

South Africa
College.

CALENDAR

FOR 1928



FIFTEENTH YEAR.

Printed at the Press, Alice, Cape Province, S.A.

South African Native College.

CALENDAR—APPENDIX I.

ACT

To make provision for the recognition of certain institutions as places of higher education; for the control, administration, and regulation of such institutions; for the recognition of certain courses of instruction as being included in higher education, and for certain other incidental matters.

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

CHAPTER I.

CONSTITUTION OF PLACES OF HIGHER EDUCATION.

Application of Chapters I., II. and III. to declared institutions.

1. (1) The provisions of Chapters I., II. and III. of this Act shall apply to such institutions as may by the Minister be declared by notice in the *Gazette* to be places of higher education under the provisions of this Act. An institution so declared is hereinafter called a declared institution.

(2) No such declaration shall be made respecting any University or University College governed by a special Act.

Declaration of institution. Publication of its scheme of Government.

2. (1) No such declaration as is referred to in section one shall be made in the case of any institution unless a scheme for the government of the institution, including the constitution thereof, shall have been approved by the Minister.

(2) Any such scheme shall be published in the *Gazette* not less than thirty days before such approval is given.

(3) A copy of any scheme which has been approved shall be laid upon the Table of both Houses of Parliament within fourteen days after approval, or if Parliament be not sitting, within thirty days of the beginning of the next succeeding session of Parliament.

Minister's declaration and its effect.

3. (1) A declaration of the Minister under section *one* of this Act shall set out the scheme as finally approved, shall be published in the *Gazette*, and shall be of effect from the date stated in such declaration, or if no date be stated, from the date of such publication.

(2) Where any declared institution has previously to the date of the coming into effect of the declaration been governed by any special law, such law shall, from and after that date, cease to have operation and effect as regards that institution.

(3) Until the Minister under the provisions of section *one* of this Act shall make a declaration respecting the institution known as the Cape Technical College, the committee which prior to the repeal of Ordinance No. 21 of 1918 of the Province of the Cape of Good Hope by Ordinance No. 7 of 1923 of the Cape of Good Hope existed under the first mentioned Ordinance shall exercise the powers conferred under that Ordinance as though such repeal had not taken place, and all acts of that committee between the date of such repeal and the date of declaration which might lawfully have been done but for such repeal are hereby validated.

Essentials of scheme.

4. (1) Every scheme approved in terms of section *two* of this Act shall provide for a council, a principal, and a board of studies, and may provide for more than one institution under the same council.

(2) The scheme shall make provision for the management of the institution during the period, which shall not exceed three months, between the date upon which the scheme comes into effect and the date of the first meeting of the council constituted under the scheme.

(3) No provision of any such scheme shall be inconsistent with the provisions of this Act.

Powers and functions of council.

5. (1) The council of any declared institution shall be a body corporate, and under the name specified in the approved scheme may sue and be sued and may acquire, hold, hire, let, hypothecate and alienate property movable and immovable subject always to the provisions of this Act or any other law, and subject also, in the case of any lease, hypothecation or alienation of immovable property to the approval of the Minister.

(2) If any declared institution is in the notice under section *one* of this Act declaring it as such stated to be the successor of any other institution, all property movable or immovable, and all rights, powers and privileges of any kind whatever, which immediately prior to the declaration were vested in the old institution or in trustees thereof, shall as from the date upon which such declaration takes effect, without payment of transfer duty, stamp duty, or registration or other charges accrue to and vest in the council of the declared institution, and all rights of property shall accrue to and vest in the said council which but for declaration would have accrued to the old institution. The council shall assume and be liable for all debts and liabilities of the old institution subject to the conditions under which the same were incurred.

Constitution of council.

6. (1) The council of every declared institution shall consist of not less than ten or more than thirty members, of whom one shall be the principal. Not less than four such members shall be appointed by the Minister; at least one and not more than two shall be appointed by the board of studies; and the remainder shall be appointed by such bodies or persons and in such manner as may be prescribed in the scheme of government approved in respect of the institution concerned.

(2) The scheme of government may make provision—

- (i) for the appointment by the council with the approval of the Minister of additional members of the council; Provided that such additional members shall not be entitled to vote at meetings of the council; and

(b) for the appointment of committees of the council, including persons who are not members of the council: Provided that the chairman of each such committee shall be appointed from among the members of the council.

(3) No action of the council shall be invalidated by any vacancy in its membership or in the office of principal.

