

## **Session II. 1854. (February to April 1854)**

### **1. The English Agent's Ordinance 1854.**

Be it therefore enacted by the Superintendent of the said Province, with the advice and consent of the Provincial Council of the same, as follows:

#### **1. English Agent constituted.**

The above recited Ordinances are hereby repealed.

#### **2. All Petitions, Addresses &c. to be sent through Agent.**

There shall be an Agent in the United Kingdom for the Province of Canterbury, to be from time to time nominated and appointed by the Superintendent and Provincial Council of the said Province.

#### **3. All correspondence to be conducted by the Superintendent, and laid before the Provincial Council.**

All Correspondence with the said Agent shall be conducted on the part of the Province by the Superintendent, with the advice and consent of the Executive Council; and all Communications from the Superintendent, or from the said Agent, shall be laid before the Provincial Council within ten days after the receipt or dispatch of the same; or, if the Provincial Council be not then sitting, within ten days after the opening of the next Session thereof.

#### **4. Agent to enter into Contracts &c. under instructions.**

It shall be lawful for the said Agent to enter into all such Contracts, and generally to do all such things on behalf of the said Province and of the Government thereof as he shall, from time to time, be authorised to enter into or to do, by

Instructions, under the hand of the Superintendent, issued by the advice of the Executive Council of the said Province.

**5. Agent to appoint successor in certain cases.**

It shall be lawful for the said Agent at any time to resign such his office, by writing under his hand, addressed to the Superintendent of the said Province; or in case the said Agent shall be unable, by reason of illness or of continued absence from the United Kingdom, to fulfil the duties attached to the said office, it shall also be lawful for the said Agent to resign such his office, and, by writing, under his hand, to appoint some fit person in his stead; and such person shall be taken and deemed to be the Agent, as though he had been appointed by an Ordinance, as hereinbefore required: Provided that every such appointment shall cease and determine twelve months after the date thereof, unless it shall be allowed and confirmed by an Ordinance of the Superintendent and Provincial Council.

**6. Agent to appoint counsel &c.**

It shall be lawful for the said Agent to appoint and employ Counsel, Attorneys, Solicitors, or Agents, to appear and act on behalf of the said Province in any matter pending before the High Court of Parliament, or any other Court of Judicature, or upon any other occasion whatsoever, in the United Kingdom, touching the affairs of the Province.

**7. John Robert Godley, Esquire, to be the first Agent.**

John Robert Godley, Esq., shall be, and he is hereby appointed the Agent in the United Kingdom for the Province of Canterbury.

**8. Title**

This Ordinance shall be entitled and may be cited as "The English Agent's Ordinance, Session II., No. 1."

**Notes.**

*This Ordinance was passed by the Canterbury Provincial Council on 9th March 1854, and assented by the Superintendent on 21st March.*

**2. The Empowering Ordinance 1854.**

An Ordinance to Empower the Superintendent of the Province of Canterbury to Perform certain Acts, heretofore Performed by the Governor and Lieutenant Governors, of New Zealand, and by the Lieutenant Governor of New Munster.

Whereas by certain Ordinances passed by the Governor-in-Chief, Governors, and Lieutenant-Governors of New Zealand, and by the Lieutenant-Governor of New Munster, enumerated in the Schedule to this Ordinance annexed, certain powers are vested in the Governor-in-Chief, Governors, or Lieutenant-Governors, or in the Officer administering the Government of the Colony, or Province, for the time being and whereas it is expedient that such powers should be vested in and exercised by the Superintendent of the Province of Canterbury:

Be it therefore enacted, by the Superintendent of the said Province, with the advice and consent of the Provincial Council thereof, as follows:—

**1. Superintendent empowered to perform certain acts.**

Such powers as are, by the several Ordinances recited in the Schedule to this Ordinance, conferred on the Governor-in-Chief, Lieutenant-Governors, or Governors of New Zealand, or on the Lieutenant-Governor of New Munster, or on the Officer administering the Government of the Colony, or Province, for the time being, are hereby, within the limits of the Province of Canterbury, conferred on the Superintendent thereof.

**2. Saving powers of the Governor.**

Nothing herein contained shall be construed to limit or control the Governor of New Zealand in the exercise of any power heretofore exercised by his Excellency under authority of the several Ordinances named in the Schedule to this Ordinance.

**3. Title.**

This Ordinance shall be entitled, and may be cited as, "The Empowering Ordinance, Session II., No. 2."

**Schedule To This Ordinance**

**Session II.**

**An Ordinance to provide for the Registration of Deeds and Instruments affecting Real Property.**

[28th December 1841]

For the purpose of rendering titles to real property more secure and facilitating the transfer of the same:

Be it enacted by His Excellency the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

I.—Establishment of Register Offices.

**1. Register Office.**

There shall be established in every county or district as the case may be within the Colony an office which shall be called "The Register Office," for registering in manner hereinafter directed the deeds wills and memorials hereby authorized to be registered.

**2. Registrar.**

It shall be lawful for His Excellency the Governor from time to time to appoint for each Register Office a fit person to be Registrar thereof, who shall hold his office so long as he shall well behave himself therein.

**3. Clerks.**

It shall be lawful for the Registrar, with the approval of the Governor, from time to time to appoint so many clerks and subordinate officers as may be necessary for the performance of the business of the office, who shall be removable at the discretion of the Registrar.

**4. Security.**

Every Registrar shall before entering upon the duties of his office give security for the due execution thereof in such manner and to such amount as to His Excellency the Governor shall seem meet.

**5. Seal.**

There shall be kept in every Register Office a Seal, of the impression whereof judicial notice shall be taken in all Courts without any evidence of such Seal having been impressed or any other evidence relating thereto.

**II.—What to be Registered.**

**6. Crown Grants, &c.**

Every Grant by the Crown of land within the Colony, and every deed or contract, except as hereinafter mentioned, and every will whereby such land may be affected subsequently to the date of such grant, may be registered by causing a copy thereof to be recorded and entry thereof to be made in manner hereinafter provided in the Register Office of the county or district therein such land shall be situated: Provided that no lease or agreement for a lease for any time not exceeding seven years from the date thereof nor any assignment thereof shall be registered: Provided also that no instrument shall be registered which shall relate to the transfer of any share in any Corporation or Joint Stock Company in any case where an entry of such transfer shall be made in the books of the Corporation or Company.

**7. Judgments, &c.**

Every judgment of the Supreme Court, every suit pending therein, any acceptance of office whereby the person accepting the same shall become an accountant to the Crown, or inquisition by which any debt shall be found due to

Her Majesty, every bankruptcy and insolvency and private Ordinance affecting any land within the Colony, may be registered by causing a memorial thereof to be deposited and entry thereof to be made in manner hereinafter provided in the Register Office of the county or district wherein such land shall be situated.

**8. Memorial of Judgment.**

The memorial of every judgement whereby the title to any land shall be affected shall express the date thereof, the title of the cause, and so much of the decree or judgment as shall relate to the land affected thereby, and shall be certified by the Registrar of the Supreme Court.

**9. Memorial of Suit pending.**

The memorial of every Suit Pending shall express the date of suit pending of the commencement thereof, the title of the cause, the nature and object of the proceeding, and shall be certified by the signature of the officer before whom such proceedings have been commenced.

**10. Memorial of Judgment of Debt.**

The memorial of every judgement for the recovery of any sum of judgment of debt of money shall express the names of the plaintiff and defendant and the sum thereby recovered, and the time of signing the same, and shall be certified by the officer who shall have signed the judgement, his deputy or successor.

**11. Memorial of Acceptance of Office.**

The memorial of every acceptance of such office as aforesaid shall express the name of the officer, and of his office, and the time of his accepting the same, and shall be certified by the Colonial Secretary.

**12. Memorial of Inquisition.**

The memorial of every such inquisition as aforesaid shall on inquisition express the name of the defendant, and the sum thereby found to be due, and the date of the same, and shall be certified by the Colonial Secretary.

**13. Memorial of Bankruptcy.**

The memorial of every bankruptcy shall express the name residence and condition or calling of the bankrupt and the date of the fiat, and shall be certified by the signature of the officer out of whose office such fiat shall issue.

**14. Memorial of Insolvency.**

The memorial of every insolvency shall express the name of insolvency residence and condition or calling of the insolvent, and the date of the order by which the insolvent shall have been divested of his property, and shall be certified by the signature of the officer in whose office such order shall be enrolled.

**15. Memorial of Private Ordinance.**

The memorial of every private Ordinance shall express the title date and number thereof.

16. Description of Property affected.

Every memorial shall also describe the property to which the same shall relate, by reference to the marks and numbers by which such property shall be designated in any map or plan deposited in the Register Office as hereinafter provided.

III.—Effect of Registration.

17. Deeds, &c., not registered void as against subsequent Deeds registered.

Every grant by the Crown of land within the Colony, and every deed or contract which is hereby authorized to be as aforesaid shall (so far as regards any land to be affected thereby) be void as against any person claiming for valuable consideration under any subsequent deed or contract duly registered, unless the prior deed or contract shall have been registered in the manner directed by this Ordinance before the registration of the subsequent deed or contract.

18. Leases, &c.

Every lease or agreement for a lease hereinbefore forbidden to be registered shall be void as against any person so claiming, so long as actual possession shall not go along with such lease or agreement.

19. Wills, &c.

Every will shall (so far as regards land to be affected thereby) be void as against any person claiming for valuable consideration under any deed or contract duly registered made after the death of the testator by his heiratlaw or by any person claiming as his devisee or executor under a former will, or as his administrator either with a former will annexed or otherwise, or by any other person by whom such subsequent deed or contract might have been made, if such will as first aforesaid had not been executed, unless such will as first aforesaid shall have been registered in manner directed by this Ordinance before the registration of the subsequent deed or contract: Provided always that every will which shall be registered within the space of two years after the death of any testator shall be as valid and effectual as if the same had been registered immediately after the death of such testator.

20. Judgment, &c.

Every judgment suit acceptance of office inquisition bankruptcy insolvency or private Ordinance shall (so far as regards any land to be affected thereby) be void and of no effect as against any person claiming for valuable consideration under any subsequent deed or contract duly registered, unless a memorial thereof shall have been registered in manner directed by this Ordinance before the registration of the subsequent deed or contract.

**21. Notice.**

The priority given by the provisions hereinbefore contained to any person claiming for valuable consideration shall not be taken away either at law or in equity in consequence of such person having been affected with notice either actual or constructive.

**22. Voluntary Conveyances.**

Every person who shall claim without valuable consideration under any other person who shall have claimed for valuable consideration, shall be entitled to the same protection as the person who shall have claimed for valuable consideration.

**23. Voluntary Conveyance.**

A voluntary conveyance being duly registered shall not be defeated by any subsequent conveyance for valuable consideration, whether such latter conveyance shall be registered or not.

**24. Deeds or Contract when void.**

Every deed or contract, although duly registered, whereby any title shall be derived or agreed to be derived from any person claiming under an unregistered deed, shall be void as against any person claiming for valuable consideration under any subsequent deed or contract duly registered, whereby title shall be derived or agreed to be derived from any person claiming under a deed or contract duly registered.

**IV.—Mode Of Registration.**

**25. Maps to be kept.**

There shall be deposited in the Register Office of every county or district maps of all the lands which shall from time to time be surveyed within the limits thereof, which maps shall be signed by the SurveyorGeneral of the Colony and by the Registrar.

**26. And distinguished.**

Every such map shall be distinguished by a letter or other mark, and the allotments in every map shall be numbered consecutively from No. 1 upwards.

**27. And Books.**

For every such map there shall be opened and kept a book or books to be called " The Index Book" and marked with the letter or mark of such map.

**28. Instruments to contain a delineation of the Land.**

Every instrument presented for registration shall, for the purpose of more easily identifying the land to which it shall relate, contain or shall have indorsed thereon

a delineation of the land to which the same shall relate, showing the extent boundaries and relative position thereof

**29. Memorandum on Instrument by Registrar.**

Immediately upon the presentation of any instrument for registration, the Registrar shall in the presence of the party presenting such instrument number the same and make a note thereon of the day and hour of the receipt thereof, and shall stamp the same at the end of such note with the Seal of the Register Office. He shall also forthwith in the same presence cause an entry under the proper head or title to be made specifying such day and hour and the nature of the instrument and referring to the book in which a copy thereof shall be made, which entry shall be according to the form of the Schedule A hereunto annexed, and shall be signed by the person presenting such instrument as aforesaid.

**30. Instruments to be copied.**

The Registrar shall thereupon cause such instrument to be copied at full length in one of the books to be kept for that purpose.

**31. Books of Entry.**

Such entry as last mentioned shall be made in one of the books which shall be appropriated to the map within which the land to which such instrument shall relate shall be comprised.

**32. Entry how made.**

Every such entry shall be made under a head or title, which shall consist of letters and numbers indicating the allotment or allotments or part or parts thereof of which the land to which such entry shall refer shall consist.

**33. Order of Entries.**

All such entries shall be made in the order in which the Order of which such entries refer shall have been presented for registration.

**34. Head of Entry.**

So long as the land in respect of which any entry was originally made shall remain undivided, all entries relating thereto shall be placed under the head or title originally appropriated thereto. Whenever any portion thereof shall be absolutely alienated, a new head or title shall be appropriated to such portion.

**35. New Entry.**

Whenever any such new head or title shall be formed, the first entry thereunder shall contain a reference to the original head or title. Under such original head or title there shall also be made a reference to such new head.

**36. Mistake in Entries.**

Where any mistake shall have been made in any entry, the Registrar shall rectify the same by a new entry in such form as may be convenient, specifying the day

and hour of each correction. The erroneous entry shall not be erased or obliterated.

## V.—Miscellaneous Regulations.

### 37. Receipts for Instruments.

Every person by whom any instrument shall be brought or sent to the Register Office for the purpose of registration may require a receipt for the same, which receipt shall be stamped with the Seal of the office, and shall specify the nature and number of the instrument and the day and hour of the receipt thereof.

### 38. Instruments to be compared with copy.

Before any instrument which shall have been registered shall Instrument to be returned to the person who presented the same for registration, such person shall compare the same with the copy thereof in the books of the office, and shall sign his name at the foot of such copy as an attestation of the correctness thereof.

### 39. Copies to be supplied.

The Registrar shall supply copies of or extracts from any index to be kept, or copies of any instruments which shall have been recorded, or any memorial which shall have been deposited under the provisions of this Ordinance, to any person entitled to the same, which person shall have liberty to examine such index or recorded copy or deposited memorial for the purpose of satisfying himself of the correctness of the copy or extract so supplied.

### 40. To whom.

Before the Registrar shall supply any such copy or extract, the person applying for the same shall sign a declaration that such a copy or extract is required in respect of land in which he has, or claims, or has contracted for, some estate or interest, or that he is a barrister or solicitor employed by some other person, to be named and described and so interested as aforesaid, or that he is the authorized clerk of a barrister or solicitor, to be named and described, employed as aforesaid.

### 41. False Declaration.

If any person shall in any such declaration wilfully state anything that shall be untrue he shall forfeit and pay a penalty of not less than five pounds nor more than twenty pounds, to be recovered in a summary way before any Police Magistrate acting for the county or district within which such offence shall be committed.

### 42. Copy to be certified.

Every copy or extract so supplied as aforesaid shall have written or endorsed thereon a certificate stating that such copy or extract is an examined copy of or

extract from such index or recorded copy or deposited memorial as aforesaid, and specifying the book and page from which the same is taken, which certificate shall be verified by the Seal of the office. Every copy or extract so verified shall be admissible as secondary evidence of the contents of the instrument of which it purports to be a copy or extract.

**43. Compulsory Registration.**

Any person having an interest in land under any instrument hereby authorized to be registered may require any person in possession thereof to cause the same to be registered, and in case the person in whose possession the same shall be shall refuse so to do, it shall be lawful for any Judge of the Supreme Court, upon a summary application, to make such order respecting the registration of such instrument as shall seem meet.

**44. Fees.**

Every Registrar shall be entitled to receive the fees specified in Schedule B hereto annexed, or such fees as shall be from time to time payable in lieu thereof, by virtue of any order to be made by the Judges of the Supreme Court, who are hereby authorized to regulate the same. All fees shall be paid in advance.

**45. Scale.**

A table of such fees shall be hung up in some conspicuous place in every Register Office.

**46. Fee Fund.**

All fees received under the authority hereof shall be accounted for quarterly to the Colonial Treasurer or to the Treasurer of the county or district in which the Register Office shall be situated. The fees so received shall form a fund which shall be chargeable with the salaries of the Registrar and other officers and with the current or incidental expenses of the office.

**47. Rules.**

It shall be lawful for every Registrar from time to time to make rules for regulating the practice of his office: Provided that the rules so to be made shall be approved by the Chief Justice of the Supreme Court and shall not be repugnant to any of the provisions hereinbefore contained.

**48. Interpretation Clause.**

In the construction of this Ordinance the word "Land" shall extend to any estate or interest whatever in real property, and the word "Will" shall extend to a codicil, and the word "Instrument" shall extend to any Crown Grant, deed, contract, will, codicil, or any memorial hereby authorized to be registered.

**49. Commencement.**

This Ordinance shall come into operation within any county or district at such time as His Excellency the Governor, with the advice of the Executive Council, shall by Proclamation appoint.

Schedules.

Schedule A.

General Index

Vol I, A., p100

Map A, Section 5, Number 15.

Receipt of Instrument.Nature of InstrumentDate of InstrumentWhere  
recordedReferenceSignature.

General Index

Vol II, A, p19.

Map A, Section 5, Number 15a.

Receipt of Instrument

Nature of Instrument

Date of Instrument

Where

recorded

ReferenceSignature.

Schedule B.

Scale of Fees.

