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UNION OF SOUTH AFRICA.

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MINUTES OF PROCEEDINGS

WITH

ANNEXURES

(SELECTED)

OF THE

South African National Convention

HELD AT

Durban, Cape Town and Bloemfontein,

12TH OCTOBER, 1908, TO 11TH MAY, 1909.

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Printed and published pursuant to a Resolution of the House of Assembly,  
dated the 23rd November, 1910.

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SITTINGS OF THE CONVENTION.

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At DURBAN, from 12th October, 1908, to 5th November, 1908.

At CAPE TOWN, from 23rd November, 1908, to 18th December, 1908, and  
11th January, 1909, to 3rd February, 1909.

At BLOEMFONTEIN, from 3rd May, 1909, to 11th May, 1909.

## CONTENTS

### *Minutes of Proceedings.*

	PAGE
Explanatory note by G. R. Hofmeyr, Clerk of the House of Assembly ... ..	v-x.
Delegates and Officers ... ..	xi-xiii.
Delegates appointed in connection with passage of Draft Act through the Parliament of the United Kingdom ... ..	xiv.
List of Annexures to the Minutes of Proceedings ... ..	xv-xxii.
Committees appointed ... ..	xxiii-xxv
Minutes of Proceedings ... ..	1-274.

### *Appendices.*

A. Resolutions adopted by the Inter-Colonial Conference held at Pretoria on the 5th May, 1908, on the subject of Union...	277
B. Confirmatory resolutions adopted by the various Parliaments...	278-279
C. Appointment of delegates to the Convention ... ..	280-281
D. Appointment of representatives for Southern Rhodesia ... ..	281
E. Draft Act as brought up by the Drafting Committee ... ..	282-311
F. First Report of the Convention, with Draft Act as agreed to at Cape Town for submission to the various Parliaments...	312-345
G. Resolutions and amendments to Draft Act adopted by the various Parliaments during the sessions of April, 1909 ... ..	345-349
H. Second Report of the Convention with amendments to Draft Act made at Bloemfontein prior to its final adoption ... ..	349-354
I. Resolutions adopted by the various Parliaments approving of the Draft Act as well as addresses to H.M. the King for the authorization of the proposed Union ... ..	355-357
J. Appointment of delegates to London in connection with the passage of the Draft Act through the Parliament of the United Kingdom ... ..	358-359
K. Schedule of amendments to the Draft Act made in England prior to its introduction into the Parliament of the United Kingdom ... ..	360-364
L. South Africa Act as assented to and promulgated ... ..	364-402

### *Index.*

Index to the Minutes of Proceedings ... ..	405-451
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## EXPLANATORY NOTE.

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### *Preliminary.*

The Minutes of the proceedings of the South African National Convention are printed in accordance with a resolution adopted by the House of Assembly on the 28th November, 1910.

The undersigned, requested thereto by the Government, undertook to superintend the publication of the Minutes, a task which involved, in addition to seeing the actual manuscript through the Press (1) the arrangement of the Minutes in an intelligible and convenient form, and with necessary notes and references (2) a careful scrutiny of the annexures in order to ascertain which should be published (3) the collection of data connected with the Convention, but not included in the Minutes (4) an extensive revision and adaptation of the Dutch version and (5) the compilation of an index.

It may be useful to trace in a few words the steps which led up to the Union of South Africa, to place on record the procedure adopted by the Convention and to explain the method of arranging the contents of this volume.

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### *Steps towards Union.*

Though the South Africa Act is the fruit of the deliberations of the South African National Convention, the seed which gave it birth was sown on the 5th May, 1908, when the Inter-Colonial Conference by the adoption of a series of resolutions took the first practical step towards setting in motion the necessary machinery for the accomplishment of the union of the South African Colonies.

These resolutions which are printed at the end of this volume [Appendix A], not only reaffirmed previous declarations in favour of union, but actually paved the way for the meeting of a National Convention by defining its constitution and fixing the representation of each Colony as well as the method of voting. It was further agreed that Rhodesia "shall be entitled to admission at such time and on such conditions as may hereafter be agreed upon."

The resolutions were subsequently confirmed by the Parliaments of the four South African Colonies in the terms set out in Appendix B and delegates to the Convention were appointed as indicated in Appendix C.

The Government of Southern Rhodesia was subsequently invited (through the Prime Minister of the Colony of the Cape of Good Hope, who acted as the channel of communication in the matter), to send representatives to the Convention; these representatives were given the right to speak, but not to vote. Three representatives were accordingly appointed by His Honour the Administrator, with the advice of his Execu-

tive Council, on the 2nd October, 1908 [Appendix D] and attended the sittings of the Convention.

The first session of the Convention was held at Durban, the second at Cape Town and the third or final session at Bloemfontein. At the conclusion of the second session, on the 3rd February, 1909, the Convention submitted its first report, with a Draft Act attached [Appendix F]. This report was considered by the four South African Parliaments in sessions specially summoned for that purpose in April, 1909, and resolutions and amendments were adopted by them as set forth in Appendix G.

In the Colony of Natal, in addition to the resolutions and amendments referred to, the question whether that Colony should enter into union in terms of the Draft Act (subject to amendment at the forthcoming session at Bloemfontein) was referred for decision to the electors, and a Referendum Act was passed in the same session providing for the ballot, the result of which is given below.

In pursuance of the recommendation contained in the above report, it was decided at the conclusion of the April Parliamentary sessions to convene a sitting of the Convention at Bloemfontein to consider the resolutions and proposed amendments referred to [Appendix G]. The Convention accordingly met there on the 3rd May, 1909, and on the 11th of that month submitted its second and final report [Appendix H] with the Draft Act as finally approved.

The Parliaments of the Cape of Good Hope, the Transvaal and the Orange River Colony met on the 1st June, 1909, and adopted resolutions and addresses respectively approving of the Draft Act, and requesting His Majesty the King to cause the necessary steps to be taken for the authorisation of the proposed union [Appendix I]. Delegates were at the same time appointed by these Parliaments to proceed to London in connection with the passage of the Draft Act through the Parliament of the United Kingdom. [Appendix J].

Immediately after the conclusion of the Bloemfontein session of the Convention, a proclamation, dated the 14th May, 1909, was issued by the Governor of Natal, fixing the 10th June as the date for the taking of the referendum. The ballot resulted in a vote of 11,121 in favour of, and 3,701 against, Union—a majority of 7,420. The Natal Parliament met on the 16th June and adopted resolutions [Appendix I] similar to those agreed to by the other South African Parliaments, but with the modifications rendered necessary by the passing of the Referendum Act and the decision of the electors thereunder.

The delegates proceeded to London and there, in consultation with the Secretary of State for the Colonies, agreed to certain further amendments in the Draft Act prior to its introduction into the Parliament of the United Kingdom; these amendments are set out in Appendix K. The Draft Act, so amended, was then introduced into the

House of Lords, passed through both that House and the House of Commons without further amendment and received the assent of His late Majesty King Edward VII. on the 20th September, 1909. The Act of Union as assented to is printed as Appendix L. A proclamation, dated the 2nd December, 1909, was subsequently issued by the late King declaring the 31st May, 1910, as the date of the establishment of the Union.

It may be added that in terms of the powers conferred upon them on their appointment the delegates consulted with the Secretary of State for the Colonies as to the Royal Instructions to be issued to the Governor-General, and these were promulgated in the *Union Gazette* of the 31st May, 1910. The delegates further, in accordance with their instructions, and in consultation with the chairman and officers of the Proportional Representation Society in England, drafted for the guidance of the South African Governments rules and regulations providing for the first election of Senators according to the principle of proportional representation. These rules and regulations after amendment were published in the *Gazettes* of the various Colonies prior to the date fixed for the election.

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*Procedure by Convention and arrangement of this volume.*

The procedure followed by the Convention was first to adopt a series of resolutions on the subjects which were subsequently to be incorporated in a Draft Act. This occupied their attention until the 18th December, 1908. On the same day a Committee was appointed [page 143] for the purpose of preparing a Draft Act embodying these resolutions the Committee being also instructed to frame amendments in the wording and where necessary to suggest amendments of the substance of the resolutions. As all the resolutions referred to the Drafting Committee are clearly set out in the Minutes at the stage at which they were adopted from time to time, no good purpose would be served by publishing them separately in the form of an Appendix to this volume.

When the Draft Act was brought up by the President as Chairman of the Drafting Committee on the 12th January, 1909, it was not complete as no resolutions dealing with finance and railways had at that stage been adopted by the Convention. Resolutions dealing with these matters were, however, subsequently submitted by the Finance Committee, and will be found on pages 155-159 of the Minutes. These resolutions, after amendment by the Convention, were adopted and referred to the Drafting Committee [page 190], and the clauses, framed by the Committee thereon, were subsequently brought up and incorporated in the Draft Act, in which they are indicated as Finance Clauses.

The Draft Act as brought up contained a number of departures from and additions to the resolutions. In the case of

the Drafting Committee (as in that of every other Committee appointed by the Convention) no record was kept of its proceedings, and it is therefore impossible to establish in what manner the various alterations and additions were made or by whom they were proposed. On the draft prepared by the Committee departures from the resolutions were shown as follows: words added were underlined, general alterations were indicated by a side line, new matter being described as such. Where omissions were made from the resolutions a caret was placed, but the actual words omitted do not appear. In view of the decision not to publish as an Appendix the resolutions referred to the Drafting Committee, and seeing, moreover, that the actual words omitted from these resolutions were not shown in the Draft Act, thus rendering the indication of the departures by the Committee from the resolutions incomplete, it has been decided to eliminate all indications of such departures. The full text of the Draft Act as prepared by the Committee and subsequently considered clause by clause by the Convention is, however, printed as Appendix E.

The Convention commenced the consideration of this Draft on the 13th January, 1909, but it was not incorporated in the Minutes, nor were clauses shown in full when under consideration, and only in case a clause was amended to any considerable extent was it repeated as finally agreed to. This omission has been cured, however, by printing the Draft as Appendix E, the numbers of clauses therein indicated being identical with those referred to in the Minutes.

Advisers, who also acted as draftsmen, attended the Convention to assist in the framing of the Draft Act, and on the 22nd January the Prime Ministers were instructed by resolution to have the Draft Act revised by their respective draftsmen jointly [page 195].

The Drafting Committee brought up a report on the 23rd January [pages 200-206] proposing additional amendments and new clauses which were considered by the Convention; from time to time further amendments were made and certain clauses referred back to the Drafting Committee; and on the 26th January the whole of the Draft Act was referred back to the Committee with power to make such alterations in the phraseology as might be necessary to make the meaning clear [page 219].

Meanwhile the advisers, having gone through the Draft Act, submitted a joint report to the Prime Ministers, in which they suggested further amendments. This report was laid before the Drafting Committee, and on the 28th January the President, as Chairman, intimated to the Convention that the Committee had agreed to a number of these amendments [page 224], which were thereupon put and agreed to and the Draft Act amended accordingly. In the original Minutes these amendments are recorded as a schedule at the end of the day's proceedings, but to facilitate reference and preserve



uniformity they have been incorporated at the stage at which they were considered by the Convention. Although, as stated above, these amendments had already been agreed to in anticipation by the Convention, the report thereon was formally brought up only on the following day, when the Committee suggested still further amendments which were subsequently also adopted by the Convention.

At this stage the Draft Act had been printed and copies were laid before the Convention on the 29th January [page 229] subsequent prints being submitted on the 30th January [page 236], and on the 1st February [page 239]. From the time of the setting up of the Draft Act in print the numbers of clauses in the original draft were no longer quoted in the Minutes, and, consequently, when further amendments were made the numbers of the clauses referred to were those appearing in the particular print under consideration. It would be incurring unnecessary duplication to reproduce *in extenso* these various prints, but, as the numbers of the clauses therein differ materially from those in the original draft, the numbers of the corresponding clauses in the original draft have been placed in brackets after the numbers recorded in the Minutes. Where no such numbers appear the clauses concerned are entirely new.

When the Convention reassembled at Bloemfontein a printed paper containing the resolutions adopted and amendments suggested by the various Parliaments was laid upon the Table and circulated amongst members [Appendix G]. No amendments had been put forward by the Transvaal Parliament, but Gen. Smuts gave notice of some on behalf of the Transvaal delegates, and these have been incorporated in the Minutes [pages 251-253]. All the amendments submitted were considered, and the Draft Act, having been further amended, was printed with the second and final report. The amendments adopted at the Bloemfontein session are fully set out in this report and as the final draft is, except for these amendments, identical with the one originally agreed to at Cape Town, it has been decided to print the report only. [Appendix H].

The original records of the Convention are bound in manuscript in five volumes as stated on page xxii. These volumes were laid upon the Table of the House of Assembly on the 28th February, 1911, and are in the custody of the Clerk of the House. A complete list of the actual annexures to the Minutes will be found on pages xv to xxii, showing those not printed, those originally incorporated in the Minutes, and those appearing in this volume as appendices.

It is naturally impossible to note here every detail in connection with the preparation of this volume, but it may be mentioned that, in addition to those already indicated, the following further alterations have been made:

- (a) In the original record, Order Papers appeared at the end of each day's proceedings, but as the notices and

SOUTH AFRICAN NATIONAL CONVENTION, 1908—'09.

orders contained therein are with a few exceptions embodied in the Minutes, these Order Papers have been omitted. In the case of the exceptions, reference was made in the Minutes to pages only of the Order Paper on which motions or amendments appeared, but all such motions and amendments have also been embodied in detail in the Minutes.

- (b) No record was made of the fact that various prints of the Draft Act were from time to time laid before the Convention, and the Minutes have been amended in this respect.
- (c) On resumptions of debate on motions, consideration of reports and clauses of the Draft Act the numbers of the pages on which the original matter appeared have been inserted.
- (d) Where reports were brought up the wording has as far as possible been made uniform throughout.
- (e) The term "Order of the Day" which was inserted in some cases but not in others has been omitted throughout the printed record.
- (f) Explanatory footnotes have been added wherever convenient.

While the business of the Convention was undoubtedly greatly facilitated owing to the fact that it was conducted in a somewhat informal manner, the preparation of this volume was thereby rendered much more difficult and the compilation of an elaborate index made necessary; but, although the work involved considerable rearrangement and some amplification, no material detail has been omitted, nor has the text or sense been affected in the slightest degree. Consequently where it was found impossible to verify the facts in order to remove anomalies the original record has been left unaltered.

In conclusion, I desire to place on record my appreciation of the valuable assistance rendered to me in the execution of this work by the following members of my staff, viz.: Mr. S. S. Rumble (Chief Committee Clerk), and Messrs C. G. Murray and J. H. van Zuylen (Translators).

GYS. R. HQFMEYR,

Clerk of the House of Assembly and one of the Secretaries to the Convention.

House of Assembly Chambers,  
Cape Town,  
10th September, 1911.

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## LIST OF DELEGATES AND OFFICERS.

*Delegates.**Cape of Good Hope—12:*

- (a) Rt. Hon. Sir J. H. DE VILLIERS, P.C., K.C.M.G.,  
*Chief Justice (President).*
- (b) Hon. J. X. MERRIMAN, M.L.A., *Prime Minister.*
- (c) Hon. J. W. SAUER, M.L.A., *Commissioner of Public Works.*
- (d) Hon. F. S. MALAN, M.L.A., *Secretary for Agriculture.*
- (e) Rt. Hon. Dr. L. S. JAMESON, P.C., C.B., M.L.A.
- (f) Hon. Dr. T. W. SMARTT, M.L.A.
- (f) Hon. E. H. WALTON, M.L.A.
- (g) Col. W. E. M. STANFORD, C.B., C.M.G., M.L.A.  
Mr. J. W. JAGGER, M.L.A.  
Mr. H. C. VAN HEERDEN, M.L.A.  
Mr. G. H. MAASDORP, M.L.A.
- (h) Dr. J. H. M. BECK, M.L.A.

*Natal—5:*

- (i) Rt. Hon. F. R. MOOR, P.C., M.L.A., *Prime Minister.*
- (j) Col. the Hon. E. M. GREENE, K.C., C.M.G., M.L.A.,  
*Minister of Railways and Harbours.*
- (k) Mr. T. HYSLOP, J.P., M.L.A.
- (l) Hon. C. J. SMYTHE, J.P., M.L.A.
- \* Mr. W. B. MORCOM, K.C., M.L.A.
- \* Hon. T. WATT, C.M.G., M.L.A.

(a) Created Baron de Villiers of Wynberg and appointed first Chief Justice of the Union.

(b) Created a Privy Councillor.

(c) Minister of Railways and Harbours in the first Union Ministry.

(d) Minister of Education in the first Union Ministry.

(e) Created a Baronet.

(f) „ Knight Commanders of the Order of St. Michael and St. George.

(g) Appointed a Senator in the first Union Parliament.

(h) Created a Knight Bachelor and elected a Senator in the first Union Parliament.

(i) Created a Knight Commander of the Order of St. Michael and St. George and appointed a Senator in the first Union Parliament.

(j) Appointed a Commissioner of the Railway and Harbour Board.

(k) Created a Knight Bachelor.

(l) First Administrator of the Province of Natal.

\* Mr. Morcom resigned before the Convention resumed in Cape Town on the 11th January, 1909, and was replaced by Mr. Watt.

*Transvaal*—8:

- (m) Gen. The Rt. Hon. LOUIS BOTHA, *P.C., M.L.A., Prime Minister.*
- (n) Gen. The Hon. J. C. SMUTS, *M.L.A., Colonial Secretary.*
- (o) Hon. H. C. HULL, *M.L.A., Colonial Treasurer.*
- (p) Sir GEORGE FARRAR, *Kt., D.S.O., M.L.A.*
- (q) Sir PERCY FITZPATRICK, *Kt., M.L.A.*  
Mr. H. L. LINDSAY, *M.L.A.*  
Gen. S. W. BURGER, *M.L.A.*
- (r) Gen. J. H. DE LA REY, *M.L.A.*

*Orange River Colony*—5:

- (s) Hon. A. FISCHER, *M.L.A., Prime Minister.*  
Hon. M. T. STEYN (*Vice-President*).
- (t) Gen. The Hon. J. B. M. HERTZOG, *M.L.A., Attorney-General.*  
Gen. The Hon. C. R. DE WET, *M.L.A., Minister of Agriculture.*
- (u) Hon. A. BROWNE, *I.S.O., M.L.C.*

*Southern Rhodesia*\*—3.

- (v) His Honour Sir WILLIAM MILTON, *K.C.M.G., Administrator.*
- (w) Hon. C. P. J. COGHLAN, *M.L.C.*  
Hon. Sir LEWIS MICHELL, *Kt.*

- 
- (m) First Prime Minister of the Union.
  - (n) Minister of the Interior, Mines and Defence in the first Union Ministry.
  - (o) Minister of Finance in the first Union Ministry.
  - (p) Created a Baronet.
  - (q) „ a Knight Commander of the Order of St. Michael and St. George.
  - (r) Elected a Senator in the first Union Parliament.
  - (s) Created a Privy Councillor; Minister of Lands in the first Union Ministry.
  - (t) Minister of Justice in the first Union Ministry.
  - (u) Created a Companion of the Order of St. Michael and St. George.
  - (v) „ Knight Commander of the Victorian Order.
  - (w) „ a Knight Bachelor.

\* The Rhodesian representatives were given the right to speak but not to vote.

*Officers.**Secretaries:*

Cape of Good Hope: Mr. E. F. Kilpin, C.M.G.,\* Clerk of the House of Assembly (*Chief Secretary*).

Natal: Mr. G. T. Plowman, C.M.G.,† Secretary to the Prime Minister.

Transvaal: Mr. G. R. Hofmeyr,† Clerk of the Legislative Assembly.

Orange River Colony: Mr. A. M. N. de Villiers,‡ Clerk of the House of Assembly.

*Interpreter:*

Dr. W. E. Bok,§ Private Secretary to Gen. the Rt. Hon. Louis Botha, P.C., M.L.A., Prime Minister of the Transvaal.

*Legal Advisers:*

Hon. R. H. Brand.||

Mr. N. J. de Wet.

Mr. P. Duncan, C.M.G.

Mr. B. K. Long, M.L.A.

Mr. F. Lucas.

Mr. W. Luckhoff.

Mr. H. S. van Zyl, M.L.A.

Mr. W. J. van Zyl, M.L.A.

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\* Created a Knight Commander of the Order of St. Michael and St. George.

† Appointed Clerk of the House of Assembly of the Union Parliament.

‡ " Secretaries to the Administrators of the Provinces of Natal and the Orange Free State respectively.

§ Appointed Secretary to the Prime Minister of the Union.

-|| Created a Companion of the Order of St. Michael and St. George.

List of Delegates\* appointed to proceed to London in connection with the passage of the Draft South Africa Act through the Parliament of the United Kingdom.

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*CAPE OF GOOD HOPE:*

Rt. Hon. Sir J. H. de Villiers.  
Hon. J. X. Merriman.  
Hon. J. W. Sauer.  
Rt. Hon. Dr. L. S. Jameson.  
Hon. J. H. Hofmeyr.

*NATAL:*

Rt. Hon. F. R. Moor.  
Col. the Hon. E. M. Greene.  
Hon. C. J. Smythe.  
Mr. T. Hyslop.  
Hon. T. Watt.

*TRANSVAAL:*

Gen. The Rt. Hon. Louis Botha.  
Gen. The Hon. J. C. Smuts.  
Hon. H. C. Hull.  
Sir George Farrar.  
Sir Percy Fitzpatrick.

*ORANGE RIVER COLONY:*

Hon. A. Fischer.  
Hon. M. T. Steyn.  
Gen. The Hon. J. B. M. Hertzog.  
Hon. A. Browne.

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\* For alterations in titles, etc., see pages xi-xii.

LIST OF ANNEXURES  
TO THE  
MINUTES OF PROCEEDINGS.

No. of Annexure.	SUBJECT.	Remarks.
1	Telegram from the Secretary of State for the Colonies with message of congratulation from H.M. the King.	See Minutes, pp. 2-3.
2	Telegram from the Governor of the Cape of Good Hope with message of congratulation from the Secretary of State for the Colonies.	See Minutes, p. 3.
3	Telegram from the Governor of the Cape of Good Hope with personal message of congratulation.	See Minutes, p. 3.
4-8	Credentials of delegates for the Cape of Good Hope, Natal, Transvaal and Orange River Colony, and of representatives for Rhodesia.	See Minutes, pp. 3-5.
9-17	Telegrams of congratulation from Hon. W. P. Schreiner, Newlands; Postma, Burghersdorp; Afrikander Bond, Steynsburg; Adam Smith, Kokstad; Eendracht, Oudtshoorn; Esselen, Pretoria; Jan Luttwig, jr., Prince Albert; C. J. Krige and Dr. Viljoen, Caledon; and Miss Hobhouse, Pretoria.	Not printed.
18	Letter from H.E. the Earl of Selborne forwarding message of congratulation from His Majesty's Government.	do.
19-23a	Telegrams of congratulation from De Wet, Aliwal North; Mayor and inhabitants of Carnarvon; Lombard, M.L.C., Riebeek East; Griqualand West Farmers' Association, Belmont; Moderator, Dutch Reformed Church, Natal; and Sons of England Society, King William's Town.	do.
24	Correspondence on presentation of petition regarding women's franchise.	do.
25	Letter from J. M. Orpen, C.M.G., on representation for other than white citizens.	do.
26	Letter of congratulation from the Griqualand West Farmers' Association, Modder River.	do.
27-30	Telegrams of congratulation from Stellenbosch Municipal Council; Dutch Reformed Church, George and Cape Town Rings; President, Baptist Union, Alice.	do.
30a	Letter from H.E. the Earl of Selborne acknowledging receipt of Minutes of Proceedings.	do.
31	Similar letter from H.E. Sir Matthew Nathan ...	do.
32	Provisional draft of proposed "British South Africa Act," prepared in Natal.	do.

No. of Annexure.	SUBJECT.	Remarks.
33	Petition from 56 women of South Africa in opposition to women's franchise.	Not printed.
34	Division List No. 1 ... ..	See Minutes, p. 16.
35	Copy of reply to telegrams, and letters of congratulation.	Not printed.
36	Letter from S. Estcourt offering land at Rosmead Junction as site for capital.	do.
37	Telegram of congratulation, Head Committee, S.A. Taalbond.	do.
38-40	Division Lists Nos. 2, 3 and 4 ... ..	See Minutes, pp. 19 & 21.
41	Petition from Head Committee, Afrikaansche Christelijke Vrouwen Vereeniging, on equal language rights.	Not printed.
42	Petition from Head Committee, Oranje Vrouwen Vereeniging, on equal language rights.	do.
43	Petition from Natal Womens' Enfranchisement Committee on women's suffrage.	do.
44	Similar petition from 658 men and women of the Cape Colony.	do.
45	Letter and petition from Cape coloured people resident on the Witwatersrand, on claim to full political rights.	do.
46	Petition from 7,200 women of South Africa, in opposition to women's franchise.	do.
47	Letter from President, Naturalization Reform Association, on naturalization reform.	do.
48	Petition from 1,479 men and women of the Cape Colony, on women's suffrage.	do.
49	Letter from Mayor of Kroonstad on adjournment of Convention to that place.	do.
50	Telegram of congratulation from Head Committee, South African Women's Federation.	do.
51-52	Division Lists Nos. 5 and 6 ... ..	See Minutes, p. 32.
53	Telegram of congratulation from Klipspruit branch of the Afrikaner Bond.	Not printed.
54-58	Division Lists Nos. 7-11 ... ..	See Minutes, pp. 36-39.
59	Petition from African Political Organization of Cape Colony, on franchise rights.	Not printed.



## LIST OF ANNEXURES.

xvii

No. of Annexure.	SUBJECT.	Remarks.
60	Similar petition from African Political Organization of the Transvaal.	Not printed.
61-62	Division Lists Nos. 12 and 13 ... ..	See Minutes, pp. 45-46.
63	Telegram from Mayor of Harrismith on adjournment of Convention to that place.	Not printed.
64	Petition from African Political Organization of the Orange River Colony, on franchise rights.	do.
65-68	Division Lists Nos. 14-17 ... ..	See Minutes, pp. 50-56.
69	Letter from Mayor of Queenstown on situation of Union Capital at that place.	Not printed.
70	Telegram of congratulation from the Synod of the Dutch Reformed Mission Church, Paarl.	do.
71	Letter from C. Daniel on rights of coloured people ...	do.
72-73	Division Lists Nos. 18 and 19 ... ..	See Minutes, pp. 65 & 72.
74-75	Letters from H.E. the Earl of Selborne on congratulations to H.M. the King on birthday.	Not printed.
76	Telegram of congratulation from Naturalization Reform Association, Cape Town.	do.
77	Letter from Wynberg Coloured Men's Political Organization on rights of coloured people.	do.
78	Petition from 1,994 natives of the Transvaal on representation in Union Parliament.	do.
79-80	Division Lists Nos. 20 and 21 ... ..	See Minutes, pp. 75-76.
81	Telegram of congratulation from Chairman of Molteno branch of the Afrikander Bond.	Not printed.
82-83	Division Lists Nos. 22 and 23 ... ..	See Minutes, pp. 79-80.
84	Report of Committee on Qualifications of Members, etc.	See Minutes, pp. 81-82.
85-86	Division Lists Nos. 24 and 25 ... ..	See Minutes, p. 83.
87-88	Letters from the Right Rev. the Bishop of Pretoria, forwarding resolutions of congratulation from Diocesan and Episcopal Synods of the Church of the Province of South Africa.	Not printed.
89-90	Division Lists Nos. 26 and 27 ... ..	See Minutes, pp. 84-85.
91	Letter from H.E. Sir Walter Hely-Hutchinson, acknowledging receipt of Minutes of Proceedings.	Not printed.

xviii SOUTH AFRICAN NATIONAL CONVENTION, 1908—'09.

No. of Annexure.	SUBJECT.	Remarks.
91a	Report of Committee on Statistics (with printed volume of statistics).	Report only printed, see Minutes, p. 93.
92-93	Division Lists Nos. 28 and 29 ... ..	See Minutes, p. 97.
94	Petition from 181 men and women of the Cape Colony, in favour of women's franchise.	Not printed.
94a-95	Division Lists Nos 29a and 30 ... ..	See Minutes, pp. 105 & 110.
96	Letter from the Rev. T. H. Jones, forwarding resolution of Diamond Fields Ministers' Association on uniform code of marriage laws.	Not printed.
97	Report of Committee on Administration of Justice ...	See Minutes, pp. 117-121.
98	Division List No. 31 ... ..	See Minutes, p. 124.
99	Letter from Town Clerk, Mafeking, on situation of Union Capital at that place.	Not printed.
100	Division List No. 32 ... ..	See Minutes, p. 130.
101	Report of Committee on Provincial Constitutions ...	See Minutes, pp. 99-104.
102	Letter from His Honour Sir William Milton, acknowledging receipt of Minutes of Proceedings.	Not printed.
103	First Report of Committee on Civil Service and Miscellaneous Matters.	See Minutes, pp. 126-128.
104	Telegram of congratulation from Grand Secretary, Masonic Hall, Johannesburg.	Not printed.
105	Report of Committee on Native Affairs ... ..	See Minutes, pp. 134-138.
106	Interim Report of Committee on Union Capital ...	See Minutes, pp. 138-139.
107	First Report of Committee on Finance... ..	See Minutes, pp. 139-142.
108	Second Report of Committee on Civil Service and Miscellaneous Matters.	See Minutes, p. 142.
109	Letter of congratulation from Cape Town and District Evangelical Church Council.	Not printed.
109a-109c	Division Lists Nos. 32a, 32b and 32c ... ..	See Minutes, pp. 145-148.
110	Credential of the Hon. T. Watt, C.M.G., M.L.A., as a delegate for Natal, <i>vice</i> W. B. Morcom, K.C., resigned.	See Minutes, p. 150.

No. of Annexure.	SUBJECT.	Remarks.
111	Petition from 1,770 natives of the Transvaal, on representation in Union Parliament.	Not printed.
112	Draft South Africa Act, brought up by the Drafting Committee.	See Appendix E.
113-113a	Division Lists Nos. 33 and 34 ... ..	See Minutes, pp. 153-154.
114	Revised First Report of Committee on Finance ...	See Minutes, pp. 155-159.
115-116	Division Lists Nos. 35 and 36 ... ..	See Minutes, pp. 160-161.
117	Letter from Pajrijs Municipality, on situation of Union Capital at that place.	Not printed.
118	Similar letter from Potchefstroom Municipality ...	do.
119	Division List No. 37 ... ..	See Minutes, p. 168.
120	Telegram from Kroonstad Municipality, offering free land at that place for Union Capital.	Not printed.
121	Division List No. 38 ... ..	See Minutes, p. 171.
122	Report of Committee on Union Capital ... ..	See Minutes, pp. 172-173.
123-124	Division Lists Nos. 39 and 40 ... ..	See Minutes, pp. 174-176.
125	Invitation to members to attend Stellenbosch Agricultural Show.	Not printed.
126-128	Division Lists Nos. 41-43 ... ..	See Minutes, pp. 180-183.
129	Second Report of Committee on Finance ... ..	See Minutes, pp. 186-187.
130-136	Division Lists Nos. 44-49... ..	See Minutes, pp. 188-197.
137	First Report of Drafting Committee on amendments to Draft Act.	See Minutes, pp. 200-206.
138	Letter from Potchefstroom Municipality on low death rate.	Not printed.
139-150	Division Lists Nos. 50-61 ... ..	See Minutes, pp. 207-221.
151	Second Report of Drafting Committee on amendments to Draft Act.	See Minutes, pp. 229-232.
152	Third Report of Committee on Finance ... ..	See Minutes, p. 232.

xx SOUTH AFRICAN NATIONAL CONVENTION, 1908—'09.

No. of Annexure.	SUBJECT.	Remarks.
152a.	Division List No. 61a ... ..	See Minutes, p. 234.
153	Report of Committee on procedure after publication of Draft South Africa Act.	See Minutes, p. 236.
154	Letter from Chairman of Kimberley and Bloemfontein District Synod of Wesleyan Methodist Church (native section), on safeguarding of interests of natives.	Not printed.
155	Report of Committee on Precis of Draft South Africa Act.	See Minutes, pp. 239-243.
156	Dutch Draft South Africa Act, brought up by Committee appointed thereon.	Not printed in this volume.
157-158	Drafts and Prints of South Africa Act, shewing amendments made by the Convention at various stages, viz. :—	
	First Draft, as brought up by Drafting Committee.	See Appendix E.
	Second Draft, as amended by Convention ...	Not printed.
	First Print, " " ...	do.
	Second Print, " " ...	do.
	Third Print, as finally agreed to ... ..	do.
	Final Print, with First Report ... ..	do.
159	First Report and Draft South Africa Act (in Dutch), as signed by delegates.	Not printed in this volume.
160	First Report and Draft South Africa Act (in English), as signed by delegates.	See Appendix F.
161-162	Corrected Prints (in Dutch) of Draft South Africa Act.	Not printed.
163	Letter from H.E. the Earl of Selborne on amendments of section in regard to Bills reserved for His Majesty's pleasure.	do.
164	Letter from the Judge President, Eastern Districts Court, forwarding memorandum of Judges of that Court on proposed amendments to Draft Act.	do.
165	Letter from the Prime Minister of the Orange River Colony, forwarding resolution of House of Assembly of that Colony, not concurred in by Legislative Council, on definition of "sparsity and density of population," and "sparsely populated areas."	do.
166	Letter from H.E. the Earl of Selborne on reception by British Government of delegates to London in connection with passage of Draft Act through the Parliament of the United Kingdom.	do.

No. of Annexure.	SUBJECT.	Remarks.
167	Letter from Chairman of meeting of coloured residents of Wellington, Cape Colony, on preservation of franchise rights.	Not printed.
168	Petition from Wynberg Coloured Men's Political Organization, on preservation of franchise rights.	do.
169	Resolutions of the various Parliaments on consideration of Draft Act, together with amendments proposed thereto.	See Appendix G.
170	Resolution of public meeting held at Bloemfontein, on establishment of Union railway workshops at that place.	Not printed.
171	Division List No. 1 (Bloemfontein) ... ..	See Minutes, p. 255.
172	Petition from Wine Farmers of the Cape Colony, on relief to their industry.	Not printed.
173	Letter from the Right Rev. the Archbishop of Cape Town and Clergy of other denominations, on position and privileges of coloured and native races.	do.
174	Letter from General Secretary, African Political Organization, forwarding resolutions on protection of rights of coloured people.	do.
175	Letter from Resident Magistrate, Thaba 'Nchu, forwarding petition from natives of that district on protection of rights of coloured people.	do.
176	First Report (Bloemfontein) of Committee on Finance	See Minutes, pp. 258-259.
177	Report of Committee on sections 39 and 40 of Draft South Africa Act.	See Minutes, p. 260.
178	Division List No. 2 (Bloemfontein) ... ..	See Minutes, p. 261.
179	Petition from J. A. Sishuba on expunging of clauses of Draft Act relating to coloured people.	Not printed.
180	Letter from H.E. the Earl of Selborne on position, under Union, of Land Settlement Boards of Transvaal and Orange River Colony.	do.
181	Letter from the Rev. E. O. Barratt, on position and privileges of coloured and native races.	do.
182-183	Division Lists Nos. 3 and 4 (Bloemfontein) ... ..	See Minutes, pp. 265-267.
184	Second Report (Bloemfontein) of Committee on Finance.	See Minutes, p. 268.
185	Railway Agreement between Transvaal, Cape Colony and Natal, on distribution of railway traffic to competitive area.	See Minutes, pp. 269-270.

xxii SOUTH AFRICAN NATIONAL CONVENTION, 1908—'09.

No. of Annexure.	SUBJECT.	Remarks.
186	Third Report (Bloemfontein) of Committee on Finance.	See Minutes, p. 273.
187	Second Report and amended Draft South Africa Act (in Dutch), as finally adopted and signed by delegates.	Not printed in this volume.
188	Second Report and amended Draft South Africa Act (in English), as finally adopted and signed by delegates.	Report only printed, see Appendix H.

CONVENTION RECORDS.

NOTE.—The original records of the Convention are bound in manuscript in five volumes, as follows :—

Vol. I.—Minutes of Proceedings.

Vol. II., III. and IV.—The annexures enumerated above.

Vol. V.—General correspondence, etc.

G.R.H.

## COMMITTEES APPOINTED.

- STATISTICS: Messrs. Browne (*Chairman*), Walton, Hull, Hyslop, and Sir William Milton.  
*Appointed*—16th and 19th October, 1908 (pages 14 and 20).  
*Reported*—30th November, 1908 (page 93).
- FRANCHISE: Messrs. Fischer (*Chairman*), Sauer, Walton, Sir Percy Fitzpatrick, Gen. Smuts, Gen. Hertzog, Mr. Smythe, Col. Greene, and Mr. Coghlan.  
*Appointed*—22nd October, 1908 (pages 26-27).  
*Reported*—First, 2nd November, 1908 (pages 56-57);  
 Second, 4th November, 1908 (page 64).
- CONSTITUTION OF SENATE: The President (*Chairman*), Mr. Merriman, Dr. Jameson, Messrs. Moor, Hyslop, Gen. Botha, Sir Percy Fitzpatrick, Messrs. Fischer and Browne.  
*Appointed*—26th October, 1908 (page 35).  
*Reported*—27th October, 1908 (page 36).
- CONSTITUTION OF HOUSE OF ASSEMBLY: The President (*Chairman*), Mr. Merriman, Dr. Jameson, Messrs. Moor, Hyslop, Col. Greene, Gen. Botha, Sir George Farrar, Gen. Smuts, Mr. Fischer, Gen. Hertzog, and Mr. Browne.  
*Appointed*—28th October, 1908 (page 43).  
*Reported*—First, 29th October, 1908 (pages 44-45);  
 Second, 3rd November, 1908 (pages 57-58).
- ADMINISTRATION OF JUSTICE: The President (*Chairman*), Messrs. Merriman, Sauer, Col. Greene, Mr. Morcom, Gen. Smuts, Messrs. Lindsay, Fischer, Gen. Hertzog and Mr. Coghlan.  
*Appointed*—5th November, 1908 (page 70).  
*Reported*—8th December, 1908 (pages 117-121).
- QUALIFICATIONS OF MEMBERS: Messrs. Sauer (*Chairman*), Morcom, Hull, and Gen. Hertzog.  
*Appointed*—23rd November, 1908 (page 76).  
*Reported*—25th November, 1908 (pages 81-82).
- ORDER LIST AND NOTICE PAPER: The President, Messrs Merriman, Moor, Gen. Botha, and Mr. Fischer.  
*Appointed*—23rd November, 1908 (page 73).
- PROVINCIAL CONSTITUTIONS: The President (*Chairman*), Mr. Merriman, Dr. Jameson, Col. Greene, Mr. Hyslop, Gen. Smuts, Sir George Farrar, Mr. Fischer, Gen. Hertzog (with Mr. Steyn as alternate), and Mr. Coghlan.  
*Appointed*—27th November, 1908 (pages 89-90).  
*Reported*—2nd December, 1908 (pages 99-104).

**FINANCE:** Messrs. Merriman\* [afterwards replaced by Mr. Sauer (*Chairman*)], Jagger, Hyslop, Col. Greene (afterwards temporarily replaced by Mr. Smythe), Mr. Hull, Sir George Farrar (with Gen. Smuts as alternate), Messrs. Fischer, Browne, and Sir Lewis Michell.

*Appointed*—7th December, 1908 (page 114).

*Reported*—First, 17th December, 1908 (pages 139-142), and 14th January, 1909 (pages 155-159); Second, 20th January, 1909 (pages 186-187); Third, 29th January, 1909 (page 232).

*Reappointed at Bloemfontein*—3rd May, 1909 (page 251).

*Reported*—First, 6th May, 1909 (pages 258-259); Second 10th May, 1909 (page 268); Third, 11th May, 1909 (page 273).

**NATIVE AFFAIRS:** The President (*Chairman*), Mr. Merriman, Col. Stanford, Mr. Moor, Gen. Botha, Mr. Fischer, and Sir Lewis Michell.

*Appointed*—10th December, 1908 (page 125).

*Reported*—17th December, 1908 (pages 134-138).

**CIVIL SERVICE AND MISCELLANEOUS MATTERS:** Messrs. Steyn (*Chairman*), Merriman, Dr. Jameson, Messrs. Morcom, Smythe, Gen. Smuts, Sir Percy Fitzpatrick, Gen. Hertzog, and Sir Lewis Michell.

*Appointed*—10th December, 1908 (page 125).

*Reported*—First, 14th December, 1908 (pages 126-128); Second, 17th December, 1908 (page 142).

**UNION CAPITAL:** The President (*Chairman*), Messrs. Sauer (with Mr. Maasdorp as alternate), Hyslop (with Col. Greene as alternate), Gen. Botha and Gen. Hertzog.

*Appointed*—10th December, 1908 (pages 125-126).

*Reported*—Interim Report, 17th December, 1908 (pages 138-139); Report, 18th January, 1909 (pages 172-173).

**DRAFT SOUTH AFRICA ACT:** The President (*Chairman*), Mr. Merriman (with Mr. Walton as alternate), Col. Greene (afterwards replaced by Mr. Watt), Gen. Smuts (with Mr. Hull as alternate), Gen. Hertzog, and Sir Lewis Michell (with Mr. Coghlan as alternate).

*Appointed*—18th December, 1908 (page 143).

*Reported*—Draft Act submitted, 12th January, 1909 (page 152); First, 23rd January, 1909 (pages 200-206); Second, 29th January, 1909 (pages 229-232); Third, 2nd February, 1909 (page 247).

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\* Mr. Merriman resumed service on the Committee at Bloemfontein.—G.R.H.



DUTCH DRAFT SOUTH AFRICA ACT: Gen. Hertzog (*Chairman*), Messrs. Malan, Moor, and Gen. Smuts.

*Appointed*—19th January, 1909 (page 178).

*Reported*—Draft Act submitted, 2nd February, 1909 (page 244).

PRECIS OF DRAFT SOUTH AFRICA ACT: Mr. Walton (*Chairman*), Mr. Watt, Gen. Smuts, Gen. Hertzog, and Mr. Coghlan.

*Appointed*—29th January, 1909 (page 235).

*Reported*—30th January, 1909 (pages 239-243).

PROCEDURE AFTER PUBLICATION OF DRAFT SOUTH AFRICA ACT: The President (*Chairman*), Messrs. Merriman, Moor, Gen. Botha, and Mr. Fischer.

*Appointed*—29th January, 1909 (page 235).

*Reported*—30th January, 1909 (page 236).

SECTIONS 39 AND 40 OF DRAFT SOUTH AFRICA ACT: The President (*Chairman*), Mr. Sauer, Dr. Jameson, Mr. Moor, Col. Greene, Gen. Smuts, Sir George Farrar, Messrs. Steyn, Fischer, and Coghlan.

*Appointed*—7th May, 1909 (page 260).

*Reported*—7th May, 1909 (page 260).

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\* At the request of this Committee a sub-committee was appointed to frame the Dutch Draft Act, consisting of Mr. G. R. Hofmeyr (*Chairman*), Messrs. Murray, Hershensohn and Luckhoff.—G.R.H.

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**APPENDICES.**

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## APPENDICES.

### [A]

#### RESOLUTIONS ADOPTED ON THE 5th MAY, 1908, BY THE INTER-COLONIAL CONFERENCE HELD AT PRETORIA ON THE SUBJECT OF UNION.

(a) That in the opinion of this Conference the best interests and the permanent prosperity of South Africa can only be secured by an early Union, under the Crown of Great Britain, of the several self-governing Colonies;

(b) That to the union contemplated in the foregoing resolution Rhodesia shall be entitled to admission at such time and on such conditions as may hereafter be agreed upon;

(c) That the members of this Conference agree to submit the foregoing resolutions to the Legislatures of their respective Colonies, and to take such steps as may be necessary to obtain their consent to the appointment of delegates to a National South African Convention, whose object shall be to consider and report on the most desirable form of South African Union, and to prepare a draft Constitution.

(d) The Convention shall consist of not more than twelve (12) delegates from the Cape Colony, not more than eight (8) delegates from the Transvaal, not more than five (5) delegates from Natal and the Orange River Colony, respectively, and it shall meet as soon as convenient after the next sessions of all the Parliaments; provided that as soon as at least two Colonies shall have appointed their delegates the Convention shall be considered as constituted;

(e) The Convention shall publish the Draft Constitution as soon as possible, and shall, in consultation with the Governments of the self-governing Colonies, determine the further steps to be taken in reference thereto;

(f) In the Convention the voting shall be *per capita*, and not by States. A Chairman shall be elected from the members who shall have the right of speaking and voting, and in the event of an equality of votes, shall have a casting vote.

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[B]

**CONFIRMATORY RESOLUTIONS ADOPTED BY THE VARIOUS  
PARLIAMENTS.**

*Cape of Good Hope.*

That this House concurs in the resolutions with regard to closer union passed at the Inter-Colonial Conference on the 5th May, 1908, viz. :—

*(Pretoria resolutions repeated verbatim.)*

(Legislative Council, 29th June, 1908,  
Minutes, p. 39.)

(House of Assembly, 22nd June, 1908,  
V. and P p. 33.)

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*Natal.*

(1) That in the opinion of this House, the best interests and the permanent prosperity of South Africa can only be secured by an early union, under the Crown of Great Britain, of the several self-governing Colonies.

(2) That, to the Union contemplated in the foregoing resolution, Rhodesia shall be entitled to admission at such time and under such conditions as may hereafter be agreed upon.

(3) That delegates be appointed to a National South African Convention, whose object shall be to consider and report on the most desirable form of South African Union, and to prepare a draft constitution.

(4) The Convention shall consist of not more than twelve delegates from the Cape Colony, not more than eight delegates from the Transvaal, not more than five delegates from Natal and the Orange River Colony respectively, and it shall meet as soon as convenient after the present sessions of all the Parliaments; provided that as soon as at least two Colonies shall have appointed their delegates the Convention shall be considered as constituted.

(5) The Convention shall publish the draft Constitution as soon as possible, and shall, in consultation with the Governments of the self-governing Colonies, determine the further steps to be taken in reference thereto.