Board of studies.

7. (1) The board of studies shall include the principal, who shall be chairman, two other members of the council, and such members of the teaching staff as may be determined by the council with the approval of the Minister.

(2) The board shall exercise such powers respecting the superintendence and regulation of instruction and of matters relating to discipline of the students as shall be assigned to it by the council, and further shall advise the council on all such matters as may be referred to it for report. It shall have power to make recommendations to the council on any matters affecting the management of the institution.

Joint control of council and other body over department of institution.

8. The council may, with the approval of the Minister, exercise jointly with any other body the control of any department of the institution of which it is the council.

Amendment or rescission of scheme.

9. No alteration of a scheme approved under the provisions of this Chapter or rescission of the whole or any portion thereof shall have effect until the alteration or rescission has been approved by the Minister and notified in the *Gazette* and until thirty days have elapsed from the date of such notification.

Rescission of declaration of places of higher education.

10. (1) If at any time in the opinion of the Minister the functions performed by a declared institution are not such as to justify its continuance as a place of higher education, he may in the *Gazette* give notice that he will, six months after the date of such notice, revoke his declaration in respect of such institution, and from and after the date of the expiration

of the said period of six months, the institution shall cease to be a declared institution under this Act unless prior thereto the Minister shall, by notice in the *Gazette*, have withdrawn such first-mentioned notice.

(2) Such revocation shall not affect the legal status, accrued rights and obligations of the council as existing at the date thereof, and the council shall, notwithstanding such revocation, continue to be a body corporate and subject to the provisions of sub-section (1) of section *five* of this Act.

CHAPTER II.

LOANS TO DECLARED INSTITUTIONS.

Purposes for which loan may be granted and manner of application therefor.

11. (1) The Governor-General may, subject to the provisions of this Act, and out of such funds as Parliament may from time to time provide for the purpose, grant loans to a council for all or any of the following purposes—

- (a) the construction or purchase of buildings, fittings, fixtures and furniture of a permanent nature ;
- (b) the acquisition of land or rights or interest in or over land ;
- (c) the payment of the capital outlay on the fencing, gravelling, levelling, or laying out of any ground vested in the Council ;
- (d) the repayment of any loan (other than a loan from the Government) heretofore or hereafter lawfully raised by the council for any purpose mentioned in paragraphs (a), (b) and (c) of this sub-section.

(2) Every application for a loan under this Chapter shall be in writing addressed to the Minister, and shall distinctly state the purpose and object of the proposed loan.

Powers of Minister in connection with loan.

12. The Minister may, upon receipt of any such application, call for such estimates, plans, specifications, reports, returns and other information, and may cause such inspection to be made as he may deem necessary for the purpose of determining whether the proposed loan is one proper to be granted.

Conditions of loan.

13. (1) Every loan granted under this Chapter shall be subject to the conditions in this Chapter prescribed.

(2) Every such loan shall, with the interest due thereon be a charge upon all the property, movable or immovable, present or future, of the applicant council, with priority over any other charge except a pre-existing registered special mortgage.

(3) Any such loan shall be repaid by annual instalments within such period as shall be determined by the Treasury at or before the grant of the loan, but the Governor-General may from time to time extend any such period. Interest on any loan shall be payable every year at a rate determined in like manner by the Treasury: Provided that every such loan shall, together with the interest thereon, be repaid within forty years from the date when the loan or the first instalment thereof was paid to the applicant council.

Repayment of loan.

14. (1) A council to which a loan has been granted under this Chapter shall pay to the Treasury on the first day of January and on the first day of July in every year one-half of the annual payment required, in terms of sub-section (3) of section *thirteen* of this Act, to redeem the principal moneys advanced, together with interest thereon at such rate as the Treasury may determine, and the sums so payable shall continue to be payable until all the moneys lent from time to time, together with interest thereon, have been repaid.

(2) The first payments shall be made on such date (not being more than two years after the loan or the first instalment thereof was paid) as the Governor-General may prescribe, and that date shall be deemed to be the date on which the period for the repayment of the loan commenced: Provided that during any such time as elapses between the date when the first instalment was paid and the date mentioned in this sub-section, interest at the rate aforesaid per annum on any such instalment shall be payable to the Treasury by the council.

CHAPTER III.

GENERAL PROVISIONS AFFECTING DECLARED INSTITUTIONS.