For the registration of an instrument 10/-

For the recording thereof, for every folio of seventy-two words

4d

For a copy of or extract from and recorded instrument or deposited memorial for every folio of seventy-two words

3d

For every copy or extract from the General Index

6d

For every search or inspection of indices or recorded instruments or deposited memorials

1/-

For comparing if required any instrument with the record thereof by reading over the same with the party registering, for every folio of seventy-two words

1d

For comparing if required any copy or extract supplied by the Register Office by reading over the same with the party requiring such copy or extract for every folio

of seventy-two words  
1d.

**An Ordinance for regulating the Sale of Fermented and Spirituous Liquors.**  
[10th February, 1842.]

Be it enacted by His Excellency the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

I.—License.

1. License for Sale of Spirits.

No person shall unless he be duly licensed sell any quantity less than two gallons of any spirituous liquor wine ale or beer, or permit the same to be sold by any other person in or upon his house or premises: Provided that no license shall be needed for the sale of any spirituous or fermented liquor as perfumery or medicine, or at any military canteen duly established under the regulations of Her Majesty's service: Provided also that nothing herein contained shall extend to any sale by auction by any licensed auctioneer.

2. Form of License.

Every license shall be in the form set forth in Schedule A hereunto annexed, and shall commence on the first day of July next following the date thereof, and shall be in force for one year from such first day of July.

3. Not to be granted to Constables.

No license shall be granted or transferred as hereinafter mentioned to any constable or bailiff, nor shall any license be granted or transferred in respect of any house or premises of which any constable shall be owner or wherein any constable shall be directly or indirectly interested

II.—Granting and Transferring of Licenses.

4. Application for License.

Every person desirous of obtaining a license under this Ordinance shall, on or before the first Tuesday in the month of April in every year, cause to be delivered to the Clerk of the Police Magistrate for the district in which it is proposed to exercise such license a notice in writing signed by him and in the form in Schedule B hereunto annexed, together with a certificate signed by at least five substantial householders residing within such district, in the form in Schedule C hereunto annexed.

**5. Names of Applicants to be affixed to door of Police Office.**

The Clerk shall cause a list of the names and descriptions of all such applicants to be affixed, on or before the second Tuesday in the said month of April, on the door of the Police Office, there to remain for the space of one week.

**6. Annual Licensing Meeting.**

On the third Tuesday of the said month there shall be holden at the office of the Police Magistrate a general meeting of the Justices of the district, to be called the "Annual Licensing Meeting," for the purpose of taking into consideration applications for such licenses as aforesaid. Two Justices, of whom one shall be the Police Magistrate of the district, or, in case of his unavoidable absence, three Justices, shall form quorum.

**7. Certificates may be granted.**

It shall be lawful for the Justices assembled at such meeting to grant to such persons as shall be approved of by the majority of such Justices certificates authorizing such licenses in the form in Schedule D hereunto annexed: Provided that no Justice of the Peace being a brewer, maltster, or distiller, or an importer of or dealer in any spirituous liquor wine ale or beer, or being interested directly or indirectly in any house or premises already licensed or in respect whereof an application for a license is about to be made, shall act at any such meeting.

**8. Notice of Meeting.**

The Clerk shall cause a notice of each annual licensing meeting to be inserted at least one calendar month before the holding thereof in one of the newspapers of the district.

**9. Recognizance to be entered into by Applicants.**

Before the Justices shall grant any such certificate the person applying for the same shall enter into a recognizance, with two sureties in the sum of fifty pounds each, in the form and with the conditions in Schedule E hereunto annexed: Provided always that no constable, bailiff, or any person holding a license under this Ordinance, shall be taken as a surety in any such recognizance.

**10. Sickness of Applicants.**

If any person desirous of obtaining such certificates shall be hindered by sickness infirmity or any other reasonable cause from attending in person at any such meeting, it shall be lawful for the Justices to certify in favour of such person upon three sufficient sureties, to be approved of as aforesaid, entering into the required recognizances.

**11. Names, &c., of parties receiving Certificates, to be transmitted to Colonial Treasurer.**

The said Clerk; shall also within fourteen days after such meeting transmit to the Colonial Treasurer or the Treasurer of the county or district a list signed by two at least of the Justices, specifying the names and residences of all the persons to

whom such certificates as aforesaid shall have been granted, and of their respective sureties.

12. Recognizances to be transmitted to Clerk of County Courts.

The said Clerk shall also transmit, within one calendar month after the same shall be entered into, the said recognizances to the Clerk of the County or District Court as the case may be, to be filed in his office.

13. Recognizances not to bind real property.

No such recognizances shall bind or affect any real property bind of the person entering into the same.

14. Amount payable for License.

Every such certificate shall be null and void unless the same and the sum of thirty pounds, or in case the house to be licensed shall be within the limits of any borough then the sum of forty pounds, shall be lodged in the office of such Treasurer as aforesaid on or before the thirtieth day of June next following the annual licensing meeting at which such certificate was granted.

15. Treasurer to issue License.

On receipt of such certificate and payment of the said sum of thirty pounds, or in case the house to be licensed shall be within the limits of any borough then the sum of forty pounds, such Treasurer or such other person as the Governor may for that purpose appoint shall issue and shall register in his office a license in the form hereinbefore prescribed.

16. Transfer of License.

On the first Tuesday in each of the months of September December and March there shall be holden at such place as aforesaid a special meeting of the aforesaid Justices for the purpose of receiving applications for the transfer of licenses, subject to the provisions hereinbefore contained with respect to the general annual licensing meeting.

17. Transfer to be endorsed.

The Justices so assembled may transfer any such license as aforesaid to the appointee of the original holder of such license by an indorsement on the license in the form in Schedule F hereunto annexed, subject to such conditions as are hereinbefore required in respect of the person originally licensed.

18. Executors may carry on business.

In case of the death of any person holding a license, his executors or administrators may carry on the business of such person and act under the authority of his license during six months (if the license have so long to run) from the day of his decease. The person so carrying on the business shall, when required so to do, enter into recognizance before the Police Magistrate of the

district to the same amount and subject to the same regulations as the person to whom the license was originally granted.

19. License may be extended to a new house.

In case any person holding a license shall be desirous of removing his business from the house named in such license to any other house, it shall be lawful for any two Justices of the district within which such other house shall be situated, upon a memorial presented to them for that purpose, to authorize such removal by an indorsement upon the original license in the form in Schedule G hereunto annexed: Provided always that no such indorsement shall be made until the person so applying for the same shall have entered into a new recognizance to the same amount and subject to the same regulations as the original recognizance.

### III.—Regulations for Licensed Houses

20. Hours to be open.

No person holding a license under this Ordinance shall sell or supply any liquor or suffer the same to be drunk in or upon his house or premises except between the hours of six in the morning and ten at night on any working day, or except between the hours of one in the afternoon and seven in the evening of any Sunday, Christmas Day or Good Friday.

21. When to be closed.

At all other hours such house and premises shall be closed: Provided always that it shall be lawful for the Justices at such annual licensing meeting, on payment of the further sum of ten pounds, to grant to any number of innkeepers an extension of the time hereinbefore prescribed for the sale or supply of such liquors as aforesaid until twelve of the clock at night on any working day.

22. Name, &c., to be affixed.

Every person holding such license as aforesaid shall keep his name painted in legible characters not less than three inches in length, with the words " Licensed to Retail Liquors " on some conspicuous part of the house.

23. Lamp to be kept burning.

Every such person shall also have a lamp with at least two burners affixed over the front or principal door of his house, and shall keep the same burning from sunset to sunrise.

24. Money only to be taken in payment.

No licensed person shall take anything whatever in pledge for any liquor sold or supplied, nor shall any such person take in payment for the same anything, whatever except metallic or paper money.

**25. Wages not to be paid in Licensed Houses.**

No such person shall permit any wages to be paid in or upon his house or premises save only the wages of persons employed as servants therein.

**26. License to be shewn on demand.**

Every person holding such license as aforesaid shall on demand at his licensed house produce his license to any Justice of the Peace, or any constable duly authorized by writing under the hand of any Justice of the Peace.

**27. Constable may demand entrance.**

Any constable may demand entrance into any licensed house at any hour upon information that this Ordinance is contravened, and any unnecessary delay in giving admission to said constables may, upon the hearing of the case by the Police Magistrate, subject the party to the penalties herein contained.

#### **IV—Penalties**

**28. On Justices improperly acting.**

If any Justice of the Peace hereinbefore forbidden to act at any general annual licensing meeting shall act at any such meeting or at any meeting for the transfer of licenses, he shall forfeit and pay a sum of one hundred pounds, to be recovered by action in the Supreme Court by any person who shall sue for the same.

**29. On persons selling less than two gallons.**

If any person not being duly licensed shall sell any quantity less than two gallons of any spirituous liquor wine ale or beer, or permit the same to be sold in or upon his house or premises, he shall forfeit and pay for every such offence the sum of fifty pounds, to be recovered in a summary way.

**30. Hawking Liquors.**

All such liquors as aforesaid which shall be hawked about or exposed for sale in any unlicensed house or premises shall be forfeited for the use of Her Majesty, and may be seized by any constable.

**31. For other offences against this Ordinance.**

If any person being duly licensed shall offend against any other of the provisions of this Ordinance, he shall forfeit and pay for every such offence a sum of not less than two pounds nor more than twenty pounds, to be recovered in a summary way.

**32. For Drunkenness.**

If any person shall be convicted of drunkenness before any Justice of the Peace he shall forfeit and pay a sum of not less than five shillings nor more than twenty shillings, and in default thereof shall be imprisoned for any period not exceeding

forty-eight hours. If any person shall have been so convicted three times within the space of six calendar months, he shall upon such third conviction forfeit and pay such sum as aforesaid and be imprisoned for the term of seven days.

## V.—Provisional Licenses

### 33. Provisional License.

Whereas by reason of the formation of new settlements and the rapid increase of the population thereof it may be desirable that licenses should be granted otherwise than at the time and in the manner hereinbefore provided, be it enacted that it shall be lawful for any two Justices of the Peace for the district, the Police Magistrate being one, at any time or times to grant any number of licenses; the sum to be paid for every such license being after the rate of forty pounds a year.

### 34. Commencement of Ordinance.

This Ordinance shall come into operation on the first day of March, one thousand eight hundred and fortytwo.

## Schedules

### Schedule A

#### Form of License

Whereas A.B., of     , hath deposited in this office a certificate dated the     day of     , in the year of our Lord one thousand eight hundred and, authorizing the issue to the said A.B. of a license for the house known [or to be known] by the sign of     , situated at     , in the said Colony of New Zealand: And whereas the said A.B. hath paid into my office the sum of     pounds sterling as the duty of such license: Now I, the Colonial Treasurer [or County or District Treasurer, as the case may be], in virtue of the powers vested in me by an Ordinance of the Governor and Council, passed in the year one thousand eight hundred and fortytwo, No. 12, do hereby license the said A.B. to sell any spirituous liquors, wine, ale, or beer, in any quantity in the house aforesaid and in the appurtenances thereunto belonging, but not elsewhere: And this license shall commence on the first day of July next, and continue in force until the thirtieth day of June then next ensuing, both days inclusive.

Given under my hand and seal, at     , this day of     , one thousand eight hundred and

N.O., Colonial Treasurer

[or County or District Treasurer, as the case may be.]

Registered, P.Q.

Schedule B.

Form of Notice Of Application for a License

To the Worshipful the Justices of the Peace acting in and for the district of , in New Zealand.

I, A.B. [State trade or occupation], non residing at , in the parish [town or district] of , do hereby give notice that it is my intention to apply at the next annual licensing meeting to be holden for this district for a license for the sale of spirituous liquors, wine, ale, and beer, in the house and appurtenances thereunto belonging, situated at [here describe the house proposed to be licensed, specifying the situation of it, the person from whom rented, the present occupier, whether now licensed, and if so, under what sign]. I further give notice that I propose C.D., of , and E.F., of , as my sureties to enter with me into the required recognizance.

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

Schedule C.

Form of Householders' Certificate to be Appended to the Above.

We the undersigned householders residing within the town or district] of , do hereby certify that the above A.B., of , is a person of good fame and reputation, And fit and proper to be licensed for the sale of spirituous liquors, wine, ale, and beer.

Witness our hands, this day of , one thousand eight hundred and .

Schedule D.

Form of Certificate by Justices to authorize the Granting of a License

At the annual licensing meeting [or an adjournment of the annual licensing meeting] of Her Majesty's Justices of the Peace acting in and for the district of , holden at , on the day of , in the year of our Lord one thousand eight hundred and , pursuant to the Ordinance of the

Governor And Council passed in the year one thousand eight hundred and fortytwo. No.12, intituled " An Ordinance for regulating the Sale of Fermented and Spirituous Liquors," for the purpose of considering applications made to us for licenses pursuant to the said Ordinance, we being the majority of the Justices assembled at the said Sessions do,  
in virtue of the power vested in us, hereby authorize the Colonial Treasurer [or County or District Treasurer, as the case may be] to issue to A.B., of , a license under the said Ordinance for [Here state the house, sign, district, or other particulars] the year commencing from the first day of July next: And we do hereby certify that we are satisfied the said A.B. is a person of good fame and reputation, and fit and proper to be licensed as aforesaid, and also that we have taken from the said A.B. and his sureties, C.D., of , and E.F., of , a recognizance in the sum of fifty pounds each according to the form prescribed in the said Ordinance.

Given under our hands and seals, the day of , at the place aforesaid.

G.H.  
I.K. Justices of the Peace.

#### Schedule E.

#### Form of Recognizance to be entered into by an Applicant for a License.

Be it remembered, That on the day of , one thousand eight hundred and , A.B., of , C.D., of , and E.F., of , came personally before us, G.H. and I.E., Esquires, Justices of the Peace, acting in and for the district of , in the said Colony, and acknowledged themselves to owe to our Lady the Queen, to wit, the said A.B. the sum of fifty pounds, the said C.D. the sum of fifty pounds, and the said E.F. the sum of fifty pounds of lawful money of Great Britain, to be respectively levied of their several goods and chattels lands and tenements to the use of our said Lady the Queen, her heirs and successors, in case default shall be made in the performance of any of the conditions hereunder written:—

The conditions of this recognizance are such, that whereas the said A.B. is to be licensed pursuant to the Ordinance passed in the year one thousand eight hundred and fortytwo, No 12, to sell spirituous liquors, wine, ale, or beer, in a house being the sign of , situated at , in the district [or township] of , for twelve months, commencing on the first day of July, one thousand eight hundred and , if the said A.B. do keep the law in selling such liquors as aforesaid in his [or her] said house and its appurtenances, then the said recognizance to be void; otherwise, to remain in full force.

Taken and acknowledged the day and year above written, before us,

I.K.

G.H. Justices of the Peace.

Schedule F.

Form of Indorsement of License to Authorize a Transfer thereof.

Be it remembered, That we the undersigned, being the majority of the Justices present at a special meeting for the district of , held at , for the purpose of transferring licenses, do hereby, upon the application of the within-named , transfer the rights and privileges of the within license to L.M. for the residue of the term for which the same has now to run, the said L.M. having first exhibited the certificate and entered into the recognizance required by law.

G.H.  
I.K. Justices of the Peace.

Schedule G.

Form of Indorsement on License to authorize a change of House and Premises.

Memorandum. We do hereby declare that the within license shall henceforth cease to apply to the house and premises therein described, and shall apply instead thereof to the house and premises situate [Describe as in original license].

G.H.  
I.K. Justices of the Peace.

**An Ordinance for Licensing Auctioneers.**

[15th March, 1842.]

Be it enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. No person to sell by Auction without License.

No person shall after the twenty-fifth day of April, one thousand eight hundred and forty-two, sell any estate goods or effects by way of auction, or in any way whereby the highest bidder shall be the purchaser, either by public sale or otherwise, unless he shall be duly licensed in manner hereinafter provided.

2. Auction Duty.

There shall be levied and paid in respect of all estates goods and effects so sold as aforesaid a duty of one pound for every hundred pounds arising, from such sale, which duty shall be paid by the auctioneer for the use of Her Majesty, her heirs and successors, for the public uses of the Colony and the support of the Government thereof, and may be retained by him out of the proceeds of any such sale, or recovered by him by action at law from the person by whom he shall have been employed.

3. Account of Sales.

Every auctioneer shall within fourteen days after the expiration of every calendar month render to the Treasurer of his county or district a full and true account in writing of the price at which every lot or article shall have been sold by such auctioneer during such calendar month, together with a statement of the time and place of any such sale, and shall verify every such account and statement by oath before such Treasurer, who is hereby authorized to administer the same.

4. Form of License.

Every such license as aforesaid shall be in the form in the Schedule hereunto annexed, and shall commence on the twentyfifth day of April, and shall be in force for one year.

5. Amount of Auctioneers' License.

Such license shall be issued by the Colonial Treasurer or Treasurers of any county or district to any person who shall apply for the same, on payment of the sum of thirty pounds.

6. Bond to be given.

No such license shall be granted until the person applying for the same shall have given security by bond, with two sureties, to be approved by such Treasurer, himself in the sum of two hundred pounds and each of the sureties in the sum of one hundred pounds, the condition of which bond shall be that the person to be licensed shall render a true account of all sales made by him, and shall duly pay all sums of money which may be payable by him in respect of such auction duty as hereinbefore mentioned.

7. License to be diminished in certain cases.

In case any person shall hold an auctioneer's license which shall have been issued before the passing of this Ordinance, the Treasurer shall on application allow to such person a proportionate part of any sum which he may have already paid for such license in respect of the unexpired period of the same.

8. List of Licensed Auctioneers to be published.

Every such Treasurer shall within ten days after the said twenty-fifth day of April cause a list of the persons to whom he shall have granted such license, setting forth their names places of abode and callings to be published in one of the newspapers of his county or district.