(6) In the Convention the voting shall be *per capita* and not by States. A Chairman shall be elected from the members who shall have the right of speaking and voting, and in the event of an equality of votes, shall have a casting vote.

(Legislative Council, 6th July, 1908,  
Minutes, pp. 46 and 47.)

(Legislative Assembly, 1st July, 1908,  
V. and P. pp. 95-96.)

*Transvaal.*

This House resolves that:—

(a) In its opinion the best interests and the permanent prosperity of South Africa can only be secured by an early Union, under the Crown of Great Britain of the several self-governing Colonies.

(b) To the Union contemplated in the foregoing resolution Rhodesia shall be entitled to admission at such time and on such conditions as may hereafter be agreed upon.

(c) Delegates be appointed to a National South African Convention whose object shall be to consider and report on the most desirable form of South African union, and to prepare a draft Constitution.

(d) The Convention shall consist of not more than (12) twelve delegates from the Cape Colony, not more than (8) eight delegates from the Transvaal, not more than (5) five delegates from Natal and the Orange River Colony, respectively, and it shall meet as soon as convenient after the present Sessions of all the Parliaments, provided that as soon as at least two Colonies shall have appointed their delegates the Convention shall be considered as constituted.

(e) The Convention shall publish the draft Constitution as soon as possible, and shall, in consultation with the Governments of the self-governing Colonies, determine the further steps to be taken in reference thereto.

(f) In the Convention the voting shall be *per capita* and not by States. A Chairman shall be elected from the members who shall have the right of speaking and voting, and in the event of an equality of votes shall have a casting vote.

(Legislative Council, 30th June, 1908,  
Minutes, p. 8.)

(Legislative Assembly, 23rd June, 1908,  
V. and P. p. 33.)

*Orange River Colony.*

That this House expresses its concurrence with the resolutions on Closer Union and the Constitution of a National South African Convention adopted by the recent Inter-Colonial Conference, and consents to the appointment of five delegates for the Orange River Colony, to a National South African Convention, whose object shall be to consider and report on the most desirable form of South African Union, and to prepare a draft constitution in terms of the said resolutions, such convention to meet as soon as convenient after the present sessions of the Parliaments of the various colonies concerned.

(House of Assembly, 24th June, 1908,  
V. and P., p. 84.)

[C]

APPOINTMENT OF DELEGATES TO THE CONVENTION.

*Cape of Good Hope.*

Resolution of both Houses:

That the following be the delegates of this Colony to the National Convention on the Union of South Africa, viz.:—

The Right Hon. Sir J. H. de Villiers, The Right Hon. Dr. L. S. Jameson, The Hon. Dr. Smartt, The Hon. E. H. Walton, The Hon. W. P. Schreiner, Mr. J. W. Jagger, Mr. H. C. van Heerden, Mr. G. H. Maasdorp, Dr. J. H. M. Beck, The Hon. F. S. Malan, The Hon. J. W. Sauer, and the Hon. the Prime Minister.

(Legislative Council, 29th June, 1908,  
Minutes, p. 39.)

(House of Assembly, 24th June, 1908,  
V. and P., p. 48.)

Resignation of Hon. W. P. Schreiner.

(House of Assembly, 7th September, 1908,  
V. and P., p. 628.)

Appointment of Col. Stanford in his stead.

(House of Assembly, 7th September, 1908,  
V. and P., p. 628.)

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*Natal.*

Resolution of both Houses:

That the following be appointed delegates for Natal to the National Convention on Closer Union, viz.: \*Mr. Morcom, Mr. Hyslop, Col. Greene, The Hon. Mr. Smythe and the Prime Minister, and that in the event of a vacancy from any cause whatever among these delegates the vacancy be filled by the Hon. Mr. Watt.

(Legislative Council, 28th July, 1908,  
Minutes, p. 93.)

Legislative Assembly, 28th July, 1908,  
V. and P., pp. 243-244.)

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*Transvaal.*

Resolution of Legislative Assembly:

This House resolves:

(1) That the following gentlemen be appointed as the Transvaal delegates to the National Convention on Closer Union, viz.: Gen. S. W. Burger, Gen. J. H. de la Rey, Sir Percy Fitzpatrick, Sir George Farrar, Hon. H. C. Hull

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\* Mr. Morcom resigned during the interval in the Cape Town session, December 1908, to January, 1909, and was thereupon replaced by Mr. Watt.—G.R.H.

(Colonial Treasurer), Mr. H. L. Lindsay, Gen. the Hon. J. C. Smuts (Colonial Secretary), Gen. the Right Hon. L. Botha (Prime Minister).

(2) That in the event of a vacancy arising from any cause whatever among these delegates the Government be authorised to fill such vacancy.

(Legislative Assembly, 6th July, 1908,  
V. and P., p. 96.)

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*Orange River Colony.*

That this House do now proceed to appoint five delegates to the Convention on Closer Union, in terms of the resolution unanimously adopted on the 24th instant, and, accordingly, appoint the Hon. M. T. Steyn, Sir John Fraser, Gen. C. R. de Wet, Gen. J. B. M. Hertzog, and the Prime Minister as such delegates, and further resolves that in the event of any vacancy or vacancies occurring in the delegation the Government be authorised to fill the same.

(House of Assembly, 3rd July, 1908,  
V. and P., p. 133.)

Resignation of Sir John Fraser,

(House of Assembly, 19th August, 1908,  
V. and P., p. 390.)

Appointment of the Hon. A. Browne in his stead.

(House of Assembly, 19th August, 1908,  
V. and P., p. 390.)

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[D]

**APPOINTMENT OF REPRESENTATIVES FOR SOUTHERN RHODESIA.**

**Minute.**

The Administrator of Southern Rhodesia, with the advice of the Executive Council, has approved of the appointment of the following as representatives of the territory of Southern Rhodesia at the Closer Union Convention to be held at Durban on the 12th October, 1908.

Sir William Henry Milton, K.C.M.G.

Hon. Sir Lewis Loyd Michell, Kt.

Charles Patrick Coghlan, Esq., M.L.C.

W. H. MILTON,

Administrator.

A. H. HOLLAND,

Acting Clerk of Councils.

Salisbury,  
2nd October, 1908.

[E]

**DRAFT ACT AS BROUGHT UP BY THE DRAFTING COMMITTEE.**

Whereas, it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative Union under the Crown of Great Britain and Ireland.

And whereas it is expedient to make provision for the Union of those Colonies which may voluntarily assent thereto and to define the executive, legislative and judicial powers to be exercised in the Government of the Union.

And whereas it is expedient to make provision for the establishment of Provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration.

And whereas it is expedient to provide for the eventual admission into the Union as Provinces or Territories of such parts of South Africa as are not originally included in such Union.

Be it therefore enacted, etc.

*I. Preliminary.*

1. This Act may be cited as the South Africa Act 19.....
2. In this Act the words "the Union" shall, unless it is otherwise expressed or implied, be taken to mean South Africa as constituted under this Act.
3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the Sovereignty of the United Kingdom, of Great Britain and Ireland.

*II. The Union.*

4. It shall be lawful for the King, with the advice of the Privy Council to declare by Proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, any two or more of the Colonies of the Cape of Good Hope, Natal, the Transvaal and the Orange River Colony, hereinafter called the Colonies, which shall, before the passing of this Act, or thereafter before the date of such Proclamation, have agreed thereto either by Act or by resolutions of their respective Houses of Parliament shall be united in a legislative union under one Government under the name of South Africa. On and after the day appointed by such Proclamation the Government and Parliament of the Union shall have full power and effect within the limits of the Colonies which shall have so agreed, but the King may at any time after the Proclamation appoint a Governor-General for the Union.

5. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.



6. Such of the Colonies as shall have agreed to enter the Union before the date of the Proclamation mentioned in Section *four* shall become original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal and Orange, as the case may be. The original provinces shall have the same limits as the respective Colonies at the establishment of the Union. If any of the Colonies do not become original provinces, all provisions in respect of them contained in this Act shall be inoperative, and it shall not be competent for them to enter the Union except in the manner hereinafter provided for the admission into the Union of new Provinces.

### *III. Executive Government.*

7. The Executive Government of South Africa is vested in the King, and shall be administered by the Sovereign in person, or by a Governor-General as his representative.

8. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

9. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum, which shall be.....

The salary of the Governor-General shall not be altered during his continuance in office.

10. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the King may appoint to administer the Government of the Union, but no such person shall be entitled to receive any salary from the Union in respect of any other office during his administration of the Government of the Union.

11. There shall be an Executive Council to advise the Sovereign or his representative in the Government of the Union, and the members of the Council shall be chosen and summoned by the Governor-General, and sworn as Executive Councillors and shall hold office during his pleasure.

12. The provisions of this Act referring to the Governor-General-in-Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

13. The Governor-General may appoint officers not exceeding ten in number to administer such departments of State of the Union as the Governor-General-in-Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council, and shall be the King's Ministers of State for the Union.

After the first general election of members of the House of Assembly as hereinafter provided, no Minister shall hold

office for a longer period than three months unless he is or becomes a member of either House of Parliament.

14. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council or by this Act or by a law of Parliament to some other authority.

15. All powers, authorities and functions, which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor-in-Council shall as far as the same continue in existence and are capable of being exercised after the establishment of the Union be vested in the Governor-General or in the Governor-General-in-Council, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be delegated to some other authority.

16. The Command-in-Chief of the Naval and Military forces within the Union is vested in the King or in the Governor-General as his representative.

#### *IV. Parliament.*

17. The legislative power of the Union shall be vested in a Parliament to be styled the Parliament of South Africa, which shall consist of the King, a Senate and a Legislative Assembly.

18. The Governor-General may appoint such time for holding the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the Legislative Assembly simultaneously or the Legislative Assembly alone. Provided that the Senate shall not be dissolved within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any Senators nominated by the Governor-General-in-Council.

19. Parliament shall be summoned to meet not later than six months after the establishment of the Union.

20. There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session, and its first sitting in the next session.

#### *The Senate.*

21. For ten years after the establishment of the Union and thereafter until Parliament otherwise provides the constitution of the Senate shall in respect of the original provinces be as follows:—

(a) Eight senators shall be nominated by the Governor-General-in-Council, and for each original province eight senators shall be elected in the manner hereinafter provided.

(b) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their

thorough acquaintance by reason of their official experience or otherwise with the reasonable wants and wishes of the coloured races in South Africa.

If the seat of a senator so nominated becomes vacant the Governor-General-in-Council shall select in the same manner a person to hold the seat until the completion of the period for which the person in whose stead he is nominated would have held the same.

(c) The election of senators for each province shall take place in the following manner:—After the passing of this Act, and before the day appointed for the establishment of the Union, the two Houses of the Legislature of each Colony sitting together as one body and presided over by the Speaker of the Legislative Assembly shall, according to the principle of proportional representation with the single transferable vote, under regulations in that behalf to be framed by the Governor-General of such Colony, elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant the Provincial Council of the Province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

22. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made the senators for each province shall be elected by the Provincial Council of such Province according to the principle of proportional representation with the single transferable vote, and they shall hold their seats for a period of ten years. In case of a vacancy occurring before the expiration of such period the Provincial Council shall in like manner elect a person to fill the vacancy.

23. The qualifications of a senator shall be as follows:—  
He must:—

- (a) be thirty years of age;
- (b) be qualified to be registered as a voter in one of the provinces;
- (c) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated as the case may be.
- (d) be a British subject of European descent;
- (e) in the case of an elected senator be the registered owner of immovable property within the Union of the value of not less than £1,000 over and above any conventional, or special mortgages thereon.

24. The Senate shall before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a

Senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing addressed to the Governor-General.

25. Before or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

26. A senator may by writing under his hand, addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall thereupon cause steps to be taken to have the vacancy filled.

27. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

28. All questions in the Senate shall be determined by a majority of votes of Senators present other than the President or the presiding Senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

*Legislative Assembly.*

29. The Legislative Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

30. The number of members to be elected in the original provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:—

Cape of Good Hope ... ..	51
Natal ... ..	17
Transvaal ... ..	36
Orange ... ..	17.

These numbers may be increased as provided in the next succeeding section, but shall not in the case of any original province be diminished until the total number of members of the Legislative Assembly in respect of the provinces herein provided for reaches 150.

31. The number of members to be elected in each province as provided in section thirty shall be increased from time to time as may be necessary in accordance with the following provisions:—

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, not being members of His Majesty's Regular Forces on full pay as ascertained at the Census of 1904, by the total number of members of the Legislative Assembly as constituted at the establishment of the Union.

(ii) In 1911 and every five years thereafter a Census of the European population of the Union shall be taken for the purposes of this Act.

(iii) After every such Census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the Census of 1904,

and in the case of any province where an increase is shown, equal to the quota of the Union or any multiple thereof, an additional member shall be allotted to such province or an additional number of members equal to such multiple as the case may be.

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess.

(v) As soon as the number of members of the Legislative Assembly to be elected in the original provinces in accordance with the preceding sub-sections reaches the total of 150, such total shall not be further increased unless and until Parliament otherwise provides; and notwithstanding anything in this and the last preceding sections the distribution of members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province as ascertained at the last preceding Census shall as far as possible be identical throughout the Union.

32. If any of the Colonies does not become an original province the number of members to which the Legislative Assembly may be increased shall be reduced by the number of members assigned to the corresponding province in section thirty.

33. Parliament may, by law, prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the Legislative Assembly, but no such law shall disqualify any person in the province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered by reason of his race or colour only, unless the bill be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses.

34. Subject to the provisions of the last preceding section the qualifications of Parliamentary voters as existing in the several Colonies at the establishment of the Union shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the Legislative Assembly. Provided that no member of His Majesty's Regular Forces on full pay shall be entitled to be registered as a voter.

35. No person who prior to the passing of any such law shall be registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

36. (i) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relat

ing to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, their powers and duties, the proceedings at elections, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members and the proceedings necessary for filling such vacancies shall *mutatis mutandis* apply to the elections in the respective provinces of members of the Legislative Assembly.

(ii) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the Legislative Assembly the date of the nomination of persons proposed as members thereof shall be the same in all electoral divisions of the Union, and all polls shall be taken on the same day in all such divisions throughout the Union.

37. The election of members of the Legislative Assembly shall be according to the principle of proportional representation with the single transferable vote.

38. The Governor-General-in-Council shall frame regulations prescribing the method of voting and of transferring and counting votes, and the duties of returning officers in connection therewith, in all cases in which elections taking place after the establishment of the Union are by this Act directed to be according to the principle of proportional representation with the single transferable vote, and such regulations after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

39. Between the date of the passing of this Act and the date fixed for the establishment of the Union the Governor-in-Council of each Colony shall nominate a Judge of any of the Supreme or High Courts of the several Colonies, and the Judges so nominated shall form a Joint Commission for the purpose of the first division of the provinces into electoral divisions. The Commission shall forthwith proceed with the discharge of its duties, and may appoint persons in any province to assist it or to act as assessors with the Commission or with individual members thereof for the purpose of inquiring into any question arising in such province.

40. The Commission shall divide each Province into electoral divisions, each returning three or more members, provided that in special cases of sparsely populated areas the Commission may delimit divisions in which less than three members shall be returned.

41. (i) For the purpose of such division as is in the last preceding section mentioned the quota of each Province shall be obtained by dividing the total number of voters in the provinces as ascertained at the last registration of voters by the number of members of the Legislative Assembly to be elected therein.

(ii) Each province shall be divided into electoral divisions, so that the number of voters in each division shall, subject to the provisions of sub-section (iii), be a multiple of

the quota, and the number of members to be elected therein shall be equal to such multiple.

- (iii) The Commissioners shall give due consideration to
  - (a) community or diversity of interests;
  - (b) means of communication;
  - (c) physical features;
  - (d) existing electoral boundaries;
  - (e) sparsity or density of population;

in such manner that, while taking the quota of voters as the basis of division, the Commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than 15 per cent. more or 15 per cent. less than the quota.

42. As soon as may be after every quinquennial census the Governor-General-in-Council shall appoint a Commission consisting of three Judges of the Supreme Court of South Africa to carry out any redivision which may have become necessary as between the different electoral divisions in each Province, and to provide for the allocation of any additional members to which such province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the Commission shall have the same powers and proceed upon the same principles as in the original division.

43. (i) The Joint Commission constituted under section thirty-nine and any subsequent Commission appointed under the provisions of the last preceding section shall submit to the Governor-General-in-Council:—

(a) A list of electoral divisions, with the names given to them by the Commission, and a description of the boundaries of every such division.

(b) A map or maps showing the electoral divisions into which the provinces have been divided.

(c) Such further particulars as they consider necessary.

(ii) The Governor-General-in-Council may refer to the Commission for its consideration any matter relating to such list, or arising out of the powers or duties of the Commission.

(iii) The Governor-General-in-Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the Commission or a majority thereof, and thereafter, until there shall be another redivision, the electoral divisions as named and defined shall be the electoral divisions of the provinces.

(iv) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

44. Any alteration in the number of members of the Legislative Assembly to be elected in the several provinces, and any redivision of the provinces into electoral divisions shall come into operation at the next general election held after the completion of the redivision or of any allocation consequent upon such alteration, and not earlier.

45. The qualifications of a member of the Legislative Assembly shall be as follows:—

(i) He must be qualified to be registered as a voter for the election of members of the Legislative Assembly in an electoral division of the Union.

(ii) Have resided for five years within the limits of the Union as existing at the time when he is elected.

(iii) Be a British subject of European descent.

46. Every Legislative Assembly shall continue for five years from the first meeting of the House and no longer, but may be sooner dissolved by the Governor-General.

47. The Legislative Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

48. Before or during the absence of the Speaker the Legislative Assembly may choose a member to perform his duties in his absence.

49. A member may by writing or telegram addressed to the Speaker or, if there is no Speaker or if the Speaker is absent from the Union, to the Governor-General resign his seat, which shall thereupon become vacant.

50. The presence of at least thirty members of the Legislative Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

51. All questions in the Legislative Assembly shall be determined by a majority of votes of members present other than the Speaker or presiding member, who shall, however, have and exercise a casting vote in case of an equality of votes.

*Both Houses of Parliament.*

52. Every senator and every member of the Legislative Assembly shall before taking his seat make and subscribe before the Governor-General or some person authorised by him, an oath or affirmation of allegiance in the following form:—

OATH.

I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty King Edward the Seventh, His heirs and successors according to law. So help me God.

AFFIRMATION.

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty King Edward the Seventh, His heirs and successors according to law.

53. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other



House, provided that every Minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the Legislative Assembly, but shall vote only in the House of which he is a member.

54. No person shall be capable of being chosen or of sitting as a senator or as a member of the Legislative Assembly who:—

- (i) is a member of any Provincial Council;
- (ii) has been at any time convicted of treason, murder or any infamous crime, and sentenced to imprisonment without the option of a fine, unless he shall have received a free pardon or unless such imprisonment shall have expired at least five years before the date of his election;
- (iii) is an unrehabilitated insolvent;
- (iv) has been declared a person of unsound mind by a competent Court;
- (v) holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:
  - (a) a Minister of State for the Union;
  - (b) a person in receipt of a pension from the Crown;
  - (c) an officer or member of His Majesty's Naval or Military Forces on retired or half pay.

55. If a senator or member of the Legislative Assembly

- (i) becomes subject to any of the disabilities mentioned in the last preceding section; or
  - (ii) ceases to be qualified as required by law; or
  - (iii) shall fail for a whole ordinary session to attend without the special leave of the Senate or the Legislative Assembly, as the case may be.
- his seat shall thereupon become vacant.

56. If any person who is by law to be incapable of sitting as a senator or member of the Legislative Assembly shall while so disqualified, and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the Legislative Assembly, such person shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

57. Each senator and each member of the Legislative Assembly shall receive an allowance of three hundred pounds a year under such rules as shall be framed by Parliament, to be reckoned from the date on which he takes his seat: provided that for every day of the session on which he is absent there shall be deducted from such allowance the sum of two pounds; provided further that no such allowance shall be paid to a Minister receiving a salary under the Crown or to the President of the Senate or the Speaker of the Legislative Assembly. A day of the session shall mean in respect of a member any day during a session on which the House of which

he is a member or any committee of which he is a member meets.

58. The powers, privileges and immunities of the Senate and of the Legislative Assembly and of the members of the committees of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

59. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and Legislative Assembly respectively. In the case of a joint sitting of the two Houses the Speaker of the Legislative Assembly shall preside, and the rules of the Legislative Assembly shall as far as practicable apply.

#### *Powers of Parliament.*

60. Parliament shall have full power to make laws for the peace, order and good government of South Africa.

61. Bills appropriating revenue or moneys or imposing taxation shall originate only in the Legislative Assembly. But a bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties under the bill.

The Senate may not amend any bills, so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

The Senate may not amend any bill so as to increase any proposed charges or burden on the people.

62. Any bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

63. The Legislative Assembly shall not originate or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the Governor-General during the session in which such vote, resolution, address or bill is proposed.

64. If the Legislative Assembly passes any bill and the Senate rejects or fails to pass it or passes it with amendments, to which the Legislative Assembly will not agree and upon which the Senate insists, the Governor-General may convene a joint sitting of the members of the Senate and Legislative Assembly.

The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the Legislative Assembly and upon amendments, if any,

which have been made therein by the one House of Parliament and not agreed to by the other, and any such amendments which are affirmed by a majority of the total number of members of the Senate and Legislative Assembly present at such sitting shall be taken to have been carried, and if the bill with the amendments, if any, is affirmed by a majority of the members of the Senate and Legislative Assembly present at such sitting it shall be taken to have been duly passed by Parliament.

65. When a bill is presented to the Governor-General for the King's assent, he shall declare according to his discretion, but subject to the provisions of this Act, that he assents in the King's name or that he withholds assent or that he reserves the bill for the signification of the King's pleasure.

The Governor-General may return to the House in which it originated any bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendation.

66. The King may disallow any law within one year after it has been assented to by the Governor-General, and such disallowance, on being made known by the Governor-General by speech or message to each of the Houses of Parliament or by proclamation, shall annul the law from the day when the disallowance is so made known.

67. A bill reserved for the King's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Governor-General for the King's assent the Governor-General makes known by speech or message to each of the Houses of the Parliament or by proclamation that it has received the King's assent.

68. As soon as may be after any law shall have been assented to in the King's name by the Governor-General or, having been reserved for the King's pleasure, shall have received his assent, the Clerk of the Legislative Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language, and one of which copies shall be signed by the Governor-General, to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa, and such copies shall be conclusive evidence as to the provisions of every such law; and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

## THE PROVINCES.

### *Administrators.*

69. (i) In each Province there shall be a Chief Executive Officer appointed by the Governor-General-in-Council, who shall be styled the Administrator of the Province, and in whose name all executive acts relating to provincial affairs therein shall be done.

(ii) In the appointment of the Administrator of any Province the Governor-General-in-Council shall, as far as prac-

licable, give preference to persons resident in such Province.

(iii) Such Administrator shall hold office for a term of five years and shall not be removed before the expiration thereof except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting, and if Parliament be not sitting then within one week after the commencement of the next ensuing session.

(iv) The Governor-General-in-Council may from time to time appoint a Deputy Administrator to execute the office and functions of the Administrator during his absence, illness or other inability.

70. The salaries of the Administrators shall be fixed and provided by Parliament and shall not be reduced during their respective terms of office.

#### *Provincial Councils.*

71. There shall be a Provincial Council in each Province consisting in the original provinces of the same number of members as are elected for the Legislative Assembly in the Province: provided that in any province whose representatives in the Legislative Assembly shall be less than twenty-five, the Provincial Council shall consist of twenty-five members.

72. The members of the Provincial Council shall be elected by the persons qualified to vote for the election of members of the Legislative Assembly in the province, voting in the same electoral divisions as are delimited for the election of members of the Legislative Assembly, and according to the principle of proportional representation with the single transferable vote: provided that in any province in which less than twenty-five members are elected to the Legislative Assembly the delimitation of the electoral divisions and any necessary re-allocation of members or adjustment of electoral divisions shall be effected by the same Commission and on the same principles as are prescribed in regard to the electoral divisions for the Legislative Assembly. The elections shall take place at such times as the Administrator shall by proclamation direct, and the provisions of section thirty-six applicable to the election of members of the Legislative Assembly shall *mutatis mutandis* apply to such elections.

73. The provisions of sections fifty-four and fifty-five relative to members of the Legislative Assembly shall *mutatis mutandis* apply to members of the Provincial Councils.

74. Each Provincial Council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

75. The Administrator of each Province shall by proclamation fix such times for holding the sessions of the Provincial Councils as he may think fit, and may from time to time prorogue such Council: provided that there shall be a session of every Provincial Council once at least in every year, so that no greater period than twelve calendar months shall

intervene between the last sitting of the Council in one session and its first sitting in the next.

76. The Provincial Council may elect its own Chairman and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof by writing addressed to the Administrator.

77. The members of the Provincial Council shall receive such allowances as shall be determined by the Governor-General-in-Council.

78. There shall be freedom of speech in the Provincial Council, and such freedom of speech shall not be liable to be impeached or questioned in any Court or place out of such Council.

*Executive Committees.*

79.(i) Each Provincial Council shall at its first meeting after any general election elect from among its members, or otherwise according to the principle of proportional representation with the single transferable vote, such number of persons not being less than three nor more than five, as the Governor-General-in-Council may prescribe in respect of such Province, to form with the Administrator an Executive Committee for the Province. The members of the Executive Committee other than the Administrator shall hold office until the election of their successors in the same manner.

(ii) Such members shall receive such remuneration as the Provincial Council, with the approval of the Governor-General-in-Council, shall determine.

(iii) A member of the Provincial Council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the Executive Committee.

(iv) Any casual vacancy arising in the Executive Committee shall similarly be filled by election by the Provincial Council, if then in session, or, if the Council is not in session, by a person appointed by the Executive Committee to hold office temporarily pending an election by the Council.

80. The Administrator and any other member of the Executive Committee of a Province not being a member of the Provincial Council shall have the right to take part in the debates of the Council, but shall not have the right to vote.

81. The Executive Committee shall, on behalf of the Provincial Council, carry on the administration of provincial affairs. Until the first election of members to serve on the Executive Committee such administration shall be carried on by the Administrator. Wherever there are not sufficient members of the Executive Committee to form a quorum according to the rules of the Committee, the Administrator shall, as soon as practicable, convene a meeting of the Provincial Council for the purpose of election members to fill the vacancies, and until such election the Administrator shall carry on the administration of provincial affairs.

82. Subject to the provisions of this Act, all powers, authorities, and functions, which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor, or the Governor-in-Council or any Minister of the Colony, shall after such establishment be exercised by the Administrator of the Province, so far as such powers, authorities and functions relate to matters in respect of which a Provincial Council is competent to make ordinances.

83. Questions arising in the Executive Committee shall be determined by a majority of votes of the members present, and in case of an equality of votes the Administrator shall have also a casting vote. Subject to the approval of the Governor-General-in-Council, the Executive Committee may make rules for the conduct of its proceedings.

84. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers the Executive Committee shall have power to appoint such officers as may be necessary, in addition to officers transferred to the Province by the Governor-General-in-Council under the provisions of this Act to carry out the services entrusted to them, and to make and enforce regulations for the organisation and discipline of such officers.

85. In regard to all matters in respect of which no powers are reserved or delegated to the Provincial Council, the Administrator shall act on behalf of the Governor-General-in-Council when required to do so, and in such matters the Administrator may act without reference to the other members of the Executive Committee.

#### *Powers of Provincial Councils.*

86. Subject to the provisions of this Act and the assent of the Governor-General-in-Council, as hereinafter provided, the Administrator, with the advice and consent of the Provincial Council, may make ordinances in relation to matters coming within the following classes of subjects, that is to say:—

(1) Direct taxation within the Province in order to raise a revenue for Provincial purposes.

(2) The borrowing of money on the sole credit of the Province, with the consent of the Governor-General-in-Council, and in accordance with regulations to be framed by Parliament.

(3) Education, other than higher education, for a period of five years, and thereafter until Parliament otherwise provides.

(4) Agriculture, to the extent and subject to the conditions to be defined by Parliament.

(5) The establishment, maintenance and management of hospitals and charitable institutions.

(6) Municipal institutions, divisional councils and other local institutions of a similar nature.

(7) Local works and undertakings within the Province other than railways, harbours and such works as extend beyond the borders of the Province and subject to the power of Parliament to declare any work a national work, and to provide for its construction by arrangement with the Provincial Council or otherwise.

(8) Roads, outspans, pons and bridges, other than bridges connecting two Provinces.

(9) Markets and pounds.

(10) Fish and game preservation.

(11) The imposition of punishment by fine, penalty or imprisonment for enforcing any law or any ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(12) Generally all matters which in the opinion of the Governor-General-in-Council are of a merely local or private nature in the Province.

(13) All other subjects in respect of which Parliament shall delegate the power of making ordinances to the Provincial Council.

87. Any ordinance made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of Parliament.

88. A Provincial Council may recommend to Parliament the passing of any law relating to any matter in respect of which such Council is not competent to make ordinances.

89. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, it shall be lawful for the Provincial Council, subject to such procedure as shall be laid down by Parliament, to take evidence by means of a Select Committee or otherwise for and against the passing of such law, and upon receipt of a report from such Council, together with the evidence upon which it is founded, it shall be lawful for Parliament to pass such Act without further evidence being taken in support thereof.

90. It shall not be lawful for any Provincial Council to pass an ordinance appropriating money to any public service unless the Administrator shall have first recommended to the Council to make provision for the specific services to which such money is to be appropriated, and no such money shall be issued except under warrant signed by the Administrator.

91. When a proposed ordinance has been passed by a Provincial Council it shall be presented by the Administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General-in-Council he makes known by proclamation that it has received his assent.

92. A proposed ordinance so assented to and promulgated shall, subject to the provisions of this Act, have the force of law within the Province.

The Administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language, and one of which copies shall be signed by the Governor-General, to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa, and such copies shall be conclusive evidence as to the provisions of such ordinance, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

*Miscellaneous.*

93. (i) In each province there shall be an Auditor of Accounts, to be appointed by the Governor-General-in-Council.

(ii) No such Auditor shall be removed from office except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(iii) Each such Auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General, with the approval of Parliament, shall determine.

(iv) Each such Auditor shall examine and audit the Accounts of the Province to which he is assigned, subject to such regulations and orders as may be framed by the Governor-General-in-Council and approved by Parliament, and no warrant signed by the Administrator authorising the issue of money shall have effect unless countersigned by such Auditor.

94. Notwithstanding anything in this Act contained, all powers, authorities and functions lawfully exercised at the establishment of the Union by divisional or municipal councils or any other duly constituted local authority shall be and remain in force until varied or withdrawn by Parliament, or by a Provincial Council having power in that behalf.

94A. The seat of Government of each Province shall be :

For the Cape of Good Hope	.....
For Natal	.....
For the Transvaal	.....
For Orange	...

*The Supreme Court of South Africa.*

95. There shall be a Supreme Court of South Africa, consisting of a Chief Justice of South Africa, the ordinary Judges of Appeal, and the Chief Justices and other Judges of the several divisions of the Supreme Court of South Africa in the Provinces.

96. There shall be an Appellate Division of the Supreme Court of South Africa, consisting of the Chief Justice of



South Africa, two ordinary Judges of Appeal, and two additional Judges of Appeal. Such additional Judges of Appeal shall from time to time be temporarily assigned by the Governor-General-in-Council to the Appellate Division from any of the Provincial divisions of the Supreme Court of South Africa, but shall continue to perform their duties as Judges of their respective Divisions when their attendance is not required in the Appellate Division.

97. The Governor-General-in-Council, during the absence, illness or other incapacity of the Chief Justice of South Africa or of any ordinary Judge of Appeal, may appoint any Judge of the Supreme Court of South Africa to act temporarily as Chief Justice or ordinary Judge of Appeal.

98. The several Supreme Courts of the Cape of Good Hope, Natal, and the Transvaal, and the High Court of the Orange River Colony, shall, on the establishment of the Union, become divisions of the Supreme Court of South Africa in their respective Provinces. Such divisions, as well as the Court of the Eastern Districts, the High Court of Witwatersrand, the High Court of Griqualand and the several Circuit Courts shall, in addition to any original jurisdiction exercised by them at the date of Union, have jurisdiction within the limits of their respective Provinces or other local areas in all matters in which the Government of the Union, or a person suing or being sued on behalf of such Government, is a party and in which the validity of any Provincial Ordinance shall come into question. Unless and until Parliament shall otherwise provide, the different Provincial divisions of the Supreme Court of South Africa shall further have jurisdiction in all matters affecting the validity of elections of members of Parliament and of the Provincial Councils.

99. All Judges of the Supreme Courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union, shall on such establishment become Judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective Provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union.

100. The Chief Justice of South Africa, the ordinary Judges of Appeal, and all other Judges of the Supreme Court of South Africa to be appointed after the Union shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

101. The Chief Justice of South Africa and other Judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General-in-Council on an address from both Houses of Parliament in the same session, praying for such removal on the ground of misbehaviour or incapacity.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa other than the Appellate Division, the Governor-General-in-Council may, in case he shall consider that the number of Judges of such Court may with advantage to the public interests be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

103. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made to the Supreme Court of any Colony or to the High Court of the Orange River Colony from a Superior Court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any Colony, or from the High Court of the Orange River Colony to the King-in-Council, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa: Provided that the right of appeal in any civil suit shall not be limited by reason only of the amount claimed or awarded in such suit.

105. Appeals from Courts of Resident Magistrate and from other inferior Courts in civil and criminal suits shall be made to such of the Superior Courts of the respective provinces as may have jurisdiction in that behalf at the establishment of the Union, but there shall be no further appeal against any judgment given on appeal by such Superior Court except to the Appellate Division of the Supreme Court of South Africa, and then only if such Appellate Division shall have given special leave to appeal.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure.

107. The Chief Justice of South Africa and the ordinary Judges of Appeal may, subject to the approval of the Governor-General-in-Council, make rules for the conduct of the proceedings of the Appellate Division of the Supreme Court of South Africa. Until such rules shall have been promulgated the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

108. The Judges of every Provincial division of the Supreme Court of South Africa may frame rules for the conduct of the proceedings of such division, and such rules shall

be subject to the approval of the Governor-General-in-Council in consultation with the Chief Justice of South Africa. Until such rules shall have been promulgated for any such division the rules in force at the establishment of the Union in the respective Courts which become divisions of the Supreme Court of South Africa shall continue to apply in such divisions respectively.

109. The Appellate Division of the Supreme Court of South Africa shall sit in ....., but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

110. On the hearing of appeals from a Court consisting of two or more Judges, five Judges of the Appellate Division shall form a quorum, but on the hearing of appeals from a single Judge three Judges of the Appellate Division shall form a quorum. No Judge shall take part in the hearing of any appeal against the judgment given in a case heard before him.

111. The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province, and shall be executed in such manner as any original judgments or orders of the Provincial Superior Courts might have been executed.

112. The Registrar of every Provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order, and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is Registrar.

113. Any Provincial division of the Supreme Court of South Africa to which it may be made to appear that any civil suit depending therein may be more conveniently or fitly heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

114. The Governor-General-in-Council may appoint a Registrar of the Appellate Division of the Supreme Court of South Africa, and such other officers thereof as shall in the opinion of the Chief Justice of South Africa be required for the proper dispatch of the business thereof.

115. (i) The laws regulating the admission of advocates and attorneys to practise before any Supreme Court of a Colony or the High Court of the Orange River Colony, shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the respective Provincial divisions of the Supreme Court of South Africa.

(ii) All advocates and attorneys entitled at the establishment of the Union to practise in the Supreme Court of any Colony or in the High Court of the Orange River Colony shall be entitled to practise as such in the corresponding provincial division of the Supreme Court of South Africa.

(iii) All advocates and attorneys entitled to practise before any Provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division of such Supreme Court.

116. All suits, civil or criminal, pending in any Superior Court of any Colony at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same.

#### *Finance and Railways.*

F (1.) All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the railways, ports and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act and subject to the charges imposed thereby.

F (2.) The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a Commission, consisting of one representative from each Province and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the Provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the Administrator of each Province:

(a) An amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year 1908-9, as voted by the Parliaments of the respective Colonies during the year 1908:

(b) Such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively. Until such inquiry shall be completed and Parliament shall have made other provision, the Executive Committees in the several Provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any Executive

Committee which is not provided for in such approved estimates.

F (3.) The Consolidated Revenue Fund shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon.

F (4.) The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form the second charge on the Consolidated Revenue Fund.

F (5.) Subject to the several payments by this Act charged on the Consolidated Revenue Fund, the same shall be appropriated by Parliament for the public service.

F (6.) No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund, except under appropriation made by law. But until the expiration of two months after the first meeting of Parliament, the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service and for railway and harbour administration respectively.

F (7.) All stocks, cash, bankers' balances and securities for money belonging to each Colony at the establishment of the Union shall be the property of the Union. Provided that the balances of any funds raised at the date of the Union by law for any special purposes, in any of the Colonies, shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

F (8.) Crown lands, public works and all property throughout the Union, movable or immovable, belonging to the several Colonies at the establishment of the Union, and all rights of whatever description shall vest in the Governor-General-in-Council, subject to any debt or liability specifically charged thereon.

F (9.) All rights in and to mines and minerals and all rights in connection with the searching for, working for or disposing of minerals or precious stones which at the date of the establishment of the Union are vested in the Government of any of the Colonies shall on the establishment of the Union vest in the Governor-General-in-Council.

F (10.) The Union shall assume all debts and liabilities of the several Colonies existing at the establishment of the Union, subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred and may convert, renew or consolidate such debts.

F (11.) All ports, harbours and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No public railway, port, harbour or similar work shall be constructed without the sanction of Parliament.

F (12.) Subject to the authority of the Governor-General-in-Council, the control and management of the railways, ports and harbours of the Union shall be exercised through a

Board consisting of not more than three Commissioners who shall be appointed by the Governor-General-in-Council and a Minister of State, who shall be Chairman. Each Commissioner shall hold office for a period of five years, but may be reappointed. He shall not be removed before the expiration of his period of appointment except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the Commissioners shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

F (13.) The railways, ports and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and the promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of the Union.

So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation and the payment of interest due on capital, not being capital contributed out of railway or harbour revenue, and not being interest on any capital which Parliament may provide in accordance with the provisions of section ..... (16, Finance Section). The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund.

The Governor-General-in-Council shall give effect to the provisions of this section as soon and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union.

F (14.) The Board may establish a fund to be used for maintaining as far as may be uniformity of rates to meet fluctuations in traffic.

F (15.) All balances, standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Railway and Harbour Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

F (16.) Every proposal for the construction of any port or harbour works or of any line of railway before being submitted to Parliament, shall be considered by the Board, who shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board are of opinion that the revenue derived from the operation of such works or line

will be insufficient to meet the costs of working and maintenance and of interest on the capital invested therein they shall frame an estimate of the annual loss which in their opinion will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund. Provided that if in any year the actual loss incurred as calculated by the Board and certified to by the Controller and Auditor-General is less than the estimate framed by the Board the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred.

In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

F (17.) If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General showing as nearly as can be ascertained the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

F (18.) The Governor-General-in-Council shall appoint a fit person to be Controller and Auditor-General who shall not be removed from office except for cause shewn, which shall be communicated in writing to him and by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. He shall be paid out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council may, subject to the approval of Parliament, direct. Until Parliament shall otherwise provide, the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf.

F (19.) In order to compensate for any loss sustained by any town which at the establishment of the Union is the capital of any of the Colonies in the form of diminution of prosperity or decreased rateable value by reason of the capital of the Union being placed elsewhere, there shall be paid from the Consolidated Revenue Fund to the Municipal Council of such town for a period not exceeding twenty-five years, a grant of two per cent. per annum on the amount of the municipal debt of such town. One-half of such grant shall

be applied to the redemption of the municipal debt of such town as ascertained by the Auditor-General of the Union.

For the purpose of this Clause, Cape Town shall be deemed to include the municipalities of Cape Town, Green Point and Sea Point, Woodstock, Mowbray, Rondebosch, Claremont and Wynberg, and any sum paid under this section in respect of Cape Town shall be paid to the Councils of those municipalities in proportion to their respective debts.

Provided that the debts of the several municipalities shall be treated as not exceeding the following amounts:—

Cape Town and Suburbs ... ..	£4,450,000
Maritzburg ... ..	£1,219,000
Pretoria ... ..	£1,000,000
Bloemfontein ... ..	£868,000

Provided that at any time after the expiration of ten years the Governor-General-in-Council, with the approval of Parliament, may, after due inquiry, withdraw or reduce the grant to all or any of the towns in question.

#### *General.*

117. The seat of Government .....

118. Subject to the provisions of this Act all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective Provinces until repealed or amended by Parliament or by the Provincial Councils in matters in respect of which the power to make ordinances shall have been reserved or delegated to them.

All legal commissions in the several colonies at the establishment of the Union shall continue as if the Union had not been established.

119. Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality and possess and enjoy equal freedom, rights and privileges; all records, journals and proceedings of Parliament shall be kept in both languages, and all Bills, Acts and Notices of general public importance or interest issued by the Government of the Union shall be in both languages.

120. All persons of European descent who have been naturalised in any of the Colonies shall be deemed to be naturalised throughout the Union.

121. The administration of Justice throughout the Union shall be under the control of a Minister of State in whom shall be vested all powers, authorities and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies, save and except all powers, authorities and functions relating to the prosecution of crimes and offences, which shall in each province be vested in an officer to be appointed by the Governor-General-in-Council, and styled the Attorney-General of the Province.

122. All officers of the public service of the several Colonies shall at the establishment of the Union become officers of the Union.



123. (i) As soon as possible after the passing of this Act the Governor-General-in-Council shall appoint a public service Commission to make recommendations for such reorganisation and readjustment of the departments of the public service as may be necessary. The Commission shall also make recommendations in regard to the transfer of officers to the several provinces.

(ii) The Governor-General shall after such Commission has reported transfer from time to time to each Province such officers as may be necessary for the proper discharge of the services assigned to it and such officers on being so transferred shall become officers of the Province. Pending the transfer of such officers the Governor-General-in-Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(iii) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board or to any person holding office under the Board.

124. After the establishment of the Union the Governor-General-in-Council shall appoint a permanent Public Service Commission with such powers and duties relating to the appointment, discipline, retirement and superannuation of public officers as Parliament shall determine.

125. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or of a Province shall be entitled to receive such pension, gratuity or other compensation as he would have received in like circumstances if the Union had not been established.

126. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or of a Province shall retain all his existing and accruing rights and shall be entitled to retire from the service at the time and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

127. The services of no officer in the public service of the Colonies at the establishment of the Union shall be dispensed with by reason of his want of knowledge of either the English or Dutch language.

128. Any permanent officer of the Parliament of any of the Colonies who is not retained in the service of the Union or of any Province and for whom no provision shall have been made by such Parliament shall be entitled to such pension, gratuity or compensation as Parliament may determine.

129. The control and administration of native affairs throughout the Union shall vest in the Governor-General-in-Council, who shall likewise exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as Supreme Chiefs.

*Treaty Rights.*

130. All rights and obligations under any Conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

*New Provinces and Territories.*

131. Parliament may on the petition of the Provincial Council of the Province affected alter the boundaries of any Province, divide any Province into two or more Provinces, or form a new Province out of existing Provincial areas.

132. The King with the advice of the Privy Council may on addresses from the Houses of Parliament of the Union admit into the Union Colonies not originally included therein and territories including the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are in the addresses expressed and approved by the King and the provisions of any Order-in-Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

133. The King with the advice of the Privy Council may on addresses from the Houses of Parliament of the Union transfer to the Union the Government of any Territories other than the territories administered by the British South Africa Company of or under the protectorate of His Majesty inhabited wholly or in part by natives and upon such transfer the Governor-General-in-Council may undertake the Government of such territory upon the terms and conditions embodied in the Schedule to this Act.

*Amendment of the Constitution.*

134. Parliament may by law repeal or alter any of the provisions of this Act provided that no provision thereof, for the operation of which a definite period of time is prescribed shall during such period be repealed or altered, and provided further that no repeal or alteration of the provisions contained in this section or in sections thirty and thirty-one until the number of members of the Legislative Assembly has reached the limit therein prescribed, or in sections thirty-three and one hundred and nineteen, shall be valid unless the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses.

*Schedule.*

(1) After the transfer of the Government of any Territory of or under the protectorate of His Majesty the Governor-General-in-Council shall be the legislative authority, and may by proclamation make laws for the peace, order and good government of such territory; provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue of the Proclamation or, if Parliament be not

then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolution request the Governor-General-in-Council to repeal the same in which case they shall be repealed by Proclamation.

(2) The Prime Minister shall be charged with the administration of any Territory thus transferred, and he shall be advised in such administration by a Commission consisting of not fewer than three members with a Secretary to be appointed by the Governor-General-in-Council.

(3) The members of the Commission shall be appointed by the Governor-General-in-Council, and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary which shall not be reduced during the continuance of their term of office, and they shall not be removed from office except upon addresses from both Houses of Parliament. They shall not be eligible to become members of either House of Parliament. One of the members of the Commission shall be appointed by the Governor-General-in-Council as Vice-Chairman thereof. In case of the absence, illness or other incapacity of any member of the Commission the Governor-General-in-Council may appoint some other fit and proper person to act during such absence, illness or other incapacity.

(4) It shall be the duty of the members of the Commission to advise the Prime Minister upon all matters relating to the administration of, or the legislation for, the said Territories. The Prime Minister or another Minister of State as his deputy, or failing them the Vice-Chairman, shall preside at all meetings of the Commission, and in case of an equality of votes, shall have a casting vote. Two members of the Commission shall, with the Prime Minister or his deputy, form a quorum. In case the Commission shall consist of four or more members three of them shall form a quorum.

(5) Any member of the Commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the Commission.

(6) The members of the Commission shall have access to all official papers concerning the Territories and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

(7) Before coming to a decision on any matter relating either to the administration, other than routine, of the said Territories or to legislation therefor the Prime Minister shall cause the papers relating to such matter to be deposited with the Secretary to the Commission, and shall convene a meeting of the Commission for the purpose of obtaining its opinion on such matter.