Alienation of land by local authorities for educational purposes authorized.

15. Notwithstanding anything in any law, any local authority which may by law hold and alienate land, may make grants of land belonging to such local authority and do all acts necessary for the transfer to a council of such land for the purposes of such council, subject to the approval of the executive committee of the Province concerned in any case where under the law governing the local authority, such approval is necessary.

Returns and statements to be furnished by councils.

16. (1) Every council shall cause true and correct records to be kept of all its proceedings, and true and correct accounts of all moneys received and paid by or on behalf of the institution, and shall once in each year and at the time prescribed by the Minister transmit to him a report of its proceedings and of the management of the institution, together with a duly audited statement of the revenue and expenditure during the preceding year, and shall further furnish the Minister with any information required by him as to the administration and expenditure of the institution.

(2) Every council shall appoint an auditor or auditors approved by the Minister.

Prohibition of religious tests.

17. Without the consent of the Minister no test of religious belief shall be imposed on any person as a condition of his becoming or continuing to be a professor, lecturer, teacher, or student of, or of his holding any office or emolument or exercising any privilege in, any declared institution, nor shall any preference be given to or advantage be withheld from any person on the ground of his religious belief.

Power to refuse admittance and to expel.

18. A council shall have the right to refuse admittance to a declared institution which it controls to any applicant therefor, if it considers that the refusal is in the best interest of the institution, and the council shall further have the right, on like grounds, to expel any student from the institutions

Any action taken under this section by a council shall be reported to the Minister.

Power of Minister to make regulations.

19. (1) The Minister may make regulations, not inconsistent with this Act, respecting—

- (a) the constitution, powers, and method of appointment of councils and the procedure to be observed in filling vacancies therein;
- (b) the conditions of service of the teaching and administrative staffs;
- (c) inspection on his behalf of the premises, instruction, and administration of a declared institution;
- (d) the basis of contribution by the Government to the expenditure of councils on higher education and for purposes incidental thereto;
- (e) payment by councils of interest and repayment of capital on Government or private loans;
- (f) grants for bursaries and scholarships;
- (g) the establishment and management of a Provident Fund for members of the teaching and administrative staffs of declared institutions;
- (h) the issue of certificates and diplomas by councils;
- (i) any other matters connected with the carrying out of the provisions of this Act.

(2) No regulation framed under paragraph (g) of sub-section (1) of this section shall require payments from a part-time member of the teaching or administrative staff of any institution.

CHAPTER IV.

MISCELLANEOUS.

Power to recognize courses of instruction as being included in higher education, and to make regulations.

20. (1) The Minister shall have power to recognize courses of instruction intended mainly for students over sixteen years of age as being included in higher education, whether such courses be held in institutions to which the provisions of Act No. 20 of 1917 or Chapters I. to III. of this Act apply or in other institutions or under other bodies or persons than the councils of such institutions: Provided that no such course held

in an institution controlled by the administration of any Province shall be so recognized without the concurrence of that administration.

(2) Regulations may be framed under this section prescribing, with a view to recognition, conditions as to the nature and length of a course, the minimum conditions for admission, tests by examination, inspection, or otherwise of the efficiency of the instruction given, and the conditions of employment of the instructors.

(3) In respect of such recognized courses the Minister may, out of funds provided by Parliament, make such grants-in-aid and on such conditions as he may prescribe by regulation.

Reduction of grant where other grant made for same purpose.

21. Notwithstanding anything contained in the regulations framed under sections *nineteen* and *twenty* of this Act or section *twelve* of Act No. 20 of 1917, the Minister shall have power to deduct from the grant payable under any of the said regulations any grant applied to the same purpose and paid under another regulation.

Interpretation of terms.

22. In this Act, unless inconsistent with the context—
- “Minister” means the Minister of Education or any other Minister to whom the administration of this Act may from time to time be assigned ;
 - “local authority” means any municipal council, borough council, town council or village council, or any town board, village management board, local board or health board, or any divisional or rural council ;
 - “principal” in relation to a declared institution includes any officer thereof exercising the functions of a principal of the institution ;
 - “regulation” means any regulation made and in force under this Act ;
 - “this Act” includes the regulations ;
 - “council” means the governing authority of any declared institution.

Short title.

23. This Act may be cited for all purposes as the Higher Education Act, 1923.

APPENDIX II.

REGULATIONS FRAMED UNDER SECTION NINETEEN OF THE HIGHER EDUCATION ACT, NO 30 OF 1923.