**9. Hours of Business.**

No person so licensed shall exercise his business of auctioneer by any artificial light, or after the hour of five o'clock in the afternoon from April to September inclusive, or after the hour of seven o'clock in the evening during the residue of the year.

**10. Penalty for selling without License.**

If any person not being duly licensed shall sell any estate goods or effects by way of auction or tender or in any way whereby the highest bidder shall be deemed to be the purchaser, either by public sale or otherwise, he shall forfeit and pay for every such offence the sum of one hundred pounds, to be recovered in a summary way.

**11. Non-production of License.**

In all proceedings against any person for having acted as an auctioneer without license, such person, unless he shall produce his license or bring other satisfactory proof of his having been licensed at the time at which the offence shall have been committed, shall be deemed to have been unlicensed.

**12. License to be forfeited.**

If such bond as aforesaid shall have been successfully put in suit against any auctioneer, such auctioneer shall upon final judgment being given in such suit be for ever after disqualified to hold any license under the provisions of this Ordinance.

**13. Penalty for selling at illegal hours.**

If any licensed auctioneer shall exercise his business at any time or in any manner contrary to the provisions of this Ordinance, he shall forfeit and pay for every such offence any sum not exceeding fifty pounds, to be recovered in a summary way.

**14. Ordinance not to affect Government sales.**

Provided that nothing herein contained shall extend to any sale by order of His Excellency the Governor, or of any Collector or SubCollector of Customs, or to any sale of any vessel or the apparel or stores or cargo of any vessel which may be taken and condemned as a prize and sold for the benefit of the captors.

**15. Commencement.**

This Ordinance shall come into operation on the twenty-fifth day of April, one thousand eight hundred and forty-two.

**Schedule.**

**Form of License**

Know all men by these presents that [ name] of [place and county],[trade or business] is hereby licensed to exercise the business or calling of an auctioneer from the twenty-fifth day of April next, for the term of one year, the said [name] having this day paid the sum of thirty pounds.

Dated \_\_\_\_\_ Treasurer.

## An Ordinance for imposing a Tax upon Raupo Houses.

[3rd March 1842]

Whereas the lives and property of persons residing in towns are endangered by the erection therein of buildings constructed, of raupo and other materials which readily take fire: For the purpose of discouraging the erection of such buildings:

Be it enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. Power to Governor to bring Ordinance into operation.

It shall be lawful for His Excellency the Governor from time to time by Proclamation to declare the provisions hereinafter contained to be in force in any town or part of any town the boundaries whereof respectively shall be defined by such Proclamation.

## 2. Tax on Raupo Buildings.

On a day to be named in such Proclamation, not being less than six calendar months from the date thereof, and on the same day in every succeeding year, there shall be levied in respect of every building constructed wholly or in part of raupo, nikau, toetoe, wiwi, kakaho, straw, or thatch of any description, and situate within the boundaries so defined, the sum of twenty pounds.

### 3. By whom payable.

Such sum as aforesaid shall be paid on demand to the Colonial Treasurer or District Treasurer as the case may be, or to any person by him authorized to demand the same, by the occupier, or if there be no occupier by the owner of such building. In default of payment, the same shall be recovered in a summary way.

4. Not to be erected after a certain date.

No person shall erect or cause to be erected any such building as aforesaid in any town in which the provisions of this Ordinance shall have been declared to be in force. Every person shall for so offending forfeit and pay the sum of one hundred pounds, to be recovered in a summary way.

### **Session III.**

**No 2. An Ordinance to make temporary provision for the Constitution of Juries.**

**No. 8. An Ordinance to establish Courts of Requests for the more easy and speedy recovery of small debts.**

**No. 21. An Ordinance to amend an Ordinance for regulating the sale of Fermented and Spirituous Liquors.**

### **Session V.**

No. 1. An Ordinance for raising a Militia within the Colony.

### **Session VI.**

No. 1. An Ordinance to empower the Governor of New Zealand to regulate the importation and sale of Arms, Gunpowder, and other Warlike stores.

### **Session VII.**

No. 2. An Ordinance to provide for the establishment and maintenance of a Constabulary Force.

No. 4. An Ordinance to regulate the appointment and the duties of Sheriff in the Colony of New Zealand.

No. 5. An Ordinance to regulate the appointment and the duties of Coroner in the Colony of New Zealand.

No. 7. An Ordinance for the regulation of Prisons.

No. 16. An Ordinance to provide for the establishment of Resident Magistrates' Courts, and to make special provision for the Administration of Justice in certain cases.

No. 17. An Ordinance to repeal the Cattle Trespass Ordinance, and the Cattle Trespass Amendment Ordinance, and to provide for the summary recovery of compensation for damages done by Cattle trespassing.

No. 18. An Ordinance to regulate the removal, and the making and repairing of Arms, Gunpowder, and other Warlike Stores, within the Colony of New Zealand.

No. 19. An Ordinance to provide for the prevention by summary proceeding of unauthorized Purchases and Leases of Land.

No. 20. An Ordinance for establishing Courts of Sessions of the Peace.

No. 21. An Ordinance to make provision for the safe custody of, and prevention of offences by persons dangerously insane, and for the care and maintenance of persons of unsound mind.

### **Session VIII.**

No. 2. An Ordinance to prohibit the keeping of Gunpowder, exceeding a certain quantity.

No. 4. An Ordinance to provide for the management of Savings' Banks.

- No. 5. An Ordinance for regulating the slaughtering of Cattle in certain places.
- No. 6. An Ordinance to authorize and regulate the Impounding of Cattle.
- No. 9. An Ordinance for Registering Births, Deaths and Marriages in the Colony of New Zealand.
- No. 10. An Ordinance for promoting the Education of Youth, in the Colony of New Zealand.
- No. 12. An Ordinance to provide for the protection of Footpaths, in the Colony of New Zealand.

### **Session XI.**

- No. 8. An Ordinance for taking a Census of the Colony of New Zealand.
- No. 11. An Ordinance for the regulation of Building and Land Societies.

### **Ordinances of New Munster.**

- No. 7. An Ordinance to authorize the levying and collecting of Rates for the making and repairing of Roads, Streets, &c., in any Town in the Province of New Munster.
- No. 9. An Ordinance to increase the efficiency of the Constabulary Force.
- No. 10. An Ordinance to authorize the levying and collection of Tolls on Roads, and of Rates on Land, in the Province of New Munster.
- No. 11. An Ordinance to abate the Dog Nuisance.

### **2. The Jury Amendment Ordinance 1844.**

An Ordinance to make temporary provision for the Constitution of Juries.  
[13th January, 1844.]

Whereas by an Ordinance enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council, (Session II., No. 3.) intituled " An Ordinance to regulate the Constitution of Juries," it was provided that every man except as therein excepted, between the ages of twentyone years and sixty years, who should have to his own use a freehold estate in lands and tenements within the Colony and who should reside within the same, should be qualified and liable to serve as a juror therein, and provision was made for the formation of a Jury List in manner therein mentioned: And whereas the registration of titles to land within the Colony is not yet sufficiently advanced for the purpose of the aforesaid Ordinance:

Be it therefore enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council, as follows:—

## I.—Constitution of Juries

### 1. Who liable.

Every man being a British subject and not an aboriginal native of New Zealand (except as in the aforesaid Ordinance excepted), between the ages of twentyone years and sixty years, who shall be of good fame and character and who shall reside within the Colony, shall be qualified and liable to serve as a juror therein. Any aboriginal native of New Zealand whose capability may be certified under certain regulations to be from time to time issued by the Governor and Executive Council shall also be held duly qualified and liable to serve as a juror on a mixed jury for the trial of any case, civil or criminal, in which the property or person of any aboriginal native of New Zealand may be affected.

## II.—Formation of Jury List

### 2. Justices of the Peace to prepare Jury Lists.

The Police Magistrate in every district or county shall, on the first day of February in this and every succeeding year, or as soon thereafter as may be, call a special meeting of the Justices of the Peace residing within twenty miles of the Police Office, for the purpose of forming a Jury List; the Justices at such meeting (any two being a quorum) shall prepare a list in alphabetical order of all men residing within such limits as aforesaid who shall be qualified and liable to serve as jurors, setting forth the Christian and surname of each at full length, together with his place of abode and calling or business. The Police Magistrate shall forthwith cause a copy thereof to be published in one or more of the newspapers of the district or county, and shall also cause a copy thereof to be affixed upon the principal door of the Police Office, and to such lists and copy thereof shall subjoin a notice that all objection thereto will be heard and determined by him at any time within ten days after such meeting as foresaid.

### 3. Police Magistrates to hear and determine objections.

The Police Magistrate shall have power, after hearing such objections to strike out of the said list the names of all persons who shall not be liable to serve as jurors, and also of such as are disabled by lunacy or unsoundness of mind, or deafness blindness or other infirmity, and shall correct all errors therein.

### 4. And transmit List to Sheriff.

A copy of the list so corrected by the Police Magistrate shall be transmitted by him forthwith to the Sheriff of the district.

### 5. List to be in use for one year.

The list so transmitted shall be called the " Jury List," and shall be brought into use at the first subsequent sitting of any Court for which a jury shall be needed, and shall continue to be used for one year thence next ensuing.

#### 6. Special Juries.

It shall be lawful for the Judges of the Supreme Court from time to time to make rules for the formation of special Jury Lists for the several districts or counties of the Colony, or any of them, and for the striking of special juries. The rules so to be made shall be subject to such approval and shall have the same force and effect as the general rules to be from time to time made under the authority of the Supreme Court Ordinance.

### III.—Jury of Freeholders

#### 7. So much of former Ordinance as relates to Constitution of Juries, may from time to time be brought into operation.

Whereas by the gradual extension of the registration of titles to land within the Colony it may be practicable from time to time to bring so much of the said recited Ordinance as relates to the constitution of juries and the formation of Jury Lists into operation within the several districts or counties of the Colony: Be it enacted that it shall be lawful for His Excellency the Governor, With the advice of the Executive Council, by Proclamation from time to time to declare that so much of the said recited Ordinance as aforesaid shall come into operation within any district or county to be named in such Proclamation at such time as shall be therein mentioned, at which time this Ordinance shall be deemed to be repealed as to such district or county.

#### 8. The Court of Requests Ordinance 1844.

An Ordinance to establish Courts of Requests for the more easy and speedy recovery of Small Debts.

[27th June, 1844.]

Whereas by an Ordinance made by the Governor of New Zealand, with the advice and consent of the Legislative Council, Session II., No. 2, and intituled " An Ordinance for establishing of Civil and Criminal Jurisdiction, and for repealing an Ordinance for instituting Courts of Requests, Session I., No. 6, and for repealing part of an Ordinance for establishing Courts of Quarter Sessions, Session I., No. 4," it was enacted that there should be within the Colony of New Zealand County Courts of Record, possessing civil and criminal jurisdiction, in manner in the said Ordinance provided: And whereas by the appointment of an additional Judge of the Supreme Court it hath become practicable that all crimes

and offences committed within the Colony may be tried before a Judge of the said Court: And whereas it is desirable that provision should be made for the recovery of small debts in a more easy and speedy manner than by the said Ordinance was provided:

Be it therefore enacted by His Excellency the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. County Court Ordinance repealed.

The said recited Ordinance is hereby repealed, except so far as any prior Ordinance or part of any Ordinance was repealed thereby.

I.—Creation of Courts

2. Court of Requests to be created.

There shall be within the Colony of New Zealand Courts for the recovery of small debts, which shall be called Courts of Requests.

3. And districts defined.

His Excellency the Governor shall, with the advice of the Executive Council, by Proclamation, from time to time appoint fit places for the holding of such Courts, and define the district within which the jurisdiction of each of such Courts shall be exercised, and the limits of such districts from time to time shall alter as occasion may require.

II.—Constitution of Courts

4. To be holden before a Commissioner.

Every such Court shall be holden by and before a fit person, being a barrister or solicitor of the Supreme Court, who shall be and be called the Commissioner of the Court of Requests.

5. Commissioners how to be appointed.

Every such Commissioner shall be appointed by Her Majesty, her heirs and successors, and shall hold his office during Her Majesty's pleasure: Provided that it shall be lawful for His Excellency the Governor to appoint any such Commissioner provisionally until Her Majesty's pleasure shall be known; and in case any Commissioner shall by reason of sickness or other cause be unable to discharge the duties of his office, it shall be lawful for His Excellency the Governor to appoint a fit person, being such barrister or solicitor as aforesaid, to act in the place of such Commissioner so long as such inability as aforesaid shall continue.

6. To take an oath.

Every Commissioner shall before entering on his office take an oath before a Judge of the Supreme Court or some person specially appointed by such Judge, according to the form in Schedule A hereunto annexed, faithfully to execute the duties of his office.

7. Officers of Court.

For every such Court there shall be a Clerk and a Bailiff, both of whom shall be appointed by His Excellency the Governor, and shall be removable by him on reasonable cause.

8. Seal.

Every such Court shall have and use a seal wherewith all summonses warrants and other process issuing out of the Court shall be sealed, and of the impression whereof judicial notice shall be taken in all Courts without any evidence of such seal having been impressed, or any other evidence relating thereto.

III.—Jurisdiction of Court

9. Jurisdiction of Courts.

Every such Court shall have exclusive cognizance of all suits where the debt or sum alleged to be due and owing shall not exceed twenty pounds sterling, and where the defendant (or any one defendant where there shall be more than one) shall reside within the jurisdiction of the Court: Provided that such Court shall not have cognizance of any suit where the debt sought to be recovered shall be the balance of an account or demand originally exceeding twenty pounds, nor of any suit wherein the title to any real property shall be in question, or where rights in future would be bound by the judgment of the Court: Provided always that any suit which would otherwise fall within the exclusive cognizance of any Court of Requests may by the agreement of all the parties thereto be brought and determined in the Supreme Court: Provided also that any suit which would otherwise fall within the cognizance of the Supreme Court may by the agreement of all the parties thereto be brought and determined in any Court of Requests which might have had cognizance thereof if the debt or amount alleged to be due and owing had not exceeded twenty pounds: Provided that should any suit be dismissed for want of jurisdiction, the Commissioner shall have power to award costs to defendant if he shall think proper to do so.

10. Cause of action not to be divided.

It shall not be lawful for any plaintiff to divide any cause of action into two or more suits for the purpose of bringing the same within the jurisdiction of the Court; but any plaintiff having cause of action above the value of twenty pounds may abandon the excess, and the judgment of the Court, if given in favour of such plaintiff, shall operate as a full discharge of the defendant from all demands in respect of such cause of action.

**11. Judgment to be final.**

The decision of the Commissioner shall be final on all questions both of fact and of law, nor shall any case be removed on behalf of either party into any Superior Court, by certiorari or otherwise, in any stage of the proceedings. Nevertheless it shall be lawful for the Commissioner, upon application by or on behalf of any of the parties to the suit made immediately on the delivery of the judgment, to reserve for the opinion of the Supreme Court any point of law upon which such judgment may directly depend, in which case execution shall not issue until the opinion of the Supreme Court shall have been pronounced.

**12. No privilege allowed.**

No privilege shall be allowed to any person to exempt him from the jurisdiction of any such Court by reason of his being a solicitor of the Supreme Court.

**IV.—Practice of the Court**

**13. Court to sit twice a month.**

In every district a Court shall sit on the first and third Wednesday in each month.

**14. Office to be open daily.**

The office of the Clerk of the Court shall be open every day (not being Sunday, Good Friday, or Christmas Day) from ten o'clock in the morning to four o'clock in the afternoon of the same day.

**15. Where plaintiff may state his demand.**

Any person having any demand whereof the Court shall have cognizance may apply to the Clerk of the Court, and state to him the nature and amount of such demand. The plaintiff shall also at the same time deliver to the Clerk explicit particulars in writing of the plaintiff's demand, which shall set forth the same in a simple and compendious manner, specifying items dates and amounts.

**16. Clerk to issue summons.**

The Clerk shall forthwith issue a summons in the Form No. 2 in the Schedule hereto annexed, requiring the appearance of the defendant on such Court day as shall fall next after the expiration of ten clear days after the day of the service thereof, unless satisfaction shall have been previously made to the plaintiff. The summons and the particulars of the plaintiff's demand shall be forthwith served personally on the defendant and left with him by the Bailiff or his officer.

**17. The hearing.**

At the time and place mentioned in the summons, both parties being present, the Commissioner shall proceed to ascertain the point in issue between them, and shall enter a written memorandum thereof in a book to be kept by him for that purpose. He shall then hear the evidence on both sides.

18. The parties to the suit may be examined on oath.

On the hearing or trial of any suit, the parties thereto shall be competent to give evidence; such parties and all persons whosoever competent in law to give evidence may be examined upon oath touching the matters in question. Before any party or witness shall be so examined, the Commissioner shall administer or cause to be administered an oath or solemn affirmation (as the case may require) to such Party or witness accordingly.

19. All examinations to be conducted by Commissioner.

Every examination and cross-examination of any party or witness shall be conducted by the Commissioner alone, nor shall any person be allowed to appear and act as an advocate for any party to any suit.

20. Set off may be pleaded.

Every defendant shall be allowed to set off any debts claimed to be due to him from the plaintiff, or to claim and have the benefit of any Statute of Limitations: Provided that no such defence shall be admitted unless notice thereof in writing shall have been left at the office of the Clerk of the Court five clear days at least before the day fixed by the summons for the appearance before the Commissioner.

21. Causes to be determined in a summary way.

The Commissioner shall then proceed in a summary way to try the cause and give judgment therein: Provided that in the hearing and determining of all causes the Commissioner shall proceed according to the Laws and Ordinances in force for the time being within the Colony, except so far as the same may be altered or varied by this Ordinance.

22. Hearing may be postponed.

In case it appears to the Commissioner that by reason of the want of material evidence or otherwise he cannot then safely and justly give judgment in the cause, it shall be lawful for such Commissioner to adjourn or postpone the hearing thereof until the next Court day, on which day the cause shall be finally heard and determined.