(8) Where it appears to the Prime Minister that the dispatch of any communication or the making of any order is urgently required the communication may be sent or order

made, although it has not been submitted to a meeting of the Commission or deposited for the perusal of the members thereof.

In any such case the Prime Minister shall record the urgent reasons for sending the communication or making the order and give notice thereof to every member.

(9) If the Prime Minister does not accept a recommendation of the Commission or proposes to take some action contrary to their advice he shall state his views to the Commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General-in-Council, whose decision in the matter shall be final.

(10) When the recommendations of the Commission have not been accepted by the Governor-General-in-Council or action not in accordance with their advice has been taken by the Governor-General-in-Council, the Prime Minister, if thereto requested by the Commission, shall lay the record of their dissent from the decision of action taken, and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General-in-Council shall be of opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

(11) The Governor-General-in-Council shall appoint a Resident Commissioner for each Territory who shall in addition to such other duties as shall be conferred on him by the Governor-General-in-Council prepare the annual estimates of revenue and expenditure for such Territory and forward the same to the Prime Minister. After such estimates have been submitted to the Commission and approved of or amended by the Prime Minister the Resident Commissioner shall, subject to regulations to be framed in that behalf by the Governor-General-in-Council act in accordance with such estimates.

(12) There shall be paid into the Treasury of the Union all duties of Customs levied on dutiable articles imported into and consumed in the Territories, and there shall be paid out of the Treasury annually towards the cost of administration of each Territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average of the customs revenue for the three completed financial years last preceding the taking effect of this Act bore to the average of the whole customs revenue for all the Colonies and Territories included in the Union received during the same period.

(13) In case the revenue of any Territory for any financial year shall be insufficient to meet the expenditure the deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any Territory such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by the Union Government to cover any de-

iciency in such Territory, and thereafter it shall be lawful for the Governor-General-in-Council to lend the whole or any part of such surplus to another such Territory.

(14) It shall not be lawful to alienate any land in Basutoland or any land forming part of the natives reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those Territories.

(15) The sale of liquor to natives shall be prohibited in the said Territories.

(16) The custom, where it exists, of holding pitsos or other recognised forms of native assembly shall be maintained in the said Territories.

(17) No differential duties or imposts on the produce of the Territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the Territories.

(18) There shall be free intercourse for the black and white inhabitants of the Territories with the rest of South Africa, subject to the laws, including the Pass Laws, of the Union.

(19) Subject to the provisions of this Schedule all revenues derived from any Territory shall be expended for and on behalf of such Territory.

(20) The King may disallow any law made by the Governor-General-in-Council by Proclamation for any Territory within one year from the date of the Proclamation and such disallowance on being made known by the Governor-General by Proclamation shall annul the law from the day when the disallowance is so made known.

(21) The members of the Commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by Proclamation provide and the salaries and pensions of such members and all other expenses of the Commission shall be borne by the different Territories in the proportion of their respective revenues.

(22) The rights of Civil Servants employed in any Territory as existing on the 16th December, 1908, shall remain in force.

(23) In lieu of any appeal which may by law be made to the King-in-Council from any Court of the Territories such appeals shall, subject to the provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

(24) The Governor-General-in-Council shall prepare an annual report on the Territories and lay the same before both Houses of Parliament.

(25) All proposed laws to amend or alter the provisions of this Schedule shall be reserved for the signification of His Majesty's pleasure.

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[F]

**FIRST REPORT OF THE CONVENTION WITH DRAFT ACT AS  
AGREED TO AT CAPE TOWN FOR SUBMISSION TO THE  
VARIOUS PARLIAMENTS.**

*Report.*

The delegates to the South African National Convention have the honour to report to the respective Parliaments which appointed them as follows:—

Having been instructed to consider and report on the most desirable form of Union, they consider that these instructions could be most conveniently carried out by embodying the resolutions adopted by them in the form of a Draft Act which will clearly convey the exact nature of the Constitution recommended by the Convention.

The Draft Act is annexed to this Report.

The delegates having also been instructed in consultation with the Governments of the self-governing Colonies to determine the further steps to be taken in reference to the Draft Constitution beg to make the following recommendations:—

I. The Parliaments to meet on the 30th March for the purpose of discussing the Draft Act.

II. The Convention to re-assemble, if necessary, in Bloemfontein on a day in May, to be fixed by the President of the Convention in consultation with the Prime Ministers of the Colonies.

III. In June the final draft to be submitted to the Parliaments to pass the addresses for Union. This submission to be as far as practicable simultaneous.

IV. As soon as possible thereafter a Committee, consisting of delegates appointed by the Governments of the Colonies which have passed such addresses to proceed to England for the purpose of affording information to His Majesty's Government and facilitating the passing of the Act.

*Draft Act.*

WHEREAS it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland;

AND WHEREAS it is expedient to make provision for the union of those Colonies which may assent thereto and to define the executive legislative and judicial powers to be exercised in the government of the Union;

AND WHEREAS it is expedient to make provision for the establishment of Provinces with powers of legislation and administration in local matters, and in such other matters as may be specially reserved for provincial legislation and administration;

AND WHEREAS it is expedient to provide for the eventual admission into the Union as Provinces or Territories of such parts of South Africa as are not originally included therein;

Be it therefore enacted, etc.

## I. PRELIMINARY.

1. This Act may be cited as the South Africa Act, 19.....
2. In this Act the words "the Union" shall, unless it is otherwise expressed or implied, be taken to mean South Africa as constituted under this Act.
3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

## II. THE UNION.

4. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, any two or more of the Colonies of the Cape of Good Hope, Natal, the Transvaal and the Orange River Colony, hereinafter called the Colonies, which shall, before the passing of this Act or thereafter before the date of such proclamation, have agreed thereto either by act of Parliament or by resolutions of both Houses of Parliament shall be united in a legislative union under one Government under the name of South Africa. On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority within the limits of the Colonies which shall have so agreed, but the King may at any time after the proclamation appoint a Governor-General for the Union.

5. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

6. Such of the Colonies as shall have agreed to enter the Union before the date of the proclamation mentioned in section four shall become original Provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal and Orange Free State, as the case may be. The original Provinces shall have the same limits as the respective Colonies at the establishment of the Union. If any of the Colonies do not become original Provinces all provisions in respect of them contained in this Act shall be inoperative, and it shall not be competent for them to enter the Union except in the manner hereinafter provided for the admission into the Union of new Provinces.

## III. EXECUTIVE GOVERNMENT.

7. The Executive Government of South Africa is vested in the King and shall be administered by His Majesty in person or by a Governor-General as his representative.

8. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

9. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of ten thousand pounds. The salary of the Governor-General shall not be altered during his continuance in office.

10. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being or such person as the King may appoint to administer the Government of the Union.

11. There shall be an Executive Council to advise the Governor-General in the government of the Union and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

12. The provisions of this Act referring to the Governor-General-in-Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

13. The Governor-General may appoint officers not exceeding ten in number to administer such departments of state of the Union as the Governor-General-in-Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council and shall be the King's ministers of state for the Union. After the first general election of members of the House of Assembly as hereinafter provided no minister shall hold office for a longer period than three months unless he is or becomes a member of either House of Parliament.

14. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council or by this Act or by a law of Parliament to some other authority.

15. All powers authorities and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor-in-Council or in any authority of the Colony shall as far as the same continue in existence and are capable of being exercised after the establishment of the Union be vested in the Governor-General or in the Governor-General-in-Council or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority.

16. The command in chief of the naval and military forces within the Union is vested in the King or in the Governor-General as his representative.

17. Save as in section twenty-two excepted Pretoria shall be the seat of Government of the Union.

#### IV. PARLIAMENT.

18. The legislative power of the Union shall be vested in the Parliament of the Union, herein called Parliament, which shall consist of the King a Senate and a House of Assembly.



19. The Governor-General may appoint such times for holding the sessions of Parliament as he thinks fit and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously or the House of Assembly alone: provided that the Senate shall not be dissolved within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General-in-Council.

20. Parliament shall be summoned to meet not later than six months after the establishment of the Union.

21. There shall be a session of Parliament once at least in every year so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

22. Cape Town shall be the seat of the Legislature of the Union.

#### SENATE.

23. For ten years after the establishment of the Union the constitution of the Senate shall be as follows:—

(i) Eight senators shall be nominated by the Governor-General-in-Council and for each original Province eight senators shall be elected in the manner hereinafter provided.

(ii) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance by reason of their official experience or otherwise with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant the Governor-General-in-Council shall nominate another person to be a senator who shall hold his seat for ten years.

(iii) After the passing of this Act and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly shall elect eight persons to be senators for the Province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant the Provincial Council of the Province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

24. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made

(i) the provisions of the last preceding section with regard to nominated senators shall continue to have effect;

(ii) eight senators for each Province shall be elected by the members of the Provincial Council of such Province together

with the members of the House of Assembly elected for such Province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the Provincial Council of the Province together with the members of the House of Assembly elected for such Province shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General-in-Council shall make regulations for the joint election of senators prescribed in this section.

25. The qualifications of a senator shall be as follows:—

He must:—

- (a) be not less than thirty years of age;
- (b) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the Provinces;
- (c) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated as the case may be;
- (d) be a British subject of European descent;
- (e) in the case of an elected senator be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

26. The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate or he may resign his office by writing addressed to the Governor-General.

27. Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

28. A senator may, by writing under his hand, addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

29. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

30. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

#### HOUSE OF ASSEMBLY.

31. The House of Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

32. The number of members to be elected in the original Provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:—

Cape of Good Hope	...	...	fifty-one
Natal	...	...	seventeen
Transvaal	...	...	thirty-six
Orange Free State	...	...	seventeen.

These numbers may be increased as provided in the next succeeding section but shall not in the case of any original Province be diminished until the total number of members of the House of Assembly in respect of the Provinces herein provided for reaches one hundred and fifty or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period.

33. The number of members to be elected in each Province as provided in section thirty-two shall be increase from time to time as may be necessary in accordance with the following provisions:

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, not being members of His Majesty's regular forces on full pay, as ascertained at the census of 1904 by the total number of members of the House of Assembly as constituted at the establishment of the Union.

(ii) In 1911 and every five years thereafter a census of the European population of the Union shall be taken for the purposes of this Act.

(iii) After every such census the number of European male adults in each Province shall be compared with the number of European male adults as ascertained at the census of 1904 and in the case of any Province where an increase is shown, as compared with the census of 1904, equal to the quota of the Union or any multiple thereof, the number of members allotted to such Province in the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple as the case may be.

(iv) Notwithstanding anything herein contained no additional member shall be allotted to any Province until the total number of European male adults in such Province exceeds the quota of the Union multiplied by the number of members allotted to such Province for the time being and thereupon additional members shall be allotted to such Province in respect only of such excess.

(v) As soon as the number of members of the House of Assembly to be elected in the original Provinces in accordance with the preceding sub-sections reaches the total of one hundred and fifty such total shall not be further increased unless and until Parliament otherwise provides; and subject to the provisions of the last preceding section the distribution of members among the Provinces shall be such that the pro-

portion between the number of members to be elected at any time in each Province and the number of European male adults in such Province as ascertained at the last preceding census shall as far as possible be identical throughout the Union.

(vi) "Male adults" in this Act shall be taken to mean males of twenty-one years of age or upwards.

(vii) For the purposes of this Act the number of European male adults, not being members of His Majesty's regular forces on full pay, as ascertained at the census of 1904 shall be taken to be:

For the Cape of Good Hope ... ..	167,546
For Natal ... ..	34,784
For the Transvaal ... ..	106,493
For the Orange Free State.....	41,014

34. If any of the Colonies does not become an original Province the number of members to which the House of Assembly may be increased shall be reduced by the number of members assigned to the corresponding Province in section thirty-two.

35. (i) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person in the Province of the Cape of Good Hope who under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union is or may become capable of being registered as a voter from being so registered by reason of his race or colour only, unless the bill be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(ii) No person who at the passing of any such law is registered as a voter in any Province shall be removed from the register by reason only of any disqualification based on race or colour.

36. Subject to the provisions of the last preceding section the qualifications of parliamentary voters as existing in the several Colonies at the establishment of the Union shall be the qualifications necessary to entitle persons in the corresponding Provinces to vote for the election of members of the House of Assembly: provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

37. (i) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings at elections, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members and the pro-

ceedings necessary for filling such vacancies shall *mutatis mutandis* apply to the elections in the respective Provinces of members of the House of Assembly.

(ii) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General-in-Council.

38. Between the date of the passing of this Act and the date fixed for the establishment of the Union the Governor-in-Council of each of the Colonies shall nominate a Judge of any of the Supreme or High Courts of the Colonies, and the Judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the Provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such commission at such time and place in one of the Colonies as he shall fix and determine. At such meeting the commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any Province to assist them or to act as assessors to the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. All moneys required for the payment of the expenses of such commission before the establishment of the Union in any of the Colonies shall be provided by the Governor-in-Council of such Colony. In case of the death, resignation or other disability of any of the commissioners before the establishment of the Union the Governor-in-Council who nominated him shall forthwith nominate another Judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the Governor-General-in-Council and any vacancies shall be filled by him.

39. The commission shall divide each Province into electoral divisions, each returning three or more members: provided that in special cases of sparsely populated areas the commission may delimit divisions in which less than three members shall be returned.

40. (i) For the purpose of such division as is in the last preceding section mentioned the quota of each Province shall be obtained by dividing the total number of voters in the Province as ascertained at the last registration of voters by the number of members of the House of Assembly to be elected therein.

(ii) Each Province shall be divided into electoral divisions, so that the number of voters in each division shall subject to the provisions of sub-section (iii) be a multiple of the quota and the number of members to be elected therein shall be equal to such multiple.

- (iii) The commissioners shall give due consideration to
- (a) community or diversity of interests;
  - (b) means of communication;
  - (c) physical features;
  - (d) existing electoral boundaries;
  - (e) sparsity or density of population;

in such manner that while taking the quota of voters as the basis of division the commissioners may whenever they deem it necessary to depart therefrom but in no case to any greater extent than fifteen *per centum* more or fifteen *per centum* less than the quota.

41. As soon as may be after every quinquennial census the Governor-General-in-Council shall appoint a commission consisting of three Judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each Province, and to provide for the allocation of the number of members to which such Province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the commission shall have the same powers and proceed upon the same principles as are by this Act provided in regard to the original division.

42. (i) The joint commission constituted under section thirty-eight and any subsequent commission appointed under the provisions of the last preceding section shall submit to the Governor-General-in-Council: —

(a) a list of electoral divisions, with the names given to them by the commission and a description of the boundaries of and the number of members assigned to every such division;

(b) a map or maps showing the electoral divisions into which the Provinces have been divided;

(c) such further particulars as they consider necessary.

(ii) The Governor-General-in-Council may refer to the commission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(iii) The Governor-General-in-Council shall proclaim the names and boundaries of the electoral divisions and the number of members assigned to each division as finally settled and certified by the commission or a majority thereof, and thereafter until there shall be a re-division the electoral divisions as named and defined shall be the electoral divisions of the Union in the Provinces.

(iv) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps the description shall prevail.

43. Any alteration in the number of members of the House of Assembly to be elected in the several Provinces and any re-division of the Provinces into electoral divisions shall in respect of the election of members of the House of Assembly come into operation at the next general election held after the

completion of the redvision or of any allocation consequent upon such alteration and not earlier.

44. The qualifications of a member of the House of Assembly shall be as follows:—

He must:—

(a) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the Provinces;

(b) have resided for five years within the limits of the Union as existing at the time when he is elected;

(c) be a British subject of European descent.

45. Every House of Assembly shall continue for five years from the first meeting thereof and no longer, but may be sooner dissolved by the Governor-General.

46. The House of Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

47. Prior to or during the absence of the Speaker the House of Assembly may choose a member to perform his duties in his absence.

48. A member may by writing under his hand addressed to the Speaker or, if there is no Speaker or if the Speaker is absent from the Union, to the Governor-General resign his seat, which shall thereupon become vacant.

49. The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

50. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

#### BOTH HOUSES OF PARLIAMENT.

51. Every senator and every member of the House of Assembly shall before taking his seat make and subscribe before the Governor-General or some person authorized by him an oath or affirmation of allegiance in the following form:—

##### *Oath.*

I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty King Edward the Seventh his heirs and successors according to law. So help me God.

##### *Affirmation.*

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty King Edward the Seventh his heirs and successors according to law.

52. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House: provided that every minister of state who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

53. No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who:

(a) has been at any time convicted of treason, murder or any offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a free pardon or unless such imprisonment shall have expired at least five years before the date of his election; or

(b) is an unrehabilitated insolvent; or

(c) is of unsound mind, and has been so declared by a competent court; or

(d) holds any office of profit under the Crown within the Union: provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:

(1) a minister of state for the Union;

(2) a person in receipt of a pension from the Crown;

(3) an officer or member of His Majesty's naval or military forces on retired or half-pay or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

54. If a senator or member of the House of Assembly

(a) becomes subject to any of the disabilities mentioned in the last preceding section; or

(b) ceases to be qualified as required by law; or

(c) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be;

his seat shall thereupon become vacant.

55. If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly, he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

56. Each senator and each member of the House of Assembly shall, under such rules as shall be framed by Parliament, receive an allowance of three hundred pounds a year to be reckoned from the date on which he takes his seat; provided that for every day of the session on which he is absent there shall be deducted from such allowance the sum of two pounds: provided further that no such allowance shall be paid to a minister receiving a salary under the Crown or to the President of the Senate or the Speaker of the House of



Assembly. A day of the session shall mean in respect of a member any day during a session on which the House of which he is a member or any committee of which he is a member meets.

57. The powers, privileges and immunities of the Senate and of the House of Assembly and of the members and committees of each House shall subject to the provisions of this Act be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

58. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall as far as practicable apply.

#### POWERS OF PARLIAMENT.

59. Parliament shall have full power to make laws for the peace, order and good government of South Africa.

60. (i) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(ii) The Senate may not amend any bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(iii) The Senate may not amend any bill so as to increase any proposed charges or burden on the people.

61. Any bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

62. The House of Assembly shall not originate or pass any vote resolution address or bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the Governor-General during the session in which such vote resolution address or bill is proposed.

63. If the House of Assembly passes any bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree and if the House of Assembly in the next session again passes the bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or

passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried and, if the bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament. Provided that, if the Senate shall reject or fail to pass any bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such bill.

64. When a bill is presented to the Governor-General for the King's assent, he shall declare according to his discretion, but subject to the provisions of this Act, that he assents in the King's name, or that he withholds assent, or that he reserves the bill for the signification of the King's pleasure. The Governor-General may return to the House in which it originated any bill so presented to him and may transmit therewith any amendments which he may recommend and the House may deal with the recommendation.

65. The King may disallow any law within one year after it has been assented to by the Governor-General and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of Parliament or by proclamation shall annul the law from the day when the disallowance is so made known.

66. A bill reserved for the King's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Governor-General for the King's assent the Governor-General makes known by speech or message to each of the Houses of Parliament or by proclamation that it has received the King's assent.

67. As soon as may be after any law shall have been assented to in the King's name by the Governor-General or having been reserved for the King's pleasure shall have received his assent, the Clerk of the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language, one of which copies shall be signed by the Governor-General, to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

## V. THE PROVINCES.

## ADMINISTRATORS.

68. (i) In each Province there shall be a chief executive officer appointed by the Governor-General-in-Council who shall be styled the Administrator of the Province and in whose name all executive acts relating to provincial affairs therein shall be done.

(ii) In the appointment of the Administrator of any Province the Governor-General-in-Council shall as far as practicable give preference to persons resident in such Province.

(iii) Such Administrator shall hold office for a term of five years, and shall not be removed before the expiration thereof except by the Governor-General-in-Council for cause assigned which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting or if Parliament be not sitting then within one week after the commencement of the next ensuing session.

(iv) The Governor-General-in-Council may from time to time appoint a Deputy Administrator to execute the office and functions of the Administrator during his absence illness or other inability.

69. The salaries of the Administrators shall be fixed and provided by Parliament and shall not be reduced during their respective terms of office.

## PROVINCIAL COUNCILS.

70. There shall be a Provincial Council in each Province consisting of the same number of members as are elected in the Province for the House of Assembly: provided that in any Province whose representatives in the House of Assembly shall be less than twenty-five in number the Provincial Council shall consist of twenty-five members.

71. (i) The members of the Provincial Council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the Province voting in the same electoral divisions as are delimited for the election of members of the House of Assembly: provided that in any Province in which less than twenty-five members are elected to the House of Assembly the delimitation of the electoral divisions and any necessary re-allocation of members or adjustment of electoral divisions shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(ii) Any alteration in the number of members of the Provincial Council and any redivision of the Province into electoral divisions shall come into operation at the next general election for such Council held after the completion of such re-division or of any allocation consequent upon such alteration and not earlier.

(iii) The elections shall take place at such times as the Administrator shall by proclamation direct and the provisions of

section thirty-seven applicable to the election of members of the House of Assembly shall *mutatis mutandis* apply to such elections.

72. The provisions of sections fifty-three, fifty-four and fifty-five relative to members of the House of Assembly shall *mutatis mutandis* apply to members of the Provincial Councils: provided that any member of a Provincial Council who shall become a member of either House of Parliament shall thereupon cease to be a member of such Provincial Council.

73. Each Provincial Council shall continue for three years from the date of its first meeting and shall not be subject to dissolution save by effluxion of time.

74. The Administrator of each Province shall by proclamation fix such times for holding the sessions of the Provincial Council as he may think fit and may from time to time prorogue such Council: provided that there shall be a session of every Provincial Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

75. The Provincial Council shall elect its own chairman and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof by writing addressed to the Administrator.

76. The members of the Provincial Council shall receive such allowances as shall be determined by the Governor-General-in-Council.

77. There shall be freedom of speech in the Provincial Council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such Council.

#### EXECUTIVE COMMITTEES.

78. (i) Each Provincial Council shall at its first meeting after any general election elect from among its members, or otherwise, such number of persons not being less than three or more than five as the Governor-General-in-Council may prescribe in respect of each Province to form with the Administrator who shall be chairman an Executive Committee for the Province. The members of the Executive Committee other than the Administrator shall hold office until the election of their successors in the same manner.

(ii) Such members shall receive such remuneration as the Provincial Council, with the approval of the Governor-General-in-Council, shall determine.

(iii) A member of the Provincial Council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the Executive Committee.

(iv) Any casual vacancy arising in the Executive Committee shall be filled by election by the Provincial Council if them

in session or if the Council is not in session by a person appointed by the Executive Committee to hold office temporarily pending an election by the Council.

79. The Administrator and any other member of the Executive Committee of a Province not being a member of the Provincial Council shall have the right to take part in the proceedings of the Council but shall not have the right to vote.

80. The Executive Committee shall on behalf of the Provincial Council carry on the administration of provincial affairs. Until the first election of members to serve on the Executive Committee such administration shall be carried on by the Administrator. Whenever there are not sufficient members of the Executive Committee to form a quorum according to the rules of the Committee the Administrator shall, as soon as practicable, convene a meeting of the Provincial Council for the purpose of electing members to fill the vacancies and until such election the Administrator shall carry on the administration of provincial affairs.

81. Subject to the provisions of this Act all powers authorities and functions, which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor-in-Council or any minister of the Colony, shall after such establishment be vested in the Executive Committee of the Province so far as such powers authorities and functions relate to matters in respect of which the Provincial Council is competent to make ordinances.

82. Questions arising in the Executive Committee shall be determined by a majority of votes of the members present and in case of an equality of votes the Administrator shall have also a casting vote. Subject to the approval of the Governor-General-in-Council the Executive Committee may make rules for the conduct of its proceedings.

83. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment tenure of office retirement and superannuation of public officers the Executive Committee shall have power to appoint such officers as may be necessary in addition to officers assigned to the Province by the Governor-General-in-Council under the provisions of this Act to carry out the services entrusted to them and to make and enforce regulations for the organisation and discipline of such officers.

84. In regard to all matters in respect of which no powers are reserved or delegated to the Provincial Council the Administrator shall act on behalf of the Governor-General-in-Council when required to do so and in such matters the Administrator may act without reference to the other members of the Executive Committee.

#### POWERS OF PROVINCIAL COUNCILS.

85. Subject to the provisions of this Act and the assent of the Governor-General-in-Council as hereinafter provided the

Provincial Council may make ordinances in relation to matters coming within the following classes of subjects, that is to say:—

(i) Direct taxation within the Province in order to raise a revenue for provincial purposes.

(ii) The borrowing of money on the sole credit of the Province with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament.

(iii) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides.

(iv) Agriculture to the extent and subject to the conditions to be defined by Parliament.

(v) The establishment, maintenance and management of hospitals and charitable institutions.

(vi) Municipal institutions, divisional councils and other local institutions of a similar nature.

(vii) Local works and undertakings within the Province, other than railways, harbours and such works as extend beyond the borders of the Province and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the Provincial Council or otherwise.

(viii) Roads, outspans, pons and bridges, other than bridges connecting two Provinces.

(ix) Markets and pounds.

(x) Fish and game preservation.

(xi) The imposition of punishment by fine, penalty or imprisonment for enforcing any law or any ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(xii) Generally all matters which in the opinion of the Governor-General-in-Council are of a merely local or private nature in the Province.

(xiii) All other subjects in respect of which Parliament shall delegate the power of making ordinances to the Provincial Council.

86. Any ordinance made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any act of Parliament.

87. A Provincial Council may recommend to Parliament the passing of any law relating to any matter in respect of which such Council is not competent to make ordinances.

88. In regard to any matter which requires to be dealt with by means of a private act of Parliament the Provincial Council of the Province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a select committee or otherwise for and against the passing of such law and upon receipt of a report from such Council together with the evidence upon which it

is founded Parliament may pass such act without further evidence being taken in support thereof.

89. A Provincial Revenue Fund shall be formed in every Province, into which shall be paid all revenues raised by or accruing to the Provincial Council and all moneys paid over by the Governor-General-in-Council to the Provincial Council. Such fund shall be appropriated by the Provincial Council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General-in-Council for particular purposes, then for such purposes, but no such ordinance shall be passed by the Provincial Council unless the Administrator shall have first recommended to the Council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the Provincial Revenue Fund except in accordance with such appropriation and under warrant signed by the Administrator: provided that until the expiration of one month after the first meeting of the Provincial Council the Administrator may expend such moneys as may be necessary for the services of the Province.

90. When a proposed ordinance has been passed by a Provincial Council it shall be presented by the Administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General-in-Council he makes known by proclamation that it has received his assent.

91. An ordinance assented to by the Governor-General-in-Council and promulgated by the Administrator shall, subject to the provisions of this Act, have the force of law within the Province. The Administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language, one of which copies shall be signed by the Governor-General, to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

#### MISCELLANEOUS.

92. (i) In each Province there shall be an Auditor of Accounts, to be appointed by the Governor-General-in-Council.

(ii) No such Auditor shall be removed from office except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be

then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(iii) Each such Auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council with the approval of Parliament shall determine.

(iv) Each such Auditor shall examine and audit the accounts of the Province to which he is assigned, subject to such regulations and orders as may be framed by the Governor-General-in-Council and approved by Parliament, and no warrant signed by the Administrator authorising the issue of money shall have effect unless countersigned by such Auditor.

93. Notwithstanding anything in this Act contained all powers, authorities and functions lawfully exercised at the establishment of the Union by divisional or municipal councils or any other duly constituted local authority shall be and remain in force until varied or withdrawn by Parliament or by a Provincial Council having power in that behalf.

94. The seats of provincial government shall be:

for Cape of Good Hope ... ..	Cape Town.
for Natal ... ..	Pietermaritzburg..
for Transvaal ... ..	Pretoria.
for Orange Free State ... ..	Bloemfontein.

## VI. THE SUPREME COURT OF SOUTH AFRICA.

95. There shall be a Supreme Court of South Africa, consisting of a Chief Justice of South Africa, the Ordinary Judges of Appeal and the Chief Justices and other Judges of the several divisions of the Supreme Court of South Africa in the Provinces.

96. There shall be an Appellate Division of the Supreme Court of South Africa, consisting of the Chief Justice of South Africa, two Ordinary Judges of Appeal and two additional Judges of Appeal. Such additional Judges of Appeal shall from time to time be temporarily assigned by the Governor-General-in-Council to the Appellate Division from any of the Provincial Divisions of the Supreme Court of South Africa, but shall continue to perform their duties as Judges of their respective Divisions when their attendance is not required in the Appellate Division.

97. The Governor-General-in-Council during the absence, illness or other incapacity of the Chief Justice of South Africa or of any ordinary Judge of Appeal may appoint any Judge of the Supreme Court of South Africa to act temporarily as Chief Justice or Ordinary Judge of Appeal.

98. (i) The several Supreme Courts of the Cape of Good Hope, Natal and the Transvaal and the High Court of the Orange River Colony shall on the establishment of the Union become Provincial Divisions of the Supreme Court of South Africa within their respective Provinces.

(ii) The Court of the Eastern Districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand and the several Circuit Courts shall become Local



Divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(iii) The said Provincial and Local Divisions, referred to in this Act as Superior Courts, shall, in addition to any original jurisdiction exercised by the corresponding courts of the Colonies at the establishment of the Union, have jurisdiction in all matters

(a) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party;

(b) in which the validity of any provincial ordinance shall come into question.

(iv) Unless and until Parliament shall otherwise provide, the said Superior Courts shall *mutatis mutandis* have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and Provincial Councils as the corresponding courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

99. All Judges of the Supreme Courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become Judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective Provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union.

100. The Chief Justice of South Africa, the Ordinary Judges of Appeal and all other Judges of the Supreme Court of South Africa to be appointed after the establishment of the Union shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe and their remuneration shall not be diminished during their continuance in office.

101. The Chief Justice of South Africa and other Judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General-in-Council, on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa other than the Appellate Division the Governor-General-in-Council may, in case he shall consider that the number of Judges of such court may with advantage to the public interest be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

103. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made to the Supreme Court of any of the Colonies or to the High Court of the Orange River Colony from a superior court in any of the Colonies or from the High Court of Southern

Rhodesia, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King-in-Council, the appeal shall be made only to the Appellate Division of the Supreme Court of South Africa: provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

105. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of Resident Magistrate or other inferior court to a superior court in any of the Colonies, the appeal shall be made to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division of the Supreme Court of South Africa, and then only if the Appellate Division shall have given special leave to appeal.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure.

107. The Chief Justice of South Africa and the Ordinary Judges of Appeal may, subject to the approval of the Governor-General-in-Council, make rules for the conduct of the proceedings of the Appellate Division of the Supreme Court of South Africa, and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

108. The Judges of every Provincial Division of the Supreme Court of South Africa may frame rules for the conduct of the proceedings of such division and such rules shall be subject to the approval of the Governor-General-in-Council in consultation with the Chief Justice of South Africa. Until such rules shall have been promulgated the rules in force at the establishment of the Union in the respective courts which become divisions of the Supreme Court of South Africa shall continue to apply therein.

109. The Appellate Division of the Supreme Court of South Africa shall sit in Bloemfontein, but may from time to time

for the convenience of suitors hold its sittings at other places within the Union.

110. On the hearing of appeals from a court consisting of two or more Judges five Judges of the Appellate Division shall form a quorum, but on the hearing of appeals from a single Judge three Judges of the Appellate Division shall form a quorum. No Judge shall take part in the hearing of any appeal against the judgment given in a case heard before him.

111. The process of the Appellate Division shall run throughout the Union and all its judgments or orders shall have full force and effect in every Province, and shall be executed in like manner as if they were original judgments or orders of the Provincial Division of the Supreme Court of South Africa in such Province.

112. The Registrar of every Provincial Division of the Supreme Court of South Africa if thereto requested by any party in whose favour any judgment or order has been given or made by any other division shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is Registrar.

113. Any Provincial Division of the Supreme Court of South Africa to which it may be made to appear that any civil suit depending therein may be more conveniently or fitly heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

114. The Governor-General-in-Council may appoint a Registrar of the Appellate Division of the Supreme Court of South Africa, and such other officers thereof as shall in the opinion of the Chief Justice of South Africa be required for the proper dispatch of the business thereof.

115. (i) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the Colonies shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

(ii) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

(iii) All advocates and attorneys entitled to practise before any Provincial Division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

116. All suits, civil or criminal, pending in any superior court of any of the Colonies at the establishment of the Union

shall stand removed to the corresponding division of the Supreme Court of South Africa which shall have jurisdiction to hear and determine the same and all judgments and orders of any superior court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa.

## VII. FINANCE AND RAILWAYS.

117. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation shall vest in the Governor-General-in-Council. There shall be formed a Railway and Harbour Fund into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the railways ports and harbours and such fund shall be appropriated by Parliament to the purposes of the railways ports and harbours in the manner prescribed by this Act.

There shall also be formed a Consolidated Revenue Fund into which shall be paid all other revenues raised or received by the Governor-General-in-Council and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act and subject to the charges imposed thereby.

118. The Governor-General-in-Council shall as soon as may be after the establishment of the Union appoint a commission, consisting of one representative from each Province and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the Provinces. Pending the completion of that inquiry and until Parliament otherwise provides there shall be paid annually out of the Consolidated Revenue Fund to the Administrator of each Province:

(a) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year 1908-9 as voted by the Legislature of the corresponding Colony during the year 1908;

(b) such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provision the Executive Committees in the several Provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any Executive Committee which is not provided for in such approved estimates.

119. The Consolidated Revenue Fund shall be permanently charged with the costs, charges and expenses incident to the collection management and receipt thereof and the same shall form the first charge thereon.

120. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form the second charge on the Consolidated Revenue Fund.

121. Subject to the several payments by this Act charged on the Consolidated Revenue Fund the same shall be appropriated by Parliament for the public service.

122. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But until the expiration of two months after the first meeting of Parliament the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service and for railway and harbour administration respectively.

123. All stocks, cash, bankers' balances and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: provided that the balances of any funds raised at the date of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

124. Crown lands public works and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several Colonies at the establishment of the Union shall vest in the Governor-General-in-Council subject to any debt or liability specifically charged thereon.

125. All rights in and to mines and minerals and all rights in connection with the searching for working for or disposing of minerals or precious stones which at the establishment of the Union are vested in the Government of any of the Colonies shall on such establishment vest in the Governor-General-in-Council.

126. The Union shall assume all debts and liabilities of the Colonies existing at the establishment of the Union subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred and may convert renew or consolidate such debts.

127. All ports harbours and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No railway for the conveyance of public traffic and no port harbour or similar work shall be constructed without the sanction of Parliament.

128. Subject to the authority of the Governor-General-in-Council the control and management of the railways ports and harbours of the Union shall be exercised through a Board consisting of not more than three commissioners, who shall be appointed by the Governor-General-in-Council, and a minister of state who shall be chairman. Each commissioner shall hold office for a period of five years but may be re-appointed. He shall not be removed before the expiration

of his period of appointment except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal if Parliament be then sitting or if Parliament be not sitting then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

129. The railways, ports and harbours of the Union shall be administered on business principles due regard being had to agricultural and industrial development within the Union and the promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of the Union. So far as may be the total earnings shall be not more than are sufficient to meet the necessary outlays for working maintenance betterment depreciation and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections one hundred and thirty-two and one hundred and thirty-three. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General-in-Council shall give effect to the provisions of this section within four years after the establishment of the Union.

130. The Board may establish a fund out of railway and harbour revenue to be used for maintaining as far as may be uniformity of rates notwithstanding fluctuations in traffic.

131. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Board and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

132. Every proposal for the construction of any port or harbour works or of any line of railway before being submitted to Parliament shall be considered by the Board, which shall report thereon and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance and of interest on the capital invested therein, it shall frame an estimate of the annual loss which in its opinion will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: provided that if in any year the actual loss incurred as calculated by the Board and certified to by the Controller and

Auditor-General is less than the estimate framed by the Board the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

133. If the Board shall be required by the Governor-General-in-Council or under any act of Parliament or resolution of both Houses of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General showing as nearly as can be ascertained the amount of the loss incurred by reason of the provision of such services and facilities and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

134. The Governor-General-in-Council shall appoint a Controller and Auditor-General who shall hold office during good behaviour: provided that he shall be removed by the Governor-General-in-Council on an address praying for such removal presented to the Governor-General by both Houses of Parliament: provided further that when Parliament is not in session the Governor-General-in-Council may suspend such officer on the ground of incompetence or misbehaviour; and when and so often as such suspension shall take place a full statement of the circumstances shall be laid before both Houses of Parliament within fourteen days after the commencement of its next session; and if an address shall at any time during the session of Parliament be presented to the Governor-General by both Houses praying for the restoration to office of such officer he shall be restored accordingly; and if no such address be presented the Governor-General shall confirm such suspension and shall declare the office of Controller and Auditor-General to be and it shall thereupon become vacant. Until Parliament shall otherwise provide the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf.

135. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of their ceasing to be the seats of government of their respective Colonies there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two *per centum per annum* on their municipal debts as existing on the 31st January, 1909, and as ascertained by the Controller and Auditor-General. The Commission appointed under section

one hundred and eighteen shall, after due inquiry, report to the Governor-General-in-Council what compensation should be paid to the municipal councils of Cape Town and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue-Fund for a period not exceeding twenty-five years, and shall not exceed one *per centum per annum* on the respective municipal debts of such towns as existing on the 31st January, 1909, and as ascertained by the Controller and Auditor-General. For the purposes of this section Cape Town shall be deemed to include the municipalities of Cape Town Green Point and Sea Point Woodstock Mowbray Rondebosch Claremont and Wynberg and any grant made to Cape Town shall be payable to the Councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General-in-Council with the approval of Parliament may after due inquiry withdraw or reduce the grant to such town.

#### VIII. GENERAL.

136. The election of senators and of members of the House of Assembly the Provincial Councils and the Executive Committees of the Provincial Councils as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation each voter having one transferable vote. The Governor-General-in-Council or in the case of the first election of the Senate the Governor-in-Council of each of the Colonies shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

137. Subject to the provisions of this Act all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective Provinces until repealed or amended by Parliament or by the Provincial Councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

138. Both the English and Dutch languages shall be official languages of the Union and shall be treated on a footing of equality and possess and enjoy equal freedom rights and privileges; all records journals and proceedings of Parliament shall be kept in both languages and all bills acts and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

139. All persons of European descent who have been naturalised in any of the Colonies shall be deemed to be naturalised throughout the Union.



140. The administration of justice throughout the Union shall be under the control of a minister of state in whom shall be vested all powers authorities and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies, save and except all powers authorities and functions relating to the prosecution of crimes and offences, which shall in each Province be vested in an officer to be appointed by the Governor-General-in-Council and styled the Attorney-General of the Province, who shall also discharge such other duties as may be assigned to him by the Governor-General-in-Council.

141. Subject to the provisions of the next succeeding section all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

142. (i) As soon as possible after the establishment of the Union the Governor-General-in-Council shall appoint a public service commission to make recommendations for such re-organisation and re-adjustment of the departments of the public service as may be necessary. The commission shall also make recommendations in regard to the assignment of officers to the several Provinces.

(ii) The Governor-General-in-Council may after such commission has reported assign from time to time to each Province such officers as may be necessary for the proper discharge of the services reserved or delegated to it and such officers on being so assigned shall become officers of the Province. Pending the assignment of such officers the Governor-General-in-Council may place at the disposal of the Provinces the services of such officers of the Union as may be necessary.

(iii) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board or to any person holding office under the Board.

143. After the establishment of the Union the Governor-General-in-Council shall appoint a permanent public service commission with such powers and duties relating to the appointment discipline retirement and superannuation of public officers as Parliament shall determine.

144. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a Province shall be entitled to receive such pension gratuity or other compensation as he would have received in like circumstances if the Union had not been established.

145. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a Province shall retain all his existing and accruing rights and shall be entitled to retire from the service at the time at and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

146. The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

147. Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union or assigned to that of any Province and for whom no provision shall have been made by such Legislature shall be entitled to such pension gratuity or compensation as Parliament may determine.

148. The control and administration of native affairs throughout the Union shall vest in the Governor-General-in-Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs.

149. All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

#### IX. NEW PROVINCES AND TERRITORIES.

150. Parliament may alter the boundaries of any Province divide a Province into two or more Provinces or form a new Province out of Provinces or Territories within the Union on the petition of the Provincial Council of every Province whose boundaries are affected thereby.

151. The King with the advice of the Privy Council may on addresses from the Houses of Parliament of the Union admit into the Union Colonies not originally included therein and Territories including the Territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the King and the provisions of any Order-in-Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

152. The King with the advice of the Privy Council may on addresses from the Houses of Parliament of the Union transfer to the Union the government of any Territories, other than the Territories administered by the British South Africa Company, belonging to or under the protectorate of His Majesty and inhabited wholly or in part by natives and upon such transfer the Governor-General-in-Council may undertake the government of such Territory upon the terms and conditions embodied in the schedule to this Act.

#### X. AMENDMENT OF THIS ACT.

153. Parliament may by law repeal or alter any of the provisions of this Act: provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered; and provided further that no repeal or alteration of the provisions contained in this section or in sections thirty-two and thirty-three (until

the number of members of the House of Assembly has reached the limit therein prescribed or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period) or in sections thirty-five and one hundred and thirty-eight, shall be valid unless the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

#### SCHEDULE.

1. After the transfer of the government of any Territory belonging to or under the protectorate of His Majesty the Governor-General-in-Council shall be the legislative authority and may by proclamation make laws for the peace order and good government of such Territory: provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue of the proclamation or, if Parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolution request the Governor-General-in-Council to repeal the same, in which case they shall be repealed by proclamation.

2. The Prime Minister shall be charged with the administration of any Territory thus transferred, and he shall be advised in such administration by a commission consisting of not fewer than three members with a secretary to be appointed by the Governor-General-in-Council.

3. The members of the commission shall be appointed by the Governor-General-in-Council and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary which shall not be reduced during the continuance of their term of office and they shall not be removed from office except upon addresses from both Houses of Parliament. They shall not be eligible to become members of either House of Parliament. One of the members of the commission shall be appointed by the Governor-General-in-Council as vice-chairman thereof. In case of the absence illness or other incapacity of any member of the commission the Governor-General-in-Council may appoint some other fit and proper person to act during such absence illness or other incapacity.

4. It shall be the duty of the members of the commission to advise the Prime Minister upon all matters relating to the administration of or the legislation for the said Territories. The Prime Minister or another minister of state as his deputy or, failing them, the vice-chairman shall preside at all meetings of the commission and in case of an equality of votes shall have a casting vote. Two members of the commission.

shall with the Prime Minister or his deputy form a quorum. In case the commission shall consist of four or more members three of them with the Prime Minister or his deputy shall form a quorum.

5. Any member of the commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the commission.

6. The members of the commission shall have access to all official papers concerning the Territories and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the Territories or to legislation therefor, the Prime Minister shall cause the papers relating to such matter to be deposited with the secretary to the commission and shall convene a meeting of the commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the Prime Minister that the dispatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the commission or deposited for the perusal of the members thereof. In any such case the Prime Minister shall record the reasons for sending the communication or making the order and give notice thereof to every member.

9. If the Prime Minister does not accept a recommendation of the commission or proposes to take some action contrary to their advice he shall state his views to the commission who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General-in-Council, whose decision in the matter shall be final.

10. When the recommendations of the commission have not been accepted by the Governor-General-in-Council or action not in accordance with their advice has been taken by the Governor-General-in-Council, the Prime Minister, if thereto requested by the commission, shall lay the record of their dissent from the decision or action taken and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General-in-Council shall be of opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

11. The Governor-General-in-Council shall appoint a Resident Commissioner for each Territory, who shall, in addition to such other duties as shall be imposed on him by the Governor-General-in-Council, prepare the annual estimates of revenue and expenditure for such Territory and forward the same to the Prime Minister. After such estimates have been submitted to the commission and approved of or amended by the Prime Minister, the Resident Commissioner shall, subject to regulations to be framed in that behalf by the Gov-

ernor-General-in-Council, act in accordance with such estimates.

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the Territories, and there shall be paid out of the Treasury annually towards the cost of administration of each Territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such Territory for the three completed financial years last preceding the taking effect of this Act bore to the average amount of the whole customs revenue for all the Colonies and Territories included in the Union received during the same period.

13. In case the revenue of any Territory for any financial year shall be insufficient to meet the expenditure, any amount required to make good the deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any Territory such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by the Union Government to make good any deficiency in such Territory and thereafter it shall be lawful for the Governor-General-in-Council to lend the whole or any part of such surplus to another Territory.

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those Territories.

15. The sale of liquor to natives shall be prohibited in the Territories.

16. The custom, where it exists, of holding pitsos or other recognised forms of native assembly shall be maintained in the Territories.

17. No differential duties or imposts on the produce of the Territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the Territories.

18. There shall be free intercourse for the black and white inhabitants of the Territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this schedule all revenues derived from any Territory shall be expended for and on behalf of such Territory: provided that the Governor-General-in-Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa.

20. The King may disallow any law made by the Governor-General-in-Council by proclamation for any Territory within one year from the date of the proclamation, and such disallowance on being made known by the Governor-General by

proclamation shall annul the law from the day when the disallowance is so made known.

21. The members of the commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by proclamation provide, and the salaries and pensions of such members and all other expenses of the commission shall be borne by the Territories in the proportion of their respective revenues.

22. The rights as existing on the 16th December, 1908, of civil servants employed in any Territory shall remain in force.

23. Where any appeal may by law be made to the King-in-Council from any Court of the Territories such appeal shall be subject to the provisions of this Act be made to the Appellate Division of the Supreme Court of South Africa.

24. The Governor-General-in-Council shall prepare an annual report on the Territories and lay the same before both Houses of Parliament.

25. All bills to amend or alter the provisions of this schedule shall be reserved for the signification of His Majesty's pleasure.

**CAPE OF GOOD HOPE :—**

J. H. DE VILLIERS, President.  
JOHN X. MERRIMAN.  
J. W. SAUER.  
F. S. MALAN.  
L. S. JAMESON.  
T. W. SMARTT.  
E. H. WALTON.  
W. E. M. STANFORD.  
J. W. JAGGER.  
H. C. VAN HEERDEN.  
G. H. MAASDORP.  
J. H. M. BECK.

