manner as may be arranged between the Governments of the British possessions concerned and the Secretary of State, subject, as regards any cost to be paid out of moneys provided by Parliament, to the consent of the Commissioners of Her Majesty's Treasury.

(2.) Nothing in this Act shall affect any power to recover the expenses of removing or returning any prisoner or criminal lunatic from the property of such prisoner or criminal lunatic or otherwise.

*Power of legislature of British possession to pass laws for carrying Act into effect.*

12. If the Legislature of a British possession pass any law—

- (a.) For determining the authority by whom and the manner in which any jurisdiction, power, or concurrence under this Act is to be exercised or given; or
- (b.) For payment of the costs incurred in the removal, maintenance, return, or sending back after discharge of a prisoner or criminal lunatic; or
- (c.) For dealing in such possession with prisoners or criminal lunatics removed thereto in pursuance of this Act; or
- (d.) For making any class of prisoners subject to removal under this Act; or
- (e.) Otherwise in any manner for the carrying of this Act or any part thereof into effect as regards the said possession,

it shall be lawful for Her Majesty in Council to direct that such law or any part thereof shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act.

*Power as to making and revocation of Orders in Council.*

13.—(1.) It shall be lawful for Her Majesty in Council from time to time to make Orders for the purposes of this Act, and to revoke and vary any Order so made, and every Order so made shall while it is in force have the same effect as if it were enacted in this Act.

(2.) An Order in Council made for the purposes of this Act shall be laid before Parliament as soon as may be after it is made if Parliament is then in session, or, if not, as soon as may be after the commencement of the then next session of Parliament.

*Application of Act to Channel Islands and Isle of Man.*

14. This Act shall extend to the Channel Islands and Isle of Man as if they were part of England and the United Kingdom.

*Application of Act to place under foreign jurisdiction Acts. See 41 & 42 Vict., c. 67.*

15. It shall be lawful for Her Majesty in Council from time to time to direct that this Act shall apply, as if, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place out of Her Majesty's dominions in which Her Majesty has jurisdiction, and which is named in the Order, were a British possession and part of Her Majesty's dominions, and to provide for carrying into effect such application.

*Savings. 44 & 45 Vict., c. 58.*

16. (1.) Nothing in this Act shall affect the provisions of "*The Army Act, 1881.*"

*32 & 33 Vict., c. 10.*

(2.) This Act shall not affect any agreement made either before or after the passing of this Act under "*The Colonial Prisoners Removal Act, 1869,*" nor any provisions contained in the Act of the session of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter eighty-one, intitled "*An Act to authorise the removal from India of Insane persons charged with offences, and to give better effect to inquisitions of lunacy taken in India.*"

*Application of Act to existing prisoners and criminal lunatics.*

17. This Act shall apply to a prisoner who has been convicted, and to a criminal lunatic who has become a criminal lunatic, before the passing of this Act, in like manner as if he had been convicted and become a criminal lunatic after the commencement of this Act.

*Definitions.*

18. In this Act, unless the context otherwise requires, the following expressions have the following meanings; that is to say,—

The expression "British possession" does not include any place within the United Kingdom, the Isle of Man, or the Channel Islands, but includes all other territories and places being part of Her Majesty's dominions, and all territories and places within Her Majesty's dominions which are not part of India and are under one legislature shall be deemed to be one British possession, and any part of India under a Governor or Lieutenant-Governor shall be deemed to be one British possession.

The expression "India" means all territories and places within Her Majesty's dominions which are subject to the Governor-General of India in Council.

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The expression "legislature," where there are local legislatures, as well as a central legislature, means the central legislature only, and in every part of India means the Governor-General in Council.

The expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State.

The expression "Governor" means any person or persons administering the Government of a British possession, and includes the Governor-General of India and also the Governor and Lieutenant-Governor of any part of India.

The expression "Colonial Secretary" includes a person performing the like duties as a Colonial Secretary, whether known as Government Secretary, Chief Secretary to the Government, or by any other title.

The expression "prison" includes any place for the confinement or detention of prisoners whether convicted or unconvicted.

The expression "sentence of imprisonment" means any sentence involving confinement in a prison, whether combined or not with labour, and whether known as penal servitude, imprisonment with hard labour, rigorous imprisonment, imprisonment, or otherwise, and includes a sentence awarded by way of commutation as well as an original sentence passed by the court.

The expression "criminal lunatic" means a person detained in custody by reason of his having been charged with an offence, and either found to have been insane at the time of such offence, or found or certified or otherwise lawfully proved to be unfit on the ground of his insanity to be tried for the same, and includes a person convicted of an offence and afterwards certified or otherwise lawfully proved to be insane.

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By Authority: EDMUND GREGORY, Acting Government Printer, William street, Brisbane.

*Edmund Gregory*  
*16/3/05*





