23. Commissioner in difficult cases may take time for judgment.

Provided always that if after the hearing of any cause the Commissioner shall be unable by reason of the difficulty or perplexity thereof at once to give judgment therein, it shall be lawful for such Commissioner to defer the delivery of such judgment for any time not exceeding two clear days after the hearing of the cause.

24. If Defendant fail to appear, cause to be heard in his absence.

If on the day named in the summons the defendant shall not appear either in person or by agent, the Commissioner shall (after proof made upon oath of the

due service of the summons) proceed to hear the cause on the part of the plaintiff only, and to give judgment thereon, whereupon execution may issue: Provided that in every such case it shall be lawful for the defendant to appear either in person or by agent on such next Court day, and to show that having a good defence on the merits he was prevented by inevitable accident from bringing forward the same on the day named in the summons; whereupon the Commissioner, if he shall deem the cause shown by the defendant to be sufficient, shall set aside the judgment and execution already given, and grant a rehearing of the cause upon such terms as to the Commissioner shall seem meet: Provided that the Bailiff shall not proceed to a sale of any of the goods and chattels seized under any such execution as aforesaid until after the defendant shall have so failed to appear at such next Court day as aforesaid.

25. Warrant of execution to be issued by Clerk against goods.

The Clerk of the Court shall, at the request of any party in whose favour judgment shall have been given, issue a warrant of execution (in the Form No. 4 in the Schedule hereunto annexed) to the Bailiff of the Court, who by virtue thereof shall be empowered to levy by distress and sale of the goods and chattels of the party against whom such judgment shall have been given (such goods and chattels being within the jurisdiction of the Court) such sum of money as shall be mentioned in the said warrant.

26. If goods insufficient, then against body.

If it shall appear upon the return of the warrant that such goods and chattels cannot be found or do not suffice for payment of the sum to be levied, the Clerk of the Court shall upon such request as aforesaid issue a warrant of execution (in the Form No. 5 in the Schedule hereto annexed) to such bailiff as aforesaid, who by virtue thereof shall be empowered to take in execution the body of the person named therein.

27. Persons taken in execution to be imprisoned in common gaol for a limited period.

Every person who shall be taken in execution under any such warrant shall be committed to the common gaol of the district within which the Court shall be holden, and shall remain in custody for such time from the day of his commitment as shall be mentioned in such warrant, or until he shall perform and satisfy the judgment or order of the Court, or be discharged by due course of law.

28. Scale of terms of imprisonment.

The term of imprisonment shall be as follows, that is to say,—Where the sum for which the party shall have been taken in execution shall not exceed five pounds, one calendar month; where such sum shall exceed five pounds but shall not exceed ten pounds, two calendar months; where such sum shall exceed ten pounds, three calendar months and no more.

29. Debtor to be maintained in gaol by Creditor.

Every creditor at whose suit any person shall be so imprisoned as aforesaid shall pay to the gaoler or keeper of the prison wherein such person shall be confined the weekly sum of four shillings towards the maintenance of such prisoner, and on proof being made to the Commissioner on oath of the said gaoler or keeper on any Court day that two such weekly payments are due and in arrear, the Commissioner shall order such prisoner to be forthwith discharged from custody at the suit of the creditor so failing to pay the same. Where any prisoner shall be discharged from custody under the provisions of this Ordinance he shall not be liable at any time thereafter to be taken in execution for any debt or sum of money with respect to which he shall have been so imprisoned as aforesaid: Provided that, as against the estate and effects of such prisoner whatsoever and wheresoever, the judgment under which he shall have been so imprisoned as aforesaid shall be of as full force and effect as if the body of such prisoner had never been taken in execution by virtue thereof.

30. In executing process, Bailiff to have same powers as a Sheriff.

In executing any process of the Court, the Bailiff shall have such powers and be subject to such liabilities as any Sheriff hath or is subject to in like cases in executing the process of the Supreme Court.

31. Minors may sue for wages.

It shall be lawful for any person under the age of twentyone years to prosecute a suit for wages in any such Court in the same manner as if he were of full age.

32. Process in case of joint liability.

Where two or more persons are jointly answerable, it shall be sufficient if one of such persons be served with the process of the Court, and judgment may be obtained and execution issued against such person alone, reserving always any right which he may have to demand contribution from any other person jointly liable.

33. Summonses to witnesses.

Either of the parties to any suit may obtain at the office of the Clerk of the Court summonses to witnesses, with or without a clause requiring the production of books papers and writings in their possession or control. In any such summons any number of names may be inserted.

34. Penalty for non-attendance.

Every person resident within the district of any such Court who, after lawful service of such summons and payment or tender of his expenses according to the scale in the Schedule hereto annexed, shall refuse or neglect without sufficient cause to appear or produce any books papers or writings as by such summons required, or appearing shall refuse to be sworn or make solemn affirmation (as the case may require) and give evidence, shall forfeit and pay such fine not exceeding five pounds as the Commissioner shall think fit to impose. The Bailiff shall thereupon proceed to recover such fine in the same

manner and subject to the same provisions and limitations by distress and sale and (if need be) by imprisonment as if the amount had become payable by virtue of a judgment of any such Court.

35. Expenses of witnesses.

Every person who shall be summoned and shall appear as a witness in any action in any Court of Requests shall be entitled to an allowance or compensation for expenses and loss of time according to the scale contained in the Schedule B hereunto annexed: Provided that such allowance or compensation to any witness shall not in any case be deemed to be costs in the cause unless the Commissioner shall have certified in writing, immediately after judgment shall have been pronounced, that the evidence of such witness was necessary to prove the case of the party by whom such witness was called.

36. Expenses of employing Solicitor not to be costs in the cause.

If in any case a solicitor shall be employed as agent or proxy on behalf either of plaintiff or defendant, the expense of employing such solicitor shall not in any case be considered as costs in the cause.

37. Agent to have written authority.

No person shall act as agent for any party plaintiff or defendant until he shall have delivered to the Clerk of the Court a written warrant or authority so to act, signed by the party on whose behalf he shall appear.

38. Fees to Clerk and Bailiff.

The Clerk and the Bailiff of the Court shall be entitled respectively to recover the fees specified in Schedule B hereto annexed, and no more. A table of such fees shall be hung up in some conspicuous place in the office of every such Clerk.

39. To be paid in advance.

An fee due to any officer shall be paid in advance and shall be paid in the first instance to the Clerk of the Court, but such part of such fees as shall be payable to the Bailiff of the Court shall be paid over to him by the Clerk after the performance of the service in respect whereof they shall have become due, and not before.

40. Clerk's fees to be paid into the Treasury.

All fees so received by any such Clerk (except such as shall have been received on account of the Bailiff), and all fines received by him, shall be accounted for and paid over monthly to the Colonial Treasurer or Treasurer of the county or district (as the case may be) to the use of Her Majesty her heirs and successors, for the public uses of the Colony and the support of the Government thereof.

41. Clerk to make notes of all proceedings.

The Clerk of the Court shall cause notes of all process issuing out of the Court, and of all proceedings therein, to be fairly entered from time to time in a book which shall be kept at his office, and shall sign his name at the bottom of every page of such book, and at the commencement of the business on every Court day he shall lay the same before the Commissioner in open Court.

42. Entries in Note Book to be evidence.

Any entry so signed, or a copy thereof purporting to be signed and certified as a true copy by the Clerk of the Court for the time being, and sealed with the Seal of the Court, shall be admitted in all Courts as evidence of the proceedings mentioned in such entry or copy thereof.

43. Contempt of Court to be punished.

If any person shall wilfully insult the Commissioner of any Court of Requests whilst sitting in Court, or shall in any other manner be guilty of any wilful contempt in the face of the Court, it shall be lawful for such Commissioner by warrant under his hand to commit the person so offending to the common gaol of the district within which such Court shall be holden for any term not exceeding one calendar month.

## V.—Miscellaneous Provisions

44. Arrest of Debtors escaping from the Colony.

And whereas debtors cannot be restrained from leaving the Colony except by a writ of arrest issued under the order of a Judge of the Supreme Court: And whereas it may often happen that immediate access cannot be had to a Judge of the Supreme Court for the purpose of obtaining such order: Be it therefore enacted, that it shall be lawful for any such Commissioner as aforesaid (in the absence of a Judge of the Supreme Court) to issue a warrant under his hand for the apprehension of any person so intending to leave the Colony, who shall thereupon give security (to the satisfaction of such Commissioner) to abide the result of an application to be made to a Judge of the Supreme Court for such writ of arrest as aforesaid, or in default thereof shall be kept in custody until the result of such application shall be known: Provided that no such warrant as aforesaid shall be issued except upon such affidavit as may be required in like cases by the Rules of the Supreme Court for the time being.

45. Period of detention not to exceed three months.

No person apprehended as aforesaid shall be detained in custody by virtue of any such warrant for any period exceeding three calendar months; and it shall be lawful for the Commissioner at any time within such period to require proof to be made (on affidavit) that due diligence has been used to obtain such writ of arrest as aforesaid, and in default of proof the Commissioner shall discharge the person so detained as aforesaid or cancel his securities, as the case may be.

46. Commencement of Ordinance.

This Ordinance shall come into operation on the first day of October, one thousand eight hundred and forty-four: Provided always that when judgment shall have been given in any suit in any County Court before the said first day of October, one thousand eight hundred and forty-four, execution may be had and all other proceedings may be taken on such judgment as fully and effectually as if the said recited Ordinance (Session II., No. 2) had not been repealed.

Schedules

Schedule A.

1. Oath of Commissioner.

I, A.B., do swear that I will truly and faithfully, and to the best and utmost of my skill and knowledge, discharge the duties of a Commissioner of the Court of Request, without fear favour or malice. So help me God.

2. Summons to defendant.

To A. B., of [calling or occupation].  
Auckland.

You are hereby summoned and required to appear, personally or by agent, before the Commissioner of the above mentioned Court, at the office of the said Court at [Auckland], on such Court day as shall fall next after the expiration of ten clear days after the personal service hereof, at ten o'clock in the forenoon, to answer the demand of C.D., of [calling or occupation], for the debt of [Insert the sum in words], the particulars whereof are hereto annexed. And take notice that if you shall fail so to appear, the plaintiff will obtain judgment and execution against you in your absence.

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

.

By the Court.

Bring with you this Summons and the particulars hereto annexed

NB.—The Court days are the first and third Wednesday of every month. No plea of setoff or of any Statute of Limitations will be admitted unless notice thereof in writing shall have been left at the office of the Clerk of the Court five clear days at least before the day above named for your appearance before the Commissioner.

3. Judgment or order for payment of money.

Court of Requests holden at , on the day of , 184 .  
Between , plaintiff, and , defendant.—It is  
ordered that the do pay to the the sum of [Sum in  
words] for debt, and [Sum in words] costs.

Entered by the Court

, Clerk.

4. Warrant of execution against goods.

To the Bailiff of the said Court of Requests at [Auckland].  
You are hereby commanded to cause to be made of the goods and chattels of , of , such goods and chattels being in your district, the sum of [in words] which is adjudged to , of , by an order of the said Court, dated the day of , and after levy made thereof forthwith to pay the same to the Clerk of the said Court at the office of the said Court in [Auckland]; and in what manner you shall have executed this warrant make appear to the said Court immediately after the execution hereof, and have you then and there this warrant.

Dated the day of , one thousand eight hundred and

By the Court.

5. Warrant of execution against person.

To the Bailiff of the Court of Requests at [Auckland].

You are hereby commanded to take , of , if he be found in your district, and deliver him into the custody of the Keeper of the common gaol of the district of [Auckland] there to remain for the space , or until he shall have satisfied the sum of [Sum in words] which he hath been ordered to pay to , of , by an order of the Court, dated the day of , one thousand eight hundred and and in what manner you shall have executed this warrant make appear to the said Court immediately after the execution hereof, and have you then and there this warrant.

Dated the                    day of                   , one thousand eight hundred and

By the Court.

Schedule B

Scale of Fees, &c.

On Debts not exceeding 40 shillings

Clerk's Fees:—

Every summons	... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ...	1/-
Every hearing	... ... ... ... ... ... ... ... ... ... ... ... ... ... ... ...	1/-
Entering notice of special defence	... ... ... ... ... ... ... ... ... ... ...	6d
Entering any judgment or order	... ... ... ... ... ... ... ... ... ...	6d
Every warrant of execution	... ... ... ... ... ... ... ... ... ...	1/-
Certifying cost of witnesses	... ... ... ... ... ... ... ... ...	6d

Bailiff's Fees:—

Serving summons or subpoena if within one mile of the office	... ... ... ... ... ... ... ... ... ... ...	6d
For every mile extra (one way)	... ... ... ... ... ... ... ... ... ...	6d
For execution of any warrant against the goods or body, 1s. in the pound upon the sum levied or received, or for which the body is taken in execution.		
If beyond one mile from the office, per mile (one way)	6d	
For conveying any person to prison (including all expenses), for every mile	... ... ... ... ... ... ... ... ... ...	1/-
Bailiff when in possession, per diem,	... ... ... ... ... ... ... ...	2s. 6d.

Allowance to Witnesses:—

For every witness residing within one mile of the office	... ...	2/-
For every extra mile (one way)	... ... ... ... ... ...	6d

On Debts exceeding 40 shillings but not exceeding 5 pounds

Clerk's Fee:—

Every summons	... ... ... ... ... ... ... ... ... ... ... ... ...	1/6
Every hearing	... ... ... ... ... ... ... ... ... ... ...	2/-
Entering notice of special defence	... ... ... ... ... ... ... ... ... ...	1/-
Entering any judgment or order	... ... ... ... ... ... ... ... ...	1/-
Every warrant of execution	... ... ... ... ... ... ... ... ...	2/-
Certifying cost of witnesses	... ... ... ... ... ... ... ...	1/-

Bailiff's Fees:—

Serving summons or subpoena if within one mile of the office	1/-
For every mile extra (one way)	6d
For execution of any warrant against the goods or body, 1s. in the pound upon the sum levied or received, or for which the body is taken in execution.	
If beyond one mile from the office, per mile (one way)	6d
For conveying any person to prison (including all expenses), for every mile	1/-
Bailiff when in possession, per diem,	2s. 6d.

Allowances to Witnesses—

For every witness residing within one mile of the office	2/-
For every extra mile (one way)	6d

On Debts exceeding 5 pounds but not exceeding 10 pounds

Clerk's Fees:—

Every summons	2/-
Every hearing	3/-
Entering notice of special defence	1/6
Entering any judgment or order	1/6
Every warrant of execution	3/-
Certifying cost of witnesses	1/6

Bailiff's Fees:—

Serving summons or subpoena if within one mile of the office	1/6
For every mile extra (one way)	6d
For execution of any warrant against the goods or body, 1s. in the pound upon the sum levied or received, or for which the body is taken in execution.	
If beyond one mile from the office, per mile (one way)	6d
For conveying any person to prison (including all expenses), for every mile	1/-
Bailiff when in possession, per diem,	2s. 6d.

Allowance to Witnesses:—

For every witness residing within one mile of the office	2/-
For every extra mile (one way)	1/-

On Debts exceeding 10 pounds

Clerk's Fees:—

Every summons	3/-
---------------	-----

Every hearing	6/-
Entering notice of special defence	3/-
Entering any judgment or order	3/-
Every warrant of execution	6/-
Certifying cost of witnesses	3/-

Bailiff's Fees—

Serving summons or subpoena if within one mile of the office	2/-
For every mile extra (one way)	6d
For execution of any warrant against the goods or body, 1s. in the pound upon the sum levied or received, or for which the body is taken in execution.	
If beyond one mile from the office, per mile (one way)	6d
For conveying any person to prison (including all expenses), for every mile	1/-
Bailiff when in possession, per diem,	2s. 6d.

Allowances to Witnesses—

For every witness residing within one mile of the office	2/-
For every extra mile (one way)	1/-

## 21. The Licensing Amendment Ordinance 1844

An Ordinance to amend an Ordinance for regulating the Sale of Fermented and Spirituous Liquors.  
[17th July, 1844.]

Whereas by an Ordinance enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof (Session II., No. 12), intituled "An Ordinance for regulating the Sale of Fermented and Spirituous Liquors," it is enacted that in case of the formation of new settlements it shall be lawful for any two Justices of the Peace for the district, the Police Magistrate being one, to grant licenses otherwise than at the time and in the manner in the said Ordinance provided:

1. Time for granting such Licenses limited

Be it therefore enacted by His Excellency the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, that such licenses shall not be granted at any time beyond the expiration of two years after the arrival of the first Police Magistrate appointed to reside at such new settlement.

2. Houses in the interior how to be licensed.

And whereas the establishment of licensed houses in the interior of the country as well as on the sea coast would promote the convenience of the public would greatly facilitate communication between the various settlements, and as the terms and conditions on which the same would be licensed may best be determined by the Governor in Council: Be it also enacted, That notwithstanding anything in the said recited Ordinance contained it shall be lawful for His Excellency the Governor, with the advice of the Executive Council, to license any house for the purpose of the said Ordinance mentioned, at such times and in such manner, upon such terms and conditions, and either with or without any annual payment, as the Governor in Council may seem meet: Provided that no house to be licensed under the authority of this Ordinance shall be within three miles from the nearest limit of any town.

3. Ordinance, Session 2, No. 12, applicable to females

And be it further enacted and declared, That nothing in the said recited Ordinance contained shall be held to prevent a woman from holding a license under the authority thereof.

1. The Militia Ordinance 1845.

An Ordinance for raising a Militia within the Colony.