**NATAL :—**

F. R. MOOR.  
E. M. GREENE.  
T. HYSLOP.  
C. J. SMYTHE.  
T. WATT.

**TRANSVAAL :—**

LOUIS BOTHA.  
J. C. SMUTS.  
H. C. HULL.  
G. H. FARRAR.  
J. P. FITZPATRICK.  
H. L. LINDSAY.  
S. W. BURGER.  
J. H. DE LA REY.

## ORANGE RIVER COLONY :—

A. FISCHER.  
 M. T. STEYN, Vice-President.  
 J. B. M. HERTZOG.  
 C. R. DE WET.  
 A. BROWNE.

## RHODESIA :—

W. H. MILTON.  
 L. L. MICHELL.  
 C. P. J. COGHLAN.

Convention Chambers,  
 Houses of Parliament, Cape Town,  
 3rd February, 1909.

## [ G ]

RESOLUTIONS AND AMENDMENTS TO DRAFT ACT ADOPTED BY  
 THE VARIOUS PARLIAMENTS DURING THE SESSIONS HELD IN  
 APRIL, 1909.

## CAPE OF GOOD HOPE.

This House approves of the Draft South Africa Act agreed to by the South African National Convention at Cape Town, on the 3rd February, 1909, subject to the following:—

i. That with regard to the proviso in section thirty-nine:

(a) The delimitation of divisions in which less than three members shall be returned be obligatory in all cases of sparsely populated areas;

(b) The term "sparsely populated areas" be clearly defined;

ii. That the meaning and intent of the Draft Act in regard to the cases in which the quota of voters may be departed from in the delimitation of electoral divisions referred to in paragraph (c) of sub-section (iii) of section forty be more clearly expressed so as to ensure that the departure from the quota shall not be in the discretion of the Commissioners, but shall be made in accordance with the considerations set forth in section forty, sub-section (iii) (a), (b), (c), (d) and (e), so that in sparsely populated areas as nearly as possible fifteen per cent. less voters than the quota and in densely populated areas as nearly as possible fifteen per cent. more voters than the quota shall be entitled to a member, and that areas not falling within either of the above descriptions be dealt with on a sliding scale of departure from the quota made in accordance with the above consideration and within the limit of percentage referred to, and that the terms "sparsity or density of population" be clearly defined;

iii. That an alteration be made in the constitution of the Provincial Councils by providing for the election of members by single member constituencies; that provision be made for defining the qualification of membership of such Councils,

and that such members be elected for five years instead of three years.

iv. That the following recommendations be submitted for the consideration of the South African National Convention:

(a) That at the end of sub-section (ii) section twenty-three the words "for ten years" be omitted, and the words "until the completion of the period for which the person in whose stead he is nominated would have held his seat" be substituted in lieu thereof.

(b) That in section sixty-four, after the word "Act" and before the word "that" the following be inserted: "and to such instructions as may from time to time be given in that behalf by His Majesty, his heirs or successors."

(c) That in section ninety-six the words "from time to time be temporarily" be omitted, and the word "be" be inserted in lieu thereof; and that the words "or local" be inserted after the word "Provincial."

(d) To expunge section ninety-seven, and to substitute the following: "The Governor-General-in-Council may during the absence, illness or other incapacity of the Chief Justice of South Africa, or any ordinary or additional Judge of Appeal, appoint any other Judge of the Supreme Court of South Africa to act temporarily as such Chief Justice, Ordinary Judge of Appeal, or Additional Judge of Appeal, as the case may be."

(e) To add at the end of section one hundred and three the following: "Provided that the provisions of this section shall not apply to appeals against judgments on interlocutory applications or on matters of procedure in civil cases or to questions of law reserved by a Judge presiding at Criminal Sessions."

(f) To expunge section one hundred and eight, and substitute the following: "The Chief Justice and other Judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several Provincial and Local Divisions. Until such rules shall have been promulgated the rules in force at the establishment of this Union in the respective Courts which become divisions of the Supreme Court of South Africa shall continue to apply therein."

(g) That in section one hundred and thirteen, after the word "Provincial" the words "or local" be inserted.

(h) That the meaning and intent of section one hundred and thirty-eight be more clearly expressed, so as to ensure the application of the principle of equality of the English and Dutch languages to the Provincial Councils, and Courts of Justice and the Public Service generally.

#### NATAL.

i. That this House approves of the Draft South Africa Act agreed to by the South African National Convention at Cape Town on the 3rd February, 1909, subject to certain amendments, and with certain resolutions in regard to the same.



## ii. Resolutions:

That this House hereby instructs the delegates to the National Convention to do all in their power to preserve intact the liberal provisions regarding the franchise contained in the draft Act of Union, and to strenuously oppose any attempt to limit or alter those clauses which provide for equal political rights.

That it be an instruction to the Natal Delegates that upon the reassembling of the Convention, they use their best endeavours to arrange for an inter-Colonial treaty, providing:

(a) That, any Treaty notwithstanding, no part of the Union shall, in regard to commerce, industry, or agriculture, be placed in a worse position than an outside State or Power.

(b) That the products of any State or Power outside the Union, the manufacture or exploitation of which may be assisted by any bounty or equivalent thereto, shall not be admitted at a lower duty than shall be equal to the amount of such bounty.

## iii. Amendments:

(a) *Section 32*: The words "until the total number of members of the House of Assembly in respect of the Provinces herein provided for reaches one hundred and fifty, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period," to be omitted.

(b) *Section 82*: After the word "present," the words "and in case of an equality of votes the Administrator shall have also a casting vote" to be omitted, and the words "other than the Administrator, who shall, however, have and exercise a casting vote in the case of an equality of votes," substituted in lieu thereof.

(c) *Section 126a*: New Section to follow section one hundred and twenty-six:

126a. There shall at all times be absolute Free Trade throughout the Union.

(d) *Section 128*: After the word "not" the word "more" to be omitted, and the word "less" substituted in lieu thereof.

(e) *Section 129*: After the word "development" the words "within the Union" to be omitted; after the word "population" the words "in the inland portions of" to be omitted and the word "throughout" substituted in lieu thereof; and the following proviso to be added at the end of the section:

"Provided that, notwithstanding the provisions of section one hundred and seventeen, it shall be lawful for Parliament, on the recommendation of the Governor-General, to vote for the general purposes of the Union a portion of the revenues of the Railway and Harbour Fund until the provisions of this section shall have come into force, and any moneys so voted shall become part of the Consolidated Revenue Fund."

(f) *Section 135*: The words "At any time after the tenth annual grant has been paid to any such towns the Governor-General-in-Council, with the approval of Parliament, may"

after due inquiry withdraw or reduce the grant to such town," at the end of the section to be omitted.

(g) *Section 136*: After the word "Councils" the words "and the Executive Committees of the Provincial Councils" to be omitted.

(h) *Section 148a*: New section to follow section one hundred and forty-eight:

148A. No law providing for the prohibition of the sale and use of intoxicating liquor to natives in any of the Provinces of the Union shall be altered or repealed excepting by a majority of two-thirds of both Houses of Parliament sitting together.

(i) *Section 149*: After the word "agreements" the words "including the Railway Agreement, dated 2nd February, 1909, entered into between the Government of the Transvaal and the Governments of the Cape Colony and Natal" to be inserted.

(j) *Section 153*: After the word "law" the words "which must be passed by an absolute majority of each House of Parliament" to be inserted; after the words "thirty-two" the word "and" to be omitted; in the same line after the words "thirty-three" the words "(until the number of members of the House of Assembly has reached the limit therein prescribed or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period) or in sections" to be omitted; and after the words "thirty-five" the words "seventy, seventy-one" to be inserted.

(k) *Schedule*: In paragraph 18 the words "black and white" to be omitted.

#### TRANSVAAL.

That this House approves of the Draft South Africa Act agreed to by the South African National Convention at Cape Town on the 3rd February, 1909.

#### ORANGE RIVER COLONY.

i. This House, whilst reserving for deliberation whether any, and if so, what amendments are deemed desirable to be recommended to the consideration of the Convention at its next session, approves of the Draft South Africa Act agreed to by the South African National Convention at Cape Town on the 3rd February, 1909.

ii. Amendments recommended:

(a) That through the delegates of this Colony be recommended for consideration of the Convention at its next session the necessity for more clearly expressing the meaning and intent of the Draft Act in regard to the cases in which the quota of voters may be departed from (to the extent of not exceeding 15 per cent. one way or the other) in the delimitation of electoral divisions referred to in sub-section (e) of section three of Clause Forty of the Draft Act.

(b) That through the delegates of this Colony the Conven-

tion be recommended to consider the desirability of provision being made for qualifications for members of Provincial Councils.

(c) That through the delegates of this Colony the Convention be recommended to consider the advisability of amending section ninety-six of Chapter VI. "Supreme Court of South Africa," as follows:—To insert the words "or local" after the word "Provincial."

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[ H ]

**SECOND REPORT OF THE CONVENTION WITH AMENDMENTS TO DRAFT ACT MADE AT BLOEMFONTEIN PRIOR TO ITS FINAL ADOPTION.**

I. The delegates to the South African National Convention have the honour to report to the respective Parliaments which appointed them, that at the session recently held at Bloemfontein they have considered the amendments and resolutions adopted by the Parliaments of the several Colonies, as well as other amendments proposed at that session, and have agreed to the following:—

*Section Six.*

After "of them" to insert "or of any place in them."

*Section Twenty-Three.*

After "shall" where it first occurs to insert "in respect of the original Provinces."

*Section Twenty-Six.*

After "writing" to insert "under his hand."

*Section Thirty-Three.*

In sub-section (i) after "Union" to omit "not being members of His Majesty's regular forces on full-pay"; in sub-section (vi) to add at the end "not being members of His Majesty's regular forces on full pay"; and in sub-section (vii) after "adults" to omit "not being members of His Majesty's regular forces on full pay."

*Section Thirty-Five.*

In sub-section (i) after "so registered" to insert "in the Province of the Cape of Good Hope."

*Section Thirty-Seven.*

In sub-section (i) to omit "at" before "elections" and substitute "in connection with"; and after "elections" to insert "election expenses, corrupt and illegal practices."

*Section Thirty-Eight.*

After "Governor-in-Council" to omit "who nominated him" and substitute "of the Colony in respect of which he was nominated."

*Section Thirty-Nine.*

To omit all the words after "returning" to the end, and insert "one member."

To omit sub-section (ii) and substitute:

(ii) Each Province shall be divided into electoral divisions in such a manner that each such division shall, subject to the

provisions of sub-section (iii) of this section, contain a number of voters as nearly as may be equal to the quota of the Province.

*Section Forty-Two.*

In sub-section (i) (a) after "boundaries of" to omit "and the number of members assigned to"; and in sub-section (iii) after "divisions" to omit "and the number of members assigned to each division."

*Section Forty-Six.*

After "writing" to insert "under his hand."

*Section Fifty-Three.*

In sub-section (a) after "convicted of" to omit "treason, murder or"; before "offence" to insert "crime or"; and after "received" to insert "a grant of amnesty or."

*Section Fifty-Six.*

After "allowance of" to omit "three" and substitute "four"; and after "sum of" to omit "two" and substitute "three."

*Section Sixty-Four.*

After "Act" to insert "and to such instructions as may from time to time be given in that behalf by the King"; and after "pleasure" to insert "All Bills repealing or amending this section or any of the provisions of Chapter IV. under the heading "House of Assembly" and all Bills abolishing Provincial Councils or abridging the powers conferred on Provincial Councils under section eighty-five otherwise than in accordance with the provisions of that section shall be so reserved."

*Section Seventy.*

To divide the section into two sub-sections, the first remaining as printed and the second being a new sub-section, as follows:

(ii) Any person qualified to vote for the election of members of the Provincial Council shall be qualified to be a member of such Council.

*Section Seventy-Five.*

After "elect" to omit "its own" and substitute "from among its members a."

*Section Seventy-Eight.*

In sub-section (i), after "otherwise" to omit from "such number" down to "Province," where it first occurs, and substitute "four persons."

*Section Eighty-Five.*

In sub-section (vii) after "railways" to insert "and"; and after "harbours and" to insert "other than."

*Section Ninety-Five.*

To omit "Chief Justices and."

*Section Ninety-Six.*

After "shall" to omit "from time to time be temporarily" and substitute "be"; and after "Provincial" to insert "or Local."

*Section Ninety-Seven.*

Omitted.

*New Section (in lieu thereof).*

97. The Governor-General-in-Council may during the absence, illness or other incapacity of the Chief Justice of South Africa, or any Ordinary or Additional Judge of Appeal, appoint any other Judge of the Supreme Court of South Africa to act temporarily as such Chief Justice, Ordinary Judge of Appeal, or Additional Judge of Appeal, as the case may be.

*Section Ninety-Eight.*

To add at the end of sub-section (i) "and shall each be presided over by a Judge President."

*Section Ninety-Nine.*

To add at the end: "The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges President of the divisions of the Supreme Court in the respective Provinces, but shall so long as they hold that office retain the title of Chief Justice of their respective Provinces."

*Section One Hundred and Three.*

To read as follows:—

103. In every civil case in which, at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a Superior Court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division; except in cases of orders or judgments given upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only which by law are left to the discretion of the Court. The appeal from any such orders or judgments as well as any appeal in criminal cases from any such Superior Court, or the special reference by any such Court of any point of law in a criminal case shall be made to the Provincial Division corresponding to the Court which before the establishment of Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such Provincial Division except to the Appellate Division and then only if the Appellate Division shall have given special leave to appeal.

*Section One Hundred and Four.*

To omit "of the Supreme Court of South Africa," where it occurs a second time.

*Section One Hundred and Five.*

To omit "of the Supreme Court of South Africa," where it occurs a second time.

*Section One Hundred and Seven.*

To omit "of the Supreme Court of South Africa."

*Section One Hundred and Eight.*

Omitted.

*New Section (in lieu thereof).*

108. The Chief Justice and other Judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several Provincial and Local Divisions. Until such rules shall have been promulgated the rules in force at the establishment of the Union in the respective Courts which become Divisions of the Supreme Court of South Africa shall continue to apply therein.

*Section One Hundred and Nine.*

To omit "of the Supreme Court of South Africa."

*Section One Hundred and Thirteen.*

After "Provincial" to insert "or Local."

*Section One Hundred and Fourteen.*

To omit "of the Supreme Court of South Africa"; and after "shall" to omit "in the opinion of the Chief Justice of South Africa."

*Section One Hundred and Nineteen.*

Omitted.

*Section One Hundred and Twenty.*

After "form" to omit "the second" and substitute "a first."

*Section One Hundred and Twenty-One.*

Omitted.

*Section One Hundred and Twenty-Six.*

Omitted.

*New Section (in lieu thereof).*

126. The Union shall assume all debts and liabilities of the Colonies existing at its establishment subject to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew or consolidate such debts.

*Section One Hundred and Twenty-Nine.*

After "portions of" to insert "all Provinces of"; and to omit all the words from "The Governor-General-in-Council" to the end, and insert the following:—"The Governor-General-in-Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period if the revenues accruing to the Consolidated Revenue-

Fund are insufficient to provide for the general service of the Union and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund."

*Section One Hundred and Thirty.*

To insert at the beginning "Notwithstanding anything to the contrary in the last preceding section."

*Section One Hundred and Thirty-Six.*

After "members" to omit "House of Assembly, the Provincial Councils and the."

*New Section* (to follow Section One Hundred and Thirty-Seven).

137A. There shall be Free Trade throughout the Union, but until Parliament otherwise provides the duties of customs and excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

*Section One Hundred and Thirty-Nine.*

After "persons" to omit "of European descent."

*Section One Hundred and Forty.*

To add at the end:—"provided that in the Province of the Cape of Good Hope the Solicitor-General for the Eastern Districts and the Crown Prosecutor for Griqualand West shall respectively continue to exercise the powers and duties by law vested in them at the time of the establishment of the Union."

*Section One Hundred and Forty-Five.*

After "time at" to insert "which he would have been entitled by law to retire."

*Section One Hundred and Forty-Nine.*

To divide the section into two sub-sections, the first remaining as printed and the second being a new sub-section, as follows:—

(ii) The provisions of the Railway Agreement between the Governments of the Transvaal, the Cape of Good Hope and Natal, dated the 2nd February, 1909, shall as far as practicable be given effect to by the Government of the Union.

*Schedule.*

In paragraph 18 to omit "black and white."

II. The Draft Act as finally adopted by the Convention is attached\* to this report.

III. The Convention would further recommend that the delegates to be appointed to proceed to London to confer with the Secretary of State for the Colonies in reference to the

\* The Draft Act has not been reprinted in this Appendix, being in all respects similar to that printed in Appendix [F] except for the amendments enumerated above.—G.E.H.

passage of the Draft Act through the British Parliament should be authorised *inter alia* :—

(1) to agree to any necessary amendments in the Act which do not involve alterations of any of its principles;

(2) to confer with the Secretary of State for the Colonies as to the Royal Instructions to be issued to the Governor-General;

(3) to draft for the guidance of the South African Governments rules and regulations for the first elections of senators in accordance with the provisions of the Act.

**CAPE OF GOOD HOPE:—**

J. H. DE VILLIERS, President.

JOHN X. MERRIMAN.

J. W. SAUER.

F. S. MALAN.

L. S. JAMESON.

T. W. SMARTT.

E. H. WALTON.

W. E. M. STANFORD.

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S. W. BURGER.

J. H. De La REY.

**ORANGE RIVER COLONY:—**

A. FISCHER.

M. T. STEYN, Vice-President.

J. B. M. HERTZOG.

C. R. DE WET.

A. BROWNE.

**RHODESIA:—**

W. H. MILTON.

C. P. J. COGHLAN.

Convention Chambers,

Houses of Parliament, Bloemfontein,

11th May, 1909.



## [ I ]

**RESOLUTIONS ADOPTED BY THE VARIOUS PARLIAMENTS APPROVING OF THE DRAFT ACT AS WELL AS ADDRESSES TO H.M. THE KING FOR THE AUTHORISATION OF THE PROPOSED UNION.**

## RESOLUTIONS.

*Cape of Good Hope.*

Resolutions of both Houses.

This House approves of the Draft South Africa Act as amended and agreed to by the South African National Convention at Bloemfontein on the 11th May, 1909.

(Legislative Council, 4th June, 1909,  
Minutes, p. 32.)

(House of Assembly, 3rd June, 1909,  
V. and P., pp. 61-63.)

That His Majesty the King be requested by humble address to cause the necessary steps to be taken to authorise the legislative union under one Government under the name of South Africa, of this Colony with such other of the Colonies of Natal, the Transvaal and the Orange River Colony as may agree thereto, in accordance with the provisions of the Draft South Africa Act.

(Legislative Council, 4th June, 1909,  
Minutes, p. 32.)

(House of Assembly, 3rd June, 1909,  
V. and P., p. 63.)

*Natal.*

Resolution of House of Assembly.

That the following Address be now adopted for presentation to His Most Gracious Majesty the King, viz. :—

(For Address—see page 357).

(Legislative Assembly, 16th June, 1909,  
V. and P., pp. 10-11.)

*Transvaal.*

Resolutions of both Houses.

This House approves of the Draft South Africa Act as finally adopted by the South African National Convention.

(Legislative Council, 2nd June, 1909,  
Minutes, p. 4.)

(Legislative Assembly, 2nd June, 1909,  
V. and P., pp. 7-8.)

That His Majesty the King be requested by humble address to cause the necessary steps to be taken to authorise the Legislative union, under one Government under the name of South Africa, of this Colony with such other of the Colonies of the Cape of Good Hope, Natal and the Orange River

Colony, as may agree thereto in accordance with the provisions of the Draft South Africa Act.

(Legislative Council, 2nd June, 1909,  
Minutes, p. 4.)

(Legislative Assembly, 2nd June, 1909,  
V. and P., p. 8.)

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*Orange River Colony.*

Resolutions of both Houses.

This House approves of the Draft South Africa Act as amended and agreed to by the South African National Convention at Bloemfontein on the 11th May, 1909.

(Legislative Council, 3rd June, 1909,  
Minutes, p. 26.)

(House of Assembly, 2nd June, 1909,  
V. and P., p. 33.)

That His Majesty the King be requested by humble address to cause the necessary steps to be taken to authorise the Legislative Union, under one Government, under the name of South Africa of this Colony with such other of the Colonies of the Cape of Good Hope, Natal and the Transvaal as may agree thereto in accordance with the provisions of the Draft South Africa Act.

(Legislative Council, 3rd June, 1909,  
Minutes, p. 26.)

(House of Assembly, 2nd June, 1909,  
V. and P., p. 33.)

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ADDRESSES TO H. M. THE KING.

*Cape of Good Hope.*

To His Most Gracious Majesty Edward VII., by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

We, Your Majesty's Most Dutiful and Loyal Subjects, the President and Members of the Legislative Council, and the Speaker and Members of the House of Assembly of the Cape of Good Hope in Parliament assembled have agreed to a resolution in favour of the legislative union, under one government, under the name of South Africa, of this Colony with such other of the Colonies of Natal, the Transvaal and the Orange River Colony as may agree thereto, in accordance with the provisions of the Draft South Africa Act, a copy of which is hereunto annexed, but subject to such necessary amendments, not inconsistent with the principles laid down in the said Act, as may be agreed upon between your Majesty's Secretary of State for the Colonies and any delegation that may be appointed by the several Colonies for the purpose of

conferring with him, and we therefore pray that Your Majesty may be graciously pleased to cause the necessary steps to be taken to authorise the contemplated Union.

And we humbly assure Your Majesty of our continued loyalty and devotion to your Majesty's Throne and Person.

(Legislative Council, 7th June, 1909,  
Minutes, p. 35.)

(House of Assembly, 7th June, 1909,  
V. and P., p. 70.)

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*Natal.*

To His Most Gracious Majesty, Edward VII., by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India.

We, Your Majesty's Most Dutiful and Loyal Subjects, the Speaker and Members of the Legislative Assembly of the Colony of Natal in Parliament assembled, humbly desire to inform your Majesty that the electors of this Colony have by referendum under Act No. 2 of 1909, decided to enter into a union in accordance with the provisions of the Draft South Africa Act, copy of which is hereunto annexed,

A delegation appointed by the several Colonies will proceed to England to confer with Your Majesty's Secretary of State for the Colonies, and will have power to agree to necessary amendments not inconsistent with the principles laid down in the said Act of Union.

We therefore pray that Your Majesty may be graciously pleased to cause the necessary steps to be taken to authorise the contemplated Union, and we humbly assure Your Majesty of our continued loyalty and devotion to Your Majesty's Throne and Person.

(Legislative Assembly, 16th June, 1909,  
V. and P., pp. 10-11.)

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*Transvaal.*

(Similar in form to that adopted by the Parliament of the Cape of Good Hope).

(Legislative Council, 3rd June, 1909,  
Minutes, p. 5.)

(Legislative Assembly, 3rd June, 1909,  
V. and P., pp. 11-12.)

*Orange River Colony.*

(Similar in form to that adopted by the Parliament of the Cape of Good Hope.)

(Legislative Council, 8th June, 1909,  
Minutes, pp. 30-31.)

(House of Assembly, 7th June, 1909,  
V. and P., pp. 50-51.)

[ J ]

**APPOINTMENT OF DELEGATES TO LONDON IN CONNECTION WITH  
THE PASSAGE OF THE DRAFT ACT THROUGH THE PARLIA-  
MENT OF THE UNITED KINGDOM.**

*Cape of Good Hope.*

Resolutions of both Houses.

(1) This House concurs in the recommendation of the National Convention that delegates should be appointed to proceed to London to confer with the Secretary of State for the Colonies, in reference to the passage of the Draft Act establishing a constitution for South Africa through the British Parliament, with the following powers:

(i) To agree to such amendments in the Act which do not involve alterations in any of the principles of that Act as may be agreed in by all the delegates.

(ii) To confer with the Secretary of State for the Colonies as to the Royal instructions to be issued to the Governor-General.

(iii) To draft for the guidance of the South African Governments rules and regulations for the first election of Senators in accordance with the provisions of the Act.

(2) That the delegates so appointed shall be as follows:—  
The Right Hon. Sir J. H. de Villiers, The Right Hon. Dr. L. S. Jameson, the Hon. J. W. Sauer, the Hon. J. H. Hofmeyr, the Hon. J. X. Meriman.

(Legislative Council, 8th June, 1909,  
Minutes, pp. 39-40.)

(House of Assembly, 8th June, 1909,  
V. and P., p. 79.)

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*Natal.*

The *Prime Minister* informed the House that he proposed to ask his four fellow delegates at the National Convention to accompany him on the forthcoming visit to England, to join in laying the Draft South Africa Act before the British Parliament.

(Legislative Assembly, 17th June, 1909,  
V. and P., p. 19.)

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*Transvaal.*

Resolutions of both Houses.

That in accordance with the recommendation contained in paragraph IV. of the Report of the South African National Convention, dated 3rd February, 1909, the Government be authorised to appoint delegates to proceed to England for the purpose of conferring with the Secretary of State for the Colonies with reference to the passage of the Draft Act

through the British Parliament, and that the instructions recommended by the Convention in paragraph III. of their second report, dated the 11th May, 1909, for the guidance of the delegates be approved.

(Legislative Council, 3rd June, 1909,  
Minutes, p. 5.)

(Legislative Assembly, 3rd June, 1909,  
V. and P., p. 12.)

The *Prime Minister* intimated that in accordance with the resolution adopted by this House on the 3rd instant, the Government had appointed the following members as delegates to proceed to London in connection with the Draft South Africa Act, viz., Sir George Farrar, Sir Percy Fitzpatrick, the Colonial Secretary, the Colonial Treasurer and the Prime Minister.

(Legislative Assembly, 25th June, 1909,  
V. and P., p. 214.)

#### *Orange River Colony.*

Resolutions of both Houses.

That this House adopts the second report of the South African National Convention on Closer Union dated 11th May, 1909, and in terms of the recommendation therein contained confers authority on the Orange River Colony members of the delegation who are to proceed to England for the purposes as set forth in the Reports of the Convention dated respectively the 3rd February, 1909, and the 11th May, 1909, with the proviso that authority of the delegates in regard to agreeing to amendments shall be confined only to such amendments as are not inconsistent with the provisions and principles laid down in the said Draft Act.

(Legislative Council, 4th June, 1909,  
Minutes, pp. 28-29.)

(House of Assembly, 4th June, 1909,  
V. and P., p. 45.)

The *Prime Minister* announced that the Government had appointed the Hon. M. T. Steyn, the Hon. A. Browne, the Hon. J. B. M. Hertzog and the Hon. A. Fischer as members of the delegation who are to proceed to England for the purposes set forth in both the reports of the South African National Convention adopted by both Houses of Parliament.

(Legislative Council, 14th June, 1909,  
Minutes, p. 60.)

(House of Assembly, 10th June, 1909,  
V. and P., p. 76.)

## [K]

**SCHEDULE OF AMENDMENTS TO THE DRAFT ACT MADE IN ENGLAND  
PRIOR TO ITS INTRODUCTION INTO THE PARLIAMENT OF THE  
UNITED KINGDOM.\****Preamble.*

In the second paragraph, after "Union of," to omit "those" and substitute "the"; after "Colonies," to omit "which may assent thereto" and substitute "of the Cape of Good Hope, Natal, the Transvaal and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments"; in the fourth paragraph, to omit "as Provinces or Territories" and insert "or transfer to the Union"; and in the enacting clause to omit "etc.," and insert "by the King'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:"

*Clause One.*

After "Africa Act," to insert "1909."

*Clause Two.*

After "in this Act," to insert "unless it is otherwise expressed or implied," and to omit those words after "shall"; after "mean" to insert "the Union of," and to add at the end "and the words 'Houses of Parliament,' 'House of Parliament' or 'Parliament' shall be taken to mean the Parliament of the Union."

*Clause Four.*

After "Act," to omit "any two or more of"; after "Colonies" to omit "which shall, before the passing of this Act or thereafter before the date of such proclamation, have agreed thereto either by Act of Parliament or by resolutions of both Houses of Parliament"; after "name of," to insert "the Union of," and after "limits of the Colonies" to omit "which shall have so agreed."

*Clause Six.*

To omit "Such of"; after "Colonies," to omit "as shall have agreed to enter the Union before the date of the proclamation," and to omit all the words after "establishment of the Union" to the end of the clause.

*New Clause (to follow Clause Six).*

7. Upon any Colony entering the Union, the Colonial Boundaries Act, 1895, and every other Act applying to any of the Colonies as being self-governing Colonies or Colonies with responsible Government shall cease to apply to that Colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union.

*Clause Seven.*

To omit "South Africa" and substitute "the Union."

\* The draft Act passed both Houses of the Parliament of the United Kingdom with ut further amendment.—G.R.H.

*Clause Ten.*

To add at the end "The King may authorise the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function."

*Clause Seventeen.*

After "section," to omit "twenty-two" and substitute "twenty-three."

*Clause Twenty-five.*

To add at the end "For the purposes of this section residence in and property situated within a Colony before its incorporation in the Union shall be treated as residence in and property situated within the Union."

*Clause Thirty-three.*

After "section," to omit "twenty-two" and substitute "thirty-three"; and in sub-section (iii), after "After," to omit "every" and substitute "any."

*Clause Thirty-four.*

Omitted.

*Clause Thirty-eight.*

After "duties of the commission," to insert "The commission may regulate their own procedure and may act by a majority of their number."

*Clause Forty-four.*

To add at the end "For the purposes of this section residence in a Colony before its incorporation in the Union shall be treated as residence in the Union."

*Clause Fifty-one.*

In the forms of Oath and Affirmation to omit "King Edward the Seventh" and substitute "[here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being]," and before "heirs" to insert "[or Her]."

*Clause Fifty-nine.*

After "government of" to omit "South Africa" and substitute "the Union."

*Clause Seventy-one.*

To omit "elections" and substitute "election."

*Clause Seventy-five.*

After "thereof," to omit "by" and substitute "in."

*Clause Eighty-five.*

In sub-section (xiii), after "shall" to insert "by any law."

*Clause Ninety-seven.*

After "Africa or" to insert "of."

*Clause One Hundred and Three.*

After "which," to insert "according to the law in force"; before "except" to omit the semi-colon; after "judgments given" to insert "by a single judge"; and after "establishment of" to insert "the."

*Clause One Hundred and Six.*

To add at the end "Provided that nothing in this section shall affect any right of appeal to His-Majesty-in-Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of the Colonial Courts of Admiralty Act, 1890."

*Clause One Hundred and Sixteen.*

To add at the end "All appeals to the King-in-Council which shall be pending at the establishment of the Union shall be proceeded with as if this Act had not been passed."

*Clause One Hundred and Twenty-one.*

To omit "date" and substitute "establishment."

*Clause One Hundred and Twenty-four.*

After "establishment subject" to insert "notwithstanding any other provision contained in this Act."

*Clause One Hundred and Twenty-seven.*

Before "promotion" to omit "the."

*Clause One Hundred and Thirty.*

After "certified" to omit "to."

*Clause One Hundred and Thirty-three.*

After "31st," where it first occurs, to insert "day of."

*Clause One hundred and Thirty-six.*

To omit "customs" and substitute "custom."

*Clause One Hundred and Forty-seven.*

After "affairs" to insert "and of matters specially or differentially affecting Asiatics"; and after "chiefs" to insert "and any lands vested in the Governor or Governor and Executive Council of any Colony for the purpose of reserves for native locations shall vest in the Governor-General-in-Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament."

*Clause One Hundred and Forty-nine.*

To omit "or Territories."

*Clause One Hundred and Fifty.*

To omit "Colonies not originally included therein and territories including."



*Clause One Hundred and Fifty-one.*

To omit "protectorate" and substitute "protection."

*Heading to Part X.*

To omit "this."

*Clause One Hundred and Fifty-two.*

After "sections" to omit "thirty-two" and substitute "thirty-three"; and after "and" to omit "thirty-three" and substitute "thirty-four."

*Schedule.**Paragraph 1.*

After "under the" to omit "protectorate" and substitute "protection"; and after "shall by" to make "resolution" in the plural and to insert "passed in the same session."

*Paragraph 2.*

After "advised in" to insert "the general conduct of"; and to add at the end "who shall take the instructions of the Prime Minister in conducting all correspondence relating to the territories and shall also under the like control have custody of all official papers relating to the territories."

*Paragraph 3.*

After "Houses of Parliament" to insert "passed in the same session praying for such removal"; after "They shall not be" to omit "eligible" and substitute "qualified," and after "become" to insert "or to be."

*Paragraph 4.*

After "to the" to insert "general conduct of the"; after "state" to omit "as his deputy" and substitute "nominated by the Prime Minister to be his deputy for a fixed period"; after "failing" to omit "them" and substitute "such nomination"; after "commission shall" to omit "with the Prime Minister or his deputy"; and after "of them" to omit "with the Prime Minister or his deputy."

*Paragraph 10.*

After "Governor-General-in-Council shall" to omit "be of opinion" and substitute "transmit to the commission a minute recording his opinion."

*Paragraph 11.*

To omit "by the Governor-General-in-Council" where it first occurs; and to omit all the words after "to the" to the end and substitute "secretary to the commission for the consideration of the commission and of the Prime Minister. A proclamation shall be issued by the Governor-General-in-Council giving to the provisions for revenue and expenditure made in the estimates as finally approved by the Governor-General-in-Council the force of law."

*Paragraph 13.*

To omit "In case" and substitute "If"; after "expenditure" to insert "thereof"; after "deficiency," where it first occurs, to omit "shall be advanced by the Government of the

Union" and insert "may with the approval of the Governor-General-in-Council and on such terms and conditions and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the Government of the Union"; after "previously advanced" to insert "by any other territory or"; after "deficiency in" to insert "the revenue of," and after "such Territory" to omit all the words to the end.

*Paragraph 15.*

After "sale of" to insert "intoxicating," and to add at the end "and no provision giving facilities for introducing obtaining or possessing such liquor in any part of the Territories less stringent than those existing at the time of transfer shall be allowed."

*Paragraph 19.*

To add at the end "so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this Schedule from the Treasury of the Union towards the cost of administration of the territory bears to the total customs revenue of the Union on the average of the three years immediately preceding the year for which the contribution is made."

*Paragraph 22.*

After "existing" to omit "on the 16th December, 1908, of civil servants" and substitute "at the date of transfer of officers of the public service."

*Paragraph 24.*

To omit "Governor-General-in-Council" and substitute "Commission," and after "Territories," to omit "and lay the same" and substitute "which shall, when approved by the Governor-General-in-Council, be laid."

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[L]

**SOUTH AFRICA ACT, AS ASSENTED TO AND PROMULGATED.**

*South Africa Act, 1909—[9 Edw. 7, Ch. 9.]*

ARRANGEMENT OF SECTIONS.

I.—*Preliminary.*

*Section.*

1. Short title.
2. Definitions.
3. Application of Act to King's successors.

II.—*The Union.*

4. Proclamation of Union.
5. Commencement of Act.
6. Incorporation of Colonies into the Union.
7. Application of Colonial Boundaries Act, etc.

III.—*Executive Government.*

8. Executive power.
9. Governor-General.
10. Salary of Governor-General.
11. Application of Act to Governor-General.
12. Executive Council.
13. Meaning of Governor-General-in-Council.
14. Appointment of Ministers.
15. Appointment and removal of officers.
16. Transfer of executive powers to Governor-General-in-Council.
17. Command of naval and military forces.
18. Seat of Government.

IV.—*Parliament.*

19. Legislative power.
20. Sessions and dissolution of Parliament.
21. Summoning of first Parliament.
22. Annual session of Parliament.
23. Seat of Legislature.

*Senate.*

24. Original constitution of Senate.
25. Subsequent constitution of Senate.
26. Qualifications of Senators.
27. Appointment and tenure of office of President.
28. Deputy-President.
29. Resignation of Senators.
30. Quorum.
31. Voting in the Senate.

*House of Assembly.*

32. Constitution of House of Assembly.
33. Original number of members.
34. Increase of number of members.
35. Qualifications of voters.
36. Application of existing qualifications.
37. Elections.
38. Commission for delimitation of electoral divisions.
39. Electoral divisions.
40. Method of dividing provinces into electoral divisions.
41. Alteration of electoral divisions.
42. Powers and duties of commission for delimiting electoral divisions.
43. Date from which alteration of electoral divisions to take effect.
44. Qualifications of members of House of Assembly.
45. Duration.
46. Appointment and tenure of office of Speaker.
47. Deputy-Speaker.
48. Resignation of members.
49. Quorum.
50. Voting in House of Assembly.

*Both Houses of Parliament.*

51. Oath or affirmation of allegiance.
52. Member of either House disqualified for being member of the other House.
53. Disqualifications for being a member of either House.
54. Vacation of seats.
55. Penalty for sitting or voting when disqualified.
56. Allowances of members.
57. Privileges of Houses of Parliament.
58. Rules of procedure.

*Powers of Parliament.*

59. Powers of Parliament.
60. Money Bills.
61. Appropriation Bills.
62. Recommendation of money votes.

63. Disagreements between the two Houses.
64. Royal Assent to Bills.
65. Disallowance of Bills.
66. Reservation of Bills.
67. Signature and enrolment of Acts.

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V.—*The Provinces.*

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*Administrators.*

68. Appointment and tenure of office of provincial administrators.
69. Salaries of administrators.

*Provincial Councils.*

70. Constitution of provincial councils.
71. Election of provincial councillors.
72. Application of sections *fifty-three to fifty-five* to provincial councillors.
73. Tenure of office by provincial councillors.
74. Sessions of provincial councils.
75. Chairmen of provincial councils and rules of procedure.
76. Allowances of provincial councillors.
77. Freedom of speech in provincial councils.

*Executive Committees.*

78. Provincial executive committees.
79. Right of administrator, etc., to take part in proceedings of provincial council.
80. Powers of provincial executive committees.
81. Transfer of powers to provincial executive committees.
82. Voting in executive committees.
83. Appointment of officers by executive committees.
84. Power of administrator to act on behalf of Governor-General-in-Council.

*Powers of Provincial Councils.*

85. Powers of provincial councils.
86. Effect of provincial ordinances.
87. Recommendations to Parliament.
88. Power to deal with matters proper to be dealt with by private Bill legislation.
89. Constitution of provincial revenue fund.
90. Assent to provincial ordinances.
91. Effect and enrolment of ordinances.

*Miscellaneous.*

92. Audit of provincial accounts.
93. Continuation of powers of divisional and municipal councils.
94. Seats of provincial government.

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VI.—*The Supreme Court of South Africa.*

95. Constitution of Supreme Court.
96. Appellate Division of Supreme Court.
97. Filling of temporary vacancies in Appellate Division.
98. Constitution of provincial and local divisions of Supreme Court.
99. Continuation in office of existing judges.
100. Appointment and remuneration of judges.
101. Tenure of office by judges.
102. Reduction in number of judges.
103. Appeals to Appellate Division.
104. Existing appeals.
105. Appeals from inferior courts to provincial divisions.
106. Provisions as to appeals to the King-in-Council.
107. Rules of procedure in Appellate Division.
108. Rules of procedure in provincial and local divisions.
109. Place of sittings of Appellate Division.
110. Quorum for hearing appeals.

- 111. Jurisdiction of Appellate Division.
- 112. Execution of processes of provincial divisions.
- 113. Transfer of suits from one provincial or local division to another.
- 114. Registrar and officers of Appellate Division.
- 115. Advocates and attorneys.
- 116. Pending suits.

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VII.—*Finance and Railways*

- 117. Constitution of Consolidated Revenue Fund and Railway and Harbour Fund.
- 118. Commission of inquiry into financial relations between Union and provinces.
- 119. Security for existing public debts.
- 120. Requirements for withdrawal of money from funds.
- 121. Transfer of colonial property to the Union.
- 122. Crown lands, etc.
- 123. Mines and minerals.
- 124. Assumption by Union of colonial debts.
- 125. Ports, harbours, and railways.
- 126. Constitution of Railway and Harbour Board.
- 127. Administration of railways, ports, and harbours.
- 128. Establishment of fund for maintaining uniformity of railway rates.
- 129. Management of railway and harbour balances.
- 130. Construction of harbour and railway works.
- 131. Making good of deficiencies in Railway and Harbour Fund in certain cases.
- 132. Controller and Auditor-General.
- 133. Compensation of colonial capitals for diminution of prosperity.

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VIII.—*General.*

- 134. Method of voting for senators, etc.
- 135. Continuation of existing colonial laws.
- 136. Free trade throughout Union.
- 137. Equality of English and Dutch languages.
- 138. Naturalisation.
- 139. Administration of justice.
- 140. Existing officers.
- 141. Commission for reorganisation of public departments.
- 142. Public service commission.
- 143. Pensions of existing officers.
- 144. Tenure of office of existing officers.
- 145. Existing officers not to be dismissed for ignorance of English or Dutch.
- 146. Compensation to existing Parliamentary officers who are not retained.
- 147. Administration of native affairs etc.
- 148. Devolution on Union of rights and obligations under conventions.

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IX.—*New Provinces and Territories.*

- 149. Alteration of boundaries of provinces.
- 150. Power to admit into Union territories administered by British South Africa Company.
- 151. Power to transfer to Union government of native territories.

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X.—*Amendment of Act.*

- 152. Amendment of Act.

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SCHEDULE.

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CHAPTER 9.

AN ACT TO CONSTITUTE THE UNION OF SOUTH AFRICA.  
[20th September, 1909.]

WHEREAS it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland :

And whereas it is expedient to make provision for the union of the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments, and to define the executive, legislative, and judicial powers to be exercised in the government of the Union :

And whereas it is expedient to make provision for the establishment of provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration :

And whereas it is expedient to provide for the eventual admission into the Union or transfer to the Union of such parts of South Africa as are not originally included therein :

Be it therefore enacted by the King'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 :

I. *Preliminary.*

- |  |   |
|--|---|
| Short title.                             | 1. This Act may be cited as the South Africa Act, 1909.   |
| Definitions.                             | 2. In this Act, unless it is otherwise expressed or implied, the words " the Union " shall be taken to mean the Union of South Africa as constituted under this Act, and the words " Houses of Parliament," " House of Parliament," or " Parliament," shall be taken to mean the Parliament of the Union. |
| Application of Act to King's successors. | 3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.   |

II. *The Union.*

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|------------------------|--|
| Proclamation of Union. | 4. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the Colonies of the Cape of Good |
|------------------------|--|

Hope, Natal, the Transvaal, and the Orange River Colony, hereinafter called the Colonies shall be united in a legislative union under one Government under the name of the Union of South Africa. On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority within the limits of the Colonies, but the King may at any time after the proclamation appoint a Governor-General for the Union.

5. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed. Commencement of Act

6. The Colonies mentioned in section *four* shall become original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal, and Orange Free State, as the case may be. The original provinces shall have the same limits as the respective Colonies at the establishment of the Union. Incorporation of Colonies into the Union.

7. Upon any Colony entering the Union, the Colonial Boundaries Act, 1895, and every other Act applying to any of the Colonies as being self-governing Colonies or Colonies with responsible government, shall cease to apply to that Colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union. Application of Act of 58 & 59 Vict. c. 34, et

### III. *Executive Government.*

8. The Executive Government of the Union is vested in the King, and shall be administered by His Majesty in person or by a Governor-General as his representative. Executive power.

9. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him. Governor-General.

10. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of ten thousand pounds. The salary of the Governor-General shall not be altered during his continuance in office. Salary of Governor-General.

11. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the King may appoint to administer the government of the Union. The King may authorize the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function. Application of Act to Governor-General.

**Executive Council.** 12. There shall be an Executive Council to advise the Governor-General in the government of the Union, and the members of the council shall be chosen and summoned by the Governor-General and sworn as executive councillors, and shall hold office during his pleasure.

**Meaning of Governor-General-in-Council.** 13. The provisions of this Act referring to the Governor-General-in-Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

**Appointment of ministers.** 14. The Governor-General may appoint officers not exceeding ten in number to administer such departments of State of the Union as the Governor-General-in-Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council, and shall be the King's Ministers of State for the Union. After the first general election of members of the House of Assembly, as hereinafter provided, no minister shall hold office for a longer period than three months unless he is or becomes a member of either House of Parliament.

**Appointment and removal of officers.** 15. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General-in-Council, unless the appointment is delegated by the Governor-General-in-Council or by this Act or by a law of Parliament to some other authority.

**Transfer of executive powers to Governor-General-in-Council.** 16. All powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor-in-Council, or in any authority of the Colony, shall, as far as the same continue in existence and are capable of being exercised after the establishment of the Union, be vested in the Governor-General or in the Governor-General-in-Council, or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority.

**Command of naval and military forces.** 17. The command-in-chief of the naval and military forces within the Union is vested in the King, or in the Governor-General as his representative.

**Seat of Government.** 18. Save as in section *twenty-three* excepted, Pretoria shall be the seat of Government of the Union.

#### IV. *Parliament.*

**Legislative power.** 19. The legislative power of the Union shall be vested in the Parliament of the Union, herein called Parliament, which shall consist of the King, a Senate, and a House of Assembly.

**Sessions and dissolution of Parliament.** 20. The Governor-General may appoint such times for holding the sessions of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously, or the House of Assembly alone: provided that the Senate shall not be dissolved



within a period of ten years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General-in-Council.

21. Parliament shall be summoned to meet not later than six months after the establishment of the Union. Summoning  
of first  
Parliament.

22. There shall be a session of Parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session. Annual  
session of  
Parliament.

23. Capetown shall be the seat of the Legislature of the Union. Seat of  
Legislature

*Senate.*

24. For ten years after the establishment of the Union the constitution of the Senate shall, in respect of the original provisions, be as follows:— Original  
constitution  
of Senate.

(i) Eight senators shall be nominated by the Governor-General-in-Council, and for each original province eight senators shall be elected in the manner hereinafter provided:

(ii) The senators to be nominated by the Governor-General-in-Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience or otherwise, with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant, the Governor-General-in-Council shall nominate another person to be a senator, who shall hold his seat for ten years.