INSTITUTIONS DECLARED TO BE PLACES OF HIGHER EDUCATION.

I.—DECLARATION OF MINISTER AND SCHEME OF GOVERNMENT.

1. The provisions of the Act relating to declared institutions shall apply only to institutions specially declared under the Act to be places of higher education.

2. The scheme of Government, approval of which is necessary prior to the declaration, shall be deemed to include all provisions of the Act and of these regulations, provided that the Minister may, under the powers conferred in section *nineteen* of the Act, approve of regulations not inconsistent with the Act applicable to a single institution and included in its scheme of government, and such special regulations shall be of effect notwithstanding anything contained in these general regulations.

3. The draft scheme shall be published in the *Gazette* by direction of the Minister not less than thirty days before approval is given, and shall be laid upon the table of both Houses of Parliament within fourteen days of approval or, if Parliament be not sitting, within thirty days of the beginning of the next succeeding session of Parliament.

4. The scheme shall be of effect from the date prescribed in the Minister's declaration of approval, or, if no such date be prescribed, from the date of publication in the *Gazette* of that declaration.

II.—COUNCILS.

5. (a) The scheme shall prescribe the constitution of the Council, in which shall be vested the government and executive control of the institution, and shall indicate the authority responsible for the exercise of the functions of the Council during any period not exceeding three months prior to the first meeting of the Council. The authority aforesaid shall, not more than two

months after his approval of the scheme, inform the Minister of the names of persons appointed to be members of the Council other than those to be appointed by the Minister.

(ii) The Minister shall cause to be published in the *Gazette* the names of persons appointed by him to be members of the Council.

(iii) The Council may, subject to the approval of the Minister, elect honorary members of Council, who shall not be entitled to vote in meetings of Council and shall hold office for three years or such other period as may be determined by the Council.

6. Each appointed member of the Council (unless otherwise herein provided) shall hold office for a period of three years beginning on the first day of January in the year of appointment.

7. Three months before the expiration of the period of office of any member of the Council notice shall be given by the secretary of the Council to the person or body entitled to appoint his successor. If the secretary do not receive due advice of the appointment of a successor before the date when the office becomes vacant, the Council shall at its next meeting report the vacancy to the Minister and may make a recommendation. The Minister shall then appoint a person to fill the vacancy.

8. An appointed member of Council may resign his office by letter addressed to the secretary; he shall be deemed to have resigned his office if he be absent from three consecutive ordinary meetings of Council without leave obtained, or become insolvent or be convicted of a criminal offence, or become incapacitated from fulfilling the duties of his office by mental or bodily infirmity or disease.

9. Within fourteen days of the receipt of advice of a casual vacancy the secretary shall notify the vacancy to the person or body responsible for the appointment, who shall appoint a successor to hold office during the remainder of the period for which the retiring member was appointed. If a successor is not appointed within three months of this notification the Council shall at its next succeeding meeting report the vacancy to the Minister and may make a recommendation. The Minister shall then appoint a person to fill the vacancy.

10. The secretary shall report to the Minister all changes in the membership of the Council.

11. The Council shall submit for the approval of the Minister—

- (i) standing orders prescribing the procedure in the Council meetings, the method of appointment and powers of committees, and the financial arrangements of the institution;
- (ii) conditions of service of the teaching and administrative staffs;
- (iii) the constitution of the Board of Studies and the powers and functions delegated thereto;
- (iv) the creation of any professorship in the institution;
- (v) the names of persons proposed to be appointed as honorary or assessor members of Council under section six (ii) of the Act;
- (vi) conditions for any certificates or diplomas to be awarded by the institution;
- (vii) any scheme for joint control with another body of a portion of the work of the institution;
- (viii) the name of the auditor or auditors who will sign the annual financial statements.

III.—BOARDS OF STUDIES.

12. The Board of Studies shall consist of the principal, who shall be chairman, such members of the teaching staff as shall be decided by the Council, and two persons who are not members of the full-time teaching staff and are appointed by the Council from among the members of the Council.

The powers and functions of the Board shall be decided by the Council with the approval of the Minister.

13. The Board of Studies shall elect annually two of its members to the Council.

IV.—CONDITIONS OF SERVICE.

14. For the purpose of regulations 15 to 21 inclusive, "officer" shall mean a member of the permanent full-time teaching staff.