[25th March, 1845]

Whereas it is expedient that the European population of New Zealand should be trained to the use of arms, so as to form an effective military force for the defence of the lives and property of Her Majesty's subjects within the Colony:

Be it enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:

1. Power to Governor to call together Militia

It shall be lawful for His Excellency the Governor to call together arm and array as a Militia such persons as are hereinafter mentioned, and cause them to be trained and exercised accordingly, at such times and places as shall seem meet, for any number of days not exceeding twenty-eight days in any one year.

2. And appoint Officers

It shall also be lawful for His Excellency the Governor to appoint a proper number of officers to train discipline and command the persons to be so armed and arrayed, according to the regulations to be from time to time made in that behalf, and also to appoint one proper person, who shall have served in some of the Queen's Regular Forces, to be Adjutant to such regiment or body of Militia which may be raised in any settlement within the Colony, who shall be paid any sum not exceeding eight shillings per diem.

3. And to regulate the formation of the Militia

It shall also be lawful for His Excellency the Governor to cause the Militia to be formed and regulated in such manner as to His Excellency shall seem meet, in regard to the number of regiments battalions or other bodies, and the number of men of which each respectively shall consist.

4. And to erect and constitute Courts Martial

It shall also be lawful for His Excellency the Governor to erect and constitute Courts-martial, as well as to grant his commission or warrant to the Officer Commanding for the time being any body of such Militia, such officer not being below the rank of field-officer, to convene Courts-martial as occasion may require for the trial of offences committed by the forces under his command, whether the same shall have been committed before or after such officers shall have taken upon himself such command.

5. And to make Regulations for Training, &c.

It shall also be lawful for His Excellency the Governor from time to time to make such regulations respecting the training and exercise arms accoutrements clothing and equipment of such Militia, and respecting all other matters connected therewith as may be required for promoting the efficiency of such Militia as a military force: Provided always that the regulations so to be made shall not in any wise be repugnant to the provisions of this Ordinance.

6. And to call Militia into Actual Service

In all cases of actual invasion or upon imminent danger thereof, and in all cases of rebellion or insurrection, or upon any imminent danger to the safety of any settlement, it shall be lawful for His Excellency the Governor or other the principal civil authority there present, in any settlement in which a Militia shall have been raised, to direct the Officer Commanding the Militia of such settlement with an convenient speed to draw out such Militia force, or such part thereof as the Governor or such Civil authority shall judge necessary, and in such manner as shall be best adapted to the circumstances of the danger, and to lead the said forces into any part of the district in which such Militia shall have been raised: Provided always that neither the whole nor any part of the Militia to be raised in any settlement within the Colony shall on any account be carried or ordered to go beyond the distance of twenty-five miles from the Police Office of the district in which such Militia shall be raised.

7. Who liable to serve as Militiamen

Every man except as hereinafter excepted between the ages of eighteen years and sixty years, being a British subject and not an aboriginal native, who shall reside within the Colony, shall be liable to serve in such Militia: Provided that the Judges of the Supreme Court, all Members of the Legislative Council, all Clergymen Priests Ministers of Religion and Catechists, shall be exempt from serving in any such Militia.

#### **8. Magistrates to form Militia Lists**

The Police Magistrate of every district or county which shall contain a European population of one thousand souls or upwards shall, as soon as conveniently may be after the passing of this Ordinance, and in the month of March in every succeeding year, call a special meeting of the Justices of the Peace residing within twentyfive miles of the Police Office, for the purpose of forming a Militia List. The Justices at such meeting (any two being a quorum) shall prepare a list in alphabetical order of all men residing within such limits as aforesaid who shall be liable under the provisions of this Ordinance to serve as Militiamen, setting forth the Christian and surname of each at full length, together with his place of abode calling or business. The Police Magistrate shall forthwith cause copies thereof to be affixed on the principal door of the Police Office, and in such other conspicuous places throughout the district as to him shall seem meet, and to such list and copies thereof shall subjoin a notice that allobjections thereto will be heard and determined by such Justices at any time within ten days after the date of such notice.

#### **9. Justices to correct List**

Such Justices shall have power, after hearing such objections, to strike out of the said list the names of persons who shall not be liable to serve as Militiamen, and also of such as are afflicted by lunacy or unsoundness of mind, or deafness blindness lameness or by any other disorder that may render them unfit for active service in any such Militia, and also from time to time to add such names as may have been accidentally or improperly omitted.

#### **10. And to send it to principal Civil Authority**

A copy of the list so corrected by the said Justices shall be transmitted by them forthwith to the principal civil authority of the county or district.

#### **11. Notice of time and place of training, &c., to be given**

Notice of the times and places to be from time to time fixed by His Excellency the Governor for training and exercise shall be posted at the door of the Police Office and other conspicuous places Within the district fourteen clear days at least before the time to be so appointed as aforesaid, which shall be deemed sufficient notice to every Militiaman, and all such Militiamen shall duly attend accordingly.

#### **12. Penalty for not appearing**

Every Militiaman (not labouring under any infirmity incapacitating him) who shall not appear at the time and place appointed for his being exercised (notice having been given as by this Ordinance required,) shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

#### **13. Penalty for not attending**

Every Militiaman who having joined the regiment or body to which he belongs, shall desert or absent himself during the time of any such exercise, shall forfeit

and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

**14. Notice to be given to Militiamen**

When the whole or any part of such Militia shall be ordered into actual service as aforesaid, the person to whom such order shall be directed shall forthwith cause notice in writing to be given to the several Militiamen, or left at their usual place of abode, to attend at the time and place mentioned in such order.

**15. Penalty for not joining**

If any Militiaman so directed to be drawn out (not labouring under any infirmity incapacitating him to serve as a Militiaman) shall not appear and march in pursuance of such direction, every such Militiaman shall be liable to be apprehended to be apprehended and punished as a deserter according to the provisions of any Act then in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, and of the Articles of War made in pursuance of the same.

**16. Penalty for concealing Militiamen**

If any person knowingly shall harbour or conceal any such Militiaman when directed so to be drawn out, he shall for every such offence forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

**17. Oath to be taken**

Every Militiaman who shall appear at the time and place appointed for exercise, shall take an oath or make a solemn affirmation in the form following namely:—

I, A.B., do sincerely promise and swear [or do solemnly and sincerely declare] that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, and that I will faithfully serve in the Militia in any part of this district until I shall be lawfully discharged and shall thereupon be enrolled. The aforesaid oath or affirmation and shall be taken or made in the presence of the Senior Officer of Militia then present, who is hereby authorized to administer the same: Provided that if any Militiaman shall refuse to take such oath or to make such affirmation, he shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

**18. Penalty for selling or receiving Arms, &c.**

If any Militiaman shall sell pawn or lose any of his arms clothes accoutrements or ammunition, or neglect or refuse to return the same in good order to his Captain or to the person appointed to receive the same, or if any person shall knowingly and wilfully buy take in exchange conceal or otherwise receive any Militia arms clothes accoutrements or ammunition whatever delivered for the Militia, every such offender shall forfeit and pay for every such offence any sum not exceeding ten pounds, to be recovered in a summary way.

**19. Militia to be subject to Articles of War, &c.**

During the time at which any such Militia shall be assembled for the purpose of being trained and exercised or for actual service, all things contained in any Act of Parliament which shall then be in force for punishment mutiny and desertion and for the better payment of the Army and their quarters, and in the Articles of War made in pursuance of such Act, shall be in force with respect to such Militia, and to all the officers, non-commissioned officers, drummers, and privates of the same, in all cases whatsoever, but so that no punishment shall extend to life or limb.

#### 20. Regimental Court Martial

It shall be lawful for any Officer Commanding and present with any detachment or division of Militia called out to exercise or on actual service, not being under the rank of Captain, to order when he shall think it necessary a regimental Court-martial to be held for the trial of any offence committed by any sergeant, corporal, drummer, or private, under and during his command; and if a sufficient number of officers shall not be present to constitute such Court-martial, it shall be lawful for the Commanding Officer of the regiment to which any such detachment or division shall belong, upon application made to him by the Officer Commanding such detachment or division for that purpose, to order a sufficient number of officers of proper rank to attend for the purpose of assisting at such Court-martial, who shall forthwith attend the same and assist as members thereof.

#### 21. Sentence to be submitted to Commandant

The sentence of every such Court-martial shall in every case to be submitted to the Commandant of the regiment to which such detachment or division shall belong, (or in his absence from the district to the Senior Field Officer of the same,) for his approval thereof, who shall cause such sentence to be put in execution mitigated or remitted as he shall in his discretion think best for the service.

### 1. The Arms Importation Ordinance 1845.

A Ordinance to empower the Governor of New Zealand to regulate the Importation and Sale of Arms Gunpowder and other Warlike Stores.  
[13th December, 1845.]

Whereas certain tribes of the Native race of New Zealand have taken up arms against the Queen's sovereign authority: And whereas for the purpose of effectually subduing the present insurrection, and of preventing the recurrence of an armed resistance to the authority of Her Majesty, and of securing the peace and good order of the Colony, it is expedient that restrictions should on fitting occasions be placed of the importation and sale of arms gunpowder and other warlike stores within the same:

Be it therefore enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows, that is to say:—

1. Power to Governor to prohibit the importation of arms &c.

It shall be lawful for His Excellency the Governor from time as to him shall seem meet, by Proclamation, to prohibit throughout the Colony or within any district thereof (to be in such Proclamation defined) the importation or sale, or both the importation and sale, of arms gunpowder and other warlike stores.

2. And to regulate the sale thereof.

It shall also be lawful for His Excellency the Governor from time to time as to him shall seem meet, by Proclamation, to make provision for regulating and restricting throughout the Colony or within any district thereof (to be in such Proclamation defined) the importation or sale, or both the importation and sale, of arms gunpowder and other warlike stores.

3. Penalty on Importer; Arms &c. to be forfeited.

Every person who shall import or bring into the Colony any arms gunpowder or other warlike stores (whether the owner thereof or not), and who shall wilfully and knowingly, and contrary to the provisions of any such Proclamation as aforesaid, land or dispose of, or cause to permit to be landed or otherwise disposed of, such arms gunpowder or other warlike stores or any part thereof, shall for every such offence forfeit and pay any sum not exceeding five hundred pounds, to be recovered in a summary way. And any arms gunpowder or other warlike stores which shall have been imported and landed or otherwise disposed of contrary to the provisions of any such Proclamation as aforesaid shall be forfeited to Her Majesty, and may be seized by any Justice of the Peace, or peace officer, or by any officer of Her Majesty's Customs, or by any person duly authorized and appointed in writing by His Excellency the Governor.

4. Penalty on Master of Vessel; Vessel &c to be forfeited.

The master or person commanding the ship or vessel in which such arms gunpowder or other warlike stores shall have been imported, if he shall wilfully and knowingly, and contrary to the provisions of any such Proclamation as aforesaid, land or dispose of, or cause or permit to be landed or otherwise disposed of, such arms gunpowder and other warlike stores or any part thereof, shall also for every such offence forfeit and pay any sum not exceeding five hundred pounds, to be recovered in a summary way. And upon the conviction of any such master or person, such ship or vessel, with all her furniture or apparel, shall be forfeited to Her Majesty, and may be seized by any Justice of the Peace, or peace officer, or by any officer of Her Majesty's Customs, or by any person duly authorized and appointed by His Excellency the Governor.

5. Penalty for unlawful Selling.

Every person who shall wilfully and knowingly, and contrary to the provisions of any such Proclamation as aforesaid, sell or dispose of any arms gunpowder or other warlike stores, shall for every such offence forfeit and pay any sum not exceeding five hundred pounds, to be recovered in a summary way. And all arms gunpowder and other warlike stores so unlawfully sold or disposed of shall be forfeited to Her Majesty, and may be seized in manner hereinbefore provided.

**6. Power to Search.**

It shall be lawful for any Justice of the Peace to enter and search, or to grant a warrant to any person or persons to enter and search, any house place ship or vessel where such Justice shall from information on oath have reasonable grounds to suspect any arms gunpowder or other warlike stores to be deposited for any purpose contrary to this Ordinance.

**7. Reward for activity in procuring Convictions.**

In case of any conviction under the provisions of this Ordinance, where any person or persons shall appear to have been active in or towards the procuring of any such conviction, it shall be lawful for His Excellency the Governor to award to such person or persons such portion of the penalty recovered upon such conviction, but not exceeding in the whole onehalf thereof, as to him shall seem meet.

**8. Interpretation Clause.**

For the purposes of this Ordinance, the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being; and the word " vessel " shall be taken to include any boat barge punt or canoe.

**2. The Constabulary Forces Ordinance 1846.**

An Ordinance to provide for the establishment and maintenance of a Constabulary Force.  
[6th October, 1846.]

For the purpose of providing for the establishment maintenance and discipline of an armed Constabulary force:

Be it enacted by the LieutenantGovernor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

**1. Power to Governor to embody an armed Police Force.**

It shall be lawful for His Excellency the Governor to cause sufficient number of fit and able men to be embodied to serve as an armed police force, who shall be

sworn before a Justice of the Peace to act as constables in and throughout , the Colony for preserving the peace, and preventing robberies and other felonies, and apprehending offenders against the peace.

**2. And to appoint Officers.**

It shall also be lawful for His Excellency the Governor, by warrant under his hand, to appoint Commissioners and Inspectors of such Police Force, or such other officers as he may deem expedient for the general superintendence and management of the said force, and such Commissioners, Inspectors, and other officers from time to time to displace and remove, and to appoint others in their place, as to him shall seem meet.

**3. And make Regulations.**

It shall also be lawful for His Excellency the Governor from time to time to make such regulation respecting the training arms and accoutrements clothing and equipment of such force and respecting all other matters connected therewith as may be required for promoting the discipline and efficiency thereof, and also to direct the employment and distribution of the said force as to him shall seem meet.

**4. Duty of Officers.**

It shall be the duty of the Commissioners, Inspectors, and other officers of the said force to suppress all tumults riots affrays or breaches of the peace, and an public nuisances and offences against the law, in any part of the Colony where they may be on duty.

**5. General Powers of Constables.**

The constables so sworn as aforesaid shall throughout the Colony have all such powers and privileges, and be liable to all such duties and responsibilities, as any constable may by law have or be liable to, and shall obey all lawful directions touching the execution of their office which they may from time to time receive from such Commissioner, Inspector, or other officer.

**6. Special Power of Constables.**

It shall be lawful for any such constable to apprehend all loose drunken idle disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs.

**7. Penalty for breach of Regulations.**

For the purpose of securing obedience to the regulations from time to time to be make for promoting the discipline and efficiency of the said force, it shall be lawful for the Commissioner or Inspector to stop from the pay of any constable offending against any such regulation any sum not exceeding twenty shillings in respect of every such offence, or to cause such constable to be taken before any such Commissioner or any two Justices of the Peace; and every such constable, upon conviction of any offence against the regulations so to be made as

aforesaid, shall forfeit and pay any sum not exceeding twenty pounds nor less than five shillings, to be recovered in a summary way, and shall in addition to such fine or in default of payment thereof be liable to be imprisoned for not less than one week nor more than six calendar months in any gaol or place of confinement within the Colony.

**8. Power to Inspector to dismiss Constables.**

It shall be lawful for the Commissioner or Inspector for the time being to suspend or dismiss from his employment any such constable whom he shall think remiss or negligent in the execution of his duty or otherwise unfit for the same; and when any such constable shall be so dismissed or shall otherwise cease to belong to said force, all powers and authorities vested in him by virtue of this Ordinance shall cease and determine.

**9. Penalty for Constables taking Bribes.**

If any such constable shall take a bribe or any gratuity whatever for suffering any person lawfully in his custody to escape, or shall wilfully neglect to execute any warrant intrusted to him, or to make any seizure, or who shall show favour to any person so in custody as aforesaid, every such constable shall forfeit and pay for every such offence any sum not exceeding twenty pounds, or be imprisoned and kept to hard labour for any period not exceeding six calendar months as to the convicting Justice shall seem meet.

**10. Penalty for Desertion, &c.**

If any such constable shall during the period for which he shall have engaged to serve in the said force desert from the same or refuse to serve therein, every such offender shall forfeit and pay for every such offence any sum not exceeding twenty pounds, to be recovered in a summary way.

**11. Disposal of Fines, Penalties, &c.**

All fines or penalties which may be recovered by virtue of this Ordinance shall be given and paid one third to the informer or prosecutor, if demanded, and the residue for the use of Her Majesty, her heirs and successors, for the public uses of the Colony and the support of the Government thereof: Provided always that when any constable belonging to the said force shall be entitled to the whole or a proportion of any forfeiture penalty or seizure under this or any other Ordinance in force for the time being the amount or proceeds thereof shall go to a general fund to be distributed at the end of every year among the officers and men belonging to the said force in such proportions and according to such regulations as the Governor shall direct and determine; and in default of any such regulations and directions, the same shall be paid to the person entitled thereto immediately upon the recovery thereof.

**12. Penalty for harbouring Constables.**

If any victualler or licensed publican or other person shall knowingly harbour or entertain any constable belonging to the said force, or permit such constable to

abide or remain in his house shop room or other place during any part of the time appointed for his being on duty elsewhere or after the hours appointed for closing public houses by the "Licensing Ordinance," No. 12, Session 2., unless such constable shall have entered therein for the bona fide execution of his duty and shall remain there so long only as shall be requisite in that behalf, every such victualler publican or other person shall for every such offence forfeit and pay any sum not exceeding five pounds, to be recovered in a summary way.

13. Rewards for Services, &c.

It shall be lawful for His Excellency the Governor to award to any of the constables belonging to the said force such sum of money as to him shall seem meet as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received or shall be worn out by length of service.

14. Protection to Constables, &c., acting under this Ordinance.

For the protection of persons acting in the execution of this Ordinance, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Ordinance shall be commenced within four calendar months after the fact committed and not otherwise, and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, together with the costs incurred up to that time; and if verdict shall be given for the defendant, or the plaintiff be nonsuited, or discontinue any such action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and clint; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

15. Interpretation.

For the purposes of this Ordinance, the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

4. The Sheriffs Ordinance 1846.

An Ordinance to regulate the Appointment and the Duties of Sheriffs in the Colony of New Zealand.  
[12th October, 1846.]