(iii) After the passing of this Act, and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature, and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly shall elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant, the provincial council of the province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

25. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made— Subsequent  
constitution  
of Senate.

(i) the provisions of the last preceding section with regard to nominated senators shall continue to have effect;

(ii) eight senators for each province shall be elected by the members of the provincial council of such province together with the members of the House of Assembly elected for such province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the pro-

vincial council of the province, together with the members of the House of Assembly elected for such province, shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General-in-Council shall make regulations for the joint election of senators prescribed in this section.

**Qualifications of senators.** 26. The qualifications of a senator shall be as follows:—  
He must—

- (a) be not less than thirty years of age;
- (b) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;
- (c) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;
- (d) be a British subject of European descent;
- (e) in the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

For the purposes of this section, residence in, and property situated within, a Colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

**Appointment and tenure of office of President.** 27. The Senate shall, before proceeding to the dispatch of any other business, choose a senator to be the President of the Senate, and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing under his hand addressed to the Governor-General.

**Deputy President.** 28. Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

**Resignation of senators.** 29. A senator may, by writing under his hand addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

**Quorum.** 30. The presence of at least twelve senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

**Voting in the Senate.** 31. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

#### *House of Assembly.*

**Constitution of House of Assembly.** 32. The House of Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

33. The number of members to be elected in the original provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows:—

Cape of Good Hope ... ..	Fifty-one.
Natal ... ..	Seventeen.
Transvaal. ... ..	Thirty-six.
Orange Free State ... ..	Seventeen.

These numbers may be increased as provided in the next succeeding section, but shall not, in the case of any original province, be diminished until the total number of members of the House of Assembly in respect of the provinces herein provided for reaches one hundred and fifty, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period.

34. The number of members to be elected in each province, as provided in section *thirty-three*, shall be increased from time to time as may be necessary in accordance with the following provisions:—

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, as ascertained at the census of nineteen hundred and four, by the total number of members of the House of Assembly as constituted at the establishment of the Union:

(ii) In nineteen hundred and eleven, and every five years thereafter, a census of the European population of the Union shall be taken for the purposes of this Act:

(iii) After any such census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the census of nineteen hundred and four, and, in the case of any province where an increase is shown, as compared with the census of nineteen hundred and four, equal to the quota of the Union or any multiple thereof, the number of members allotted to such province in the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple, as the case may be:

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess:

(v) As soon as the number of members of the House of Assembly to be elected in the original provinces in accordance with the preceding sub-sections reaches the total of one hundred and fifty, such total shall not be further increased unless and until Parliament otherwise provides: and subject to the provisions of the last preceding section the distribution of

members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province, as ascertained at the last preceding census, shall as far as possible be identical throughout the Union :

(vi) " Male adults " in this Act shall be taken to mean males of twenty-one years of age or upwards not being members of His Majesty's regular forces on full pay :

(vii) For the purposes of this Act the number of European male adults, as ascertained at the census of nineteen hundred and four. shall be taken to be :—

For the Cape of Good Hope ... ..	167,546
For Natal ... ..	34,784
For the Transvaal ... ..	106,493
For the Orange Free State ... ..	41,014

Qualifications  
of voters.

35. (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person in the province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the province of the Cape of Good Hope by reason of his race or colour only, unless the Bill be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person who at the passing of any such law is registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or colour.

Application  
of existing  
qualifications.

36. Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several Colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the House of Assembly: Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

Elections.

37. (1) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings in connection with elections, election expenses, corrupt and illegal practices, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members, and the

proceedings necessary for filling such vacancies, shall, *mutatis mutandis*, apply to the elections in the respective provinces of members of the House of Assembly.

(2) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General-in-Council.

38. Between the date of the passing of this Act and the date fixed for the establishment of the Union, the Governor-in-Council of each of the Colonies shall nominate a judge of any of the Supreme or High Courts of the Colonies, and the judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such commission at such time and place in one of the Colonies as he shall fix and determine. At such meeting the Commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any province to assist them or to act as assessors to the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. The commission may regulate their own procedure and may act by a majority of their number. All moneys required for the payment of the expenses of such commission before the establishment of the Union in any of the Colonies shall be provided by the Governor-in-Council of such Colony. In case of the death, resignation, or other disability of any of the Commissioners before the establishment of the Union, the Governor-in-Council of the Colony in respect of which he was nominated shall forthwith nominate another judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the Governor-General-in-Council, and any vacancies shall be filled by him.

39. The commission shall divide each province into electoral divisions, each returning one member.

40. (1) For the purpose of such division as is in the last preceding section mentioned, the quota of each province shall be obtained by dividing the total number of voters in the province, as ascertained at the last registration of voters, by the number of members of the House of Assembly to be elected therein.

(2) Each province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of sub-section (3) of this section, contain a number of voters, as nearly as may be, equal to the quota of the province.

(3) The Commissioners shall give due consideration to —

- (a) community or diversity of interests;
- (b) means of communication;
- (c) physical features;
- (d) existing electoral boundaries;
- (e) sparsity or density of population;

in such manner that, while taking the quota of voters as the basis of division, the Commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than fifteen per centum more or fifteen per centum less than the quota.

Alteration of electoral divisions.

41. As soon as may be after every quinquennial census, the Governor-General-in-Council shall appoint a commission consisting of three judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each province, and to provide for the allocation of the number of members to which such province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the commission shall have the same powers and proceed upon the same principles as are by this Act provided in regard to the original division.

Powers and duties of commission for delimiting electoral divisions.

42. (1) The joint commission constituted under section *thirty-eight*, and any subsequent commission appointed under the provisions of the last preceding section, shall submit to the Governor-General-in-Council—

(a) a list of electoral divisions, with the names given to them by the commission and a description of the boundaries of every such division:

(b) a map or maps showing the electoral divisions into which the provinces have been divided:

(c) such further particulars as they consider necessary.

(2) The Governor-General-in-Council may refer to the commission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(3) The Governor-General-in-Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the commission, or a majority thereof, and thereafter, until there shall be a re-division, the electoral divisions as named and defined shall be the electoral divisions of the Union in the provinces.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

Date from which alteration of electoral divisions to take effect.

43. Any alteration in the number of members of the House of Assembly to be elected in the several provinces and any re-division of the provinces into electoral divisions, shall, in respect of the election of members of the House of Assembly, come into operation at the next general election held after the completion of the re-division or of any allocation consequent upon such alteration, and not earlier.

44. The qualifications of a member of the House of Assembly shall be as follows:—

He must—

(a) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(b) have resided for five years within the limits of the Union as existing at the time when he is elected;

(c) be a British subject of European descent.

For the purposes of this section, residence in a Colony before its incorporation in the Union shall be treated as residence in the Union.

45. Every House of Assembly shall continue for five years from the first meeting thereof, and no longer, but may be sooner dissolved by the Governor-General.

46. The House of Assembly shall, before proceeding to the dispatch of any other business, choose a member to be the Speaker of the House, and, as often as the office becomes vacant, the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing under his hand addressed to the Governor-General.

47. Prior to or during the absence of the Speaker, the House of Assembly may choose a member to perform his duties in his absence.

48. A member may, by writing under his hand addressed to the Speaker, or, if there is no Speaker, or if the Speaker is absent from the Union, to the Governor-General, resign his seat, which shall thereupon become vacant.

49. The presence of at least thirty members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

50. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

#### *Both Houses of Parliament.*

51. Every senator and every member of the House of Assembly shall, before taking his seat, make and subscribe before the Governor-General, or some person authorized by him, an oath or affirmation of allegiance in the following form:—

#### *Oath.*

I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty [here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being] His [or Her] heirs and successors according to law. So help me God.

Qualifications  
of members  
of House of  
Assembly.

Appointment  
and tenure of  
office of  
Speaker.

Deputy-  
Speaker.

Resignation  
of members.

Voting in  
House of  
Assembly.

Oath or  
affirmation  
of allegiance.

*Affirmation.*

I, *A.B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty [*here insert the name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being*] His [*or Her*] heirs and successors according to law.

Member of either House disqualified for being member of the other House.

52. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House: Provided that every Minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

Disqualifications for being a member of either House.

53. No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who

(a) has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election; or

(b) is an unrehabilitated insolvent; or

(c) is of unsound mind, and has been so declared by a competent court; or

(d) holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:

(1) a Minister of State for the Union;

(2) a person in receipt of a pension from the Crown;

(3) an officer or member of His Majesty's naval or military forces on retired or half-pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

Vacation of seats.

54. If a senator or member of the House of Assembly

(a) becomes subject to any of the disabilities mentioned in the last preceding section; or

(b) ceases to be qualified as required by law; or

(c) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be;

his seat shall thereupon become vacant.

Penalty for sitting or voting when disqualified.

55. If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any Superior Court of the Union.

Allowances of members.

56. Each senator and each member of the House of Assembly shall, under such rules as shall be framed by Parliament, receive an allowance of four hundred pounds a year,



to be reckoned from the date on which he takes his seat: Provided that for every day of the session on which he is absent there shall be deducted from such allowance the sum of three pounds: Provided further that no such allowance shall be paid to a Minister receiving a salary under the Crown or to the President of the Senate or the Speaker of the House of Assembly. A day of the session shall mean in respect of a member any day during a session on which the House of which he is a member or any committee of which he is a member meets.

57. The powers, privileges, and immunities of the Senate and of the House of Assembly and of the members and committees of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union. Privileges of Houses of Parliament.

58. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the Senate and the House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act, it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside, and the rules of the House of Assembly shall, as far as practicable, apply. Rules of procedure.

#### *Powers of Parliament.*

59. Parliament shall have full power to make laws for the peace, order, and good government of the Union. Powers of Parliament.

60. (1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a Bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties. Money Bills.

(2) The Senate may not amend any Bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(3) The Senate may not amend any Bills so as to increase any proposed charges or burden on the people.

61. Any Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation. Appropriation Bills.

62. The House of Assembly shall not originate or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by Recommendation of money votes.

message from the Governor-General during the session in which such vote, resolution, address, or Bill is proposed.

Disagree-  
ments  
between the  
two Houses.

63. If the House of Assembly passes any Bill and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate, and shall vote together upon the Bill as last proposed by the House of Assembly, and upon amendments, if any, which have been made therein by one House of Parliament, and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of the members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament: Provided that, if the Senate shall reject or fail to pass any Bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such Bill.

Royal Assent  
to Bills.

64. When a Bill is presented to the Governor-General for the King's Assent, he shall declare according to his discretion, but subject to the provisions of this Act, and to such instructions as may from time to time be given in that behalf by the King, that he assents in the King's name, or that he withholds assent, or that he reserves the Bill for the signification of the King's pleasure. All Bills repealing or amending this section or any of the provisions of Chapter IV. under the heading "House of Assembly," and all Bills abolishing provincial councils or abridging the powers conferred on provincial councils under section *eighty-five*, otherwise than in accordance with the provisions of that section, shall be so reserved. The Governor-General may return to the House in which it originated any Bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendation.

Disallowance  
of Bills.

65. The King may disallow any law within one year after it has been assented to by the Governor-General, and such disallowance, on being made known by the Governor-General by speech or message to each of the Houses of Parliament or by proclamation, shall annul the law from the day when the disallowance is so made known.

Reservation  
of Bills.

66. A Bill reserved for the King's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Governor-General for the King's Assent,

the Governor-General makes known by speech or message to each of the Houses of Parliament or by proclamation that it has received the King's Assent.

67. As soon as may be after any law shall have been as-<sup>Signature and</sup> sented to in the King's name by the Governor-General, or <sup>enrolment</sup> having been reserved for the King's pleasure shall have re-<sup>of Acts.</sup> ceived his assent, the Clerk of the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

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#### V. *The Provinces.*

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##### *Administrators.*

68. (1) In each province there shall be a chief executive officer appointed by the Governor-General-in-Council, who shall be styled the administrator of the province, and in whose name all executive acts relating to provincial affairs therein shall be done. <sup>Appointment and tenure of office of provincial administrators.</sup>

(2) In the appointment of the administrator of any province, the Governor-General-in-Council shall, as far as practicable, give preference to persons resident in such province.

(3) Such administrator shall hold office for a term of five years, and shall not be removed before the expiration thereof except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(4) The Governor-General-in-Council may from time to time appoint a deputy-administrator to execute the office and functions of the administrator during his absence, illness or other inability.

69. The salaries of the administrators shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office. <sup>Salaries of Administrators.</sup>

##### *Provincial Councils.*

70. (1) There shall be a provincial council in each province, consisting of the same number of members as are elected in the province for the House of Assembly: Provided that, in any province whose representatives in the House of Assembly shall be less than twenty-five in number, the provincial council shall consist of twenty-five members. <sup>Constitution of provincial councils.</sup>

(2) Any person qualified to vote for the election of members of the provincial council shall be qualified to be a member of such council.

Election of  
provincial  
councillors.

71. (1) The members of the provincial council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the province voting in the same electoral divisions as are delimited for the election of members of the House of Assembly: Provided that, in any province in which less than twenty-five members are elected to the House of Assembly, the delimitation of the electoral divisions, and any necessary re-allocation of members or adjustment of electoral divisions shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(2) Any alteration in the number of members of the provincial council, and any re-division of the province into electoral divisions, shall come into operation at the next general election for such council held after the completion of such re-division, or of any allocation consequent upon such alteration, and not earlier.

(3) The election shall take place at such times as the administrator shall by proclamation direct, and the provisions of section *thirty-seven* applicable to the election of members of the House of Assembly shall *mutatis mutandis* apply to such elections.

Application  
of sections  
fifty-three to  
fifty-five to  
provincial  
councillors.

72. The provisions of sections *fifty-three*, *fifty-four*, and *fifty-five*, relative to members of the House of Assembly, shall *mutatis mutandis* apply to members of the provincial councils: Provided that any member of a provincial council who shall become a member of either House of Parliament shall thereupon cease to be a member of such provincial council.

Term of  
office by pro-  
vincial  
councillors.

73. Each provincial council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

Sessions of  
provincial  
councils.

74. The administrator of each province shall by proclamation fix such times for holding the sessions of the provincial councils as he may think fit and may from time to time prorogue such council: Provided that there shall be a session of every provincial council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the council in one session and its first sitting in the next session.

Chairmen of  
provincial  
councils and  
rules of  
procedure.

75. The provincial council shall elect from among its members a chairman, and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General-in-Council shall express his disapproval thereof in writing addressed to the administrator.

Allowances of  
provincial  
councillors.

76. The members of the provincial council shall receive such allowances as shall be determined by the Governor-General-in-Council.

77. There shall be freedom of speech in the provincial council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such council. Freedom of speech in provincial councils.

*Executive Committees.*

78. (1) Each provincial council shall at its first meeting after any general election elect from among its members, or otherwise, four persons to form with the administrator, who shall be chairman, an executive committee for the province. The members of the executive committee other than the administrator shall hold office until the election of their successors in the same manner. Provincial executive committees.

(2) Such members shall receive such remuneration as the provincial council, with the approval of the Governor-General-in-Council, shall determine.

(3) A member of the provincial council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the executive committee.

(4) Any casual vacancy arising in the executive committee shall be filled by election by the provincial council if then in session, or, if the council is not in session, by a person appointed by the executive committee to hold office temporarily pending an election by the council.

79. The administrator and any other member of the executive committee of a province, not being a member of the provincial council, shall have the right to take part in the proceedings of the council, but shall not have the right to vote. Right of administrator, etc., to take part in proceedings of provincial council.

80. The executive committee shall on behalf of the provincial council carry on the administration of provincial affairs. Until the first election of members to serve on the executive committee, such administration shall be carried on by the administrator. Whenever there are not sufficient members of the executive committee to form a quorum according to the rules of the committee, the administrator shall, as soon as practicable, convene a meeting of the provincial council for the purpose of electing members to fill the vacancies, and until such election the administrator shall carry on the administration of provincial affairs. Powers of provincial executive committees.

81. Subject to the provisions of this Act, all powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor-in-Council, or any Minister of the Colony, shall after such establishment be vested in the executive committee of the province so far as such powers, authorities, and functions relate to matters in respect of which the provincial council is competent to make ordinances. Transfer of powers to provincial executive committees.

82. Questions arising in the executive committee shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the administrator shall have also a casting vote. Subject to the approval of the Governor-General-in-Council, the executive committee may make rules for the conduct of its proceedings. Voting in executive committees.

Appointment  
of officers by  
executive  
committees.

83. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the executive committee shall have power to appoint such officers as may be necessary, in addition to officers assigned to the province by the Governor-General-in-Council under the provisions of this Act to carry out the services entrusted to them and to make and enforce regulations for the organisation and discipline of such officers.

Power of  
administrator  
to act on  
behalf of  
Governor-  
General-in-  
Council.

84. In regard to all matters in respect of which no powers are reserved or delegated to the provincial council, the administrator shall act on behalf of the Governor-General-in-Council when required to do so, and in such matters the administrator may act without reference to the other members of the executive committee.

*Powers of Provincial Councils.*

Powers of  
provincial  
councils.

85. Subject to the provisions of this Act and the assent of the Governor-General-in-Council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects (that is to say):—

(i) Direct taxation within the province in order to raise a revenue for provincial purposes:

(ii) The borrowing of money on the sole credit of the province with the consent of the Governor-General-in-Council and in accordance with regulations to be framed by Parliament:

(iii) Education, other than higher education, for a period of five years and thereafter until Parliament otherwise provides:

(iv) Agriculture to the extent and subject to the conditions to be defined by Parliament:

(v) The establishment, maintenance, and management of hospitals and charitable institutions:

(vi) Municipal institutions, divisional councils, and other local institutions of a similar nature:

(vii) Local works and undertakings within the province other than railways and harbours and other than such works as extend beyond the borders of the province, and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise:

(viii) Roads, outspans, ponds, and bridges, other than bridges connecting two provinces:

(ix) Markets and pounds:

(x) Fish and game preservation:

(xi) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section:

(xii) Generally all matters which, in the opinion of the Governor-General-in-Council, are of a merely local or private nature in the province:

(xiii) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the provincial council.

86. Any ordinance made by a provincial council shall have effect in and for the province as long and as far only as it is not repugnant to any Act of Parliament. Effect of provincial ordinances.

87. A provincial council may recommend to Parliament the passing of any law relating to any matter in respect of which such council is not competent to make ordinances. Recommendations to Parliament.

88. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, the provincial council of the province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a Select Committee or otherwise for and against the passing of such law, and, upon receipt of a report from such council, together with the evidence upon which it is founded, Parliament may pass such Act without further evidence being taken in support thereof. Power to deal with matters proper to be dealt with by private Bill legislation.

89. A provincial revenue fund shall be formed in every province, into which shall be paid all revenues raised by or accruing to the provincial council and all moneys paid over by the Governor-General-in-Council to the provincial council. Such fund shall be appropriated by the provincial council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General-in-Council for particular purposes, then for such purposes but no such ordinance shall be passed by the provincial council unless the administrator shall have first recommended to the council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the provincial revenue fund except in accordance with such appropriation and under warrant signed by the administrator: Provided that, until the expiration of one month after the first meeting of the provincial council, the administrator may expend such moneys as may be necessary for the services of the province. Constitution of provincial revenue fund.

90. When a proposed ordinance has been passed by a provincial council it shall be presented by the administrator to the Governor-General-in-Council for his assent. The Governor-General-in-Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until within one year from the day on which it was presented to the Governor-General-in-Council, he makes known by proclamation that it has received his assent. Assent to provincial ordinances.

91. An ordinance assented to by the Governor-General-in-Council and promulgated by the administrator shall, subject Effect and enrolment of ordinances.

to the provisions of this Act, have the force of law within the province. The administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and, in case of conflict between the two copies thus deposited, that signed by the Governor-General shall prevail.

*Miscellaneous.*

Audit of provincial accounts.

92. (1) In each province there shall be an auditor of accounts to be appointed by the Governor-General-in-Council.

(2) No such auditor shall be removed from office except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(3) Each such auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General-in-Council, with the approval of Parliament, shall determine.

(4) Each such auditor shall examine and audit the accounts of the province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General-in-Council and approved by Parliament, and no warrant signed by the administrator authorising the issuing of money shall have effect unless countersigned by such auditor.

Continuation of powers of divisional and municipal councils.

93. Notwithstanding anything in this Act contained, all powers, authorities, and functions lawfully exercised at the establishment of the Union by divisional or municipal councils, or any other duly constituted local authority, shall be and remain in force until varied or withdrawn by Parliament or by a provincial council having power in that behalf.

Seats of provincial government.

94. The seats of provincial government shall be—

- For the Cape of Good Hope ... Capetown.
- For Natal ... Pietermaritzburg.
- For the Transvaal ... Pretoria.
- For the Orange Free State ... Bloemfontein.

VI. *The Supreme Court of South Africa.*

Constitution of Supreme Court.

95. There shall be a Supreme Court of South Africa consisting of a Chief Justice of South Africa, the ordinary judges of appeal, and the other judges of the several divisions of the Supreme Court of South Africa in the provinces.

Appellate Division of Supreme Court.

96. There shall be an Appellate Division of the Supreme Court of South Africa, consisting of the Chief Justice of South Africa, two ordinary judges of appeal, and two additional judges of appeal. Such additional judges of appeal



shall be assigned by the Governor-General-in-Council to the Appellate Division from any of the provincial or local divisions of the Supreme Court of South Africa, but shall continue to perform their duties as judges of their respective divisions when their attendance is not required in the Appellate Division.

97. The Governor-General-in-Council may, during the absence, illness, or other incapacity of the Chief Justice of South Africa, or of any ordinary or additional judge of appeal, appoint any other judge of the Supreme Court of South Africa to act temporarily as such chief justice, ordinary judge of appeal, or additional judge of appeal, as the case may be.

98. (1) The several supreme courts of the Cape of Good Hope, Natal and the Transvaal, and the High Court of the Orange River Colony shall, on the establishment of the Union, become provincial divisions of the Supreme Court of South Africa within their respective provinces, and shall each be presided over by a judge-president.

(2) The court of the eastern districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand, and the several circuit courts, shall become local divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(3) The said provincial and local divisions, referred to in this Act as superior courts shall, in addition to any original jurisdiction exercised by the corresponding courts of the Colonies at the establishment of the Union, have jurisdiction in all matters—

(a) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party:

(b) in which the validity of any provincial ordinance shall come into question.

(4) Unless and until Parliament shall otherwise provide, the said superior courts shall *mutatis mutandis* have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and provincial councils as the corresponding courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

99. All judges of the supreme courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union. The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective provinces, but shall so long

Filling of temporary vacancies in Appellate Division.

Constitution of provincial and local divisions of Supreme Court.

Continuation in office of existing judges.

as they hold that office retain the title of Chief Justice of their respective provinces.

Appointment  
and  
remuneration  
of judges.

100. The Chief Justice of South Africa, the ordinary judges of appeal, and all other judges of the Supreme Court of South Africa to be appointed after the establishment of the Union, shall be appointed by the Governor-General-in-Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

Tenure of  
office by  
judges.

101. The Chief Justice of South Africa and other judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General-in-Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

Reduction in  
number of  
judges.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa, other than the Appellate Division, the Governor-General-in-Council may, in case he shall consider that the number of judges of such court may with advantage to the public interests be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

Appeals to  
Appellate  
Division.

103. In every civil case in which, according to the law in force at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a superior court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division, except in cases of orders or judgments given by a single judge, upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only, which by law are left to the discretion of the court. The appeal from any such orders or judgments, as well as any appeal in criminal cases from any such superior court, or the special reference by any such court of any point of law in a criminal case, shall be made to the provincial division corresponding to the court which before the establishment of the Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such provincial division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

Existing  
appeals.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King-in-Council, the appeal shall be made only to the Appellate Division: Provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

Appeals from  
inferior  
courts to  
provincial  
divisions

105. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of resident magistrate or other inferior court to a

superior court in any of the Colonies, the appeal shall be made to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division, and then only if the Appellate Division shall have given special leave to appeal.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King-in-Council, but nothing herein contained shall be construed to impair any right which the King-in-Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King-in-Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but Bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure: Provided that nothing in this section shall affect any right of appeal to His Majesty-in-Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of the Colonial Courts of Admiralty Act, 1890. Provisions as to appeals to the King-in-Council. 53 & 54 Vict., c. 27.

107. The Chief Justice of South Africa and the ordinary judges of appeal may, subject to the approval of the Governor-General-in-Council, make rules for the conduct of the proceedings of the Appellate Division and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated, the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply. Rules of procedure in Appellate Division.

108. The Chief Justice and other judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General-in-Council, frame rules for the conduct of the proceedings of the several provincial and local divisions. Until such rules shall have been promulgated, the rules in force at the establishment of the Union in the respective courts which become divisions of the Supreme Court of South Africa shall continue to apply therein. Rules of procedure in provincial and local divisions.

109. The Appellate Division shall sit in Bloemfontein, but may from time to time for the convenience of suitors hold its sittings at other places within the Union. Place of sittings of Appellate Division.

110. On the hearing of appeals from a court consisting of two or more judges, five judges of the Appellate Division shall form a quorum, but, on the hearing of appeals from a single judge, three judges of the Appellate Division shall form a quorum. No judge shall take part in the hearing of any appeal against the judgment given in a case heard before him. Quorum for hearing appeals.

111. The process of the Appellate Division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province, and shall be executed in like manner as if they were original judgments or orders of the provincial division of the Supreme Court of South Africa in such province. Jurisdiction of Appellate Division.

Execution of processes of provincial divisions.

112. The registrar of every provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order, and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is registrar.

Transfer of suits from one provincial or local division to another.

113. Any provincial or local division of the Supreme Court of South Africa to which it may be made to appear that any civil suit pending therein may be more conveniently or fitly heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

Registrar and officers of Appellate Division.

114. The Governor-General-in-Council may appoint a registrar of the Appellate Division and such other officers thereof as shall be required for the proper dispatch of the business thereof.

Advocates and attorneys.

115. (1) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the Colonies shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

(2) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

(3) All advocates and attorneys entitled to practise before any provincial division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

Pending suits.

116. All suits, civil or criminal, pending in any superior court of any of the Colonies at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same, and all judgments and orders of any superior court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa. All appeals to the King-in-Council which shall be pending at the establishment of the Union shall be proceeded with as if this Act had not been passed.

#### VII. Finance and Railways.

Constitution of Consolidated Revenue Fund and Railway and Harbour Fund.

117. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation, shall vest in the Governor-General-in-Council. There shall be formed a Railway and

Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General-in-Council from the administration of the railways, ports, and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General-in-Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act, and subject to the charges imposed thereby.

118. The Governor-General-in-Council shall, as soon as may be after the establishment of the Union, appoint a commission, consisting of one representative from each province, and presided over by an officer from the Imperial Service, to institute an inquiry into the financial relations which should exist between the Union and the provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the administrator of each province—

Commission of inquiry into financial relations between Union and provinces.

(a) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year, 1908-9, as voted by the Legislature of the corresponding colony during the year nineteen hundred and eight;

(b) such further sums as the Governor-General-in-Council may consider necessary for the due performance of the services and duties assigned to the provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provision, the executive committees in the several provinces shall annually submit estimates of their expenditure for the approval of the Governor-General-in-Council, and no expenditure shall be incurred by any executive committee which is not provided for in such approved estimates.

119. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the Consolidated Revenue Fund.

Security for existing public debts.

120. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But, until the expiration of two months after the first meeting of Parliament, the Governor-General-in-Council may draw therefrom and expend such moneys as may be necessary for the public service, and for railway and harbour administration respectively.

Requirements for withdrawal of money from funds.

121. All stocks, cash, bankers' balances, and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: Provided that the balances of any funds raised at the establishment of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Par-

Transfer of Colonial property to the Union.

liament for the special purposes for which they have been provided.

Crown lands,  
etc.

122. Crown lands, public works, and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several Colonies at the establishment of the Union, shall vest in the Governor-General-in-Council subject to any debt or liability specifically charged thereon.

Mines and  
minerals.

123. All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of, minerals or precious stones, which at the establishment of the Union are vested in the Government of any of the Colonies, shall on such establishment vest in the Governor-General-in-Council.

Assumption  
by Union of  
colonial debts.

124. The Union shall assume all debts and liabilities of the Colonies existing at its establishment, subject, notwithstanding any other provision contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund, and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew, or consolidate such debts.

Ports, har-  
bours, and  
railways.

125. All ports, harbours, and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General-in-Council. No railway for the conveyance of public traffic, and no port, harbour, or similar work, shall be constructed without the sanction of Parliament.

Constitution  
of Railway  
and Harbour  
Board.

126. Subject to the authority of the Governor-General-in-Council, the control and management of the railways, ports, and harbours of the Union shall be exercised through a Board consisting of not more than three commissioners, who shall be appointed by the Governor-General-in-Council, and a minister of State, who shall be chairman. Each commissioner shall hold office for a period of five years, but may be re-appointed. He shall not be removed before the expiration of his period of appointment, except by the Governor-General-in-Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

Administra-  
tion of rail-  
ways, ports,  
and harbours.

127. The railways, ports, and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of all provinces of the Union. So far as may be, the

total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation, and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections *one hundred and thirty* and *one hundred and thirty-one*. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General-in-Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period, if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein, Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

128. Notwithstanding anything to the contrary in the last preceding section, the Board may establish a fund out of railway and harbour revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

Establishment of fund for maintaining uniformity of railway rates.

129. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

Management of railway and harbour balances.

130. Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, which shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion, will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: Provided that, if in any year the actual loss incurred, as calculated by the Board and certified by the Controller and Auditor-General, is less than the estimate framed by the Board, the amount paid over in respect of

Construction of harbour and railway works.

that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

Making good of deficiencies in Railway and Harbour Fund in certain cases.

131. If the Board shall be required by the Governor-General-in-Council or under any Act of Parliament or resolution of both Houses of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing, as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

Controller and Auditor-General.

132. The Governor-General-in-Council shall appoint a Controller and Auditor-General, who shall hold office during good behaviour: Provided that he shall be removed by the Governor-General-in-Council on an address praying for such removal presented to the Governor-General by both Houses of Parliament: Provided further that when Parliament is not in session the Governor-General-in-Council may suspend such officer on the ground of incompetence or misbehaviour; and, when and so often as such suspension shall take place, a full statement of the circumstances shall be laid before both Houses of Parliament within fourteen days after the commencement of its next session; and, if an address shall at any time during the session of Parliament be presented to the Governor-General by both Houses praying for the restoration to office of such officer, he shall be restored accordingly; and if no such address be presented the Governor-General shall confirm such suspension, and shall declare the office of Controller and Auditor-General to be, and it shall thereupon become, vacant. Until Parliament shall otherwise provide, the Controller and Auditor-General shall exercise such powers and functions and undertake such duties as may be assigned to him by the Governor-General-in-Council by regulations framed in that behalf.

Compensation of colonial capitals for diminution of prosperity.

133. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of their ceasing to be the seats of government of their respective Colonies, there shall be paid from the Consolidated Revenue Fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two per centum per annum on their municipal debts, as existing on the thirty-first day of January nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. The Commission appointed under section *one hundred and eighteen* shall, after



due inquiry, report to the Governor-General-in-Council what compensation should be paid to the municipal councils of Capetown and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding twenty-five years, and shall not exceed one per centum per annum on the respective municipal debts of such towns as existing on the thirty-first January, nineteen hundred and nine, and as ascertained by the Controller and Auditor-General. For the purposes of this section Capetown shall be deemed to include the municipalities of Capetown, Green Point and Sea Point, Woodstock, Mowbray, and Rondebosch, Claremont, and Wynberg, and any grant made to Capetown shall be payable to the councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General-in-Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to such town.

#### VIII. *General.*

134. The election of senators and of members of the executive committees of the provincial councils as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote. The Governor-General-in-Council, or, in the case of the first election of the Senate, the Governor-in-Council of each of the Colonies shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

Method of voting for senators, etc.

135. Subject to the provisions of this Act, all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective provinces until repealed or amended by Parliament, or by the provincial councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

Continuation of existing colonial laws.

136. There shall be free trade throughout the Union, but until Parliament otherwise provides the duties of custom and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

Free trade throughout Union.

137. Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges; all records, journals, and proceedings of Parlia-

Equality of English and Dutch languages.

ment shall be kept in both languages, and all Bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

Naturalization.

138. All persons who have been naturalized in any of the Colonies shall be deemed to be naturalized throughout the Union.

Administration of justice.

139. The administration of justice throughout the Union shall be under the control of a Minister of State, in whom shall be vested all powers, authorities, and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies, save and except all powers, authorities, and functions relating to the prosecution of crimes and offences, which shall in each province be vested in an officer to be appointed by the Governor-General-in-Council, and styled the Attorney-General of the province, who shall also discharge such other duties as may be assigned to him by the Governor-General-in-Council: Provided that in the province of the Cape of Good Hope the Solicitor-General for the Eastern Districts and the Crown Prosecutor for Griqualand West shall respectively continue to exercise the powers and duties by law vested in them at the time of the establishment of the Union.

Existing officers.

140. Subject to the provisions of the next succeeding section, all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

Commission for reorganization of public departments.

141. (1) As soon as possible after the establishment of the Union, the Governor-General-in-Council shall appoint a public service commission to make recommendations for such reorganization and readjustment of the departments of the public service as may be necessary. The commission shall also make recommendations in regard to the assignment of officers to the several provinces.

(2) The Governor-General-in-Council may after such commission has reported assign from time to time to each province such officers as may be necessary for the proper discharge of the services reserved or delegated to it, and such officers on being so assigned shall become officers of the province. Pending the assignment of such officers, the Governor-General-in-Council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(3) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board, or to any person holding office under the Board.

Public service commission.

142. After the establishment of the Union the Governor-General-in-Council shall appoint a permanent public service commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as Parliament shall determine.

Pensions of existing officers.

143. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a province shall

be entitled to receive such pension, gratuity, or other compensation as he would have received in like circumstances if the Union had not been established.

144. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a province shall retain all his existing and accruing rights, and shall be entitled to retire from the service at the time at which he would have been entitled by law to retire, and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

Tenure of office of existing officers.

145. The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

Existing officers not to be dismissed for ignorance of English or Dutch.

146. Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union, or assigned to that of any province, and for whom no provision shall have been made by such Legislature, shall be entitled to such pension, gratuity, or compensation as Parliament may determine.

Compensation to existing Parliamentary officers who are not retained.

147. The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General-in-Council, who shall exercise all special powers in regard to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, and any lands vested in the Governor or Governor and Executive Council of any Colony for the purpose of reserves for native locations shall vest in the Governor-General-in-Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the Colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament.

Administration of native affairs, etc.

148. (1) All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

Devolution on Union of rights and obligations under conventions.

(2) The provisions of the railway agreement between the Governments of the Transvaal, the Cape of Good Hope, and Natal, dated the second of February, nineteen hundred and nine, shall, as far as practicable, be given effect to by the Government of the Union.

#### IX. *New Provinces and Territories.*

149. Parliament may alter the boundaries of any province, divide a province into two or more provinces, or form a new province out of provinces within the Union, on the petition

Alteration of boundaries of provinces.

of the provincial council of every province whose boundaries are affected thereby.

Power to admit into Union territories administered by British South Africa Company.

150. The King, with the advice of the Privy Council, may on addresses from the Houses of Parliament of the Union admit into the Union the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the King, and the provisions of any Order-in-Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Power to transfer to Union government of native territories.

151. The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by natives, and upon such transfer the Governor-General-in-Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act.

#### X. Amendment of Act.

Amendment of Act.

152. Parliament may by law repeal or alter any of the provisions of this Act: Provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: And provided further that no repeal or alteration of the provisions contained in this section, or in sections *thirty-three* and *thirty-four* (until the number of members of the House of Assembly has reached the limit therein prescribed, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period), or in sections *thirty-five* and *one hundred and thirty-seven*, shall be valid unless the Bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A Bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

#### SCHEDULE.

1. After the transfer of the government of any territory belonging to or under the protection of His Majesty, the Governor-General-in-Council shall be the legislative authority, and may by proclamation make laws for the peace, order, and good government of such territory: Provided that all such laws shall be laid before both Houses of Parliament within seven days after the issue of the proclamation or, if Parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolutions passed in the same

session request the Governor-General-in-Council to repeal the same, in which case they shall be repealed by proclamation.

2. The Prime Minister shall be charged with the administration of any territory thus transferred, and he shall be advised in the general conduct of such administration by a commission consisting of not fewer than three members with a secretary, to be appointed by the Governor-General-in-Council, who shall take the instructions of the Prime Minister in conducting all correspondence relating to the territories, and shall also under the like control have custody of all official papers relating to the territories.

3. The members of the commission shall be appointed by the Governor-General-in-Council, and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary, which shall not be reduced during the continuance of their term of office, and they shall not be removed from office except upon addresses from both Houses of Parliament passed in the same session praying for such removal. They shall not be qualified to become, or to be, members of either House of Parliament. One of the members of the commission shall be appointed by the Governor-General-in-Council as vice-chairman thereof. In case of the absence, illness, or other incapacity of any member of the commission, the Governor-General-in-Council may appoint some other fit and proper person to act during such absence, illness, or other incapacity.

4. It shall be the duty of the members of the commission to advise the Prime Minister upon all matters relating to the general conduct of the administration of, or the legislation for, the said territories. The Prime Minister, or another Minister of State nominated by the Prime Minister to be his deputy for a fixed period, or, failing such nomination, the vice-chairman shall preside at all meetings of the commission, and in case of an equality of votes shall have a casting vote. Two members of the commission shall form a quorum. In case the commission shall consist of four or more members, three of them shall form a quorum.

5. Any member of the commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the commission.

6. The members of the commission shall have access to all official papers concerning the territories, and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the territories or to legislation therefor, the Prime Minister shall cause the papers relating to such matter to be deposited with the secretary to the commission, and shall convene a meeting of the commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the Prime Minister that the despatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the commission or deposited for the perusal of the members thereof. In any such case the Prime Minister shall record the reasons for sending the communication or making the order, and give notice thereof to every member.

9. If the Prime Minister does not accept a recommendation of the commission, or proposes to take some action contrary to their advice, he shall state his views to the commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General-in-Council, whose decision in the matter shall be final.

10. When the recommendations of the commission have not been accepted by the Governor-General-in-Council, or action not in accordance with their advice has been taken by the Governor-General-in-Council, the Prime Minister, if thereto requested by the commission, shall lay the record of their dissent from the decision or action taken and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General-in-Council shall transmit to the commission a minute recording his opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

11. The Governor-General-in-Council shall appoint a resident commissioner for each territory, who shall, in addition to such other duties as shall be imposed on him, prepare the annual estimates of revenue and expenditure for such territory, and forward the same to the secretary to the commission for the consideration of the commission and of the Prime Minister. A proclamation shall be issued by the Governor-General-in-Council, giving to the provisions for revenue and expenditure made in the estimates as finally approved by the Governor-General-in-Council the force of law.

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the territories, and there shall be paid out of the Treasury annually towards the cost of administration of each territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such territory for the three completed financial years last preceding the taking effect of this Act bore to the average amount of the whole customs revenue for all the Colonies and territories included in the Union received during the same period.

13. If the revenue of any territory for any financial year shall be insufficient to meet the expenditure thereof, any amount required to make good the deficiency may, with the approval of the Governor-General-in-Council, and on such

terms and conditions and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any territory, such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by any other territory, or by the Union Government to make good any deficiency in the revenue of such territory.

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those territories.

15. The sale of intoxicating liquor to natives shall be prohibited in the territories, and no provision giving facilities for introducing, obtaining, or possessing such liquor in any part of the territories less stringent than those existing at the time of transfer shall be allowed.

16. The custom, where it exists, of holding pitsos or other recognised forms of native assembly shall be maintained in the territories.

17. No differential duties or imposts on the produce of the territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the territories.

18. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this Schedule, all revenues derived from any territory shall be expended for and on behalf of such territory: Provided that the Governor-General-in-Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa, so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this Schedule from the Treasury of the Union towards the cost of administration of the territory bears to the total customs revenue of the Union on the average of the three years immediately preceding the year for which the contribution is made.

20. The King may disallow any law made by the Governor-General-in-Council by proclamation for any territory within one year from the date of the proclamation, and such disallowance on being made known by the Governor-General by proclamation shall annul the law from the day when the disallowance is so made known.

21. The members of the commission shall be entitled to such pensions or superannuation allowances as the Governor-General-in-Council shall by proclamation provide, and the salaries and pensions of such members and all other expenses

of the commission shall be borne by the territories in the proportion of their respective revenues.

22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force.

23. Where any appeal may by law be made to the King-in-Council from any court of the territories, such appeal shall, subject to the provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

24. The Commission shall prepare an annual report on the territories, which shall, when approved by the Governor-General-in-Council, be laid before both Houses of Parliament.

25. All Bills to amend or alter the provisions of this Schedule shall be reserved for the signification of His Majesty's pleasure.

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**INDEX.**

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INDEX  
TO THE  
MINUTES OF PROCEEDINGS.

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ABBREVIATIONS.

(c) referred to a Committee.                      (n) negatived.  
(d) dropped.    (w) withdrawn.

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[NOTE:—Matters relating to the Constitution are indexed under their respective subject heads until incorporation in the Draft Act. Subsequent amendments appear under "South Africa Act,"]

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**A.**

**Adjournments of Convention.**

Motions on: Until 10th November, 1908, *Mr. Fischer*, 46; until 23rd November, 1908, at Cape Town, *Gen. Botha*, 66; until 11th January, 1909, *Mr. Smythe*, 128, 134, 138 (d); Amendments: *Col. Greene*, 138; *Gen. de Wet*, 138 (d).

**Administrator.**

Orange River Colony, see "Orange River Colony."  
Southern Rhodesia, see "Milton, Sir William."

**Administrators, Provincial.**

See "Provincial Administrators."

**Advisers, Legal.**

Votes of thanks to, 249, 274.

**Africaner Bond.**

Messages of congratulation from Steynsburg, Klipspruit (Aliwal North), and Moltene branches, 8, 34, 77.

**African Political Organization.**

Petitions from, on equal political rights, 42, 43, 48; Referred to Franchise Committee, *Col. Stanford*, 43, 49.  
Resolutions on protection of rights of coloured and native races, Letter forwarding, 257.

**Afrikaansche Christelijke Vrouwen Vereeniging.**

Petition from Head Committee on equality for English and Dutch languages, 21.

**Amendments.**

See "Rules and Orders."

**Appellate Division.**

See "Supreme Court."

**Assembly, House of.**

- Bills, Money, to originate in, and powers of Senate regarding, Motion on, *Gen. Smuts*, 49-51; Amendments: *Mr. Jagger*, 50 (w); *The President*, 50-51; *Mr. Walton*, 50-51 (d); *Mr. Merriman*, 50-51 (n); *Mr. Jagger*, 51 (n); *Gen. Smuts*, 51.
- Bills, Revenue and Taxation, to originate in, Motion on, *Mr. Merriman*, 51.
- Constitution of, Committee on, Motion for, *Mr. Sauer*, 43; Amendment, *Mr. Fischer*, 43 (n); Motions and amendments referred, 43; Draft resolution of Committee brought up, 44; Considered, 45-47; Report, 57-58; Considered, 66-68.
- Ditto Motions on, *Gen. Smuts*, 41-43; Amendments: *Mr. Merriman*, 41-43; *Mr. Fischer*, 41-43; Motions and amendments referred to Committee on Constitution of Assembly, *Mr. Sauer*, 43; Draft resolutions of Committee considered, 44-47.
- Ditto See also "Assembly—Members."
- Dissolution of, Motion on, *Mr. Malan*, 54-56. 60-61; Amendments: *Mr. Walton*, 54-55 (n); *Mr. Merriman*, 54-55 (n); *Mr. Jagger*, 54-55 (w); *Mr. Hyslop*, 55 (w), 55, 61 (w); *Dr. Beck*, 55-56 (n); *Gen. Hertzog*, 55, 61 (w); *Dr. Smartt*, 61.
- Electoral divisions, see "Electoral divisions."
- Existence of each, Motion on period, *Gen. Smuts*, 48.
- Governor-General's recommendation on appropriations, or for taxation, Motion on, *Mr. Merriman*, 51; Amendments: *Dr. Smartt*, 51 (n); *Col. Greene*, 51 (n).
- Members, Disqualifications for, Motion on, *Mr. Jagger*, 73-74 (w); Amendments: *Mr. Browne*, 74 (w); *Mr. Hull*, 74-77; *Mr. Fischer*, 75; *Dr. Beck*, 75 (n); *Mr. Walton*, 75-76; *Col. Greene*, 76; *Gen. Smuts*, 76; *Mr. Merriman*, 76 (n); Amendments on office of profit and creation of vacancies referred to Committee on qualifications of Members, *Col. Greene*, 76; Draft resolutions of Committee considered, 94-96; Amendments: *Mr. Jagger*, 94 (n); *Dr. Smartt*, 94 (n); *Mr. Hull*, 94 (d); *Mr. Jagger*, 94-95 (w); *Col. Greene* 95 (w).
- Ditto Election of, Continuation of existing laws, Draft resolution of Committee considered, 59.
- Ditto Election of, Regulations for, Draft resolution of Committee considered, 68.
- Ditto Election of, to be on principle of proportional representation, Draft resolution of Committee considered, 68.
- Ditto Number, how to be chosen, provincial representation, and readjustment after census, Draft resolutions of Committee considered, 45-47; Amendments: *Mr. Malan*, 45 (n), 45-46; *Gen. Smuts*, 46-47 (w); *Mr. Jagger*, 47 (n); *Dr. Beck*, 47 (w); *Dr. Smartt*, 47 (w); *Sir Percy Fitzpatrick*, 54.
- Ditto Number in each electoral division, Draft resolution of Committee considered, 67-68; Amendments: *Mr. Browne*, 67 (n); *Mr. Jagger*, 67-68 (w).
- Ditto Oath or affirmation of allegiance, Form of, Motion on, *Mr. Jagger*, 133.
- Ditto Office of Profit, Definition of, see "Disqualifications."
- Ditto Payment and deductions for absence, Draft resolution of Committee considered, 96-98; Amendments: *Mr. Hull*, 96-97; *Mr. Walton*, 96 (d); *Mr. Jagger*, 96 (d); *Mr. Malan*, 96-97; *Dr. Beck*, 96-97 (n); *Mr. Fischer*, 96 (d); *Mr. Jagger*, 97.
- Ditto Pecuniary interest, Motion for Committee on, *Mr. Lindsay*, 95 (w).
- Ditto Privileges and Immunities, Draft resolution of Committee considered, 98.
- Ditto Qualifications, etc., for, Motion for Committee on, *Col. Greene*, 75 (w), 76; Amendments on office of profit and creation of vacancies referred, *Col. Greene*, 76; Report, 81-82; Considered, 94-98.