15. Every officer shall receive notice of his appointment signed by the chairman of the Council, which notice shall indicate the rate of remuneration.

16. The appointment of any officer may be terminated by notice in writing on either side of three months ending on 30th June or 31st December, unless the Minister has approved of any other period or date agreed upon by the Council and the officer.

17. The Council shall have the right to dismiss without notice at any time an officer who is guilty of serious misconduct or gross neglect of duty or is convicted of a criminal offence. The principal shall have power to suspend from duty any officer if he consider such suspension necessary in the interest of the institution, but his action must be confirmed within fourteen days by the Council or the chairman acting for the Council.

18. An officer discharged by the Council for any reason other than the termination of his contract shall have the right to appeal to the Minister, whose decision shall be final. Notice of intention to appeal shall be given to the Minister and to the Council within fourteen days of the receipt of notice from the Council.

19. In the case of officers appointed on transfer from any public education service in South Africa, and assuming duty not later than the first working day in the quarter, salary shall be paid from the beginning of the calendar quarter in which service begins. If such appointment is made from overseas, such allowance shall be paid for transport prior to the assumption of duty as the Council may determine.

20. Every officer shall perform such duties during college vacations as may be required by the Council, provided that not less than six weeks in each calendar year shall be left to his personal disposal.

21. (i) Subject to the exigencies of the college work and suitable provision for the duties of his office, an officer may be granted special leave of absence for a period not exceeding one month for each year of completed service on such terms as the Council may appoint, but full salary shall not be paid for a period of more than three consecutive months during such leave without the approval of the Minister.

(ii) In applying this regulation the Council may give recognition to periods of teaching service in other institutions.

(iii) In cases of incapacity through ill-health, sick leave may be granted on such conditions as the Council may prescribe in each case.

V.—EXISTING RIGHTS.

22. Nothing in these regulations contained shall be deemed to deprive any officer duly appointed before the date prescribed under regulation 4 and holding office at that date of any rights previously obtained by agreement between him and the body governing the institution at that date.

VI.—INSPECTION.

23. The Minister may from time to time cause an inspection to be made of the premises, administration, and instruction of an institution, and may require defects in these respects to be remedied as a condition of the grant-in-aid, of which the whole or part may be withheld until he is satisfied that proper steps have been taken to meet his requirements.

VII.—GRANTS-IN-AID.

24. After 1st April, 1924, the General Purpose grant to an institution shall for each financial year be based on the fee income and other revenue of the preceding calendar year.

On fee income the grant shall be at the rate of £3 to £1 on the first £2,000, £2 to £1 on the following £13,000, and thereafter £1 to £1.

On other revenue the grant shall be at the rate of £2 to £1 on the first £2,000, and thereafter £1 to £1; provided that on fee income derived from bursaries granted out of the general revenue of an institution the grant shall not be more than £1 to £1.

25. The Minister may, with the consent of the Treasury and from funds provided by Parliament, make—

(a) special grants for equipment or maintenance of departments in which expenditure is of necessity relatively high, or for other special purposes;

(b) an annual additional grant diminishing by such amounts as he shall prescribe in the case of a new or rapidly developing institution, provided that in an institution receiving such additional grant no new posts qualifying for membership of the provident scheme shall be created and the grade of no existing post shall be raised without the consent of the Minister.

26. Notwithstanding anything contained in these regulations—

(a) the grant for any financial year in the period ending 31st

March, 1928, shall not be less for any institution than the amount voted by Parliament for the year ending 31st March, 1924;

(b) if the grant in any year shall be shown by the audited accounts to exceed three-fourths of the expenditure on tuition and maintenance during that year, the Minister may deduct such excess from the grant payable in the following year;

(c) if the effect of the application of regulation 24 is to cause the grant in any financial year to exceed that of the preceding financial year by more than one-tenth of the latter, the special consent of the Minister shall be necessary for such excess of increase.

In this regulation the word "grant" shall mean the sum of the General Purposes grant and the additional grant.

VIII.—REPORT AND ACCOUNTS.

27. The Council shall present to the Minister a report on the work of the institution for each calendar year not later than 31st March in the following year accompanied by an audited financial statement for the same period.

The financial statement shall include a balance-sheet as at 31st December and an income and expenditure account for the year.

The Minister may prescribe a form for this account, and may require an auditor's certificate of the observance of any regulation.

IX.—LOANS.