Whereas by an Ordinance enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof (Session III., No. 1), intituled "An Ordinance for establishing a. Supreme Court," provision is made for the appointment and duties of Sheriffs, and it is expedient that further provision be made for that purpose:

Be it therefore enacted by the LieutenantGovernor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. Sections 18, 19, 20, and 21, repealed.

So much of the said Ordinance as relates to the appointment and duties of Sheriffs, that is to say, the sections 18,19, 20, and shall be and the same are hereby repealed.

2. Appointment of Sheriffs.

It shall be lawful for His Excellency the Governor from time to time by warrant under his hand to appoint provisionally, subject to Her Majesty's confirmation, fit persons to be Sheriffs of the several counties or districts (as the case may be) of the Colony. All persons now acting as Sheriffs or to be appointed by virtue hereof shall hold their offices during pleasure.

3. Their Districts to be defined.

It shall also be lawful for His Excellency the Governor to define the districts within which the jurisdiction of the Sheriffs shall respectively be exercised, and the limits of such districts from time to time to alter as occasion may require.

4. Oath to be taken.

Each Sheriff shall upon his appointment take an oath before a Judge of the Supreme Court or some person specially appointed by such Judge, in the following form, faithfully to execute the duties of his office:—

I, A.B., do swear that I will truly and faithfully and to the best and utmost of my skill and knowledge discharge the duties of Sheriff of the District of      without fear favour or malice. So help me God.

5. Security to be given.

Each Sheriff shall from time to time give security for good behaviour in his office by bond to Her Majesty and her successors by himself and such sureties and in such reasonable sum or sums respectively as Her Majesty or her successors may think fit to require.

6. Sureties may withdraw.

Every such surety may withdraw from any liability for the future under any such bond by giving to the AttorneyGeneral for New Zealand three calendar months' notice of his intended withdrawal, without prejudice nevertheless to any previous breach of the condition of such bond.

7. Duties, &c., of Sheriffs.

Each Sheriff shall have such powers and privileges only and such duties and responsibilities only as a Sheriff by law hath or is liable to in England as a ministerial officer of one of Her Majesty's Courts at Westminster: Provided that no Sheriff shall be in any way concerned in any suit in any Court either as barrister, solicitor, or agent.

8. Service of Process when Sheriff disqualified.

Whenever any process shall issue which the Sheriff ought not by law to execute, the Supreme Court shall authorize some other fit person to execute the same, and in every such case the cause of such special proceeding shall be entered upon the records of the Court.

9. Sheriffs to have charge of Gaols, &c.

Every Sheriff shall have the charge and superintendence of the gaols and the custody of all imprisoned debtors and criminals within his district: Provided that he shall not be liable to answer for the escape of any criminal imprisoned within the walls of any authorized gaol or house of correction unless such escape shall happen by or through his wilful neglect or default.

10. Their liability limited.

If any debtor in execution shall escape out of legal custody, the Sheriff, Bailiff, or other person having the custody of such debtor, shall be liable only to an action for damages sustained by the person or persons at whose suit such debtor was taken or imprisoned, and shall not be liable to any action of debt in consequence of such escape.

11. Monthly Return to be made.

On the first Monday in every month each Sheriff shall make a return to the Colonial Treasurer or Treasurer of the district of all fines which, during the preceding month, he may have been ordered by any Judge of the Supreme Court to collect or which it may otherwise be his duty to collect. Such return shall show whether such fines have been collected or not, and shall also show the whole amount which may at the time of making the return remain due to the Sheriff on account of fines, and the names of the parties from whom such amount may be owing.

12. Interpretation.

For the purpose of this Ordinance the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

## 5. The Coroners Ordinance 1846.

An Ordinance to regulate the Appointment and Duties of Coroners in the Colony of New Zealand.

[15th October, 1846.]

Whereas it is expedient that provision should be made to regulate the appointment and duties of Coroners in the Colony of New Zealand:

Be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

### 1. Power to Governor to appoint Coroners.

It shall be lawful for His Excellency the Governor from time to time by warrant under his hand to appoint provisionally, subject to Her Majesty's confirmation, fit persons to be Coroners of the several counties or districts (as the case may be) of the Colony. All persons so to be appointed as aforesaid and all persons now acting as Coroners shall hold their offices during pleasure.

### 2. And to define their Districts.

It shall also be lawful for the Governor to define the districts within which the jurisdiction of the Coroners shall respectively be exercised, and the limits of such district from time to time to alter as occasion may require.

### 3. Oath to be taken.

Each Coroner shall upon his appointment take an oath well and faithfully to execute the duties of his office, which oath any Justice of the Peace is hereby authorized to administer.

### 4. Their powers and duties.

Every person acting as Coroner, or to be appointed to that office under the authority of this Ordinance as aforesaid, shall have all such powers and privileges and be liable to all such duties and responsibilities as any Coroner by law hath or is liable to in England.

### 5. Interpretation.

For the purpose of this Ordinance the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

## 7. The Prisons Ordinance 1846.

An Ordinance for the Regulation of Prisons.  
[15th October, 1846.]

Whereas it is expedient to make provision for the government and good management of prisons throughout the Colony:

Be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

### 1. Buildings now used as Gaols to be Public Gaols.

All houses buildings enclosures or places now used as public gaols shall be and the same are hereby declared to be public gaols of the Colony.

### 2. Power to Governor to declare other Buildings to be Gaols.

It shall be lawful for His Excellency the Governor from time to time as to him shall seem meet, by Proclamation, to declare any other house building enclosure or place to be a public gaol, and from and after the publication of any such Proclamation such house building enclosure or place shall be deemed and taken to be a public gaol.

### 3. Judges may Imprison in any Gaol.

It shall be lawful for any Judge of the Supreme Court to sentence any offender to be imprisoned, whether with or without hard labour, in any particular gaol in the Colony as to him shall seem meet.

### 4. Gaols to be also Houses of Correction.

Every public gaol within the Colony, unless otherwise provided, shall be taken for all purposes as being also a House of Correction and a Prison for Debtors.

### 5. Power to Governor to make Regulations.

It shall be lawful for His Excellency the Governor from time to time to make such Rules and Regulations as to him shall seem fit, touching the duties of the officers of every such public gaol, the classification diet instruction treatment and correction of the prisoners therein, and generally to prescribe all such rules as may be necessary for the good discipline of any public gaol and the safe custody of the prisoners therein.

### 6. Like power to Judges for management of Debtors.

It shall be lawful for the Judges of the Supreme Court from time to time to make Rules and Regulations for the management of such gaols as now are or may

hereafter be used for the imprisonment of debtors and for the control of the debtors therein.

7. Regulations to be binding.

All such Rules and Regulations as shall be made under the authority hereof shall be binding upon the officers of the gaol, and upon the prisoners and the debtors confined therein, as fully as if the same had been expressly enacted and set forth in this Ordinance.

8. Penalty for breach of Regulations.

For the purpose of giving effect to the Rules and Regulations hereby authorized to be made by the Governor or the Judges of the Supreme Court, it shall be lawful for such Governor and Judges, by any such Regulations, to enforce any penalty not exceeding twenty pounds for any offence against such Rules and Regulations, to be recovered in a summary way.

9. Governor may appoint Visiting Justices.

It shall be lawful for His Excellency the Governor to nominate and appoint one or more Justices of the Peace, who shall consent thereto, to be Visitors of each gaol within the Colony, who shall personally visit such gaol at least once a month, and oftener if occasion shall require.

10. Prisoners may be set to work.

It shall be lawful for the Sheriff of the district or the Visiting Justice of any public gaol to order any person who may have been sentenced to imprisonment without being sentenced to hard labour, and who shall not maintain himself, to be set to some work or labour the same being not severe: Provided that no such prisoner who has the means of maintaining himself shall have any claim to be supported at the public expense.

11. Power of Visiting Justices to punish parties offending in Person.

Any Visiting Justice shall have power to hear and determine all complaints touching any of the following offences, that is to say,— Disobedience of the Rules and Regulations of the prison, assaults by one person confined in such gaol upon another where no dangerous wound or bruise is given, profane cursing and swearing, any indecent behaviour and any irreverent behaviour at or during divine service or prayer, all which are hereby declared to be offences under this Act if committed by any description of prisoners whatsoever confined within any such gaol prison or house of correction; and the said Visiting Justice shall also hear and determine all complaints of idleness or negligence in work or wilful mismanagement of work, which are also hereby declared to be offences under this Act if committed by any prisoner under conviction for any crime; and if the party complained of shall be convicted of any of the offences aforesaid, it shall be lawful for the said Visiting Justice to sentence such party to be confined in a solitary cell on bread and water for any term not exceeding seven days.

12. Punishment for repeated offences, or offences not mentioned in previous clauses.

In case any prisoner under sentence for any crime shall be guilty of repeated offences against the rules of the prison, or shall be guilty of any greater offence than hereinbefore mentioned, upon complaint thereof to two or more Justices of the Peace, of whom the Visiting Justice may or may not be one, such Justices shall have power upon oath to inquire into and to determine the matter of such complaint, and to order the offender on conviction to be punished by close confinement for any term not exceeding one calendar month, or by personal correction in case of prisoners convicted of felony or sentenced to hard labour.

13. Visiting Justices to make Reports.

Such Visiting Justices shall once at least in every quarter of a year make a report in writing to His Excellency the Governor, or to such officer as he may appoint for such purpose, as the case may be, of the state and condition of the prison and of what repairs additions or alterations shall have been made or may be required, and of any abuse which they may have observed or of which they may have received information in the management of the prison, as well as of the general state of the prisoners as to morals discipline employment hard labour and observance of the rules in force for the time being for the government of the prison: Provided always that nothing herein contained shall affect the power of any Judge of the Supreme Court to visit and examine any such gaol at such times as he may think fit.

14. Power to all Justices to visit Gaols.

It shall also be lawful for any Justice of the Peace for the Colony, whenever he shall think fit, to enter and examine any such gaol, and every gaoler turnkey or other person employed therein who shall refuse admittance to any such Justice of the Peace or offer to him any hindrance or obstruction shall, on conviction thereof before any other two Justices, forfeit and pay any sum not exceeding ten pounds, to be recovered in a summary way.

15. Penalty for introducing Spirits into Gaols.

If any person shall bring or attempt to bring any wine or spirituous or fermented liquor into any gaol, it shall be lawful for the gaoler, turnkey, or any of their assistants to apprehend the offender, who upon conviction shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

16. Aiding Prisoners to Escape.

If any person shall convey or cause to be conveyed into any gaol any mask or other disguise or any instrument or arms proper to facilitate the escape of any prisoner, and the same shall deliver or cause to be delivered to any prisoner in such gaol or to any other person therein for the use of such prisoner without the consent or privity of the keeper of the gaol, every such person shall be deemed to have delivered such mask or disguise instrument or arms with intent to aid and assist such prisoner to escape or attempt to escape; and if any person shall by

any means whatsoever aid and assist any prisoner to escape from any gaol, every person so offending, whether an escape be actually made or not, shall be guilty of felony, and being convicted thereof shall be transported beyond the seas for any term not exceeding fourteen years.

17. Prisoners, &c., may be removed from one Gaol to another, in certain cases. Whenever it shall appear to the Governor to be necessary that the debtors or other prisoners or any of them confined in any gaol within the Colony should be removed from such gaol in order that the same may be repaired enlarged or rebuilt, or on account of any disease therein, or on account of the over-crowded state of such gaol, or for any of the purposes of this Ordinance, and due notice thereof in writing shall by order of the Governor be given to the Sheriff of the district, it shall be lawful for such Sheriff to remove such debtors and other prisoners or any of them to such other gaol or place of confinement within his jurisdiction as the Governor shall appoint.

18. And to be removed back.  
When any such gaol as aforesaid shall be made fit for the reception and safe keeping of such debtors and other prisoners, it shall be lawful for the said Sheriff to remove back thereto all such debtors and other prisoners as shall then be in his custody.

19. In cases of emergency may be removed by Order of Visiting Justices.  
Whenever the removal of debtors or other prisoners shall become necessary for any of the reasons aforesaid or from any other emergency, and it shall be impossible previous thereto to obtain such order as aforesaid, it shall be lawful for the Visiting Justices to issue an order to the keeper of such gaol to remove such debtors or other prisoners to such other gaol or place of confinement within his jurisdiction as shall be specified in such order: Provided that such removal shall be subject to such restrictions as to its duration as are hereby required and directed in similar cases of removal by order of the Governor, and that any such order of the Visiting Justices, together with a report of the causes thereof, shall be forthwith notified to the Governor and also to the Sheriff of the district: Provided also that no such removal shall be deemed or taken to be an escape.

20. Sheriff may remove Prisoners from one Gaol to another within his Jurisdiction.  
It shall be lawful for the Sheriff of any district to remove any prisoner whatever from any gaol under his control and management to any other gaol under his control or management, or in case of the illness of such prisoner to any hospital or infirmary, as occasion may require; and also for the purpose of transportation may remove any prisoner to any gaol whatsoever within the limits of the Colony: Provided that no such removal except as first above mentioned shall actually take place without the leave of a Judge of the Supreme Court on application made to him for that purpose.

**21. Interpretation.**

For the purpose of this Ordinance the word "Governor" shall be taken to include the Lieutenant Governor or the Officer Administering the Government of the Colony for the time being, and the word "Gaol" shall be taken to include any Prison for Debtors and any House of Correction.

**16. The Resident Magistrates Ordinance 1846**

An Ordinance to provide for the establishment of Resident Magistrates Courts, and to make special provision for the Administration of Justice in certain cases. [7th November, 1846.]

Whereas it is expedient that provision be made for the more simple and speedy administration of justice in the Colony of New Zealand, and for the adaptation of the law to the circumstances of both races:

Be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

**Part I.—Resident Magistrates**

**1. Power of Governor to appoint Magistrates.**

For the purposes hereinafter mentioned there shall be appointed a fit number of persons, being Justices of the Peace, who shall be and be called Resident Magistrates.

**2. Tenure of Office.**

Every such Resident Magistrate shall be appointed by Her Majesty, her heirs and successors, and shall hold his office during Her Majesty's pleasure: Provided that it shall be lawful for the Governor to appoint any such Resident Magistrate provisionally until Her Majesty's pleasure shall be known; and in case any Resident Magistrate shall, by reason of sickness absence suspension from office or other cause, be unable to discharge the duties of his office, it shall be lawful for the Governor to appoint a fit person, being a Justice of the Peace, to act in the place of such Resident Magistrate as long as such inability as aforesaid shall continue.

**3. May admit to bail, &c.**

Every Resident Magistrate so to be appointed as aforesaid shall have all such powers of dealing summarily with cases of assault and of admitting to bail persons charged with felony as may by law be exercised by any two Justices of the Peace, and also all such powers as are by any local Ordinance given to any two Justices of the Peace.

## II.—Summary Jurisdiction in certain cases

### 4. Trivial cases may be dismissed.

When any person shall be charged with larceny, and where the value of the property stolen shall not exceed twenty shillings, and where the circumstances of the case shall appear to any such Resident Magistrate or to any Justice of the Peace to be of so trivial a nature as to be unfit for prosecution, it shall be lawful for him to dismiss the case although a felony may have been proved.

### 5. Certain Charges of Larceny may be dealt with summarily.

When any person shall be charged with larceny, and where the value of the property stolen shall not exceed twenty shillings, it shall be lawful for any such Resident Magistrate, upon being satisfied of the value of such property, at his discretion to hear and determine such charge, and in case of conviction to sentence the offender to be imprisoned for any period not exceeding six calendar months. Such adjudication shall not be invalidated although it should subsequently be proved that the value of such property exceeded the aforesaid limits.

### 6. If party make confession he may be dealt with summarily.

Where any person shall be charged with larceny where the value of the property stolen shall not exceed five pounds, if such party shall, after hearing the information and evidence against him, voluntarily confess the offence, it shall be lawful for any such Resident Magistrate at his discretion to take such confession and to sentence the offender to imprisonment for any period not exceeding twelve calendar months.

## III.—Commitment and Summary Conviction etc of Natives in Criminal Cases.

### 7. Committal of Natives.

And whereas it may be desirable that special provision be made for the administration of justice in criminal cases where persons of the Native race are concerned: Be it enacted that, except within the limits of any town, no person of the Native race shall be apprehended under any warrant or be committed to prison except upon a warrant or committal signed by any such Resident Magistrate.

### 8. In Summary Proceedings.

No information or complaint against any person of the Native race shall be heard or determined in a summary way except before such Resident Magistrate.

### 9. If Native make confession, he may be dealt with summarily.

When any person of the Native race shall be charged with larceny or with receiving stolen goods, and shall, after hearing the information and evidence against him, voluntarily confess the same, it shall be lawful for any such Resident Magistrate at his discretion to take such confession and to sentence the offender to be imprisoned for any period not exceeding two years.

10. Natives convicted of Theft may pay four times value of Property stolen.  
In case any person of the Native race shall be convicted upon any charge of theft or of receiving stolen goods in a summary way before the Resident Magistrate as aforesaid, every such person may after such conviction, by permission of the Court and at any time before sentence passed, pay into the Court four times the value of the goods so stolen or received as aforesaid: Provided that if the goods so stolen or received as aforesaid shall have been restored by the person so convicted, such person may, by permission of the Court and at any time before sentence passed, pay into the Court either four times the value of the goods so stolen or received as aforesaid, or such less sum as to the Court shall seem fit. If such payment shall be so made as aforesaid, or if security for such payment shall be given to the satisfaction of the Court, no sentence shall be passed, but the person so convicted and making such payment or giving such security as aforesaid shall be discharged from custody, and shall be in the same condition in all respects as if he had received sentence and undergone his punishment in the ordinary course of law: Provided always that for the purposes of this present provision such Court shall have power to delay passing sentence in any such case for any period not exceeding eight days.