**Assembly, House of—(continued).**

- Members, Qualifications for, Motions on, *Gen. Smuts*, 49, 60, 69, 70 ; Amendments : *Gen. Hertzog*, 49, 60, 69 ; *Mr. Lindsay*, 69.
- Ditto Qualifications for, *see also* "Franchise."
- Ditto Sitting when disqualified, Penalty, Draft resolution of Committee considered, 95 ; Amendments : *Mr. Malan*, 95 ; *Mr. Hull*, 95.
- Ditto To be persons of European descent, Motion on, *Col. Greene*, 24-27 (c) ; Draft resolution of Committee considered, 59, 66, *see also* "Members Qualifications."
- Ditto Vacation of seats by, *see* "Members Disqualifications."
- Privileges and immunities of, Draft resolution of Committee considered, 98.
- Rules for, Draft resolution of Committee considered, 98 ; Amendment, *Mr. Walton*, 98.
- Rules to apply at joint sitting with Senate, Motion on, *Mr. Walton*, 98.
- Senate, Rejection of laws by, and unaccepted amendments, Provision for joint sitting, Motion on, *Gen. Smuts*, 52-54 ; Amendments : *Mr. Merriman*, 52-53 (w), 53-54 ; *Mr. Jagger*, 53.
- Ditto Rules to apply at joint sitting with, Motion on, *Mr. Walton*, 98.

**Assets, Liabilities, etc.**

- Vesting of, in Union, Motion on, *Mr. Merriman*, 21-23 ; Consideration postponed, *Mr. Hull*, 23 ; Referred to Finance Committee, *Mr. Malan*, 114 ; Draft resolutions of Committee considered, 165 ; Amendments : *Gen. Smuts*, 165 (w) ; *Mr. Merriman*, 165 (n) ; *Mr. Fischer*, 168 ; Proviso by *Mr. Fischer*, referred to Finance Committee, *Mr. Hull*, 168 ; Amended draft resolution of Committee considered, 187-188 ; Amendment, *Mr. Hull*, 187-188 (n).

**Attorneys-General.**

- See* "Provincial Attorneys-General."

**Auditor-General, Controller and**

- Appointment and salary of, Draft resolution of Committee considered, 168, 169 ; Amendments : *Mr. Merriman*, 168-169 (w), 169 ; *Col. Stanford*, 169 (w) ; *Mr. Fischer*, 169.

**Auditors, Provincial.**

- See* "Provincial Auditors."

**B.****Bannatine, Allason, His Excellency R.**

- See* "Orange River Colony, Administrator."

**Baptist Union, Allce.**

- Message of congratulation from, 13.

**Barratt, Rev. E. O.**

- Letter from, on position and privileges of coloured and native races, 263.

**Beck, Dr. J. H. M., M.L.A.**

- Delegate for the Cape of Good Hope, 4.
- Motions and amendments by :
- Assembly, House of, Readjustment of number of members, 47 (w).
- Business, Temporary suspension of, each morning, 72-73.
- Capitals not chosen as Union Capital, Financial relief to, 196-198 (d).
- Franchise to other than white citizens, 26, 27 (c).
- Members, Disqualifications of, 75 (n).
- Ditto Payment of, 96, 97 (n).
- Ministers of State, Qualifications of, 15, 16 (w).
- Parliament, Dissolution of, 55-56 (n).
- Railways and Harbours, Administration of, 166 (w).
- Senate, Constitution of, 31-32 (d).
- Senators, Qualifications of, 39.
- South Africa Act, Draft, Amendments to, *see* "South Africa Act."

**Bills.**

- See* "Laws."

**Bloemfontein.**

Delegates reassemble at, 250.  
 Mayor of, Invitation from, 259; Motion on non-acceptance, *Gen. Smuts*, 259.  
 Resolution of public meeting at, on establishment of Railway workshops in Orange River Colony, 254.

**Bok, Dr. W. E.**

Appointed official interpreter, 5; Admitted to Chamber, 6; Vote of thanks to, 273.

**Borrowing Powers and Expenditure on Capital Account.**

Exercise of, Motion on, *Gen. Smuts*, 273 (*w*).

**Botha, General the Right Hon. Louis, P.C., M.L.A.**

Credentials of Transvaal delegates put in by, 4.  
 Delegate for the Transvaal, 4.

Motions and amendments by:

Cape Government, Vote of thanks to, 249.  
 Capital, Convention to settle, 124.  
     Ditto Selection of, Method of voting, 199-200, 221 (*w*).  
     Ditto to be at Pretoria and Sessions of Parliament at Cape Town 239-239, 243-245 (*w*).  
 Convention, Adjournment of, to Cape Town, 66.  
 Durban Municipality, Vote of thanks to, 71.  
 Franchise Committee, Appointment of, 26-27.  
 King, H.M. the, Congratulations on birthday, 71.  
 Provincial Capitals, Financial relief to, 170-172 (*n*).  
 Provincial Councils, Control of education by, 111 (*w*), 111.  
 South Africa Act, Draft, Amendments to, *see* "South Africa Act."  
     Ditto ditto Committee on Sections 39 and 40 (Bloemfontein), 260.

Voters, Qualifications of, 65.

Petitions presented by, 43.

**Brand, Hon. R. H.**

Appointed Secretary of Statistics Committee, 25.  
 Votes of thanks to, 249, 274.

**Browne, Hon. A., I.S.O., M.L.C.**

Delegate for the Orange River Colony, 5.

Motions and amendments by:

Capital, Committee on, 223 (*w*).  
 Capitals not chosen as Union Capital, Financial relief to, 198.  
 Debts, Public, Return of, 13, 14 (*w*).  
 Electoral divisions, Members for, 67 (*n*).  
 Members, Disqualifications of, 74 (*w*).  
 Provinces, Formation of, 11, 12 (*w*).  
 Provincial Revenue Fund, Formation of, 182.  
 Senators, Number and mode of election or nomination, 34-35 (*c*).  
 South Africa Act, Draft, Amendments to, *see* "South Africa Act."

Statistics Committee, Statements on work of, 25.

**Burger, General S. W., M.L.A.**

Delegate for the Transvaal, 4.

**C.**

**Cape of Good Hope.**

Credentials of delegates put in, 3.  
 Government, Vote of thanks to, 249.  
 Governor of, Congratulatory message from, 3; Reply, 9; Minutes of Proceedings to be forwarded daily to, 10; Letter acknowledging, 86.  
 Parliament, Resolution and amendments adopted on consideration of Draft Act laid upon the Table [Appendix G, pages 345-349], 250-251; Resolutions and address on final approval of Draft Act [Appendix I], 355-357.  
 Petitions from men and women of, in favour of women's franchise, 22, 25, 98.  
 Precedence in proceedings, 28.  
 Wine Farmers, Petition from, on relief to their industry, 256.

**Cape Town.**

- Archbishop of, and other Clergy, Letter from, on position and privileges of coloured and native races, 256-257.  
 Convention adjourned to, 66, 71; Arrangements made for accommodation, Statement by President on, 71; Delegates assemble at, 72; Welcome to delegates, *Mr. Merriman*, 72.  
 Mayor of, Invitations from, 88, 151; Motions, etc., on acceptance of invitations, 89, 98, 151; Vote of thanks to, 249.  
 Seat of Legislature to be at, Motion on, *Mr. Merriman*, 238-239, 243-245 (w); Amendments: *Gen. Botha*, 238-239, 243-245 (w); *Mr. Jagger*, 238-239, 243-245 (w); *Mr. Hull*, 243-244 (w); *Mr. Hyslop*, 244-245 (n); *Mr. Sauer*, 244 (w).

**Capital.**

- Commission to select, Motion on, *The President*, 139; Objected to, *Gen. de la Rey*, 139.  
 Committee on assignment of functions to existing capitals, Motion for, *Mr. Browne*, 223 (w).  
 Committee on procedure for selection of, Motion for, *Mr. Fischer*, 124, 125-126, 128; Amendments: *Sir Percy Fitzpatrick*, 124 (n); *Gen. Hertzog*, 126 (w); Report (interim), 138-139; Order for consideration discharged, *Gen. Smuts*, 151; Report, 172-173; Considered, 198-200, 206-207, 221, 223, 235, 238.  
 Convention to decide, Motion on, *Gen. Botha*, 124; President's ruling on rescission of resolution, 198-199.  
 Pietermaritzburg to be, Motion on, *Mr. Hyslop*, 244-245 (n).  
 Seat of Government to be at Pretoria and of Legislature at Cape Town, Motion on, *Mr. Merriman*, 238-239, 243-245 (w); Amendments: *Gen. Botha*, 238-239, 243-245 (w); *Mr. Jagger*, 238-239, 243-245 (w); *Mr. Hull*, 243-244 (w); *Mr. Hyslop*, 244-245 (n); *Mr. Sauer*, 244 (w).  
 Sites for, Communications on, 18, 57, 126, 163, 168, 207.  
 Union Parliament to select, Motion on, *Mr. Steyn*, 198-199 (w); President's ruling on rescission of previous resolution, 198-199.  
 Vaal River, to be situated on, Motion on, *Mr. Hull*, 243-244 (w); Amendment, *Mr. Sauer*, 244 (w).  
 Voters of the Union to decide, Motion on, *Mr. Jagger*, 238-239, 243-245 (w).  
 Voting for, Procedure to be followed, Motion on, *Gen. Hertzog*, 199-200, 223 (w); Amendment, *Gen. Botha*, 199-200, 221 (w).

**Capitals of Provinces.**

See "Provincial Capitals."

**Carnarvon.**

Mayor and inhabitants of, Message of congratulation from, 9.

**Civil Servants.**

- Rights of preserved on transfer or retirement, Draft resolution of Committee considered, 132; Amendment, *Mr. Fischer*, 132 (n).  
 Rights of those in Territories safeguarded, Draft resolution of Committee considered, 150.  
 Services not to be dispensed with by reason of want of knowledge of English or Dutch languages, Draft resolution of Committee considered, 132; Amendment, *Dr. Smartt*, 132.  
 Transfer of to Union, Draft resolution of Committee considered, 129.  
 Vote of thanks to various, 249.

**Civil Service and Miscellaneous Matters.**

Committee on, Motion for, *Gen. Smuts*, 125; First Report, 126-128; Considered, 129-133; Draft resolution on amendment of constitution (with amendments) referred back, *Mr. Lindsay*, 133; Second Report, 142; Order for consideration discharged, *Gen. Smuts*, 151.

**Civil Service Commission, Permanent.**

Draft resolution of Committee considered, 130-132; Amendments: *Mr. Walton*, 130 (w), 130 (n); *Mr. Merriman*, 131-132 (d); *Gen. Smuts*, 131-132 (d); *Mr. Malan*, 131-132; *Mr. Lindsay*, 132; *Gen. Smuts*, 132.

**Civil Service Commission, Reorganization.**

Draft resolution of Committee considered, 129-130; Amendments: *Mr. Hyslop*, 129 (*d*); *Mr. Walton*, 129.

**Coghlan, Hon. C. P. J., M.L.C.**

Representative for Southern Rhodesia, 5.

**Colonies.**

Capitals of, *see* "Provincial Capitals."

Coastal, Division of traffic between, Report of Finance Committee on, considered, 232.

Formation into Provinces, *see* "Provinces."

Order of precedence in Convention, Motion on, *Mr. Smythe*, 28.

Public Debts of, Motion for return, *Mr. Browne*, 13, 14 (*w*).

Revenue and Expenditure of, Motion for return, *Mr. Hyslop*, 14 (*w*).

Secretary of State for the, Congratulatory message from, 3; Reply, 9;

Reply to on Finance Clauses of Draft Act, 259; Powers of delegates to London to confer with, Motion on, *The President*, 272.

Union, Legislative, of, *see* "Union."

**Coloured Races, Franchise to.**

*See* "Franchise."

**Commission on Electoral Divisions.**

*See* "Electoral Divisions."

**Compensation to Capitals.**

*See* "Provincial Capitals."

**Conference Steamship Lines.**

Statement by *Mr. Hull* on position of South African Governments with, 251.

**Congratulation.**

Messages of, 2, 3, 8, 9, 10, 13, 30, 34, 57, 73, 77, 83, 134, 144; Replies to be sent, 13.

**Consolidated Revenue Fund.**

Formation of, Draft resolution of Committee considered, 163; Amendment, *Gen. Smuts*, 163 (*w*).

Charges upon, payments into, and appropriations from, Draft resolutions of Committee considered, 165.

**Constitution.**

Amendment of, Draft resolution of Committee considered, 133; Amendments: *Mr. Morcom*, 133; *Mr. Fischer*, 133; Draft resolution and amendments referred back to Committee, *Mr. Lindsay*, 133; Further draft resolution, 142; Order for consideration discharged, 151.

*See also* "South Africa Act."

**Controller and Auditor-General.**

*See* "Auditor-General."

**Convention.**

Reassembly of, after draft Act discussed by the various Parliaments, Draft resolution of Committee considered, 236; Amendment, *Mr. Fischer*, 236.

**Credentials.**

Delegates' credentials put in, 3-5, 150.

**Cruiser Squadron.**

Message to H.M. the King on presence of, 17.

## D.

**Daniel, G.**

Letter from, on advancement of Natives, 57.

**Debate.**

Procedure in, *see* "Rules and Orders."

**Debts, Public, of Colonies.**

Return of, Motion for, *Mr. Browne*, 13-14 (*w*).

Vesting of, in Union, Motion on, *Mr. Merriman*, 21-23; Consideration postponed, *Mr. Hull*, 23; Referred to Finance Committee, *Mr. Malan*, 114; Draft resolution of Committee considered, 165; Amendments: *Gen. Smuts*, 165 (*w*); *Mr. Merriman*, 165 (*n*); *Mr. Fischer*, 168; Proviso by *Mr. Fischer* referred to Finance Committee, *Mr. Hull*, 168; Amended draft resolution of Committee considered, 187-188; Amendment, *Mr. Hull*, 187-188 (*n*).

**De la Rey, General J. H., M.L.A.**

Delegate for the Transvaal, 4; Congratulations to, on birthday, 27.  
Capital, Commission on, Objection to motion, 139.

**Delegates to Convention.**

*See* "Members."

**Delimitation Commission.**

*See* "Electoral areas."

**De Villiers, A. M. N.**

Appointed Secretary to Convention, 3; Secretary for Orange River Colony, 5; Votes of thanks to, 249, 273.

**De Villiers, Right Hon. Sir J. H., P.C., K.C.M.G.**

*See* "President."

**De Wet, General the Hon. G. R., M.L.A.**

Delegate for the Orange River Colony, 5.  
Motions and amendments by:  
Convention, Adjournment of, 138 (*d*).  
Drafting Committee, Reference to (objection to), 220.

**De Wet, Hon. N. J., M.L.C.**

Message of congratulation from, 9.

**De Wet, N. J.**

Votes of thanks to, 249, 274.

**Dingaan's Day.**

Statement by President on, 133.

**Divisions.**

*See* "Rules and Orders."

**Drafting Committee.**

*See* "South Africa Act."

**Duncan, P., C.M.G.**

Votes of thanks to, 249, 274.

**Durban.**

Delegates assemble at, 1; Public reception at, 5.  
Mayor and Municipality of, Vote of thanks to, 71.

**Dutch and English Languages.**

*See* "Languages."

**Dutch Reformed Church.**

Messages of congratulation from Natal, George and Cape Town circuits and Paarl Mission, 9, 10, 57; Invitation to attend Divine Service at Cape Town, 104; Motion for acceptance, *Mr. Malan*, 104.



**E.**

**Eastern Districts Court.**

Letter from Judge-President, with memorandum by Judges on amendments to Draft Act and President's reply, 250.

**Eendracht (Oudtshoorn).**

Message of congratulation from, 8.

**Egerton, Rear-Admiral, G. le C., C.B.**

Invitation from, to visit Selborne Dock, 104; Motion for acceptance, *Dr. Smartt*, 104.

**Electoral Divisions.**

Commission to define, Draft resolution of Committee considered, 66-67 (*d*); Amendments: *Sir George Farrar*, 66-67; *Mr. Jagger*, 67 (*d*); *Mr. Malan*, 67 (*d*); *Sir Percy Fitzpatrick*, 67.

Principles to be observed in defining, Draft resolution of Committee considered, 67.

Redistribution of, after Census, Draft resolution of Committee considered, 68; Amendments: *Sir George Farrar*, 68; *Mr. Malan*, 68.

**Electoral Laws.**

See "Franchise" and "Laws."

**English and Dutch Languages.**

See "Languages."

**Esselen, E.**

Message of congratulation from, 8.

**Estcourt, S.**

Letter from, offering land for capital at Rosmead Junction, 18.

**Evangelical Church Council.**

Message of congratulation from Cape Town and District Branch, 144.

**Executive Committees.**

See "Provincial Councils."

**Executive Council.**

Establishment of, Motion on, *Gen. Smuts*, 14, 15.

**Expenditure and Revenue.**

Returns of, Motion for, *Mr. Hyslop*, 14 (*w*).

**Expenditure on Capital Account.**

Exercise of, Motion on, *Gen. Smuts*, 273 (*w*).

**F.**

**Farrar, Sir George, Kt., D.S.O., M.L.A.**

Delegate for the Transvaal, 4.

Motions and amendments by:

Borrowing powers of Provinces, 79-80.

Capitals not chosen as Union Capital, Financial relief to, 196-198.

Electoral divisions, Commission on, 66-67.

Ditto Redistribution of, after Census, 68.

English and Dutch to be official languages, 22.

Justice, Committee on Administration of, 70.

Proceedings, Minutes of, Custody of, 248 (*w*).

Railway and Harbour Board, Formation of, 165-166.

Senate, Constitution of, 31-32 (*n*) (*w*).

South Africa Act, Draft, Amendments to, see "South Africa Act."

**Finance.**

Committee on, Motion for, *Gen. Smuts*, 114, 151; Motions by Mr. Merri-  
man on assets and liabilities and finance referred, *Mr. Malan*, 114;  
Relief to capitals of Colonies not chosen as Union Capital referred,  
*Mr. Hyslop*, 125; Governor-General's salary referred, *The President*,  
125; Draft resolution on treaty rights referred, *Mr. Hyslop*, 131;  
First Report, 139-142; Referred back, *Mr. Sauer*, 152; Revised  
First Report, 155-159; Considered, 163-172; Proviso on transfer  
of finances of Colonies referred, *Mr. Hull*, 168; Draft resolutions on  
construction of railways and harbours, gratuitous services and  
compensation to capitals referred back, *Mr. Jagger*, *Mr. Hull* and  
*Sir Percy Fitzpatrick*, 167-168, 170, 172-174; Second Report,  
186-187; Considered, 187-191, 195-198; Third Report, 232;  
Committee re-appointed at Bloemfontein, *Mr. Hull*, 251; Corres-  
pondence with British Government on Finance clauses referred,  
*Mr. Hull*, 251; New clauses on free trade and bounties referred,  
*Gen. Smuts*, 257-258; Ocean Mail Contract referred, *Mr. Walton*, 258;  
First Report (Bloemfontein), 258-259; Considered, 259; Second  
Report (Bloemfontein), 268; Considered, 268; Third Report  
(Bloemfontein), 273; Considered, 273.  
Motions on, *Mr. Merriman*, 114; Referred to Finance Committee,  
*Mr. Malan*, 114.

**Finances and Loan Balances, etc.**

To be vested in Union, Draft resolution of Committee considered, 165;  
Amendment, *Mr. Fischer*, 168; Proviso by Mr. Fischer referred  
to Finance Committee, *Mr. Hull*, 168; Revised draft resolu-  
tion of Committee considered, 187-188; Amendments, *Mr. Hull*,  
187-188 (n).

**Financial Relations Commission.**

See "Provinces."

**Financial Relief.**

To Provincial Capitals, see "Provincial Capitals."

**Fischer, Hon. A., M.L.A.**

Credentials of Orange River Colony delegates put in by, 5.  
Delegate for the Orange River Colony, 5.  
Letter from, forwarding resolution of House of Assembly, Orange River  
Colony, on definition of "sparsely populated areas," etc., 250.  
Motions and amendments by:  
  Assembly, House of, Constitution of, 41-43 (c).  
  Ditto ditto Committee on, 43 (n).  
  Auditor-General, Appointment of, 169.  
  Capital, Selection of, Committee on procedure, 124, 125-126.  
  Civil Servants, Preservation of rights on transfer, 132 (n).  
  Ditto Vote of thanks to various, 249.  
  Constitution, Amendment of, 133 (c).  
  Convention, Adjournment of, 46.  
  Ditto Re-assembly of, at Bloemfontein, 236.  
  Franchise Committee, Instruction to, 27 (n).  
  Funds of Colonies, Balances of, 168 (c).  
  Judges, Appointment, remuneration, vacancies, etc., 121, 123.  
  Ditto of Appeal, Appointment of Acting, 121.  
  Laws, General, Continuance of, 49.  
  Members, Disqualifications of, 75.  
  Ditto Payment of, 96 (d).  
  Native Affairs, Committee on, 125.  
  Parliament, Houses of, Names of, 18-19 (n).  
  President's Opening Address, Incorporation in Minutes, 8.  
  Provinces, Formation of, 10, 11, 12 (w).  
  Provincial Councils, Education, Control of, by, 111 (w).  
  Ditto Executive Committees, 107 (w).  
  Ditto Native Councils, Control of, by, 111, 112.  
  Railway and Harbour balances, 167 (w).  
  Records, Disposition and custody of, 273.

**Fischer, Hon. A., M.L.A.—(continued.)**

- Resolutions, Amendment of, 152-153 (d).
- Secretariat, Vote of thanks to, 249.
- Senate, Constitution of, 29-33 (d), 33.
- Ditto Voting in and President's Vote, 41 (w).
- Senators, Number and mode of election, etc., 34-35 (c).
- Ditto Qualifications of, 38 (w).
- Sittings, Hours of, 72 (n).
- South Africa Act, Draft, Amendments to, see "South Africa Act." and Second Report, Publication of 272.
- Supreme Court, Provincial Divisions, 121.
- Territories, Duties, customs and excise, 149.
- Ditto Revenue and expenditure, 148.
- Ditto Transfer of, 145.
- Petition presented by, 48.

**Fitzpatrick, Sir Percy, Kt., M.L.A.**

- Delegate for the Transvaal, 4.
- Motions and amendments by:
  - Capital, Selection of, Committee on procedure, 124 (n).
  - Electoral divisions, Commission on, 67.
  - Finance Committee, Reference to, 172-174.
  - Franchise Committee, Appointment of, 26-27 (d).
  - Laws, Electoral, Continuance of, 69 (w).
  - Proceedings, Minutes of, Distribution, 8.
  - Provincial Councils, Native Councils, Control of by, 112.
  - Ditto Representation, Readjustment of, 54.
  - Senators, Number and mode of election, etc., 33-35 (c).
  - South Africa Act, Draft, Amendments to, see "South Africa Act." Do. Final approval of, 236 (n).
  - Statistics, Committee on, 14.
  - Territories, Transfer of, 144-145 (w).

**Franchise.**

- Committee on, Motions for, *Sir Percy Fitzpatrick*, 26-27 (d); *Gen. Botha*, 26-27; Instruction to draft resolution on native policy, *Mr. Fischer*, 27 (n); Petitions referred, *Col. Stanford*, 44, 49; First Report, 56-57; Considered, 59; Draft resolutions referred back to Committee, *Gen. Smuts*, 62; Second Report, 64; Considered, 64-66.
- Granting of, to all subjects, irrespective of race or colour, Motion on, *Col. Stanford*, 23-26; Amendments: *Mr. Merriman*, 23-24 (w); *Mr. Jagger*, 24 (w); *Col. Greene*, 24-27; *Sir Percy Fitzpatrick* 26-27 (d); *Mr. Fischer*, 27 (n); Motion and amendments referred to Franchise Committee to draft resolution, *Gen. Botha*, 26-27; see "Franchise laws and qualifications."
- Laws and Qualifications, Continuation of existing, Draft resolution of Committee considered, 59; Amendments: *Mr. Sauer*, 59; *Mr. Hull*, 59; Draft resolution and amendments referred back to Franchise Committee, *Gen. Smuts*, 62; Draft resolution withdrawn, 64; Amended draft resolutions of Committee considered, 64-66; Amendments: *Mr. Malan*, 64-65 (w), 65 (w); *Mr. Smythe*, 65 (n); *Gen. Botha*, 65.
- Native and Coloured races, Letters on subject of, 9, 73, 250; Petitions on subject of, 23, 42, 43, 48; Petitions referred to Franchise Committee, *Col. Stanford*, 44, 49; Further petitions presented, 73, 151, 250, 257, 262; Resolutions forwarded on subject of, 23, 257.
- Women's, Motion on granting of, *Mr. Moor*, 133-134, 142-143, 151 (w); Amendments: *Gen. Smuts*, 143, 151-152 (w); *Col. Stanford*, 143, 151-152 (w); Motion to refer to Drafting Committee, *Mr. Malan*, 220; Objected to, *Gen. de Wet*, 220.
- Ditto Petitions presented in favour of, 22, 25, 98; in opposition to, 13, 24.

**Funds, Balances of.**

See "Assets."

**G.****Government, Executive.**

In whom vested, Motion on, *Gen. Smuts*, 14, 15; Amendments: *Mr. Sauer*, 15 (n); *Mr. Walton*, 15.

**Governor-General.**

Assent to and amendment of Bills, Motion on, *The President*, 143-144; Letter from High Commissioner on and President's reply, 250.

Powers of Governors of Colonies vested in, Motion on, *Gen. Smuts*, 14, 17; Amendments: *Mr. Sauer*, 17; *Mr. Hyslop*, 17.

Recommendations of, on appropriations of revenue and taxation, Motion on, *Mr. Merriman*, 51; Amendments: *Dr. Smartt*, 51 (n); *Col. Greene*, 51 (n).

Royal Instructions, Motion on powers of delegates to London regarding, *The President*, 272.

Salary and allowances of, referred to Finance Committee, *The President*, 125; Draft resolution of Committee considered, 167.

Title of, Motion on, *Gen. Smuts*, 14-15; Amendment, *Mr. Sauer*, 15 (n).

**Governors of Colonies.**

See "Cape of Good Hope", "Natal", "Transvaal", and "Orange River Colony."

**Green, Colonel the Hon. E. M., K.C., C.M.G., M.L.A.**

Delegate for Natal, 4.

Motions and amendments by:

Capitals not chosen as Union Capital, Financial relief to, 172-174 (c).

Capital of Union not to be Provincial Capital, 245 (n).

Convention, Adjournment of, 138.

Governor-General's recommendation on appropriations, etc., 51 (n).

Members, Disqualifications of, 75 (w), 76.

Ditto Pecuniary interest, 95 (w).

Ditto Qualifications of, Committee on, 76.

Ditto to be of European descent, 24-27 (c).

Parliament, Pensions, etc., to retired officers, 132.

Proceedings, Distribution of Minutes of, 7-8 (w).

Provinces, Formation of, 11-12 (w).

Provincial Councils, Fencing of roads to be under, 86 (n).

Railway Agreement, Inter-Colonial, 269.

Resolutions, Custody of, 71.

Ditto Removal of, 29 (w).

Senate, Constitution of, 31-33 (w).

Senators, Qualifications of, 33-39.

South Africa Act, Draft, Amendments to, see "South Africa Act."

Ditto ditto Publication of, 235, 248.

Ditto ditto Sessions of Parliament to consider, 236.

Territories, Commission for administration of, 146 (n).

Ditto Transfer of, 144-145, (n).

**Griqualand West Farmers' Association.**

Messages of congratulation from Belmont and Modder River branches, 9, 10.

**H.****Harbours.**

See "Railways."

**Harrismith.**

Invitation to Convention to meet at, 46.

**Hely-Hutchinson, H. E., Sir Walter, G.C.M.G.**

See "Cape of Good Hope, Governor of."

**Hershensohn, J. M.**

Appointed Acting Secretary for Natal, 251; Vote of thanks to, 274.

**Hertzog, General the Hon. J. B. M., M.L.A.**

Delegate for the Orange River Colony, 5.

Motions and amendments by :

Capital, Selection of, Committee on procedure, 126 (w).

Ditto ditto Method of voting, 199-200, 223 (w).

Capitals not chosen as Union Capital, Financial relief to, 196-197 (w).

Languages, English and Dutch, Equality of, 18, 22 (d).

Members, Qualifications of, 49, 60, 69.

Ministers, Assignment of offices, 16, 17 (n).

Parliament, Dissolution of, 55, 61 (w).

Provincial Councils, Administrative powers of, 112 (n).

Ditto Committee on, Objection to reference to, 87.

Ditto Executive Committees, 107 (w).

Ditto Legislative powers of : (a) generally, 78 (w);  
(b) local and private matters, 110; taxation, 79 (n).

Railway and Harbour Board, Construction of non-payable works, 167 (c).

South Africa Act, Draft, Amendments to, *see* "South Africa Act."

Ditto ditto Committee on Dutch Draft, 178.

Territories, Free intercourse between inhabitants of, 149.

**High Commissioner.**

*See* "Transvaal, Governor of."

**Hobhouse, Miss Emily.**

Message of congratulation from, 8.

**Hofmeyr, G. R.**

Appointed Secretary to Convention, 3; Secretary for the Transvaal, 5;

Votes of thanks to, 249, 273.

**Hull, Hon. H. C., M.L.A.**

Delegate for the Transvaal, 4.

Motions and amendments by :

Assets, etc., Postponement of motion on, 23.

Ditto Vesting of, in Union, 187-188.

Capital, Union, to be situated on Vaal River, 243-244 (w).

Capitals not chosen as Union Capital, Financial relief to, 170-174  
(c), 189, 195-196 (n).

Finance Committee, Reappointment of, 251.

Ditto References to, 168, 170, 251.

Franchise laws and qualifications, 59-62 (c).

Members, Disqualifications of, 74-77, 77 (c).

Ditto Sitting when disqualified, 95.

Ditto Vacation of seats, 74-77 (c), 94 (d).

Provincial Councils, Legislative powers of : (a) generally, 78; and  
(b) local and private matters (objection to amendment), 110.

Railway Agreement, Inter-Colonial, 269-270 (w).

Railway and Harbour Board, Gratuitous services, 188.

South Africa Act, Draft, Amendments to, *see* "South Africa Act."

Ditto ditto Revision of, 195.

Statement by, on position of South African Governments with Conference Steamship lines, 251.

**Humphreys, J. H.**

Vote of thanks to, as Secretary of the English Proportional Representation Society, 274.

**Hyslop, T., J.P., M.L.A.**

Delegate for Natal, 4.

Motions and amendments by :

Business, Temporary suspension each morning, 23.

Capital Union, to be at Pietermaritzburg, 244-245 (n).

Capitals, not chosen as Union Capital, Financial relief to, 125 (c), 198.

Civil Service Reorganization Commission, 129 (d).

Expenditure and Revenue, Returns of, 14 (w).

Finance Committees, References to, 125, 131.

Governor-General, Powers of Governors vested in, 17.

Laws, General, Continuance of, 49.

Ditto on local matters, Making of, 20-21 (n).

**Hyslop, T., J.P., M.L.A.—(continued).**

- Parliament, Dissolution of, 55 (*w*), 55, 61 (*w*).
- Provincial Auditors, Appointment, etc., 115 (*w*).
- Provincial Councils, Administrators and Executive Committees, Powers of, in Council, 115 (*n*).
- Ditto Legislative powers of, 78 (*w*).
- Ditto Members, Number of, 105 (*n*).
- Senate, Constitution of, 28-33 (*d*).
- Senators, Number and mode of election, etc., 36-37.
- Ditto Number, Laws as to decrease, 37-38 (*n*).
- South Africa Act, Draft, Amendments to, *see* "South Africa Act."
- Ditto ditto Consideration of, 153-154 (*w*).
- Territories, Expenses of members of commission, 149-150.

**I.****Interpreter, Official.**

- Appointment of Dr. W. F. Bok, 5; Admitted to Convention Chamber, 6; Vote of thanks to, 273.

**J.****Jagger, J. W., M.L.A.**

- Delegate for the Cape of Good Hope, 4.
- Motions and amendments by :
  - Capital, Union, Selection of by voters, 238-239, 243-245 (*w*).
  - Capitals not chosen as Union Capital, Financial relief to, 170-174 (*c*).
  - Electoral Divisions, Commission on, 67 (*d*).
  - Ditto Members for, 67-68 (*w*).
  - Finance Committee, Reference to, 167-168.
  - Financial relations commission, 164 (*w*), 164.
  - Franchise, Amendment of existing laws, 24 (*w*), 26-27 (*c*).
  - Languages, English and Dutch, Committee on, 18, 22 (*w*).
  - Laws, Money, and powers of Senate, 50 (*w*), 51 (*n*).
  - Ditto rejected by Senate, etc., Joint sitting, 53.
  - Members, Deductions for absence, 97.
  - Ditto Disqualifications, 73-74 (*w*), 77 (*c*).
  - Ditto Number, Readjustment of, 47 (*n*).
  - Ditto Payment of, 96 (*d*).
  - Ditto Pecuniary interest, 95 (*w*).
  - Ditto Qualifications, etc., 94 (*n*).
  - Ditto Vacation of seats, 94.
  - Ministers, Assignment of officers, 16 (*w*).
  - Ditto Eight to be appointed, 16-17 (*n*).
  - Oath or affirmation of allegiance, Form of, 133.
  - Parliament, Annual sessions of, 77.
  - Ditto Dissolution of, 54-55 (*w*).
  - Proceedings, First Day's, Publication of, 8 (*n*).
  - Provincial Administrators, Appointment, etc., 89, 92 (*c*).
  - Provincial Auditors, Appointment, etc., 113, 115 (*w*).
  - Provincial Councils, Administrative powers, 116 (*d*).
  - Ditto Legislative powers of : (a) agricultural societies, 86 (*n*); (b) borrowing powers, 79-80 (*n*); (c) gaols and hospitals, 81.
  - Ditto Rules for, 106 (*n*).
  - Ditto Speech, Freedom of, 107 (*n*).
  - Provincial Revenue Fund, Formation of, 182 (*w*).
  - Railway and Harbour Board, Formation, etc., 166 (*n*).
  - Railways and Harbours, Vesting of, in Union, 165 (*n*).
  - Resolutions, Removal of, 29.
  - Senate, Constitution of, 28-33 (*d*).
  - Ditto President of, 40 (*w*).
  - Senators, Number and mode of election, etc., 33-35 (*c*).
  - Ditto Qualifications of, 38.
  - Sittings, Hours of, 72 (*w*).
  - South Africa Act, Draft, Amendments to, *see* "South Africa Act."
  - Union, Name of, 15 (*w*).
  - Petition presented by, 24.

**Jameson, Right Hon. Dr. L. S., P.C., C.B., M.L.A.**

Delegate for the Cape of Good Hope, 3.

Motions and amendments by:

Orange River Colony Government, Vote of thanks to, 274.

South Africa Act, Draft, Amendments to, see "South Africa Act."

**Johannesburg.**

Message of congratulation from Grand Secretary, Masonic Hall, 134.

**Jones, Rev. T. H.**

Letter from, on uniform code of marriage laws, 114.

**Judges.**

**K** See "Supreme Court."

**Justice.**

Administration of, Minister of State for, Draft resolution of Committee considered, 123; Amendment, *Mr. Steyn*, 123.

Ditto Proposals submitted by the President, 62-63; Considered, 70; Amendment, *Gen. Smuts*, 70; Committee on, Motions for, *Gen. Smuts*, 63 (n); *Sir George Farrar*, 70; Proposals of President referred, 70; Report, 117-121; Considered, 121-123.

Ditto See also "Supreme Court."

**K.**

**Kilpin, E. F., C.M.G.**

Appointed Chief Secretary to Convention, 3; Secretary for the Cape of Good Hope, 4; Votes of thanks to, 249, 273.

**King, H.M. the [King Edward VII.]**

Birthday of, Congratulations to, Motion, *Gen. Botha*, 71; Reply, 73.

Cruiser Squadron, Presence of, Message to, on, 17.

Laws, Disallowance of, by, Motion on, *The President*, 143-144; Draft resolution of Committee on disallowance of laws for Territories considered, 149.

Message of congratulation from, 2; Reply, 9

Union, Addresses for authorization of [Appendix I.], 355-357.

**King-in-Council.**

Appeals to, see "Supreme Court."

**King's Pleasure.**

Reservation of Bills for signification of, Motion on, *The President*, 143-144.

**Kotze, Hon. Mr. Justice.**

Letter from, with memorandum by judges of Eastern Districts Court on proposed amendments in Draft Act and President's reply, 250.

**Krige, C. J., M.L.A.**

Message of congratulation from, 8.

**Kroonstad.**

Invitation to Convention to meet at, 30; Letter from Town Clerk on Capital, 168.

**L.**

**Land Settlement Boards.**

Transvaal and Orange River Colony, Letter from the High Commissioner on position of, under Union, and reply, 263.

**Languages, English and Dutch.**

Equality of, Motion on, *Gen. Hertzog*, 18, 22 (d); Amendments: *Mr. Jagger*, 18, 22 (w); *Sir George Farrar*, 22.

Ditto Petitions on subject of: Afrikaansche Christelijke Vrouwen Vereeniging (Hoofd Comite), 21; Orange Women's Union, 22.

Ditto Telegram from Zuid Afrikaanse Taalbond, on, 18.

**Laws.**

- Annual Appropriation, to deal only with such appropriation, Motion on, *Mr. Merriman*, 51.
- Assent, disallowance, reservation, etc., Motion on, *The President*, 143-144; Letter from High Commissioner on assent and President's reply, 250.
- Continuance of existing electoral and other, Motion on, *Gen. Smuts*, 26, 27 (c), 48, 59-60 (w), 69; Amendments: *Dr. Beck*, 26 (c); *Mr. Merriman*, 48, 59-60 (w); *The President*, 60, 69 (w); *Sir Percy Fitzpatrick*, 69 (w).
- Continuance of existing general, Motion on, *Gen. Smuts*, 49; Amendments: *Mr. Malan*, 49; *Mr. Hyslop*, 49; *Mr. Walton*, 49; *Mr. Fischer*, 49.
- Franchise, see "Franchise."
- Governor-General's recommendation on appropriation or taxation, Motion on, *Mr. Merriman*, 51; Amendments: *Dr. Smarth*, 51 (n); *Col. Greene*, 51 (n).
- Making, alteration, amendment or repeal of, Motion on, *Mr. Merriman*, 20 (d); Amendments: *Col. Stanford*, 20, 21 (w); *Mr. Lindsay*, 20; *Mr. Hyslop*, 20-21 (n).
- Money, Where to originate and powers of Senate regarding, Motion on, *Gen. Smuts*, 49-51; Amendments: *Mr. Jagger*, 50 (w); *The President*, 50-51; *Mr. Walton*, 50-51 (d); *Mr. Merriman*, 50-51 (n); *Mr. Jagger*, 51 (n); *Gen. Smuts*, 51.
- Power of Parliament to make, etc., Motion on, *Mr. Merriman*, 20 (d); Amendments: *Col. Stanford*, 20, 21 (w); *Mr. Lindsay*, 20; *Mr. Hyslop*, 20, 21 (n).
- Provincial, see "Provincial Councils."
- Rejected by Senate or amendments not accepted, Joint sitting, Motion on, *Gen. Smuts*, 52-54; Amendments: *Mr. Merriman*, 52-53 (w); *Mr. Jagger*, 53; *Mr. Merriman*, 53-54.
- Revenue and Taxation, to originate in House of Assembly, Motion on, *Mr. Merriman*, 51.
- Taxation, to deal only with such taxation, Motion on, *Mr. Merriman*, 51-52 (w).
- Territories, see "Territories."

**Legal Advisers.**

- Votes of thanks to, 249, 274.

**Legislative Power.**

- In whom to be vested, Motion on, *Mr. Merriman*, 18-20; Amendments: *Mr. Fischer*, 18 (w), 18, 19 (n); *Gen. Smuts*, 18, 19 (n).

**Liabilities.**

- To be vested in Union, Motion on, *Mr. Merriman*, 21-23; Consideration postponed, *Mr. Hull*, 23; Referred to Finance Committee, *Mr. Malan*, 114; Draft resolution of Committee considered 165; Amendments: *Gen. Smuts*, 165 (w); *Mr. Merriman*, 165 (n); *Mr. Fischer*, 168; Proviso by *Mr. Fischer* referred to Finance Committee, *Mr. Hull*, 168; Amended draft resolution of Committee considered, 187-188; Amendment, *Mr. Hull*, 187-188 (n).

**Lindsay, H. L., M.L.A.**

- Delegate for the Transvaal, 4.
- Motions and amendments by:
- Capitals not chosen as Union Capital, Financial relief to, 197-198 (w).
  - Civil Service Commission, Reorganization, 132.
  - Constitution, Amendment of, 133.
  - Laws, Making of, 20.
  - Members, Pecuniary interest, Committee on, 95 (w).
  - Ditto Qualifications of, 69.
  - Railways and Harbours, Administration of, 166.
  - Senators, Number and mode of election, etc., 34-35 (c).
  - Ditto Qualifications of, 39.
  - South Africa Act, Draft, Amendments to, see "South Africa Act."
  - Union, Name of, 15.



**Loan Balances.**

See "Finance."

**Lombard, Hon. J. F., M.L.C.**

Message of congratulation from, 9.

**London, Delegates to.**

See "South Africa Act."

**Long, B. K.**

Votes of thanks to, 249, 274.

**Lucas, F.**

Votes of thanks to, 249, 274.

**Luckhoff, W.**

Votes of thanks to, 249, 274, 274.

**Luttig, J., Jr.**

Message of congratulation from, 8.

**M.**

**Maasdorp, G. H., M.L.A.**

Delegate for the Cape of Good Hope, 4.

**Mateking.**

Letter from Town Clerk of, on site for Capital, 126.

**Malan, Hon. F. S., M.L.A.**

Delegate for the Cape of Good Hope, 4.

Motions and amendments by:

Civil Service Commission, Reorganization, 131-132.

Drafting Committee, Reference to, 220.

Electoral divisions, Commission on, 67 (d).

Ditto Redistribution of, after Census, 68.

Finance Committee, Reference to, 114.

Laws, General, Continuance of, 49.

Members, Payment of, 96-97.

Ditto Readjustment of number of, 45 (n), 45-46.

Ditto Sitting when disqualified, 95.

Morcom, Mr., Sympathy with on bereavement, 88.

Motions, Procedure on, 8.

Parliament, Dissolution of, 54-56, 61.

Proceedings, First Day's, Publication of, 8.

Provincial Councils, Administrative powers of, 112 (n).

Ditto ditto existing, 116 (d).

Ditto Executive Committees, 107.

Ditto Legislative powers of: (a) agricultural societies and roads, 86 (n); (b) generally, 112.

Ditto Members Number of, 105 (n).

Railway and Harbour Board, Gratuitous services, 188 (w).

Resolutions, amendment of, 153.

Senate, Constitution of, 31-33.

Ditto President of, 40 (n).

Senators, Nominated, Period for which nominated, 41.

Territories, Revenue and expenditure of, 148.

Voters, Qualifications of, 64, 65 (w).

Petitions presented by, 21, 22, 98, 256.

**Mail Contract, Ocean.**

Question referred to Finance Committee, *Mr. Walton*, 258; Report of Committee, 273; Considered and adopted, 273.

**Malze.**

Increase of export rate on, Report of Finance Committee, 273; Considered and adopted, 273.

**Marriage Laws.**

Uniform code of, Letter on, 114.

**Members of Convention.**

Credentials put in, 3-5.

Resolutions of the various Parliaments appointing [Appendix C], 280-281.

**Members of Parliament.**

See "Assembly" and "Senate."

**Merriman, Right Hon. J. X., P.C., M.L.A.**

Credentials of Cape of Good Hope delegates put in by, 3.

Delegate for the Cape of Good Hope, 4.

Motions and amendments by :

Assembly, House of, Constitution of, 41-43 (c).

Assets, debts, etc., to be vested in Union, 21-23, 114 (c), 165 (n).

Auditor-General, Appointment of, 168, 169 (w).

Cape Town, Meeting of Convention at, 72.

Civil Service Commission, Reorganization, 131-132 (d).

Governor-General's recommendation on appropriation or taxation laws, 51.

Laws, Annual Appropriation, 51.

Ditto Electoral, etc., Continuance of, 48, 59-60 (w).

Ditto Franchise, Amendment or repeal of, 23-24 (w), 26-27 (c).

Ditto Making of, 20 (d).

Ditto Money, and powers of Senate, 50-51 (n).

Ditto rejected by Senate, etc., Joint Sitting, 52-53 (w), 53-54.

Ditto Revenue and taxation, where to originate, 51.

Ditto Taxation, 51-52 (w).

Legislative power, in whom vested, 18-20.

Members, Disqualifications for, 76 (n).

Ministers, Seven to be appointed, 16 (n).

Natal, Government of, Vote of thanks to, 71.

Order List and Notice Paper, Committee on, 73.

Parliament, Dissolution of, 54-55 (n).

Petitions, Presentation of, 9.

President, Votes of thanks to, 249, 273.

Proceedings, Destruction of Minutes of, 248 (d).

Ditto Secrecy of, and matter to be recorded, 6.

Provinces, Formation of, 10-12 (w).

Provincial Administrators, Appointment and removal, 88-89 (c).

Provincial Auditors, Appointment of, 115.

Provincial Councils, Administrative powers, existing, 116.

Ditto Chairman of, 106.

Ditto Formation of, 90-92 (c).