28. The Council shall insure and keep insured against loss by fire in an approved insurance company or companies all buildings and any other property liable to loss by fire, and, in the case of property specially mortgaged under any loan granted under the Act, shall duly cede such policy or policies to the Government as collateral security for the loan.

29. All transactions for the acquisition of property, the erection of buildings, and for the carrying out of works are to be the subject of a Government loan under the Act, and the terms of such loan are to be to the satisfaction of the Minister.

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The Minister may prescribe a form for this account, and may require an auditor's certificate of the observance of any regulation.

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28. The Council shall insure and keep insured against loss by fire in an approved insurance company or companies all buildings and any other property liable to loss by fire, and, in the case of property specially mortgaged under any loan granted under the Act, shall duly cede such policy or policies to the Government as collateral security for the loan.

29. All transactions for the acquisition of property and for the erection of buildings, and for the carrying out of work which are to be the subject of a Government loan under the Act, must be to the satisfaction of the Minister.

30. No building or erection or other work done shall become the subject of a loan under this Act without a certificate being first obtained from the Public Works Department approving of the technical details of the construction and the materials thereof.

No instalments shall be paid without a certificate from the architect employed by the Council.

31. The Minister may issue such instructions as he may deem necessary or desirable as to the procedure to be followed in regard to the application for and other arrangements in connection with any loan not inconsistent with the provisions of the Act.

32. The Council shall maintain and keep in good repair to the satisfaction of the Minister or his representative all buildings and other security given in respect of any loan under this Act.

33. No Government loan shall be issued in respect of any hostel not vested in the Council of the institution.

X.—PROVIDENT FUND.

(i) *Membership.*

34. Membership of this fund shall be compulsory for all full-time members of the permanent teaching staff and the holders of such administrative posts as are approved for the purpose by the Minister taking up an appointment on or after 1st April, 1923, and for such full-time eligible officers in service on that date as shall before 1st October, 1923, declare to the Secretary for Education in writing their intention to become members.

35. On the recommendation of a Council the Minister may admit to membership other officers of the institution, but Government contributions shall be made only on salary earned in respect of service which if full-time service would render membership compulsory.

36. An officer who at the time of appointment is a member of a Government pension scheme shall be credited in the Provident Fund with such an amount representing his interest in that scheme as may be determined by the Treasury.

(ii) *Contributions.*

Each member's normal annual contribution shall be 6 per cent as on the first day of April in each year.

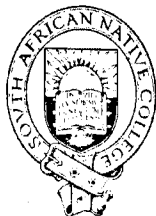


Fort Hare as seen from Alice.

South African Native
College.

CALENDAR

FOR 1928



THIRTEENTH YEAR.

Fort Hare, Alice, Cape Province, S. A.

Table of Contents.

CALENDAR, 1928	3
ALMANAC	4
HISTORICAL SKETCH	5
CONSTITUTION	10
SCHEDULE OF REGULATIONS AFFECTING HOSTELS	16
THEOLOGICAL TRAINING	21
RULES FOR PROCEDURE OF COUNCIL	22
RULES AND REGULATIONS OF SENATUS	24
REPORTS, 1926	27
STATISTICS	49
COUNCIL	54
STAFF	56
SENATUS	57
 GENERAL INFORMATION:	
SCOPE AND OBJECTS, SITUATION,	59
TERMS, ADMISSION OF STUDENTS	59
FEES	60
MEDICAL EXAMINATION	61
GENERAL REGULATIONS	61
HOSTELS	62
SCHOLARSHIPS	63
ENTRANCE QUALIFICATIONS	65
COURSES OF STUDY	66
REGULATIONS FOR EXTERNAL STUDENTS	69
BACHELOR OF ARTS, COLLEGE DIPLOMA, AND PRE-MEDICAL SYLLABUSES	73
COLLEGE DIPLOMA IN EDUCATION	89
JOINT BOARD MATRICULATION	91
COLLEGE MATRICULATION EXAMINATION	100
AGRICULTURE	107
COMMERCIAL EXAMINATIONS AND SYLLABUSES	111
COLLEGE LIBRARY	112
COLLEGE SOCIETIES	113
COLLEGE RECORD	119
COLLEGE REGISTER	128
BALANCE SHEET	131
HIGHER EDUCATION ACT NO. 30 OF 1923.	APPENDIX i.
REGULATIONS UNDER THE ACT	ii.
SCHEME OF GOVERNMENT	iii.