11. Value in certain cases to be awarded to Owner.  
Where any such payment as last mentioned shall have been made, and it shall appear that restitution of the goods charged to have been stolen or received as aforesaid has not been or cannot be made, the Court shall have power, upon application then made by the owner of such goods or his representatives, to award to such owner or representatives such part of the sum so paid into Court as aforesaid as shall be equal to the sworn value of such goods together with such costs as to the Court shall seem reasonable. The sum so paid into Court, or in either of the cases last mentioned the residue thereof, shall be duly accounted for and paid over to the Colonial Treasurer or Treasurer of the county or district for the use of Her Majesty, her heirs and successors, for the public uses of the Colony and for the support of the Government thereof.

#### IV.— Summary Jurisdiction in Civil Cases between Native and European

12. Jurisdiction and mode of proceeding.  
In every case of any claim or demand whatsoever of a civil nature, in which either party (but not both plaintiff and defendant) shall be of the Native race, and where the debt or damages claimed shall not exceed one hundred pounds, it shall be lawful for the Resident Magistrate, together with any one or more Justices of the

Peace, upon proof of personal service of a summons upon the defendant, to hear and determine any such case by way of summary proceeding. And in any such case as aforesaid, where the debt or damage claimed shall not exceed twenty pounds, it shall be lawful for any such Resident Magistrate alone to hear and determine such case in a summary way.

13. Judgment and Evidence.

In every such case the said Resident Magistrate together with any one or more Justices of the Peace, or the said Resident Magistrate alone, as the case may be, shall have full power and authority to give such judgment between the parties as he or they shall find to stand with equity and good conscience, and to prescribe such terms and conditions as to the time and mode of satisfying such judgment as he or they shall deem just and reasonable. And in the hearing of every such case the said Resident Magistrate together with any one or more Justices of the Peace, or the said Resident Magistrate alone, as the case may be, shall be at liberty to receive or require any such evidence as to him or them shall appear fit whether the same shall be strictly legal evidence or not.

14. Judgment to be final.

The judgment of such Resident Magistrate together with any one or more Justices of the Peace, or the said Resident Magistrate alone, as the case may be, as aforesaid, shall be final on all questions, nor shall any case be removed on behalf of either party into any Superior Court, by certiorari or otherwise, in any stage of the proceeding.

15. And how to be enforced.

Every such judgment may be enforced in the same manner as any order for payment of money made by any Justice of the Peace in any summary proceeding.

16. Fees may be taken.

In any such case it shall be lawful for such Resident Magistrate together with any one or more Justices of the Peace, or the said Resident Magistrate alone, as the case may be, at his or their discretion to demand and take any fees not exceeding the fees following, that is to say,—

For every summons, any sum not exceeding	3s.
For every hearing, any sum not exceeding	6s.
For entering judgment or order	3s.
For every distress warrant or warrants to apprehend	6s.
For officer executing such warrant 1s. in the pound upon the sum levied or received, or for which the body is taken in execution.	

17. And may be required to be prepaid.

It shall be lawful for any Justice of the Peace to refuse to do any act in respect of which any fee shall be demandable unless such fee be first paid.

18. And to be paid to Colonial Treasurer.

All fees which shall have been demanded and taken under the authority hereinbefore given, shall be paid to the Colonial Treasurer or Treasurer of the county or district as the case may be.

#### V.—Arbitration Courts for Native Cases

19. Courts of Arbitration, their Constitution and Jurisdiction.

And whereas for the settling of disputes and differences of a civil nature between persons of the Native race it is expedient to provide a more simple and expeditious procedure in such cases than that of the ordinary Courts of Law: Be it therefore enacted that it shall be lawful for any Resident Magistrate or any person appointed by His Excellency the Governor to act in that behalf, assisted by two Native Assessors, one to be chosen by each of the parties and to be appointed as hereinafter mentioned, to act as a Court of Arbitration, with power to hear and determine summarily all claims and demands whatsoever of a civil nature arising between persons of the Native race.

20. Appointment of Assessors.

For the purpose of providing a sufficient number of persons fit to act as Assessors, it shall be lawful for His Excellency the Governor to select and appoint as such Assessors so many persons in each tribe or division of a tribe as he shall think fit. The persons so selected shall be men of the greatest authority and best repute in their respective tribes, and who shall be willing to act as such Assessors.

21. Their powers and mode of proceeding.

Such Resident Magistrate, or other person as aforesaid, and Assessors, shall possess the same powers as to the hearing and determining of the cases last mentioned, the admission of evidence, and the enforcing of their judgment therein, as are hereinbefore given in cases where only one of the parties shall be of the Native race.

22. Cases how to be determined.

Every such case shall be determined by the two Assessors (where agreed in their judgment therein), but in case of a difference of opinion, then by the judgment of the Resident Magistrate or other person as aforesaid and of one of the Assessors: Provided always that so long as such difference of opinion shall continue such judgment shall be recorded only, but that no act shall be done or proceeding taken to carry such judgment into execution until both the Assessors and the Resident Magistrate or other person as aforesaid shall concur therein.

23. Security may be required for obedience to award.

In order to secure obedience to the award of such Court, it shall be lawful for the Resident Magistrate or other person as aforesaid, before entering upon the hearing of any complaint or demand, to require such security, either by deposit or otherwise, from the parties or either of them as he shall deem fit.

24. Payment of Assessors.

In every case in which the judgment of the Court shall have been carried into execution to the satisfaction of the Resident Magistrate or other person aforesaid, it shall be lawful for His Excellency the Governor to pay to each of the Assessors any sum not exceeding five pounds.

VI.—Summary Jurisdiction in Civil Cases Generally

25. Jurisdiction.

In every case of any claim or demand whatsoever of a civil nature, in which neither of the parties shall be of the Native race, and where the defendant shall reside beyond the distance of ten miles from the office of any Court of Requests, and where the debt or damage claimed shall not exceed twenty pounds, it shall be lawful for any such Resident Magistrate or any two or more Justices of the Peace to hear and determine the same by way of summary proceeding.

26. Mode of Proceeding, &c.

Such Resident Magistrates or any two or more Justices of the Peace shall possess the same powers as to the hearing and determining of the cases last mentioned, the admission of evidence, the enforcing of their judgment, and the requiring of the payment of fees, as are hereinbefore given in cases where one of the parties shall be of the Native race.

27. May commit for contempt of Court.

If any person shall wilfully insult such Resident Magistrate or Justice of the Peace whilst sitting in Court and acting in the execution of this Ordinance, or shall in any other manner be guilty of any wilful contempt in the face of the Court, it shall be lawful for such Resident Magistrate or Justice of the Peace, by warrant under his or their hands, to commit the person so offending to any common gaol for any term not exceeding one calendar month.

VII.—Miscellaneous

28. Duties required to be done by Police Magistrates may be performed by persons appointed by the Governor.

And whereas by various Ordinances now in force within the Colony certain acts are required to be done by and certain powers are given to Police Magistrates: Be it enacted that all such acts and powers may hereafter be done and

exercised by any Resident Magistrate or any other person whom His Excellency the Governor shall from time to time designate or appoint for that purpose.

29. Interpretation.

For the purposes of this Ordinance the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

30. Commencement of Ordinance.

This Ordinance shall come into operation throughout the Colony on the first day of May, one thousand eight hundred and forty-seven, or on such earlier day, and either throughout the Colony or within any district or districts thereof, as His Excellency the Lieutenant-Governor shall by Proclamation direct and appoint.

17. The Cattle Trespass Ordinance 1846

An Ordinance to repeal "The Cattle Trespass Ordinance" and "The Cattle Trespass Amendment Ordinance," and to provide for the Summary Recovery of Compensation for Damage done by Cattle Trespassing.

[10th November, 1846.]

Whereas an Ordinance was enacted by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, (Session II., No. 16,) intituled "An Ordinance to provide for the Summary Recovery of Compensation for Damage done by Cattle Trespassing:" And whereas a like Ordinance was enacted (Session III., No. 14,) intituled "An Ordinance to amend an Ordinance to provide for the Summary Recovery of Compensation for Damage done by Cattle Trespassing:" And whereas it is expedient that the said Ordinances be repealed, in order that the enactments therein contained may be amended and consolidated into one Ordinance:

Be it therefore enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof as follows:—

1. Recited Ordinances repealed.

The said recited Ordinances shall be and the same are hereby repealed.

2. Compensation for Damages to land substantially fenced.

Whenever any cattle shall trespass on land which shall be substantially fenced and do any damage thereon, it shall be lawful for any two Justices of the Peace, upon application of the person suffering such damage, to hear and determine the case in a summary way, and on being satisfied as to the amount of such damage by the oath or solemn affirmation as the case may require of two witnesses

competent from practical knowledge or otherwise to estimate the same, to award to the party sustaining such damage any sum not exceeding twenty pounds by way of compensation for the same.

3. And in certain cases, although the land be not substantially fenced.

In case the person sustaining any such damage shall be of the Native race, it shall be lawful for the said Justices in like manner to award compensation although the land trespassed upon shall not be substantially fenced: Provided always that it shall be lawful for His Excellency the Governor by Proclamation from time to time to declare certain districts within which persons of the Native race shall not be entitled to recover compensation unless the land trespassed upon shall be substantially fenced, and the limits of such districts from time to time to alter as occasion may require, and also, if he shall see fit, to revoke the Proclamation by which any such district shall have been declared.

4. Penalty for Cattle wandering in Public Streets.

If any cattle shall be found wandering at large in any street or public place within the limits of any town or village which shall be proclaimed by the Governor to come within the operation of this present provision, the owners thereof shall forfeit and pay for every head of cattle so wandering any sum not exceeding five shillings, to be recovered in a summary way: Provided always that any town or village which may already have been proclaimed to come within the operation of the said first recited Ordinance shall be deemed and taken to come within the operation of this present provision from and immediately upon the passing of this Ordinance.

5. Interpretation.

For the purposes of this Ordinance the word " Governor " shall be taken to include the LieutenantGovernor or the Officer Administering the Government of the Colony for the time being, and the word " Cattle " shall be taken to include horned or neat cattle horses mules asses sheep goats and swine.

6. Commencement.

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

18. The Arms Ordinance 1846.

An Ordinance to regulate the Removal and the Making and Repairing of Arms Gunpowder and other Warlike Stores within the Colony of New Zealand.  
[12th November, 1846.]

Whereas provision hath been made for regulating the importation and sale of arms gunpowder and other warlike stores, and it is expedient that restriction should also be placed on the removal making and repairing of the same:

Be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:

1. Arms, &c., not to be removed without a License.

It shall not be lawful for any person to remove or cause to be removed from any one part of the Colony of New Zealand to another part of the said Colony, either by inland carriage or coastways, any arms or other warlike stores or any gunpowder exceeding the weight of two pounds without a license for removing and carrying the same granted by some Justice of the Peace: Provided always that nothing herein contained shall extend or be construed to extend to prevent any person from carrying arms for the defence of his person or for sporting as by law he might before the passing of this Ordinance.

2. Penalty for removing.

Every person who shall remove or cause to be removed any such arms gunpowder or other warlike stores contrary to the provisions of this Ordinance, shall for every such offence forfeit and pay any sum not exceeding fifty pounds nor less than five pounds, to be recovered in a summary way.

3. Arms, &c., on removal may be searched for and seized.

It shall be lawful for any Justice of the Peace, upon information on oath, to search for and seize, or to grant a warrant to any person to search for and seize, and for any officer of the Navy on full pay, harbour master, officer of Customs, police officer or constable, or for any other person acting in his or their aid and assistance, without such information on oath, to search for and seize all such arms gunpowder and other warlike stores which shall be in progress of removal or shall be removed without such license, or without producing such license on demand of any such person as aforesaid. And all such arms gunpowder and other warlike stores so to be seized as aforesaid shall be forfeited to Her Majesty.

4. No person to repair, &c., Arms, &c., without a License.

No person shall make construct amend or repair any arms gunpowder or other warlike stores without a license to be for that purpose granted under the authority of His Excellency the Governor.

5. Penalty.

Every person who shall make construct amend or repair any arms gunpowder or other warlike stores without having obtained such license, shall for every such offence forfeit and pay any sum not exceeding fifty pounds nor less than five pounds.

6. Not to prevent the repairing of Arms for Her Majesty's Land or Sea Forces. Provided always that nothing herein contained shall extend to prevent the removal or the making or repairing of arms gunpowder and other warlike stores by or on account of the New Zealand police force, or by or on account of Her Majesty's land or sea forces.

7. Interpretation.

For the purposes of this Ordinance the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

8. Commencement.

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

19. The Native Land Purchase Ordinance 1846.

An Ordinance to provide for the Prevention, by Summary Proceeding, of Unauthorized Purchases and Leases of Land.

[16th November, 1846.]

Whereas it is essential to both the peaceable and prosperous colonization of New Zealand that the disposal of land therein should be subject to the control of the Government of the Colony; and to that end the right of pre-emption in and over all lands within the Colony hath been obtained by treaty and is vested in Her Majesty, her heirs and successors; and all lands alienated without the sanction of the Crown by any person of the Native race to any person not of the same race do by virtue of such alienation vest in the Crown as part of the domain lands thereof: And whereas divers persons have without the sanction of the Crown entered into contracts for the purchase use or occupation of lands, which private contracts are not and in most cases cannot be made with due regard to the validity of title to the land comprised therein, and are often defective by reason of a want of a clear understanding by the parties to the contract of the terms and meaning thereof: And whereas by such secret and irregular purchases not only is the law sought to be evaded but the general tranquillity of the Colony is liable to be seriously endangered; for the purpose therefore of providing a speedy and effectual remedy for the evils aforesaid:

Be it enacted by the LieutenantGovernor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. Persons purchasing Land from Natives, or occupying, &c., Native Lands without Licenses, liable to penalties.

If any person shall, after the passing of this Ordinance, purchase or by writing or otherwise agree to purchase any estate or interest in land from any person of the Native race, or shall by writing or otherwise agree with any such person for the purchase of the right of cutting timber or other trees, or of the right of mining, or of the right of pasturage, or for the use or occupation of land. And also if any person who shall not hold a license from the Government for that purpose shall after the passing of this Ordinance be found using or occupying any land not comprised within a grant from the Crown, either by depasturing any sheep or cattle thereon, or by residing thereon, or by erecting any house or building thereon, or by clearing enclosing or cultivating any part thereof, or who shall be found without such license aforesaid to have cut timber or other trees thereon or to have gotten any mineral therefrom. Every such person shall, upon conviction of any of the offences hereinbefore mentioned, forfeit and pay any sum not less than five pounds nor more than one hundred pounds, to be recovered in a summary way: Provided that no person shall be convicted of any of the offences aforesaid except on the information or complaint of the SurveyorGeneral or of some other officer duly authorized in that behalf by His Excellency the Governor.

2. Penalty for second offence.

If any person so convicted as aforesaid shall for the space of one calendar month continue in possession or occupation of such land, or otherwise persist in the unlawful act for which he shall have been so convicted, every such person shall, upon conviction of any such further offence, upon such information or complaint as aforesaid, forfeit and pay any sum not less than five pounds nor more than one hundred pounds, to be recovered in a summary way.

3. Summary Proceeding not to affect other remedies.

Provided always that nothing herein contained shall be construed to take away or affect any proceeding which might by law be had against any person for any of the offences aforesaid before the passing of this Ordinance.

4. Award for activity in procuring conviction.

In case of any conviction under the provisions of this Ordinance, where any person or persons shall appear to have been active in or towards the procuring of any such conviction, it shall be lawful for His Excellency the Governor to award to such person or persons any portion of the penalty recovered upon such conviction, but not exceeding in the whole onehalf thereof, as to him shall seem meet.

5. Interpretation.

For the purpose of this Ordinance the word " Governor " shall be deemed to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

20. The Sessions of the Peace Ordinance 1846.

An Ordinance for establishing Courts of Sessions of the Peace.

[18th November, 1846.]

For the purpose of providing for the establishment of Courts of Sessions of the Peace:

Be it enacted by the Lieutenant Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

I.—Constitution of Courts

1. Districts to be defined

For the purposes hereinafter mentioned it shall be lawful for His Excellency the Governor by Proclamation from time to time to constitute and define certain districts, and the limits of such districts from time to time to alter as occasion may require, and also if he shall see fit to revoke the Proclamation by which any such district shall have been constituted.

2. Within which Courts of Sessions of the Peace shall be holden.

Within any such district as aforesaid there shall be holden Courts of Sessions of the Peace at such times and places as the Governor shall by Proclamation from time to time appoint.

3. Which shall be Courts of Record.

The said Courts shall be Courts of Record, and shall be holden before any two or more Justices of the Peace of the territory, whereof of the Chairman or Deputy Chairman hereinafter mentioned shall be one: Provided always that every Judge of the Supreme Court of the Colony shall be and be deemed ex officio a Justice of the Peace for the territory, and may act as such without taking any other oaths than such as he shall have taken as Judge.

4. Chairman to be appointed.

It shall be lawful for the Governor from time to time to nominate and appoint during pleasure any Justice of the Peace possessing competent knowledge of the law to be Chairman of any such or of any two or more of such Courts; and in case of the illness temporary incapacity or absence from the Colony of the Chairman of any such Court, to appoint any Justice to be Deputy Chairman of such Court, who during such illness temporary incapacity or absence and no longer shall be deemed and taken to be the Chairman of such Court for the time being to all intents and purposes: Provided always that in case of illness or unavoidable absence it shall be lawful for the Chairman under his hand and seal, with the consent of the Governor, to appoint a Deputy Chairman being, a Justice

of the Peace to act for him at the Court then next ensuing and no longer or otherwise; and every such Chairman or Deputy Chairman shall have and exercise such and the same power and authority as a Chairman of General and Quarter Sessions in England: Provided always that no Resident Magistrate or Police Magistrate shall in any case be appointed to act as such Chairman of any such Court.