Ditto Legislative powers of : (a) agricultural societies, 86 (n); (b) borrowing powers, 79-80 (w); (c) bush fires, etc., 86 (n); (d) fencing of roads, 86 (n); (e) gaols and hospitals, 81; (f) generally, 78 (d); (g) local works, etc., 84; (h) markets and pounds, 86; (i) offices and appointment of officers, 80; (j) provincial constitutions, 78 (d); (k) roads and bridges, 86; (l) taxation for provincial purposes, 79 (d).

Ditto Members Allowances, 106 (d).

Railways and Harbours, Vesting of, in Union, 165.

Seats of Government and Legislature, 238-239, 243-245 (w).

Senate, Constitution of, 28 (w).

Senators, Number and mode of election, etc., 33-34 (w).

South Africa Act, Draft, Amendments to, see "South Africa Act."

Ditto Procedure after publication, Committee on, 235.

Supreme Court, Provincial Divisions, 121.

Union, Admission to, after formation, 10-13.

Ditto Desirability of a legislative, 10-13.

Ditto Name of, 10, 12 (w).

Vice-President, Election of, 3.

Petition presented by, 250.

**Mitchell, Hon. Sir Lewis L., Kt.**

Credentials of Southern Rhodesia representatives put in by, 5.  
Representative for Southern Rhodesia, 5.

**Milton, His Honour Sir William, K.C.M.G.**

Representative for Southern Rhodesia, 5; Intimation of inability to attend further proceedings, 93; Copy of proceedings to be forwarded to, 94; Letter acknowledging, 131.

**Mineral and Mining Rights.**

Vesting of in Union, Draft resolution of Committee considered, 165.

**Ministers of State.**

Appointment and Qualifications, Motion on, *Gen. Smuts*, 14-16;  
Amendments: *Mr. Walton*, 15, 16; *Mr. Sauer*, 15, 16(n); *Dr. Beck*, 15, 16 (w).  
Number and assignment of offices, Motion on, *Gen. Smuts*, 14-17;  
Amendments: *Mr. Jagger*, 16 (w); *Gen. Hertzog*, 16, 17 (n); *Mr. Merriman*, 16 (n); *Mr. Jagger*, 16, 17 (n).  
Salaries of, Motion to refer to Finance Committee, *Mr. Sauer*, 125 (n).

**Minutes of Proceedings.**

See "Proceedings."

**Miscellaneous Matters, Committee on.**

See "Civil Service."

**Modus Vivendi.**

Between Transvaal and Mozambique, and Draft agreement, Report of Finance Committee on, 232.

**Money Laws.**

See "Laws."

**Moor, Right Hon. F. R., P.C., M.L.A.**

Credentials of Natal delegates put in by, 4, 150.  
Delegate for Natal, 4:  
*Morcom, Mr.*, Reply to resolution of sympathy with, 88.  
Motions and amendments by:

Cape Town, Vote of thanks to Mayor of, 249.

Franchise, Women's, Granting of, 133-134, 142-143, 151 (w).

President, Election of, 1.

Provincial Councils, Legislative powers of: (a) borrowing powers, 79-80; (b) companies, incorporation of, 84 (n); (c) constitution, provincial, amendment of, 61-62, 77-78 (n); (d) generally, 61-62, 77-78 (n); (e) justice, administration of, 84 (n); (f) land, registration of titles to, 85 (n); (g) mining and forestry, 85 (n); (h) native tribes, affairs of, 85 (n); (i) natives, lands reserved for, 85 (w); (j) police, local, 84 (n); (k) private and local matters, 85; (l) property and civil rights, 84 (n); (m) punishment, imposition of, 85; (n) taxation for provincial purposes, 79; (o) works, local, etc., 84.

Secretaries, Appointment of, 3, 251.

Sittings, Hours of, 77.

South Africa Act, Draft, Amendments to, see "South Africa Act."

Ditto Draft prepared in Natal, Consideration of, 13.

Translators, Vote of thanks to, 274.

Natal Government, Reply to vote of thanks to, 71.

Petition presented by, 22.

**Morcom, W. B., K.C., M.L.A.**

Delegate for Natal, 4.

Expression of sympathy with on bereavement, Motion, *Mr. Malan*, 88;  
Reply by *Mr. Moor*, 88.

**Worcom, W. B., K.C., M.L.A.—(continued).****Motions and amendments by:**

Constitution, Amendment of, 133 (c).

Natal, Establishment and powers of legislature for, 92-93 (c).

Provincial Councils, Legislative powers of: (a) gaols and hospitals, 80-81 (n); (b) land, etc., management of, 80 (n); (c) licences, 82-83 (n); (d) liquors, intoxicating, sale and supply of, 83 (n); (e) municipal institutions, 81; (f) offices and appointment of officers, 80.

States, Constitution of, etc., 10-12 (n).

Union, Establishment of, 10-12 (n).

Resignation of, 150.

**Motions.**Procedure on, *see* "Rules and Orders."**Mezambique.***See* "Modus Vivendi."**Municipal and Local Authorities.**

Continuation of powers of, Draft resolution of Committee considered, 116.

**Murray, C. G.**

Vote of thanks to, 274.

**N.****Natal.**

Credentials of delegates put in, 4.

Government, Vote of thanks to, *Mr. Merriman*, 71; Reply by *Mr. Moor*, 71.

Governor of (H.E. Sir Matthew Nathan, G.C.M.G.) Chair temporarily taken by, 6; Speech by at opening, 6-7; Reply by President, 7; Minutes of Proceedings to be forwarded daily to, 10; Letter acknowledging, 13.

Parliament, Resolution and list of amendments on consideration of Draft Act laid upon the Table, [Appendix G. pages 345-349], 250-251; Resolution and address on final approval of Draft Act [Appendix I.], 355-357.

Precedence of, in proceedings, 28.

South Africa Act, Draft, prepared in, laid upon the Table, *Mr. Moor*, 13; Notice of intention to move section by section, *Mr. Moor*, 13.**Natal Women's Enfranchisement Committee.**

Petition from, in favour of women's franchise, 22.

**Nathan, H. E., Sir Matthew, G.C.M.G.***See* "Natal, Governor of."**Native Affairs.**Committee on, Motion for, *Gen. Smuts*, 125; Amendment: *Mr. Fischer*, 125; Motion by *Col. Stanford* on control and administration referred, *Gen. Smuts*, 125; Draft resolution on New Provinces referred, *Mr. Sauer*, 132; Report, 134-138; Considered, 143-150.Control and administration of, Motion on, *Col. Stanford*, 114; Referred to Committee on Native Affairs, *Gen. Smuts*, 125; Draft resolution of Committee considered, 150.*See also* "Protectorates."**Natives.**

Advancement of, Letter on, 57.

Franchise to, *see* "Franchise."

Interests, Letter on safeguarding, 239.

Position and privileges of, Letters on, 256-257, 263.

**Naturalization.**

In any Colony to apply throughout Union, Motion on, *Gen. Smuts*, 48, 69-70 (*w*); Draft resolution of Committee considered, 59.

Reform Association, Letter from, on modification of laws, 25; Message of congratulation from, 73.

**Nederduitsch Gereformeerde Kerk, Natal.**

Message of congratulation from, 9.

**O.**

**Oath or Affirmation of Allegiance.**

Form of, Motion on, *Mr. Jagger*, 133.

**Office of Profit.**

Definition of, *see* "Assembly" and "Senate."

**Orange River Colony.**

Administrator of (H.E., R. Banantine Allason, C.B.), Congratulatory message from, 9; Minutes of Proceedings to be forwarded daily to, 10.

Credentials of delegates put in, 5.

Government, Vote of thanks to, 274.

Land Settlement Board, Letter from High Commissioner on position of under Union and reply, 263.

Parliament, Resolution and list of amendments on consideration of Draft Act [Appendix G., pages 345-349] laid upon the Table, 250-251; Resolution adopted by the House of Assembly on definition of "Sparsity and density of population" and "Sparsely populated areas," Letter forwarding, 250; Resolutions and address on final approval of Draft Act [Appendix I.], 355-357.

Precedence of, in proceedings, 28.

**Orange Women's Union.**

Petition from, on equality for English and Dutch Languages, 22.

**Order List and Notice Paper.**

Committee to arrange, Motion for, *Mr. Merriman*, 73.

Distribution of, Motion on, *Mr. Walton*, 77.

**Orpen, J. M., C.M.G.**

Letter from, on representation of other than white citizens, 9; Copies distributed to members, 9.

**P.**

**Paarl.**

Invitations from Mayor of, 88, 98; Motions on acceptance, *Gen. Botha* and *Mr. Sauer*, 89.

**Parljs.**

Letter from Mayor and Town Clerk of, on Capital, 163.

**Parliament.**

Dissolution of, *see* "Assembly" and "Senate."

Houses of, Names of, Motion on, *Mr. Merriman*, 18-20; Amendments, *Mr. Fisher*, 18-19 (*n*); *Gen. Smuts*, 18-19 (*n*).

Laws, *see* "Laws."

Members of, *see* "Senate" and "Assembly."

Officers of, retired, Pensions, etc., to, Motion on, *Col. Greene*, 132.

Sessions of, to be held annually, Motion on, *Mr. Jagger*, 77.

**Petitions.**

Presentation of, Letter of procedure, 9; Motion on, *Mr. Merriman*, 9.

Presented:

English and Dutch languages, Equality of, 21, 22

Franchise, Natives and coloured people, 23, 42, 43, 48, 73, 151, 250, 257.

Ditto Women's, in favour of, 22, 25, 98.

Ditto ditto in opposition to, 13, 24.

Wine Industry, Relief to, 256.

**Plowman, G. T., C.M.G.**

Appointed Secretary to Convention, 3; Secretary for Natal, 4; Votes of thanks to, 249, 273.

**Population.**

Sparsity or density of, and sparsely populated areas, Letter from Prime Minister of Orange River Colony forwarding resolution of House of Assembly on definition of, 250.

**Postma, Mr.**

Message of congratulation from, 8.

**Potchefstroom.**

Letters from Mayor of, on capital and death rate, 163, 207.

**President of Convention (Right Hon. Sir J. H. de Villiers, P.C., K.C.M.G.)**

Address on election, 1-2; Incorporation in Minutes, Motion on, *Mr. Fischer*, 8.

Cape Town, Statement on arrangements for holding of session of Convention at, 71.

Casting vote of, in event of equality of votes, 6.

Debate, Right to speak and vote in, 6.

Decision of, Procedure when challenged, 6.

De la Rey, Gen. J. H., M.L.A., Congratulations to on birthday, 27.

Delegate for the Cape of Good Hope, 3.

Dingaan's Day, Statement on, 133.

Drafting Committee, Statements on work of, 151, 224.

Durban, Statement on reception of delegates at, 5.

Election of, 1.

**Motions and amendments by :**

Capital, Commission to select, 139 (*d*).

Delegates to London, Powers of, 272.

Governor-General's salary, 125 (*c*).

Judges, Existing, Position of, under Union, 123.

Justice, Administration of, 62-63 (*c*).

Laws, Assent, disallowance, reservation, etc, 143-144.

Ditto Electoral, etc., Continuance of, 60, 69 (*w*).

Ditto Money, and powers of Senate, 50-51.

Provincial Administrators and Executive Committees, Powers in Council, 115.

Provincial Councils, Legislative powers of, 78 (*d*).

Senate, Constitution of, 29-33.

South Africa Act, Draft, Amendments to, see "South Africa Act."

Territories, Commission for administration of, 146.

Ditto Laws amending schedule, Reservation of, 150.

Ditto Laws for, after transfer, 145.

Natal, Governor of, Reply to speech at opening, 7.

Petitions presented by, 13, 22, 23, 151, 257.

Quorum not present, Statement on, 43.

Records, Custody and disposition to be left in hands of Motion on, *Mr. Fischer*, 273.

Rulings of : On power of Union Parliament to define number and extent of Provinces, 12; On rescission of resolution regarding Capital of Union, 198-199.

Votes of thanks to, 249, 273; Replies, 249, 273.

**President of Senate.**

See "Senate."

**Press.**

Publication of First Report and Draft Act, Communication to, 248

Publication of Second Report and amended Draft Act through Motion on, *Mr. Fischer*, 272.

Publication of precis of first day's proceedings and addresses in, Motion on, *Mr. Malan*, 8; Amendment : *Mr. Jagger*, 8 (*n*).

**Preterita.**

Inter-Colonial Conference at, see "Union."  
 Right Rev. the Bishop of, Letters from, with messages of congratulation from Diocesan and General Synods of the Anglican Church, 83. ¶  
 Seat of Government to be at, Motion on, *Mr. Merriman*, 238-239, 243-245 (w); Amendments: *Gen. Botha*, 238-239, 243-245 (w); ¶ *Mr. Jagger*, 238-239, 243-245 (w); *Mr. Hull*, 243-244 (w); *Mr. Hyslop*, 244-245 (n); *Mr. Sauer*, 244 (w).

**Private Bills.**

See "Provincial Councils."

**Proceedings, Minutes of.**

Custody of, Motions on, *Col. Greene*, 71; *Sir George Farrar*, 248 (w); *Mr. Fischer*, 273.  
 Destruction of, Motion on, *Mr. Merriman*, 248 (d); *Mr. Steyn*, 273 (n).  
 Distribution of, Motion on, *Col. Greene*, 7-8 (w); Amendments: *Mr. Walton*, 8 (w); *Sir Percy Fitzpatrick*, 8.  
 Governors of Colonies, Daily transmission to, 10; to *Sir William Milton*, 94.  
 Publication of first day's, Motion on, *Mr. Malan*, 8; Amendment: *Mr. Jagger*, 8 (n).  
 To be treated as private and confidential, Motion on, *Gen. Smuts*, 248; Amendment: *Sir G. Farrar*, 248 (w).  
 See also "Records."

**Proceedings.**

Secrecy of, Motion on, *Mr. Merriman*, 6.

**Properties of Colonies.**

Vested in Union, Draft resolution of Committee considered. 165; Amendment: *Gen. Smuts*, 165.

**Proportional Representation Society, English.**

Vote of thanks to secretary, 274.

**Protectorates.**

See "Native Affairs" and "Territories."

**Provinces.**

Boundaries, Alteration of, Draft resolution of Committee considered, 116, 121; Amendments: *Mr. Walton*, 116 (w), 121 (d).  
 Constitution and powers of, Motion on, *Mr. Merriman*, 10-12 (w); Further motion, 12-13; Amendments: *Mr. Fischer*, 10-12 (w); *Mr. Brown*, 10-12 (w); *Mr. Morcom*, 10-12 (n); *Col. Greene*, 11-12 (w); President's ruling as to power of Union Parliament to determine number and extent of, 12.  
 Financial relations of Union with, Commission on, Draft resolution of Committee considered, 163-164; Amendments: *Mr. van Heerden*, 163-164 (w); *Gen. Smuts*, 164, 164; *Mr. Jagger*, 164 (w), 164.  
 Financial relations of Union with, Temporary, Draft resolution of Committee considered, 163-164; Amendments: *Mr. Jagger*, 164 (w), 164; *Gen. Smuts*, 164.  
 New, Admission of, Motion on, *Mr. Merriman*, 10-13; Amendments: *Mr. Morcom*, 10-12 (n); Draft resolution of Committee on Civil Service, etc., considered, 132; Referred to Committee on Native Affairs, *Mr. Sauer*, 132; Draft resolution of Committee on Native Affairs, considered, 150.

**Provincial Administrators.**

Appointment and removal, Motion on, *Mr. Merriman*, 88-89; Referred to Committee on Constitution of Provincial Councils, *Gen. Smuts*, 89-90; Draft resolution of Committee considered, 104, 109; Amendment, *Gen. Smuts*, 109.  
 Matters not delegated to Provincial Councils, Power to act in, Motion on, *Gen. Smuts*, 109.

**Provincial Administrators—(continued).**

Recommendation of, on appropriations, Draft resolution of Provincial Councils Committee considered, 113; Amended by Finance Committee, 158; see "Provincial Revenue Funds."  
Salaries of, Draft resolution of Committee considered, 104, 110.  
Vote and speech in Provincial Councils, Rights as to, Draft resolution of Committee considered, 115-116; Amendments: *Mr. Hyslop*, 115 (n); *The President*, 115.

**Provincial Attorneys-General.**

Appointment and duties, Draft resolution of Committee considered, 123.

**Provincial Auditors.**

Appointment and duties, Draft resolution of Committee considered, 113, 115 (n); Amendments: *Mr. Jagger*, 113, 115 (w); *Mr. Merriman*, 115; *Mr. Hyslop*, 115 (w).

**Provincial Capital.**

Location of elsewhere, if existing Capital chosen as Union Capital, Motion on, *Col. Greene*, 245 (n).

**Provincial Capitals.**

Financial relief to, for not being chosen as Union Capital, Question referred to Committee on Finance, *Mr. Hyslop*, 125; Draft resolution of Committee considered, 170-172; Amendments: *Mr. Jagger*, 170; *Mr. Hull*, 170; Motion for postponement of consideration, *Gen. Botha*, 170-172 (n); Further amendments: *Col. Greene*, 172; *Dr. Smarth*, 172; Draft resolution referred back to Committee, *Sir Percy Fitzpatrick*, 172-174; Amended draft resolution of Committee considered, 189-191, 195-198 (n); Amendments: *Mr. Hull*, 189, 195-196 (n); *Dr. Beck*, 196-198 (d); *Sir George Farrar*, 196-198; *Gen. Hertzog*, 196-197 (w); *Mr. Lindsay*, 197-198 (w); *Mr. Broune*, 198; *Mr. Hyslop*, 198.

Selection of, Draft resolution of Committee considered, 110, 152, 248 (d).

**Provincial Councils.**

Administrative powers for Provinces vested in, Draft resolutions of Committee considered, 112 (n), 116 (d); Amendments: *Gen. Hertzog*, 112 (n); *Mr. Malan*, 112 (n); *Gen. Smuts*, 116 (d); *Mr. Jagger*, 116 (d); *Mr. Merriman*, 116; *Mr. Malan*, 116 (d).

Appropriations, Administrator's recommendation on, Draft resolution of Provincial Councils Committee considered, 113; Amended by Finance Committee, 158; see "Provincial Revenue Funds."

Committee on constitution of, Motion for, *Gen. Smuts*, 87-88 (w); Reference of resolution on legislative powers, *Gen. Smuts*, 87-88; Objected to, *Gen. Hertzog*, 87; Further motion for Committee, *Gen. Smuts*, 89-90; Motions by *Mr. Merriman* and *Mr. Morcom* and amendment by *Mr. Jagger*, 90-92; Referred to Committee, *Gen. Smuts*, 89-90; Report, 99-104; Considered, 104-113, 115-116.

Duration of, Draft resolution of Committee considered, 106.

Executive Committees, Appointment, remuneration, powers and duties, Draft resolutions of Committee considered, 107-109; Amendments: *Mr. Malan*, 107; *Gen. Hertzog*, 107 (w); *Mr. Fischer*, 107 (w); *Mr. Sauer*, 107; *Gen. Smuts*, 107-108; *Dr. Smarth*, 107-108, 108; *Gen. Smuts*, 108; *Mr. Smythe*, 108 (w), 109.

Ditto ditto Members of, to sit and speak in Council but not to vote, Draft resolution of Committee considered, 115-116; Amendments: *Mr. Hyslop*, 115 (n); *The President*, 115.

Legislative powers, Motions, etc., on granting of, in regard to the following subjects:

(i) Agricultural societies and fencing of roads, Motion on, *Mr. Merriman*, 86 (n); Amendments: *Mr. Jagger*, 86 (n); *Mr. Malan*, 86 (n).

(ii) Agriculture, Draft resolution of Committee considered, 111.



**Provincial Councils—(continued).**

Legislative powers, Motions, etc., on granting of, in regard to the following subjects (continued):

- (iii) Borrowing powers, Motion on, *Mr. Moor*, 79-80; Amendments: *Mr. Merriman*, 79-80 (w); *Mr. Walton*, 79 (n); *Sir George Farrar*, 79-80; *Mr. Jagger*, 79-80 (n).
- (iv) Bush fires, etc., Motion on, *Mr. Merriman*, 86 (n); Amendment: *Mr. van Heerden*, 86 (n).
- (v) Companies, incorporation of, Motion on, *Mr. Moor*, 84 (n).
- (vi) Education, other than higher, Draft resolution of Committee considered, 111; Amendments: *Gen. Botha*, 111 (w); *Mr. Fischer*, 111 (w); *Gen. Botha*, 111.
- (vii) Fish and game preservation, Draft resolution of Committee considered, 111.
- (viii) Gaols and hospitals, Motion on, *Mr. Morcom*, 80-81 (n); Amendments: *Mr. Merriman*, 81; *Mr. Jagger*, 81.
- (ix) Justice, administration of, Motion on, *Mr. Moor*, 84 (n).
- (x) Land, registration of titles to, Motion on, *Mr. Moor*, 85 (n).
- (xi) Lands, etc., management and sale of, Motion on, *Mr. Morcom*, 80 (n).
- (xii) Licences, Motion on, *Mr. Morcom*, 82-83 (n); Draft resolution of Committee considered, 110 (n); Amendment, *Gen. Smuts*, 110.
- (xiii) Liquor, sale and supply of intoxicating, Motion on, *Mr. Morcom*, 83 (n).
- (xiv) Local and private matters, Motion on, *Mr. Moor*, 85; Amendments: *Gen. Smuts*, 85; Committee on Provincial Councils, 110 (n); *Gen. Hertzog*, 110; Objected to, *Mr. Hull*, 110.
- (xv) Local works, etc., Motion on, *Mr. Moor*, 83-84; Amendment, *Mr. Merriman*, 84.
- (xvi) Markets and pounds, Motion on, *Mr. Merriman*, 86.
- (xvii) Mining and forestry, Motion on, *Mr. Moor*, 85 (n).
- (xviii) Miscellaneous, Motion on, *Mr. Malan*, 112.
- (xix) Municipal institutions, etc., Motion on, *Mr. Morcom*, 81; Amendments: *Dr. Smartt*, 81; *Mr. Fischer*, 111-112; Objected to, *Sir Percy Fitzpatrick*, 112.
- (xx) Native tribes, affairs of, Motion on, *Mr. Moor*, 85 (n).
- (xxi) Natives, land reserved for, Motion on, *Mr. Moor*, 85 (w).
- (xxii) Offices and appointment of officers, Motion on, *Mr. Morcom*, 80; Amendments: *Mr. Merriman*, 80; Committee on Provincial Councils, 101, 110 (n); *Gen. Smuts*, 110; Further motion, *Gen. Smuts*, 113.
- (xxiii) Ordinances, Motion on power to make, *Mr. Moor*, 61-62, 77-78 (n); Amendments: *Mr. Merriman*, 78 (d); *Gen. Hertzog*, 78 (w); *The President*, 78 (d); *Mr. Hyslop*, 78 (w); *Col. Stanford*, 78 (d); *Gen. Smuts*, 78 (d); *Mr. Hull*, 78.
- (xxiv) Police, local, Motion on, *Mr. Moor*, 84 (n).
- (xxv) Property and civil rights, Motion on, *Mr. Moor*, 84 (n).
- (xxvi) Provincial constitutions, amendment of, Motion on, *Mr. Moor*, 61-62, 77-78 (n); Amendment, *Mr. Merriman*, 78 (d).
- (xxvii) Punishment, imposition of, Motion on, *Mr. Moor*, 85.
- (xxviii) Roads and bridges, Motion on, *Mr. Merriman*, 86.
- (xxix) Taxation for provincial purposes, Motion on, *Mr. Moor*, 79; Amendments: *Mr. Merriman*, 79 (d); *Gen. Hertzog*, 79 (n).

Members, Allowances to, Motion on, *Mr. Merriman*, 106 (d); Amendment, *Mr. Sauer*, 106.

- Ditto Election of, Draft resolution of Committee considered, 105-106; Amendment, *Gen. Smuts*, 105-106.
- Ditto Number of, Draft resolution of Committee considered, 104-105; Amendments: *Mr. Hyslop*, 105 (n); *Gen. Smuts*, 105; *Mr. Malan*, 105 (n).
- Ditto Qualifications, Draft resolution of Committee considered, 106

**Provincial Councils—continued.**

- Officers, Appointment of, Motion on, *Mr. Morcom*, 80; Amendments: *Mr. Merriman*, 80; Committee on Provincial Councils, 101, 110 (n); *Gen. Smuts*, 110; Further motion, *Gen. Smuts*, 113.
- Ordinances, Assent of Governor-General-in-Council to, Draft resolution of Committee considered, 113.
- Payments to by Union Government, Motions on, *Mr. Merriman*, 114; Referred to Committee on Finance, *Mr. Malan*, 114.
- Private Bills, Procedure on, Draft resolution of Committee considered, 113.
- Recommendations from, to Parliament, on legislation, Draft resolution of Committee considered, 113; Amendment, *Gen. Smuts*, 113.
- Rules for, Framing and approval of, Draft resolution of Committee considered, 106; Amendments: *Mr. Jagger*, 106 (n); *Mr. Merriman*, 106.
- Sessions, Holding of, annually, Draft resolution of Committee considered, 106.
- Speech, Freedom of, in, Draft resolution of Committee considered, 107; Amendment, *Mr. Jagger*, 107 (n).
- Voters, Qualifications of, Draft resolution of Committee considered, 106.

**Provincial Representation.**

Readjustment of, *see* "Assembly."

**Provincial Revenue Funds.**

Formation of, and appropriations from, Draft resolutions of Committee considered, 168, 182-183; Amendments: *Mr. Jagger*, 182 (w); *Gen. Smuts*, 182; *Mr. Walton*, 182 (w); *Mr. Browne*, 182.

**Public Debts.**

*See* "Debts."

**Public Service.**

*See* "Civil Service."

**Q.****Queenstown.**

Letter from Mayor of, on Capital, 57.

**Questions.**

Procedure on, *see* "Rules and Orders."

**Quorum.**

Not present, President's statement on, 43.

Number of members of Convention to form, Motion on, *Mr. Sauer*, 6 (w); Amendment: *Gen. Smuts*, 6.

*See also* "Rules and Orders."

**Quota.**

*See* "Electoral divisions."

**R.****Railway Agreement.**

Inter-Colonial in regard to traffic to competitive area, laid upon the Table, *Col. Greene*, 269; Motion on, *Mr. Hull*, 269-270 (w).

**Railway and Harbour Board.**

Balances of funds vested in, Draft resolution of Committee considered, 167; Amendment, *Mr. Fischer*, 167 (w).

Construction of non-payable works by, Draft resolution of Finance Committee considered, 167; Amendments: *Gen. Smuts*, 167; *Gen. Hertzog*, 167; *Dr. Smart*, 167; Draft resolution referred back to Committee, *Mr. Jagger*, 167; Amended draft resolution considered, 188.

Formation and powers and duties of, Draft resolution of Committee considered, 165-166; Amendments: *Gen. Smuts*, 165; *Sir George Farrar*, 165-166; *Mr. Jagger*, 166 (n).

Services, Gratuitous or unremunerative, Draft resolution of Finance Committee considered, 167; Amendments: *Mr. Walton*, 167 (n); Draft resolution referred back to Committee, *Mr. Hull*, 170; Amended draft resolution considered, 188-189; Amendments: *Mr. Malan*, 188 (w); *Dr. Smart*, 188 (w); *Col. Stanford*, 188 (n); *Mr. Malan*, 188 (w); *Mr. Hull*, 188.

**Railway and Harbour Fund.**

Appropriations from, Draft resolution of Committee considered, 165.  
Formation of, Draft resolution of Committee considered, 163.

**Railway Workshops.**

Establishment of in Orange River Colony, Resolution of public meeting at Bloemfontein put in, 254.

**Railways and Harbours.**

Administration of, principles to be observed, Draft resolution of Committee considered, 166; Amendments: *Dr. Beck*, 166 (*w*); *Mr. Lindsay*, 166; *Gen. Smuts*, 166; *Mr. Watt*, 167 (*n*).

Rates Fund, Establishment of, Draft resolution of Committee considered, 167.

Vesting of in Union, Draft resolution of Committee considered, 165; Amendments: *Dr. Smarth*, 165; *Mr. Merriman*, 165; *Mr. Jagger*, 165 (*n*); *Mr. Walton*, 165.

**Records of Convention.**

Custody of, during interval between Durban and Cape Town sessions, Motion on, *Col. Greene*, 71.

Destruction of, Motions on, *Mr. Merriman*, 248 (*d*); *Mr. Steyn* 273 (*n*).

Disposition and custody of by President, Motion on, *Mr. Fischer*, 273.

See also "Proceedings" and "Resolutions."

**Reports of Convention.**

See "South Africa Act."

**Resolutions.**

Recording of, Motion on, *Mr. Merriman*, 6.

Removal of, Motion on, *Mr. Jagger*, 29; Amendments: *Col. Greene*, 29 (*w*); Further motions: *Col. Greene*, 71; *Mr. Moor*, 150.

Rescission of, President's ruling on, 198-199.

Rescission or amendment of, on consideration of Draft Act, Motion on, *Mr. Fischer*, 152-153 (*d*); Amendment, *Mr. Malan*, 153.

**Revenue and Expenditure.**

Returns of, Motion for, *Mr. Hyslop*, 14 (*w*).

**Revenue Funds.**

See "Consolidated Revenue Fund" and "Provincial Revenue Funds."

**Revenue Laws.**

See "Laws."

**Rhodesia, Southern.**

Administrator of, see "Milton, Sir William."

Credentials of representatives put in, 5; Minute of Administrator appointing representatives [Appendix D.], 281.

**Rules and Orders Adopted.**

Amendments to be recorded, 6.

Business to be temporarily suspended each morning, 23, 72-73.

Divisions: "Ayes" to stand, "Noes" to be seated, 6.

Ditto to be recorded, 6.

Members may speak more than once to the same question, 6.

Motions—no seconder required, 6.

Ditto to be discussed without notice, but motions of which notice given to have precedence, 8.

Ditto to be recorded, 6.

Order list and Notice Paper to be arranged by a Committee, 73; Circulation of, 77.

Petitions, Presentation of, usual Parliamentary course to be followed, 9.  
President to speak and vote, and in the event of an equality of votes to have a casting vote, 6.

**Rules and Orders Adopted—(continued).**

- Proceedings to be kept secret, 6.
- Proposals to be recorded, 6.
- Questions to be decided by majority of votes, 6.
- Quorum to consist of twelve members, 6.
- Records to be in custody of Chief Secretary during interval between Durban and Cape Town sessions, 71; to be treated as private and confidential, 248; disposition and custody of, left to President, 273.
- Resolutions, Amendment of, on consideration of Draft Act, 152-153.
  - Ditto Removal of, 29, 71, 150.
  - Ditto to be recorded, 6.
- Speeches not to be recorded, 6.
- Sittings, Hours of, 8, 72, 77, 114, 251.
- Voting to be *per capita* and not by States, 6.

**S.****Sauer, Hon. J. W., M.L.A.**

- Delegate for the Cape of Good Hope, 4.
- Motions and amendments by:
  - Assembly, House of, Committee on constitution of, 43.
  - Capital, Situation of, 244 (*w*).
  - Finance Committee, Reference to, 125 (*n*).
  - Government, Executive in whom vested, 15 (*w*).
  - Governor-General, Powers of delegation, 17.
    - Ditto Powers of Governors vested in, 17.
    - Ditto Title of, 15 (*n*).
  - Laws, Franchise, qualifications, 59, 64 (*w*).
  - Members' Qualifications, Draft resolutions of Committee on, 94-98.
  - Ministers of State, Qualifications of, 15, 16 (*n*).
  - Native Affairs Committee, Reference to, 132 (*c*).
  - Provincial Councils, Executive Committees, 107.
    - Ditto Members allowances, 106.
  - Quorum, Eight members to form, 6 (*w*).
  - Senate, Constitution of, 31-33.
    - Ditto President's vote in, 41 (*w*).
  - Senators, Committee on number and election of, 35.
    - Ditto Number and mode of election, 36-37.
    - Ditto Qualifications of, 39-40.
  - South Africa Act, Draft, Amendments to, *see* "South Africa Act."
    - Ditto Instruction to drafting committee on, 219.
  - Union, Name of, 15 (*w*).
- Petitions presented by, 25, 262.

**Schreiner, Hon. W. P., K.C., C.M.G.**

- Message of congratulation from, 8.

**Secretaries to Convention.**

- Appointment of E. F. Kilpin, C.M.G. (Chief Secretary), G. R. Hofmeyr, A. M. N. de Villiers and G. T. Plowman, 3; J. M. Hershensohnn (Acting Secretary for Natal), 251.
- Votes of thanks to, 249, 273.

**Secretary of State for the Colonies.**

- See* "Colonies."

**Securities.**

- See* "Assets."

**Selborne Dock.**

- Invitation to visit, 104; Motion for acceptance, *Dr. Smartt*, 104.

**Selborne, H. E., the Earl of.**

- See* "Transvaal, Governor of."

**Senate.**

- Constitution, number of senators, etc., Motion on, *Gen. Smuts*, 27-33 (d); Amendments: *Mr. Jagger*, 28-33 (d); *Mr. Merriman*, 28 (w); *Mr. Hyslop*, 28-33 (d); *Mr. Fischer*, 29-33 (d); *The President*, 29-33; *Mr. Malan*, 31-33; *Dr. Beck*, 31-32 (d); *Col. Greene*, 31-33 (w); *Mr. Sauer*, 31-33; *Sir George Farrar*, 31-32 (n) (w); *Mr. Fischer*, 33.
- Ditto provincial representation, mode of election, etc., Committee on, Motion for, *Mr. Sauer*, 35; Motion and amendments on provincial representation referred, *Mr. Sauer*, 35; Report, 36; Considered, 36-37.
- Ditto *see also* "Senators."
- Dissolution of, Motion on, *Mr. Malan*, 54-56, 60-61; Amendments: *Mr. Walton*, 54-55 (n); *Mr. Merriman*, 54-55 (n); *Mr. Jagger*, 54-55 (w); *Mr. Hyslop*, 55 (w), 55, 61 (w); *Dr. Beck*, 55-56 (n); *Gen. Hertzog*, 55, 61 (w); *Dr. Smartt*, 61.
- Money Bills, Powers regarding, Motion on, *Gen. Smuts*, 49-51; Amendments: *Mr. Jagger*, 50 (w); *The President*, 50-51; *Mr. Walton*, 50-51 (d); *Mr. Merriman*, 50-51 (n); *Mr. Jagger*, 51 (n); *Gen. Smuts*, 51.
- President to be chosen from amongst Senators, Motion on, *Gen. Smuts*, 40; Amendments: *Col. Stanford*, 40 (w); *Mr. Jagger*, 40 (w); *Mr. Walton*, 40; *Mr. Malan*, 40 (n).
- Ditto Vote of, Motion on, *Mr. Fischer*, 41 (w); Amendments: *Mr. Sauer*, 41 (w); *Gen. Smuts*, 41.
- Privileges and immunities of, Draft resolution of Committee considered, 98.
- Questions in, how determined, Motion on, *Mr. Fischer*, 41 (w); Amendment, *Gen. Smuts*, 41.
- Rules for, Draft resolution of Committee considered, 98; Amendment, *Mr. Walton*, 98.
- Rules of House of Assembly to apply at joint sitting, Motion on, *Mr. Walton*, 98.
- Rejection of proposed laws and amendments not accepted—joint sitting, Motion on, *Gen. Smuts*, 52-54; Amendments: *Mr. Merriman*, 52-53 (w), 53-54; *Mr. Jagger*, 53.

**Senators.**

- Disqualifications for, Motion on, *Mr. Jagger*, 73-74 (w); Amendments: *Mr. Browne*, 74 (w); *Mr. Hull*, 74-77; *Mr. Fischer*, 75; *Dr. Beck*, 75 (n); *Mr. Walton*, 75-76; *Col. Greene*, 75; *Gen. Smuts*, 76; *Mr. Merriman*, 76 (n); Amendments on office of profit and creation of vacancies referred to Committee on qualifications of members, *Col. Greene*, 76; Draft resolutions of Committee considered, 94-96; Amendments: *Mr. Jagger*, 94 (n); *Dr. Smartt*, 94 (n); *Mr. Hull*, 94 (d); *Mr. Jagger*, 94-95 (w); *Col. Greene*, 95 (w).
- Election of, Motion on power of delegates to London, to frame rules for, *The President*, 272.
- Nominated, Motion on period for which nominated, *Mr. Malan*, 41; Amendment: *Dr. Smartt*, 41.
- Number of, for each province and mode of election or nomination, Motion on, *Gen. Smuts*, 33-35; Amendments: *Mr. Jagger*, 33-35; *Sir Percy Fitzpatrick*, 33-35; *Mr. Merriman*, 33-34 (w); *Mr. Fischer*, 34-35; *Mr. Browne*, 34-35; *Mr. Lindsay*, 34-35; *Dr. Smartt*, 34-35; Motion and amendments referred to Committee on Constitution of Senate, *Mr. Sauer*, 35; Draft resolution of Committee considered, 36-37; Amendments: *Mr. Hyslop*, 376; *Mr. Sauer*, 376; *Gen. Smuts*, 36-37.
- Ditto for the Union, Motion on, *Gen. Smuts*, 27-33 (d); Amendments: *Mr. Jagger*, 28-33 (d); *Mr. Merriman*, 28 (w); *Mr. Hyslop*, 28-33 (d); *Mr. Fischer*, 29-33 (d); *The President*, 29-33; *Mr. Malan*, 31-33; *Dr. Beck*, 31-32 (d); *Col. Greene*, 31-33 (w); *Mr. Sauer*, 31-33; *Sir George Farrar*, 31-32 (n), (w); *Mr. Fischer*, 33.
- Ditto laws as to decrease, Motion on, *Mr. Hyslop*, 37-38 (n).

**Senators—(continued).**

- Oath or Affirmation of allegiance, Form of, Motion on, *Mr. Jagger*, 133.  
 Office of Profit, Definition of, *see* "Disqualifications."  
 Payment and deductions for absence, Draft resolution of Committee considered, 96-98; Amendments: *Mr. Hull*, 96-97; *Mr. Walton*, 96 (d); *Mr. Jagger*, 96 (d); *Mr. Malan*, 96-97; *Dr. Beck*, 96-97 (n); *Mr. Fischer*, 96 (d); *Mr. Jagger*, 97.  
 Pecuniary interest, Motion for Committee on, *Mr. Lindsay*, 95 (w).  
 Qualifications etc., Motion for Committee on, *Col. Greene*, 75 (w), 76; Amendments on office of profit and creation of vacancies referred, *Col. Greene*, 76; Report, 81-82; Considered, 94-98.  
     Ditto Motion on, *Gen. Smuts*, 38-40; Amendments: *Mr. Jagger*, 38; *Dr. Smart*, 38-39 (n); *Mr. Fisher*, 38 (w); *Col. Greene*, 38-39; *Mr. Lindsay*, 39; *Dr. Beck*, 39; *Mr. Sauer*, 39-40.  
     Ditto *see also* "Franchise."  
 Sitting when disqualified, Penalty, Draft resolution of Committee considered, 95; Amendments: *Mr. Malan*, 95; *Mr. Hull*, 95.  
 To be persons of European descent, Motion on, *Col. Greene*, 24-27 (c); Draft resolution of Committee considered, 59, 66, *see also* "Senators Qualifications."  
 Vacation of seats, *see* "Senators' Disqualifications."

**Sessions of Parliament.**

- To be held annually, Motion on, *Mr. Jagger*, 77.

**Sittings, Hours of.**

- See* "Rules and Orders."

**Shipping Lines, Conference.**

- Statement by *Mr. Hull* on position of South African Governments with, 251.

**Sishuba, J. A.**

- Petition from, on clauses in draft Act relating to coloured people, 262.

**Smart, Hon. Dr. T. W., M.L.A.**

- Delegate for the Cape of Good Hope, 3.  
 Motions and amendments by:  
     Appeals to King-in-Council, 123 (n).  
     Capitals not chosen as Union Capital, Financial relief to, 172 (c).  
     Civil Servants, and language disabilities, 132.  
     Drafting Committee, Instruction to, 247.  
     Governor-General's recommendation on appropriation or taxation laws, 51 (n).  
     Members, Number of, Readjustment of, 47 (w).  
     Ditto Office of Profit, 94 (n).  
     Provincial Councils, Executive Committees, 107-108.  
     Ditto Legislative powers regarding municipal institutions, etc., 81.  
     Railway and Harbour Board, Construction of non-payable works, 167  
     Ditto Gratuitous services, 188 (w).  
     Railways and Harbours, Vesting of in Union, 165.  
     Senate, Dissolution of, 61.  
     Senators, Nominated, Period for which nominated, 41.  
     Ditto Number and mode of election, etc., 34-35 (c).  
     Ditto Qualifications of, 38-39 (n).  
     South Africa Act, Amendments to, *see* "South Africa Act."  
     Territories, Alienation of land in, 149 (n).  
     Union, Name of, 15 (w).

**Smith, Adam.**

- Message of congratulation from,

**Smuts, Gen. the Hon. J. C., M.L.A.**

Delegate for the Transvaal, 4.

Motions and amendments by :

- Assembly, House of, Constitution of, 41-43 (c).
- Ditto Ditto Period of existence of each, 48.
- Ditto ditto Title of, 18-19 (n).
- Civil Service Commission, Re-organisation, 131-132 (d), 132.
- Civil Service, etc., Committee on, 125.
- Consolidated Revenue Fund, Formation of, 163 (w).
- Drafting Committee, Appointment of, 143.
- English Proportional Representation Society, Vote of thanks to Secretary, 274.
- Executive Council, Establishment of, 14-15.
- Executive Government, in whom vested, 14-15.
- Existing Powers, in whom vested, 14-17.
- Expenditure and borrowing powers, 273 (w).
- Finance Committee, Appointment of, 114.
- Ditto References to, 257-258.
- Financial Relations Commission, Appointment of, 164, 164.
- Franchise Committee, Reference to, 62.
- Franchise, Women's, 143, 151-152 (w).
- Judges, Appointment, etc., 122.
- Justice, Committee on Administration of, 63 (n).
- Laws, Electoral, etc., Continuance of, 26-27 (c), 48, 59-60 (w), 69 (w).
- Ditto General, Continuance of, 49.
- Ditto Money and powers of Senate, 49-51.
- Ditto rejected by Senate, joint sitting, 52-54.
- Liabilities, etc., vested in Union, 165 (w).
- Members, Number of, Readjustment of, 46-47 (w).
- Ditto Qualifications for, 49, 60, 69-70.
- Ministers of State, Appointment, number and offices, 14-17.
- Native Affairs Committee, Appointment of, 125.
- Ditto General, Continuance of, 49.
- Orpen, J. M., C.M.G., Distribution of letter from, 9.
- Proceedings, Minutes of, to be treated as confidential, 248.
- Properties of Colonies vested in Union, 165.
- Provincial Administrators, Appointment, etc., 109.
- Provincial Councils, Administrative powers vested in, 116 (d).
- Ditto Committee on constitution of, 87-88 (w), 89-90.
- Ditto Executive Committees, 107-108.
- Ditto Legislative powers of, 78 (d).
- Ditto Matters not delegated to, 109.
- Ditto Members, election of, 105.
- Ditto ditto Number of, 105.
- Ditto Officers, Appointment of, 110, 113.
- Ditto Recommendations of, to Parliament, 113.
- Provincial Revenue Funds, Formation of, 182.
- Quorum, Twelve members to form, 6.
- Railway and Harbour Board, Construction of non-payable works, 167.
- Ditto Formation of, 165.
- Railways and Harbours, Administration of, 166.
- Secretaries and Legal Advisers, Votes of thanks to, 249, 273-274.
- Senate, Constitution of, 27-33 (d).
- Ditto President of, 40.
- Ditto Voting and President's vote, 41.
- Senators, Number, and mode of election, etc., 33-35 (c), 36-37.
- Ditto Qualifications of, etc., 38-40.
- Sittings, Hours of, 8, 251.
- South Africa Act, Draft, Amendments to, see "South Africa Act."
- Ditto ditto Precis of, Committee on, 235.
- Ditto ditto Procedure after publication, Committee on, 235.
- Ditto ditto Transvaal amendments at Bloemfontein, 251-253.
- Supreme Court, Constitution of, 70.

**Smuts, Gen. the Hon. J.C., M.L.A.—(continued).**

- Territories, Appeals from, 150.
- Ditto Commission for administration of, 146, 146.
- Ditto Duties, customs and excise, 149 (w), 149.
- Ditto Laws for, after transfer, 145 (n).
- Ditto Revenue and expenditure, 147-149.
- Union, Proclamation and taking effect of, 129, 129.

**Smythe, Hon. C. J., M.L.A.**

- Delegate for Natal, 4.
- Motions and amendments by :
  - Colonies, Precedence of, in proceedings, 28.
  - Convention, Adjournment of, 128, 134, 138 (d).
  - Provincial Councils, Executive Committees, 108 (w), 109.
  - South Africa Act, Draft, Amendments to, see "South Africa Act."
  - Voters, Qualifications of, 65 (n).

**Sons of England Society.**

- Message of congratulation from, 9.

**South Africa Act, Draft (Amendments to Clauses\*)**

<i>Cape Town Session.</i>	
<i>Preamble.</i>	
Greene, Col. . . . .	223-224 (n)
Jagger, Mr. . . . .	223-224 (n)
Malan, Mr. . . . .	237
<i>Clause Four (4) Proclamation of Union.</i>	
Drafting Committee . . . . .	224
Fitzpatrick, Sir Percy . . . . .	154, 159 (n)
Hyslop, Mr. . . . .	154
<i>Clause Five (5) Commencement of Act.</i>	
Hyslop, Mr. . . . .	154
<i>Clause Six (6) Incorporation of Colonies into Union.</i>	
Fischer, Mr. . . . .	159
<i>Clause Seven (8) Executive power.</i>	
Drafting Committee . . . . .	224
<i>Clause Nine (10) Salary of Governor-General.</i>	
Hyslop, Mr. . . . .	159
Sauer, Mr. . . . .	159
<i>Clause Ten (11) Application of Act to Governor-General.</i>	
Browne, Mr. . . . .	160
<i>Clause Eleven (12) Executive Government.</i>	
Drafting Committee . . . . .	224
<i>Clause Thirteen (14) Appointment of Ministers.</i>	
Beck, Dr. . . . .	160 (n)
<i>Clause Fourteen (15) Appointment and removal of officers.</i>	
Jagger, Mr. . . . .	160(w)
<i>Clause Fifteen (16) Transfer of Executive powers to Governor-General-in-Council.</i>	
Drafting Committee . . . . .	224
<i>Clause Sixteen, New (18) Seat of Government.</i>	
Smuts, Gen. . . . .	245
<i>Clause Seventeen (19) Legislative power.</i>	
Drafting Committee . . . . .	224
Malan, Mr. . . . .	237
<i>Clause Twenty, New (23) Seat of Legislature.</i>	
Smuts, Gen. . . . .	245
<i>Heading "The Senate."</i>	
The President . . . . .	233

\* The numbers of clauses printed in italics are as contained in Appendix E and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.



## South Africa Act, Draft (Amendments to Clauses\*)—(continued).

## Cape Town Session—(continued).

<i>Clause Twenty-one</i> (24) Original constitution of Senate.	
Beck, Dr. . . . .	213 (n), 214-216 (w)
Drafting Committee . . . . .	232
Farrar, Sir George . . . . .	216 (n)
Fitzpatrick, Sir Percy . . . . .	212 (n), 212-213 (n), 213, 214, 214 (n)
Hyslop, Mr. . . . .	213 (n)
Jagger, Mr. . . . .	214 (n)
Malan, Mr. . . . .	213, 232
Smuts, Gen. . . . .	214, 215 (w), 215 (n)
<i>Clause Twenty-two</i> (25) Subsequent constitution of Senate.	
Drafting Committee . . . . .	232
Fitzpatrick, Sir Percy . . . . .	232
Malan, Mr. . . . .	232
Smuts, Gen. . . . .	217
<i>Clause Twenty-three</i> (26) Qualifications of Senators.	
Drafting Committee . . . . .	224
Greene, Col. . . . .	218 (w)
Hertzog, Gen. . . . .	161
Malan, Mr. . . . .	161
Smuts, Gen. . . . .	161 (d), 218
Stanford, Col. . . . .	161 (n)
<i>Clause Twenty-five</i> (28) Deputy President.	
Walton, Mr. . . . .	161
<i>Clause Twenty-six</i> (29) Resignation of Senators.	
Malan, Mr. . . . .	217
Merriman, Mr. . . . .	233
Smuts, Gen. . . . .	161, 217
<i>Clause Twenty-seven</i> (30) Quorum.	
Walton, Mr. . . . .	161-162 (n)
<i>Clause Thirty</i> (33) Original number of members.	
Jameson, Dr. . . . .	234
Smuts, Gen. . . . .	208
<i>Clause Thirty-one</i> (34) Increase of number of members.	
Drafting Committee . . . . .	207-208
Fischer, Mr. . . . .	162, 234, 237 (d)
Greene, Col. . . . .	208 (w)
Hyslop, Mr. . . . .	207-208 (w)
Jagger, Mr. . . . .	162
Malan, Mr. . . . .	208 (w), 208, 237
Smuts, Gen. . . . .	237
Watt, Mr. . . . .	207 (n), 237 (n)
<i>Clause Thirty-three</i> (35) Qualifications of voters.	
Malan, Mr. . . . .	162, 220, 222-223 (w)
<i>Clause Thirty-five</i> (35) Qualifications of voters.	
Lindsay, Mr. . . . .	162
Watt, Mr. . . . .	162
<i>Clause Thirty-six</i> (37) Elections.	
Drafting Committee . . . . .	224
Jagger, Mr. . . . .	162-163
Smuts, Gen. . . . .	162
Watt, Mr. . . . .	162-163 (w)
<i>Clause Thirty-seven</i> (negated).	
Drafting Committee . . . . .	224
<i>Clause Thirty-eight</i> (negated).	
Drafting Committee . . . . .	209, 224
<i>Clause Thirty-nine</i> (38) Commission for delimitation of electoral divisions.	
Drafting Committee . . . . .	209, 225
Malan, Mr. . . . .	163, 174

\* The numbers of clauses printed in italics are as contained in Appendix E and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.

## South Africa Act, Draft (Amendments to Clauses \*)—(continued).

*Cape Town Session—(continued),*

<i>Clause Forty-two (41) Alteration of electoral divisions.</i>	
Convention .. .. .	248
Drafting Committee .. .. .	209
Fischer, Mr. .. .. .	174
Hyslop, Mr. .. .. .	174
President, The .. .. .	174
<i>Clause Forty-three (42) Powers and duties of Commission for delimiting electoral divisions.</i>	
Drafting Committee .. .. .	225
Hertzog, Gen. .. .. .	175
Jagger, Mr. .. .. .	175
Malan, Mr. .. .. .	174
<i>Clause Forty-four (43) Date from which alteration of electoral divisions to take effect.</i>	
Drafting Committee .. .. .	225
<i>Clause Forty-five (44) Qualifications of members of House of Assembly.</i>	
Malan, Mr. .. .. .	175
Smuts, Gen. .. .. .	175
<i>Clause Forty-six (45) Duration.</i>	
President, The .. .. .	175
<i>Clause Forty-eight (47) Deputy Speaker.</i>	
Walton, Mr. .. .. .	175
<i>Clause Forty-nine (48) Resignation of members.</i>	
Drafting Committee .. .. .	232 (n)
Jagger, Mr. .. .. .	175 (n)
Merriman, Mr. .. .. .	232
<i>Clause Fifty (49) Quorum.</i>	
Jagger, Mr. .. .. .	175 (n)
<i>Clause Fifty-one (50) Voting in House of Assembly.</i>	
Drafting Committee .. .. .	225
<i>Clause Fifty-four (53) Disqualifications for being a member of either House.</i>	
Beck, Dr. .. .. .	176 (w)
Hertzog, Gen. .. .. .	176
Hull, Mr. .. .. .	176
Jagger, Mr. .. .. .	175 (n)
Malan, Mr. .. .. .	176
Smartt, Dr. .. .. .	176
Smuts, Gen. .. .. .	176
<i>Clause Fifty-four, (A) New (72) Application of sections 53 to 55 to provincial councillors.</i>	
Malan, Mr. .. .. .	176
Drafting Committee .. .. .	225
<i>Clause Fifty-five (54) Vacation of seats.</i>	
Drafting Committee .. .. .	225
Hertzog, Gen. .. .. .	177
Jagger, Mr. .. .. .	177 (n)
<i>Clause Fifty-six (55) Penalty for sitting and voting when disqualified.</i>	
Drafting Committee .. .. .	225
Smuts, Gen. .. .. .	177
<i>Clause Fifty-seven (56) Allowances of members.</i>	
Hyslop, Mr. .. .. .	177
<i>Clause Fifty-eight (57) Privileges of Houses of Parliament.</i>	
Drafting Committee .. .. .	225
Jagger, Mr. .. .. .	177 (n)

\*The numbers of clauses printed in italics are as contained in Appendix E and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.

**South Africa Act, Draft (Amendments to Clauses \*)—(continued).**

*Cape Town Session—(continued).*

<i>Clause Fifty-nine</i> (58) Rules of procedure.		
Drafting Committee	.. .. .	225
Smuts, Gen.	.. .. .	177
<i>Clause Sixty-one</i> (60) Money Bills.		
Hyslop, Mr.	.. .. .	209
Jagger, Mr.	.. .. .	209 (n)
Walton, Mr.	.. .. .	209 (n)
<i>Clause Sixty-three</i> (62) Recommendations of money votes.		
Smartt, Dr.	.. .. .	177 (n)
<i>Clause Sixty-four</i> (63) Disagreements between the two Houses.		
Drafting Committee	.. .. .	209-210
Malan, Mr.	.. .. .	209-210 (n), 238 (n)
Smuts, Gen.	.. .. .	178
<i>Clause Sixty-eight</i> (67) Signature and enrolment of Acts.		
Drafting Committee	.. .. .	225
<i>Clause Sixty-nine</i> (68) Appointment and tenure of office of provincial administrators.		
President, The	.. .. .	178
<i>Clause Seventy-one</i> (70) Constitution of provincial councils.		
Drafting Committee	.. .. .	225
Smuts, Gen.	.. .. .	179
<i>Clause Seventy-two</i> (71) Election of provincial councillors.		
Drafting Committee	.. .. .	225-226
Malan, Mr.	.. .. .	237
<i>Clause Seventy-three</i> (72) Application of sections 53 to 55 to provincial councillors.		
Smuts, Gen.	.. .. .	179
Malan, Mr.	.. .. .	237
<i>Clause Seventy-five</i> (74) Sessions of provincial councils.		
Drafting Committee	.. .. .	226
Smuts, Gen.	.. .. .	179
<i>Clause Seventy-six</i> (75) Chairman of provincial councils and rules of procedure.		
Smuts, Gen.	.. .. .	179
<i>Clause Seventy-eight</i> (77) Freedom of speech in provincial councils.		
Drafting Committee	.. .. .	226
Fitzpatrick, Sir Percy	.. .. .	179 (n)
Jagger, Mr.	.. .. .	179 (w)
<i>Clause Seventy-nine</i> (78) Provincial executive committees.		
Drafting Committee	.. .. .	226
Smuts, Gen.	.. .. .	179
<i>Clause Eighty</i> (79) Right of administrator, etc., to take part in proceedings of provincial council.		
Malan, Mr.	.. .. .	179
<i>Clause Eighty-one</i> (80) Powers of provincial executive committees.		
Drafting Committee	.. .. .	226
<i>Clause Eighty-two</i> (81) Transfer of powers to provincial executive committees.		
Drafting Committee	.. .. .	226
Jagger, Mr.	.. .. .	179-180 (w)
Watt, Mr.	.. .. .	181 (n)
<i>Clause Eighty-three</i> (82) Voting in executive committees.		
Hyslop, Mr.	.. .. .	180 (n)
Van Heerden, Mr.	.. .. .	218 (n)

\*The numbers of clauses printed in italics are as contained in Appendix E and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.

## South Africa Act, Draft (Amendments to Clauses \*)—(continued).

## Cape Town Session—(continued).

<i>Clause Eighty-four</i> (83) Appointment of officers by executive committees.	
Greene, Col. . . . .	192-193
Smuts, Gen. . . . .	234-235
<i>Clause Eighty-six</i> (85) Powers of provincial councils.	
Malan, Mr. . . . .	181 (n), 238 (n)
Smuts, Gen. . . . .	181 (w)
<i>Clause Eighty-nine</i> (88) Power to deal with matters proper to be dealt with by private bill legislation.	
Drafting Committee . . . . .	226
Lindsay, Mr. . . . .	181-182 (w)
<i>Clause Ninety</i> (89) Constitution of provincial revenue fund.	
Browne, Mr. . . . .	182
Drafting Committee . . . . .	226
Jagger, Mr. . . . .	182 (w)
Smuts, Gen. . . . .	182-183
Walton, Mr. . . . .	182 (w)
<i>Clause Ninety-two</i> (91) Effect and enrolment of ordinances.	
Drafting Committee . . . . .	226
Hertzog, Gen. . . . .	235
<i>Heading "Miscellaneous."</i>	
Watt, Mr. . . . .	183
<i>Clause Ninety-three</i> (92) Audit of provincial accounts.	
Malan, Mr. . . . .	237
<i>Clause Ninety-four</i> (93) Continuation of powers of divisional and municipal councils.	
Beck, Dr. . . . .	183 (w)
Malan, Mr. . . . .	183 (n)
<i>Clause Ninety-four A</i> (94) Seats of provincial Government.	
Smuts, Gen. . . . .	245
<i>Clause Ninety-five</i> (95) Constitution of Supreme Court.	
Drafting Committee . . . . .	226
<i>Clause Ninety-eight</i> (98) Constitution of provincial and local divisions of Supreme Court.	
Hull, Mr. . . . .	184 (n)
Malan, Mr. . . . .	237
President, The . . . . .	234
Smuts, Gen. . . . .	184
<i>Clause One hundred</i> (109) Appointment and remuneration of judges.	
Drafting Committee . . . . .	226
<i>Clause One hundred and three</i> (103) Appeals to Appellate Division.	
Drafting Committee . . . . .	226
<i>Clause One hundred and four</i> (104) Existing Appeals.	
Drafting Committee . . . . .	226, 233
<i>Clause One hundred and five</i> (105) Appeals from inferior courts to provincial divisions.	
Drafting Committee . . . . .	226-227
Smuts, Gen. . . . .	184
<i>Clause One hundred and seven</i> (107) Rules of procedure in Appellate Division.	
Drafting Committee . . . . .	227
<i>Clause One hundred and eight</i> (108) Rules of procedure in provincial and local divisions.	
Drafting Committee . . . . .	227
Smuts, Gen. . . . .	185
<i>Clause One hundred and nine</i> (109) Place of sittings of Appellate Division.	
Convention . . . . .	245
<i>Clause One hundred and eleven</i> (111) Jurisdiction of Appellate Division.	
Drafting Committee . . . . .	227

\* The numbers of clauses printed in italics are as contained in Appendix E and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.

## South Africa Act, Draft (Amendments to Clauses\*)—(continued).

## Cape Town Session—(continued).

<i>Clause One hundred and fifteen (115) Advocates and attorneys.</i>	
Drafting Committee .. .. .	227
Malan, Mr. .. .. .	237
Smuts, Gen. .. .. .	185, 185
Steyn, Mr. .. .. .	185 (n)
<i>Clause One hundred and sixteen (116) Pending suits.</i>	
Drafting Committee, .. .. .	227
Watt, Mr. .. .. .	186
<b>Finance Clauses (following Clause One hundred and sixteen).</b>	
<i>Finance Clause One (117) Constitution of Consolidated Revenue Fund and Railway and Harbour Fund.</i>	
Drafting Committee .. .. .	210
<i>Finance Clause Two (118) Commission of inquiry into financial relations between Union and provinces.</i>	
Drafting Committee .. .. .	210, 228
President, The .. .. .	210
<i>Finance Clause Three (negated).</i>	
Drafting Committee .. .. .	210
<i>Finance Clause Four (119) Security for existing public debts.</i>	
Drafting Committee .. .. .	210
Jagger, Mr. .. .. .	210 (w)
<i>Finance Clause Five (negated).</i>	
Drafting Committee .. .. .	210
<i>Finance Clause Six (120) Requirements for withdrawal of money from funds.</i>	
Drafting Committee .. .. .	210
<i>Finance Clause Seven (121) Transfer of Colonial property to the Union.</i>	
Drafting Committee .. .. .	210, 228
<i>Finance Clause Eight (122) Crown lands, etc.</i>	
Drafting Committee .. .. .	210, 228
<i>Finance Clause Nine (123) Mines and minerals.</i>	
Drafting Committee .. .. .	210, 228
Malan, Mr. .. .. .	238 (n)
<i>Finance Clause Ten (124) Assumption by Union of Colonial debts.</i>	
Drafting Committee .. .. .	210, 228
<i>Finance Clause Eleven (125) Ports, harbours and railways.</i>	
Drafting Committee .. .. .	210, 228
<i>Finance Clause Twelve (126) Constitution of Railway and Harbour Board.</i>	
Drafting Committee .. .. .	210
Jagger, Mr. .. .. .	210
<i>Finance Clause Thirteen (127) Administration of railways, ports and harbours.</i>	
Beck, Dr. .. .. .	211 (w)
Drafting Committee .. .. .	210-211
Ferrar, Sir George .. .. .	210-211, 219
Greene, Col. .. .. .	211, 219 (w)
Hull, Mr. .. .. .	233 (n)
President, The .. .. .	233
Smuts, Gen. .. .. .	211 (w), 233-234 (n)
<i>Finance Clause Fourteen (128) Establishment of fund for maintaining uniformity of railway rates.</i>	
Drafting Committee .. .. .	211
Hull, Mr. .. .. .	211
Jagger, Mr. .. .. .	211 (w)

\* The numbers of clauses printed in italics are as contained in Appendix E and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.

## South Africa Act, Draft (Amendments to Clauses\*)—(continued).

## Cape Town Session—(continued).

<i>Finance Clause Fifteen (129) Management of railway and harbour balances.</i>	
Drafting Committee .. .. .	211
Malan, Mr. .. .. .	237
<i>Finance Clause Sixteen (130) Construction of harbour and railway works.</i>	
Drafting Committee .. .. .	211
President, The .. .. .	211
<i>Finance Clause Seventeen (131) Making good of deficiencies in railway and harbour fund in certain cases.</i>	
Drafting Committee .. .. .	211
Farrar, Sir George .. .. .	211
Malan, Mr. .. .. .	237
<i>Finance Clause Eighteen (132) Controller and Auditor-General.</i>	
Drafting Committee .. .. .	212, 229, 233
Malan, Mr. .. .. .	237
Walton, Mr. .. .. .	233
<i>Finance Clause Nineteen (133) Compensation of colonial capitals for diminution of prosperity.</i>	
Beck, Dr. .. .. .	212
Drafting Committee .. .. .	247-248
Farrar, Sir George .. .. .	212
Jagger, Mr. .. .. .	243 (n)
Malan, Mr. .. .. .	237
Smuts, Gen. .. .. .	246-247 (w)
Van Heerden, Mr. .. .. .	246-247 (d)
<i>Clause One hundred and seventeen (negatived).</i>	
Convention .. .. .	248
<i>Clause One hundred and eighteen (135) Continuation of existing colonial laws.</i>	
Malan, Mr. .. .. .	238
<i>Clause One hundred and Nineteen, New (134) Method of voting for Senators, etc.</i>	
Drafting Committee .. .. .	227
The President .. .. .	233
<i>Clause One hundred and twenty (138) Naturalisation.</i>	
Malan, Mr. .. .. .	191 (w)
<i>Clause One hundred and twenty-one (139) Administration of Justice.</i>	
Fischer, Mr. .. .. .	191 (w)
Malan, Mr. .. .. .	238 (n)
Walton, Mr. .. .. .	191 (w)
Watt, Mr. .. .. .	191
<i>Clause One hundred and twenty-two (140) Existing officers.</i>	
Fischer, Mr. .. .. .	191-192 (n)
Smuts, Gen. .. .. .	191 (w), 191-192
<i>Clause One hundred and twenty-three (141) Commission for reorganisation of public departments.</i>	
Drafting Committee .. .. .	227, 233
Greene, Col. .. .. .	192
Malan, Mr. .. .. .	192, 233
<i>Clause One hundred and twenty-five (143) Pensions of existing officers.</i>	
Merriman, Mr. .. .. .	193
<i>Clause One hundred and twenty-six (144) Tenure of office of existing officers.</i>	
Merriman, Mr. .. .. .	193
<i>Clause One hundred and twenty-seven (145) Existing officers not to be dismissed for ignorance of English or Dutch.</i>	
Drafting Committee .. .. .	227
Greene, Col. .. .. .	193

\*The numbers of clauses printed in italics are as contained in Appendix E and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.

**South Africa Act, Draft (Amendments to Clauses\*)—(continued).***Cape Town Session—(continued).*

<i>Clause One hundred and twenty-eight (146)</i> Compensation to existing Parliamentary officers who are not retained.	
Drafting Committee .. .. .	227
Smuts, Gen. .. .. .	193
<i>Clause One hundred and twenty-nine (147)</i> Administration of native affairs, etc.	
Greene, Col. .. .. .	193
<i>Heading "Treaty Rights."</i>	
Smuts, Gen. .. .. .	193
<i>Clause One hundred and thirty-one (149)</i> Alteration of boundaries of provinces.	
Drafting Committee .. .. .	227, 228
<i>Clause One hundred and thirty-two (150)</i> Power to admit into Union territories administered by British South Africa Co.	
Malan, Mr. .. .. .	238
<i>Clause One hundred and thirty-three (151)</i> Power to transfer to Union Government of native territories.	
Convention .. .. .	248
Malan, Mr. .. .. .	238
Merriman, Mr. .. .. .	193
<i>Heading "Amendment of constitution."</i>	
Convention .. .. .	245
<i>Clause One hundred and thirty-four (152)</i> Amendment of Act.	
Hyslop, Mr. .. .. .	193 (d), 220-221 (n)
Malan, Mr. .. .. .	238
Smuts, Gen. .. .. .	235
Watt, Mr. .. .. .	220 (n)

**Schedule.**

<i>Para. (1).</i>	
Drafting Committee .. .. .	228
<i>Para. (4).</i>	
Drafting Committee .. .. .	228
<i>Para. (7).</i>	
Drafting Committee .. .. .	228
<i>Para. (8).</i>	
Drafting Committee .. .. .	228
<i>Para. (11).</i>	
Malan, Mr. .. .. .	238
<i>Para. (12).</i>	
Drafting Committee .. .. .	228
Jagger, Mr. .. .. .	193, 194 (n)
Smartt, Dr. .. .. .	193-194 (n)
<i>Para. (13).</i>	
Drafting Committee .. .. .	228
<i>Para. (14).</i>	
Smartt, Dr. .. .. .	194-195 (w)
<i>Para. (19).</i>	
Malan, Mr. .. .. .	221-222
President, The .. .. .	222
<i>Para. (21).</i>	
Drafting Committee .. .. .	228
<i>Para. (22).</i>	
Gen. Hertzog .. .. .	195
<i>Para. (23).</i>	
Malan, Mr. .. .. .	238
<i>Para. (25).</i>	
Drafting Committee .. .. .	228

\* The numbers of clauses printed in italics are as contained in Appendix E and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.

## South Africa Act, Draft (Amendments to Clauses†)—(continued).

## Bloemfontein Session.

<i>Clause Six</i> (6) Incorporation of Colonies into the Union.	
Smuts, Gen.	253
<i>Clause Twenty-three</i> (24) Original constitution of Senate.	
Merriman, Mr.	253 (n)
Smuts, Gen.	253
<i>Clause Twenty-five</i> (26) Qualifications of Senators.	
Fitzpatrick, Sir Percy	271 (w)
<i>Clause Twenty-six</i> (27) Appointment and tenure of Office of President.	
Smuts, Gen.	253
<i>Clause Thirty-two</i> (33) Original number of members.	
Hyslop, Mr.	253
Smuts, Gen.	254-255 (n), 271
<i>Clause Thirty-three</i> (34) Increase of number of members.	
President, The	253
<i>Clause Thirty-five</i> (35) Qualifications of voters.	
Merriman, Mr.	254 (n)
Smuts, Gen.	253
<i>Clause Thirty-seven</i> (37) Elections.	
Beck, Dr.	271 (n)
Malan, Mr.	271
Smuts, Gen.	254
<i>Clause Thirty-eight</i> (38) Commission for delimitation of electoral divisions.	
President, The	254
<i>Clause Thirty-nine</i> (39) Electoral Divisions.	
President, The	261
<i>Clause Forty</i> (40) Method of dividing provinces into electoral divisions.	
Fischer, Mr.	255-257, 260 (w)
President, The	256-257, 260-261
<i>Clause Forty-two</i> (42) Powers and duties of commission for delimiting electoral divisions.	
Smuts, Gen.	266-267
<i>Clause Forty-six</i> (46) Appointment and tenure of office of Speaker.	
Smuts, Gen.	261
<i>Clause Fifty-three</i> (53) Disqualifications for being a member of either House.	
President, The	261
Sauer, Mr.	261
Watt, Mr.	261
<i>Clause Fifty-six</i> (56) Allowances of members.	
Farrar, Sir George	261
Greene, Col.	262 (n)
Smuts, Gen.	261
<i>Clause Sixty-four</i> (64) Royal assent to bills.	
President, The	262, 262
Smuts, Gen.	271, 271
<i>Clause Seventy</i> (70) Constitution of provincial councils.	
Smuts, Gen.	262
<i>Clause Seventy-three</i> (73) Tenure of office by provincial councillors.	
Merriman, Mr.	262 (n)
<i>Clause Seventy-five</i> (75) Chairman of provincial councils and rules of procedure.	
Smuts, Gen.	262
<i>Clause Seventy-eight</i> (78) Provincial executive committees.	
Jagger, Mr.	263
<i>Clause Eighty-two</i> (82) Voting in executive committees.	
Hyslop, Mr.	262-263 (w)
<i>Clause Eighty-five</i> (85) Powers of provincial councils and rules of procedure.	
Farrar, Sir George	271-272 (w)
Smuts, Gen.	263
<i>Clause Ninety-five</i> (95) Constitution of Supreme Court.	
Smuts, Gen.	263

† The numbers of clauses printed in italics are as contained in Appendix F and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.



**South Africa Act, Draft (Amendments to Clauses †)—(continued),**

*Bloemfontein Session—(continued).*

<i>Clause Ninety-six (96)</i> Appellate Division of Supreme Court.	
President, The	263-264
<i>Clause Ninety-seven (97)</i> Filling of temporary vacancies in Appellate Division.	
President, The	264
<i>Clause Ninety-eight (98)</i> Constitution of provincial and local divisions of Supreme Court.	
Smuts, Gen.	264
<i>Clause Ninety-nine (99)</i> Continuation in office of existing judges.	
Smuts, Gen.	264
<i>Clause One hundred and three (103)</i> Appeals to Appellate division.	
Hull, Mr.	264-265 (n)
President, The	272
Smuts, Gen.	264-265
Watt, Mr.	272
<i>Clause One hundred and four (104)</i> Existing appeals,	
Watt, Mr.	272
<i>Clause One hundred and five (105)</i> Appeals from inferior courts to provincial divisions.	
President, The	272
<i>Clause One hundred and seven (107)</i> Rules of procedure in Appellate Division.	
Watt, Mr.	272
<i>Clause One hundred and eight (108)</i> Rules of procedure in provincial and local divisions.	
President, The	265
<i>Clause One hundred and nine (109)</i> Place of sittings of Appellate Division.	
Watt, Mr.	272
<i>Clause One hundred and twelve (112)</i> Execution of processes of provincial divisions.	
Sauer, Mr.	265 (n)
<i>Clause One hundred and thirteen (113)</i> Transfer of suits from one provincial or local division to another.	
Merriman, Mr.	265
<i>Clause One hundred and fourteen (114)</i> Registrar and officers of Appellate Division.	
Smuts, Gen.	265
Watt, Mr.	272
<i>Clause One hundred and eighteen.</i>	
Sauer, Mr.	266 (w)
<i>Clause One hundred and nineteen (negatived).</i>	
Finance Committee	258-259
<i>Clause One hundred and twenty (119)</i> Security for existing public debts.	
Finance Committee	258-259
<i>Clause One hundred and twenty-one (negatived).</i>	
Finance Committee	258-259
<i>Clause One hundred and twenty-six (negatived).</i>	
Finance Committee	258-259
<i>Clause One hundred and twenty-six, New (124)</i> Assumption by Union of Colonial Debts.	
Finance Committee	258-259
<i>Clause One hundred and twenty-eight (126)</i> Constitution of Railway and Harbour Board.	
Jagger, Mr.	266 (n)
Watt, Mr.	266 (n)
<i>Clause One hundred and twenty-nine (127)</i> Administration of railways, ports and harbours.	
Finance Committee	266
Greene, Col.	266 (w)
Jameson, Dr.	266 (w)
Smuts, Gen.	266

† The numbers of clauses printed in italics are as contained in Appendix F and the number within brackets indicate the corresponding sections of the South Africa Act as promulgated.

**South Africa Act, Draft (Amendments to Clauses †)—(continued).***Bloemfontein Session—(continued).*

<i>Clause One hundred and thirty (128)</i> Establishment of fund for maintaining uniformity of railway rates.	
Smuts, Gen. . . . .	266
<i>Clause One hundred and thirty-five (133)</i> Compensation of colonial capitals for diminution of prosperity.	
Hyslop, Mr. . . . .	266 (n)
<i>Clause One hundred and thirty-six (134)</i> Method of voting for Senators, etc.	
Hyslop, Mr. . . . .	267 (n)
Merriman, Mr. . . . .	267
Smuts, Gen. . . . .	272
<i>Clause One hundred and thirty-seven. New (136)</i> Free trade throughout Union.	
Finance Committee . . . . .	268
<i>Clause One hundred and thirty-nine (138)</i> Naturalisation.	
Smuts, Gen. . . . .	267
<i>Clause One hundred and forty (139)</i> Administration of Justice.	
President, The . . . . .	267-268
Smuts, Gen. . . . .	267 (w), 267-268 (n)
<i>Clause One hundred and forty-five (144)</i> Tenure of office of existing officers.	
Smuts, Gen. . . . .	269
<i>Clause One hundred and forty-eight, New (negatived).</i>	
Moor, Mr. . . . .	269 (n)
<i>Clause One hundred and forty-nine (148)</i> Devolution on Union of rights and obligations under conventions.	
Greene, Col. . . . .	269 (w), 269-270
<i>Clause One hundred and forty-nine A, New (negatived).</i>	
Smuts, Gen. . . . .	257(c)
Finance Committee . . . . .	268
Schedule.	
Para. (18).	271
Smythe, Mr. . . . .	

*In England.*

See Appendix K., pages 360-364.

**South Africa Act, Draft (Committees on)***Drafting Committee.*

Appointed, *Gen. Smuts*, 143, 152, 222-223; Chairman's statement on work of, 151, 224; Draft Act brought up [Appendix E, pages 282-311], 152; Clause 39 referred back, *Sir Percy Fitzpatrick*, 174; Clause 42 referred back, *Gen. Smuts*, 174; Clauses 31, 37, 38, 64 and 134 referred back, *Gen. Smuts* and *Mr. Fischer*, 190, 193; Finance resolutions referred *Gen. Smuts*, 190; First Report, 200-206; Considered, 207-212; Clauses 21 and 22 referred back, *Gen. Smuts*, 217; Instruction to make alterations in phraseology, etc., *Mr. Sauer*, 219; Clause 33 and motion on women's franchise to be referred (objected to), *Mr. Malan*, 220; Amendments proposed on recommendation of draftsmen considered in anticipation, 224-229; Second Report, 229-232; Considered, 232-233; Instruction to draft clause on compensation to provincial capitals, *Dr. Smarth*, 247; Draft clause brought up, 247; Considered, 247-248.

*recis of Constitution.*

Appointed, *Gen. Smuts*, 235; Report, 239-243.

*Procedure after publication.*

Appointed, *Gen. Smuts*, 235; Amendment: *Mr. Merriman*, 235; Report, 236; Considered, 236.

*Sections 39 and 40.*

Appointed, *Gen. Botha*, 260; Report, 260; Considered, 261.

† The numbers of clauses printed in italics are as contained in Appendix F and the numbers within brackets indicate the corresponding sections of the South Africa Act as promulgated.

**South Africa Act, Draft (Consideration of).**

*At Cape Town, as submitted by the Drafting Committee.*

Considered, 153-155, 159-163, 174, 186, 191-195; Motion for postponement of consideration, *Mr. Hyslop*, 153-154 (*w*); Instruction to Prime Ministers for revision by draftsmen, *Mr. Hull*, 195; Consideration resumed on amendments proposed in First Report of Drafting Committee, 207-224; Consideration resumed on amendments proposed by draftsmen, 224-229; Motion for printing, *Mr. Steyn*, 229; First proofs laid upon the Table (with amended numbers of clauses), 229; Consideration resumed on amendments proposed in Second Report of Drafting Committee, 232-235; Revised proofs laid upon the Table, 236; Consideration resumed, 236-238; Further revised proofs laid upon the Table, 239; Consideration resumed, 245-247; Draft clause brought up by Drafting Committee on compensation to provincial capitals, 247; Consideration resumed, 247-248; Draft Act adopted for submission to the various Parliaments, 249.

*At Bloemfontein, on amendments proposed by the various Parliaments.*

Considered, 253-272; Draft Act finally adopted, 274.

**South Africa Act, Draft (Miscellaneous Matters).**

Approval, Final, by Parliaments, Procedure, Draft resolution of Committee considered, 236; Amendments: *Sir Percy Fitzpatrick*, 236 (*n*).

Finance Clauses, Correspondence with British Government on, referred to Finance Committee, *Mr. Hull*, 251; Report of Committee (with draft telegram in reply), 258; Considered and approved, 259.

King, H.M. the, Addresses to for authorisation of Union [Appendix I.], 355-357.

London, Delegates to, in regard to passage of Draft Act through the Parliament of the United Kingdom, Draft resolution of Committee considered, 236; Amendment: *Mr. Watt*, 236 (*n*); Letter from Lord Selborne on reception by British Government, 250; Motion on powers, *The President*, 272; Resolutions appointing delegates [Appendix J.], 358-359.

Natal draft (printed), laid upon the Table, 13; Notice given of intention to move section by section, *Mr. Moor*, 13.

Parliaments, Resolutions and amendments proposed on consideration of Draft Act laid upon the Table (Appendix G., pages 345-349), 250-251; Resolutions finally approving Draft Act and addresses to the King for authorisation of Union [Appendix I.], 355-357.

Ditto Sessions of, to discuss Draft Act, Draft resolution of Committee considered, 236; Amendment: *Col. Greene*, 236.

Printing and circulation, Motion on, *Mr. Steyn*, 229.

Publication of, Motions on, *Col. Greene*, 235, 248; *Mr. Fischer*, 272; Communication to Press on, 248.

Transvaal, Notice of amendments on behalf of, at Bloemfontein session, *Gen. Smuts*, 251-253.

**South Africa Act, Draft (Reports).**

First Report with Draft Act as agreed to at Cape Town signed by delegates [Appendix F., pages 312-345], 249; Second Report [Appendix H., pages 349-354] with amended Draft Act as finally agreed to at Bloemfontein, signed by delegates, 274.

**South Africa Act, Dutch Draft.**

Committee on, Motion for, *Gen. Hertzog*, 178; Draft Act submitted, 244.

**South Africa Act, 1909 [9 Edw. VII.—Ch. 9].**

South Africa Act, as assented to and promulgated [Appendix L.], 364-402.

**South African Women's Federation.**

Message of congratulation from Head Committee, 30.

**Southern Rhodesia.***See* "Rhodesia."**Speeches.**Not to be recorded, Motion on, *Mr. Merriman*, 6.**Stanford, Col. W. E. M., C.B., G.M.G., M.L.A.**

Delegate for the Cape of Good Hope, 4.

Motions and amendments by :

Auditor-General, Appointment of, 169 (*w*).

Franchise Committee, Petitions referred to, 44, 49.

Ditto laws, Making of, 20, 21 (*w*).Ditto to all subjects, 23-26 (*c*).Ditto Women's, 143, 151, 152 (*w*).Native Affairs, Control and administration of, 117, 125 (*c*).Provincial Councils, Legislative powers of (general), 78 (*d*).Railway and Harbour Board, Gratuitous services, 188 (*n*).Senate, President of, 40 (*w*).South Africa Act, Draft, Amendments to, *see* "South Africa Act."

Territories, Revenue and expenditure, 148.

**States.**Establishment of, in lieu of Provinces, Amendment on, *Mr. Morcom*, 10-12 (*n*).**Statistics.**

Committee on, 14, 20; Chairman's statement on progress of work, 25; Appointment of Secretary, 25; Report, with volume of statistics, 93; Chairman's statement on work of Committee, 93.

**Steamship Lines, Conference.**Statement by *Mr. Hull* on position of South African Governments with, 251.**Stellenbosch Agricultural Society.**Invitation from to attend agricultural show, 178; Motion for acceptance, *Gen. Botha*, 178 (*n*).**Stellenbosch Municipal Council.**

Message of congratulation from, 10.

**Steyn, Hon. M. T.**

Delegate for the Orange River Colony, 5.

Elected Vice-President, 3; Speech of thanks on election, 3.

Motions and amendments by :

Capital, Union Parliament to select, 198-199 (*w*).

Minister of Justice, Appointment of, 123.

Proceedings, Destruction of Minutes of, 273 (*n*).South Africa Act, Draft, Amendments to, *see* "South Africa Act."

Ditto Printing and distribution of, 229.

**Supreme Court.**

Constitution of, Draft resolution of Committee considered, 121.

Ditto Committee on, *see* "Justice."

Judges, Appointment, remuneration, vacancies, etc., Draft resolutions

of Committee considered, 121-123; Amendments: *Mr. Fischer*, 121; *Gen. Smuts*, 122; *Mr. Fischer*, 122.Ditto Existing, Motion on position of, *The President*, 123.

Jurisdiction and execution of judgments, Draft resolutions of Committee considered, 123.

President's proposals on, *see* "Justice."

Seat of, Draft resolution of Committee considered, 123.

**Supreme Court, Appellate Division.**

- Advocates and attorneys to practise in, Draft resolution of Committee considered, 123.
- Appeals to, Draft resolutions of Committee considered, 123.
- Appeals to King-in-Council from, Draft resolution of Committee considered, 123; Amendments: *Dr. Smartt*, 123 (n).
- Appeals to, from Territories, Draft resolution of Committee considered, 150; Amendment, *Gen. Smuts*, 150.
- Constitution of Draft resolution of Committee considered, 121.
- Officers of, Draft resolution of Committee considered, 123.
- Quorums of judges for, Draft resolution of Committee considered, 123.
- Rules for, Draft resolution of Committee considered, 123.

**Supreme Court, Provincial Divisions.**

- Constitution and powers of, Draft resolution of Committee considered, 121-122; Amendments: *Mr. Merriman*, 121; *Mr. Fischer*, 121.
- Rules for, Draft resolutions of Committee considered, 123.
- Transfer of civil suits pending in, Draft resolution of Committee considered, 123.

**T**

**Taxation Laws.**

*See* "Laws."

**Territories.**

- Administration of, Commission for, number of members, powers and duties, pensions, qualifications, salaries, etc., Draft resolutions of Committee considered, 146-147, 149-150; Amendments: *Gen. Smuts*, 146; *Col. Greene*, 146 (n); *The President*, 146; *Gen. Smuts*, 146; *Mr. Hyslop*, 149-150.
- Ditto Prime Minister's powers and duties, Draft resolutions of Committee considered, 146-147.
- Appeals from, to Appellate Division of Supreme Court, Draft resolution of Committee considered, 150; Amendment, *Gen. Smuts*, 150.
- Civil Servants rights preserved, Draft resolution of Committee considered, 150.
- Duties, customs and excise, Draft resolution of Committee considered, 149; Amendments: *Gen. Smuts*, 149 (w), 149; *Mr. Fischer*, 149.
- Expenditure, *see* "Revenue."
- Inhabitants of, Free intercourse between, Draft resolution of Committee considered, 149; Amendment, *Gen. Hertzog*, 149.
- Land, Alienation of, in certain areas, Draft resolution of Committee considered, 149; Amendment, *Dr. Smartt*, 149 (n).
- Laws for, after transfer, Draft resolution of Committee considered, 145-146; Amendments: *Gen. Smuts*, 145 (n); *The President*, 145.
- Ditto Disallowance of, Draft resolution of Committee considered, 149.
- Liquor, Prohibition of sale of intoxicating, Draft resolution of Committee considered, 149.
- New, Admission of, Motion on, *Mr. Merriman*, 10-13; Amendments: *Mr. Morcom*, 10-12 (n); Draft resolution of Committee on Civil Service, etc., considered, 132; Referred to Committee on Native Affairs, *Mr. Sauer*, 132; Draft resolution of Committee on Native Affairs considered, 150.
- Ditto *see also* "Provinces."
- Pitsos, etc., Holding of, to be maintained, Draft resolution of Committee considered, 149.
- Report on, to be submitted annually to Parliament, Draft resolution of Committee considered, 150.
- Resident Commissioners for, Appointment and duties, Draft resolutions of Committee considered, 147.
- Revenue and expenditure of, Draft resolutions of Committee considered, 147-149; Amendments: *Gen. Smuts*, 147; *Col. Stanford*, 148; *Mr. Malan*, 148; *Gen. Smuts*, 148; *Mr. Fischer*, 148; *Gen. Smuts*, 149.

**Territories—(continued).**

- Schedule to Act relating to, Laws amending to be reserved, Motion on, *The President*, 150.  
 Transfer of, Draft resolution of Committee considered, 143-145; Amendments: *Col. Greene*, 144-145 (n); *Sir Percy Fitzpatrick*, 144-145 (w); *Mr. Fischer*, 145.

**Thaba 'Ncho.**

- Natives in, Letter forwarding petition from, on protection of rights, 257.

**Traffic.**

- To competitive area, Inter-Colonial Railway Agreement laid upon the Table, *Col. Greene*, 269; Motion on, *Mr. Hull*, 269-270 (w).

**Translators.**

- Vote of thanks to, 274.

**Transvaal.**

- Amendments proposed to Draft Act on behalf of, Notice of, *Gen. Smuts*, 251-253.  
 Credentials of delegates put in, 4-5.  
 Governor of and High Commissioner (H.E. the Right Hon. the Earl of Selborne), Congratulatory message from, 9; Minutes of Proceedings, to be forwarded daily to, 10; Letter acknowledging, 13; Letters from: On assent of Governor-General to Bills and President's reply, 250; On reception by British Government of delegates to London, 250; On position under Union of Land Settlement Boards of Transvaal and Orange River Colony and reply, 263.  
 Land Settlement Board, Letter from High Commissioner on position of under Union, and reply, 263.  
 Natives of, Petitions from, on representation in Parliament, 73, 151.  
 Parliament, Resolution on consideration of Draft Act [Appendix G, pages 345-349], laid upon the Table, 250-251; Resolutions and address on final approval of Draft Act [Appendix I], 355-357.  
 Precedence in proceedings, 28.  
*See also* "Modus Vivendi."

**Treaty Rights, etc.**

- Vesting of in Union, Draft resolution of Committee on Civil Service, etc., considered, 131; Referred to Committee on Finance, *Mr. Hyslop*, 131.

**U.****Union.**

- Desirability of a legislative, Motion on, *Mr. Merriman*, 10-13; Amendments: *Mr. Morcom*, 10-12 (n).  
 Name of, Motion on, *Mr. Merriman*, 10-12 (w); Amendments: *Mr. Morcom*, 10-12 (n); Further motion, *Mr. Sauer*, 15 (w); *Dr. Smart*, 15 (w); *Mr. Jagger*, 15 (w); *Mr. Lindsay*, 15.  
 Proclamation and taking effect of, Draft resolutions of Committee considered, 129 (d); Amendments: *Gen. Smuts*, 129, 129.  
 Resolutions adopted by the Inter-Colonial Conference at Pretoria in May, 1908, in favour of [Appendix A], 277; Confirmatory resolutions adopted by the various Parliaments [Appendix B], 278-279.

**V.****Van Heerden, H. C., M.L.A.**

- Delegate for the Cape of Good Hope, 4.  
 Motions and amendments by:  
 Financial Relations Commission, 163-164 (w).  
 Provincial Councils, Legislative powers regarding eradication of weeds, 86 (n).  
 South Africa Act, Draft, Amendments to, *see* "South Africa Act."

**Van Zyl, H. S.**

Votes of thanks to, 249, 274.

**Van Zyl, W. J.**

Vote of thanks to, 274.

**Vice-President of Convention (Hon. M. T. Steyn).**

Election of, 3; Speech of thanks on election, 3.

See also—"Steyn, Hon, M.T."

**Viljoen, Dr. A. G., M.L.A.**

Message of congratulation from, 8.

**Voters.**

Qualifications of, Draft resolution of Committee considered, 59; Amendments: *Mr. Sauer*, 59; *Mr. Hull*, 59; Draft resolution and amendments referred back to Franchise Committee, *Gen. Smuts*, 62; Draft resolution withdrawn, 64; Further draft resolutions of Committee considered, 64-66; Amendments: *Mr. Malan*, 64-65 (*w*), 65 (*w*); *Mr. Smythe*, 65 (*n*); *Gen. Botha*, 65.

See also "Franchise."

**Voting in Convention.**

See "Rules and Orders."

**W.**

**Walton, Hon. E. H., M.L.A.**

Delegate for the Cape of Good Hope, 4.

Motions and amendments by:

Civil Service Commission, Permanent, 130 (*w*), 130(*n*).

Ditto Reorganization, 129.

Executive Government, in whom vested, 15.

Finance Committee, Ocean Mail Contract referred, 258.

Laws, General, Continuance of, 49.

Ditto Money, and powers of Senate, 50-51 (*d*).

Members, Disqualifications for, 75-76.

Ditto Payment and Deductions, 96 (*d*).

Ministers of State, Qualifications of, 15, 16.

Order List and Notice Paper, Circulation of, 77.

Parliament, Dissolution of, 54-55 (*n*).

Ditto Joint Sittings, Rules to apply, 98.

Ditto Rules for, 98.

Proceedings, Minutes of, Distribution of, 8 (*r*).

Provinces, Borrowing powers, 79 (*n*).

Ditto Boundaries, Alteration of, 116 (*w*), 121 (*d*).

Provincial Revenue Funds, Formation of, 182 (*w*).

Railway and Harbour Board, Gratuitous services, 167 (*n*).

Railways and Harbours, Vesting of, in Union, 165.

Senate, President of, 40.

Sittings, Hours of, 72.

South Africa Act, Draft, Amendments to, see "South Africa Act"

**Watt, Hon. T., C.M.G., M.L.A.**

Delegate for Natal vice W. B. Morcom, K.C., M.L.A., resigned, 150.

Motions and amendments by:

Delegates to London, 236 (*n*).

Railways and Harbours, Administration of, 167 (*n*).

South Africa Act, Draft, Amendments to, see "South Africa Act."

**Wellington.**

Letter from chairman of meeting of coloured citizens, on preservation of political rights and reply of Chief Secretary, 250.

**Wesleyan Methodist Church.**

Letter from Kimberley and Bloemfontein Synod (Native section) on safeguarding interests of natives, 239.

**Wine Farmers, Cape Colony.**

Petition from, on relief to the wine industry, 256.

**Witwatersrand.**

Petition from Cape coloured people resident on, for equal political rights, 23; Supplementary resolution, 23.

**Women.**

Franchise to, *see* "Franchise."

**Wynberg Coloured Men's Political Organization.**

Letter from, on equal rights, 73; Petition from, on preservation of existing rights, 250.

**Z.****Zuid Afrikaanse Taalbond.**

Telegram from Secretary, Hoofd Bestuur, Riebeeck West branch on equal language rights, 18.

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