#### 5. Clerks and other Officers.

It shall also be lawful for the Governor from time to time to appoint Clerks and such other ministerial officers as may be necessary for executing the business of the said Courts, and such Clerks and other officers from time to time to displace and remove and to appoint others in their place as to him shall seem meet: Provided always that in case of the absence of any such officer from any sitting of such Court it shall be lawful for the Chairman thereof to appoint some other fit person to act at such sitting in the place of the officer so absent.

### II.—Jurisdiction and Powers of the Court

#### 6. General Powers of Court to hear, &c., felonies, &c.

The said Courts shall have the same power and authority to inquire of and to hear and determine all felonies and indictable misdemeanours committed within their respective districts which the Courts of General or Quarter Sessions of the Peace for any county in England have, that is to say, they shall have power and authority to inquire of and to hear and determine all felonies and indictable misdemeanours committed within their respective districts, except treason murder or other capital felony or any felony which, when committed by a person not previously convicted of felony, is punishable by transportation beyond the seas for life, or any of the following offences, that is to say,—

- (1.) Misprision of treason.
- (2.) Offences against the Queen's title, prerogative, person, or Government.
- (3.) Offences subject to the penalties of praemunire.
- (4.) Blasphemy and offences against religion.
- (5.) Administering or taking unlawful oaths.
- (6.) Perjury and subornation of perjury.
- (7.) Making or suborning any other person to make a false oath affirmation or declaration punishable as perjury or as a misdemeanour.
- (8) Forgery.
- (9) Unlawfully and maliciously setting fire to crops of corn grain or pulse, or to any part of a wood coppice or plantation of trees, or to any other heath gorse furze or fern.
- (10) Bigamy and offences against the laws relating to marriage.
- (11) Abduction of women and girls.
- (12) Endeavouring to conceal the birth of a child.
- (13) Offences against any provision of the laws relating to bankrupts and insolvents.

- (14) Composing printing or publishing blasphemous seditious or defamatory libels.
- (15.) Bribery.
- (16.) Unlawful combinations and conspiracies except conspiracies or combinations to commit any offence which such Justices have jurisdiction to try when committed by one person.
- (17.) Stealing or fraudulently taking injuring or destroying records or documents belonging to any Court of Law or Equity, or relating to any proceeding therein.
- (18.) Stealing or fraudulently destroying or concealing wills or testamentary papers, or any document or written instrument being or containing evidence of the title to any real estate, or any interest in lands tenements or hereditaments.

7. Courts may remand certain cases for Supreme Court.

Provided always that if it shall appear to any such Court that any felony or indictable misdemeanour of which it may have cognizance ought, from its nature or magnitude or any legal difficulty which it may present, to be tried before the Supreme Court, it shall be lawful for such Court to leave the case for trial before the Supreme Court, and to take recognizances for the appearances of the parties and witnesses thereat, which recognizances shall, as soon as may be, be returned to the Supreme Court.

8. Powers of Courts, &c., not provided for, &c.

In all other respects not hereinbefore provided for, every such Court shall have and exercise such and the same jurisdiction power and authority as any Court of General or Quarter Sessions of the Peace in any County in England has and exercises.

9. Power to hear appeals.

The said Courts shall also have power and authority to take cognizance of all such appeals and other matters and things as may have been or which may hereafter be assigned to Courts of Sessions of the Peace by any local Ordinance.

10. Writ of Error may be sued out, &c.

A writ of error may be sued out for the purpose of having any judgment of any such Court upon any indictment brought before it reversed by the Supreme Court, in every case and under the same circumstances in which such writ may be sued out in England for the purpose of reversing any judgment of any Court of General or Quarter Sessions of the Peace in any county in England upon any indictment brought before it.

11. Indictments, &c., may be removed by certiorari.

All indictments orders and judicial proceedings whatever may be removed by certiorari from any such Court to the Supreme Court in every case and under the same circumstances in which indictments orders and judicial proceedings in any

Court of General or Quarter Sessions of the Peace in any county in England may be removed by certiorari to the Court of Queen's Bench.

12. Justices may refer special case to Judges of Supreme Court.

In any case in which the Justices at Sessions are Judges of fact as well as of law, if they shall feel a difficulty in the application of the law to facts, it shall be lawful for them at their discretion to put those facts into a special case for the opinion of the Supreme Court or any Judge thereof, and to confirm or quash the order or conviction before them subject to such opinion.

13. Courts to administer Oaths of Office to Justices.

The said Courts shall also have power to administer to any of Her Majesty's Justices of the Peace the usual oaths and affirmations required by law to be taken by Magistrates on their appointment, and every person now or hereafter to be appointed a Justice of the Peace for the territory and who shall not have taken the oath of allegiance and the oath of office as heretofore taken before a Judge of the Supreme Court shall, before acting as a Justice of the Peace, take such oaths, or, if a Quaker or other person authorized by law to make an affirmation instead of an oath, shall affirm to the effect of such oaths before any such Court of Sessions of the Peace or before any Judge of the Supreme Court, and no person shall be deemed qualified to act as such Justice until he shall have taken such oaths or made such affirmation as aforesaid.

14. Chairman to issue Precept to Sheriff to Summon Jurors.

It shall be lawful for the Chairman of each of such Courts, and he is hereby required fourteen days at least before the sitting of any such Court, to issue a precept to the Sheriff of the district, requiring him to summon jurors to attend at the next following Court at such time and place as shall be therein mentioned. Such precept shall not require more than twentyfour nor less than fifteen persons fit to serve as grand jurors, nor more than thirtysix nor less than twentyfour persons duly qualified to serve as petit jurors, to attend the said Court at any one Session thereof.

15. Form of Precept.

Every such precept and every subpoena commanding the attendance of witnesses at any Sessions of the Peace shall be issued in the name of Her Majesty, tested in the name of the Chairman, and signed by the Clerk of the Court or other officer appointed for that purpose.

16. Sheriffs to attend Courts.

The Sheriff in the district in which any Court of Sessions Sheriffs to attend shall be holden shall be attendant upon and execute the same duties in respect of such Court as Sheriffs in England are required to do in respect of Courts of Quarter Sessions, or as near thereto as circumstances may admit and require.

17. Power of Adjournment.

Every such Court shall have power to adjourn its sittings from time to time, and if the required number of Justices shall not be present at the time and place appointed for the holding of any Court of Sessions, a single Justice of the Peace (whether he be a Chairman or not) shall be a lawfully constituted Court for the purpose of opening such Court and of adjourning the same and respiting all recognizances until such further day as such Justice then and there shall cause to be proclaimed.

18. Process.

For the purpose of enforcing the attendance of jurors, witnesses, and others, the production of books and writings, and for the summary punishment of contempts of Court, every such Court shall have the like powers as the Supreme Court may exercise by any law in force for the time being: Provided that the process for the recovery of the amount of any fine or recognizance forfeited at any Sessions shall be signed by the Chairman or by two Justices attendant thereat.

19. Courts may make Rules.

It shall be lawful for the said Courts from time to time to make rules for regulating the practice forms of proceedings and the fees to be taken therein, and touching all other matters relating to the business of such Court, and such rules from time to time to alter or revoke: Provided that the same shall not be repugnant to any of the provisions hereinbefore contained: And provided also that any rules to be made under the authority hereof shall, as soon as may be after the making thereof, be submitted to the Governor for his confirmation or disallowance, and upon the disallowance of such rules or any of them the same shall thereupon cease to be in force.

20. Interpretation.

For the purposes of this Ordinance the word " Governor " shall be taken to include the LieutenantGovernor or the Officer Administering the Government of the Colony for the time being.

21. The Lunatics Ordinance 1846

An Ordinance to make provision for the Safe Custody of and Prevention of Offences by Persons dangerously Insane, and for the Care and Maintenance of Persons of Unsound Mind.

[ 18th November, 1846.]

Whereas it is expedient to make provision for the safe custody of and prevention of crime being committed by persons insane:

Be it therefore enacted by the Lieutenant Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. Dangerous Lunatics may be apprehended and kept in custody.

If any person shall be discovered and apprehended under circumstances denoting a derangement of the mind and a purpose of committing suicide or any crime for which if committed such person would be liable to be indicted, it shall be lawful for any two Justices of the Peace before whom such person may be brought to call to their assistance any two legally qualified medical practitioners, and if upon view and examination of such person and upon proof on oath by the said medical practitioners to the effect that in their opinion such person is a dangerous lunatic or a dangerous idiot, and on any further proof the said Justices shall be satisfied that such person is a dangerous lunatic or a dangerous idiot, then it shall be lawful for the said Justice by warrant under their hands and seals to commit such person to some gaol house of correction or public hospital, there to be kept in strict custody until such person shall be discharged by an order of two Justices of the Peace, one whereof shall be one of the Justices who has signed such warrant, or by one of the Judges of the Supreme Court, or until such person shall be removed to some public colonial lunatic asylum by order of His Excellency the Governor as hereinafter provided.

2. But may have access to their friends, &c.

Every such person while in such custody as aforesaid shall have the liberty of seeing his or her friends and legal advisers at all reasonable times; and nothing herein contained shall prevent any relative or friend from taking such insane person or dangerous idiot under his own care and protection, provided he enter into sufficient recognizance for the peaceable behaviour or safe custody of such dangerous lunatic or idiot before two Justices of the Peace, the Court of Sessions, or before one of the Judges of the Supreme Court.

3. And may be placed in a Lunatic Asylum.

It shall be lawful for the Governor, by warrant under his hand, to direct that any person so kept in custody by any such warrant as aforesaid, or any person who may be in any prison or place of confinement, except for debt or under any civil process, and in respect of whom it shall be certified by two legally qualified medical practitioners that such person is insane, shall be removed to such public colonial lunatic asylum as the said Governor shall appoint.

4. Until he shall recover.

Every person so removed as aforesaid shall remain under confinement in the asylum to which he may have been removed until it shall be certified to the Governor by two such practitioners as aforesaid that such person has become of sound mind, whereupon the said Governor is hereby authorized and required, if such person shall remain subject to be continued in custody, to issue his warrant to the keeper or other person having the care of any such asylum, directing that such person be remitted to the prison or other place of confinement from which

he may have been taken, or if the period of imprisonment or custody of such person shall have expired, or if such person shall not be under any sentence of imprisonment, that such person shall be discharged: Provided always that nothing herein contained shall prevent the relatives guardians or friends of any insane person or idiot from removing such person, with the sanction of His Excellency the Governor, from any public colonial lunatic asylum, upon their giving sufficient security for the safe custody of such insane person or idiot in manner hereinbefore mentioned.

5. Persons in Prison and being Insane may be removed to an Asylum.

In case it shall be certified to the Governor by two such practitioners as aforesaid that any person committed to prison for trial for any offence is insane or is an idiot, it shall be lawful for such Governor if he shall think fit in like manner to order that such person shall be removed to such lunatic asylum as he shall appoint, unless in the meantime admitted to bail by some legal authority until the sitting of the Court at which such person should be tried or indicted according to the due course of law, and that such person shall then be remitted to the custody of the keeper of the gaol or other person in whose custody such person may have been under the terms of the original committal, in order to his being indicted and tried for such offence or otherwise disposed of according to law: Provided always that every such person while so detained in such lunatic asylum shall have the same liberty of seeing his friends and legal advisers at reasonable times which he would have had in the gaol or prison from which he may have been removed.

6. Persons acquitted on ground of Insanity, may be kept in strict custody.

In all cases where it shall be given in evidence upon the trial of any person charged with any treason murder felony or misdemeanour, that such person was insane at the time of the commission of such offence and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity. And if they shall find that such person was insane at the time of committing such offence, the Court before whom such trial shall be had shall order such person to be kept in strict custody in such gaol or place of confinement and in such manner as the Court shall seem fit until the Governor's pleasure shall be known; and it shall thereupon be lawful for the Governor to give such order for the safe custody of such person during his pleasure in such place and in such manner as to the Governor shall seem fit.

7. Persons proved not to be Insane to be liberated.

If it shall appear to any two legally qualified medical practitioners present at an examination of any person in custody that such person is not insane or a dangerous idiot, and that such person may be suffered to go at large with safety, it shall be lawful for such practitioners and they are hereby required to give a certificate to that effect signed by them to the Visiting Justice, or in his absence to the keeper of the gaol or house of correction in which such person is in

custody, who is hereby required to transmit the same forthwith to the Governor for the time being, who shall order the liberation of such person from custody unless he shall be detained therein for some other Cause by due process of law.

8. Visitors of Lunatic Asylums may be appointed.

It shall be lawful for the Governor to nominate and appoint some fit person or persons to be visitor or visitors of such lunatic asylum within the Colony, and the said visitor or visitors to remove and displace and to appoint another or others in his or their stead. The persons so appointed shall visit such asylums and make reports thereon at such times and in such manner as the Governor shall from time to time direct and appoint.

9. Persons Insane but not dangerously so, may be placed in a Lunatic Asylum.

And whereas it is also desirable to provide for the care and maintenance of persons who are insane but not dangerously so: Be it enacted that it shall be lawful for the Governor, on the application of one or more of the relatives or guardians or friend of any insane person (which application shall be sanctioned in writing by one of the Judges of the Supreme Court), and on receiving the certificate of two legally qualified medical practitioners that they have examined and found such person to be of unsound mind, to direct and order, if he think it proper so to do, that such person be received in such lunatic asylum as he the said Governor shall appoint.

10. Costs of Maintenance to be defrayed by the Colony.

When any insane person shall be committed to any gaol or hospital as aforesaid for the purpose of being received into such lunatic asylum as the said Governor may appoint, the removal to and from and maintenance in the said asylum of such insane person shall, until further provision be made, be at the expense of the Colony

11. Relations &c. of Lunatic may pay such Costs out of his estate.

Provided always, and be it further enacted, that it shall be lawful for the Superintendent of any such asylum, in all cases where any lunatic or idiot shall be possessed of sufficient means to defray the expense of his or her maintenance in any such asylum, to agree with any relative guardian or friend of any such lunatic or idiot for his or her maintenance whilst detained therein.

12. Limitation of Actions.

No action shall be brought against any person or persons on account of any act matter or thing done or to be done or commanded by such person or persons in carrying the provisions of this Ordinance into effect, unless such action be commenced within three calendar months after the cause of action or complaint shall have arisen; and in any such action the general issue may be pleaded and the special matter given in evidence.

13. Who to be deemed legally qualified Medical Practitioner.

For the purposes of this Ordinance no person shall be deemed a legally qualified medical practitioner unless such person shall have proved to the satisfaction of two Justices of the Peace that he is a Doctor or Bachelor of Medicine of some University, or a Physician or Surgeon, licensed or admitted as such by some College of Physicians or Surgeons in Great Britain or Ireland, or a member of the Company of Apothecaries of London, or who is or has been a Medical Officer, duly appointed and confirmed, of Her Majesty's sea or land service.

14. Writ of de lunatico inquirendo may issue in certain cases.

Provided that nothing herein contained shall be construed to prevent a writ de lunatico inquirendo from being sued out of the Supreme Court by any person or persons having a lawful right to do so, for the purpose of having the fact of the insanity or idiocy of any person not dangerously insane or idiotic tried by due course of law,

15. Interpretation.

For the purposes of this Ordinance the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

## 2. The Gunpowder Ordinance 1847

An Ordinance to prohibit the keeping of Gunpowder exceeding a certain Quantity.

[10th August, 1847.]

Be it enacted by the LieutenantGovernor of New Zealand, with the advice and consent of the Legislative Council thereof:

1. The keeping of Powder beyond a certain quantity prohibited

That no person being a dealer in gunpowder shall have or keep at any one time more than fifty pounds weight of gunpowder, and not being such dealer more than fifteen pounds weight of gunpowder, in any house storehouse warehouse shop cellar yard wharf building or place other than some public powder magazine, except by license granted to him for that purpose under the authority of His Excellency the Governor.

2. Penalty

If any person shall have or keep any such gunpowder contrary to the provisions of this Ordinance he shall forfeit and pay for every such offence any sum not exceeding twenty pounds, to be recovered in a summary way, and all the

gunpowder beyond the quantity hereby allowed to be kept, and the barrels or packages in which such gunpowder shall be contained.

**3. Justice may issue Search Warrant**

It shall be lawful for any Justice of the Peace, on reasonable cause assigned upon oath by any person or persons, to issue a warrant under his hand for searching in the daytime any house storehouse warehouse shop cellar yard wharf ship vessel or place in which gunpowder is suspected to be kept contrary to the provisions of this Ordinance.

**4. Powder kept illegally may be seized**

All gunpowder found upon such search to be kept contrary to the provisions hereof, and also the barrels and packages in which the same may be contained, shall be immediately seized by the person making such search and removed to some place of safety and there detained until it shall be adjudged on a hearing before any two Justices of the Peace whether the same shall be forfeited, and the person seizing such gunpowder shall not be liable to any suit for such detention or for any loss or damage which may happen to the same other than from his own wilful act of neglect.

**5. Reward for activity in procuring conviction**

In case of any conviction under the provisions of this Ordinance, when any person shall appear to have been active in or towards the procuring of any such conviction, it shall be lawful for His Excellency the Governor to award to such person a portion of the penalty recovered upon such conviction, but not exceeding in the whole one-half thereof, as to him shall seem meet.

**6. In the case of Natives**

No person of the Native race shall be convicted of any such offence as aforesaid except on the information or complaint of some officer duly authorized in that behalf by His Excellency the Governor.

**7. Not to extend to Powder Magazines, &c.**

Provided always that nothing herein contained shall extend to the keeping of gunpowder at any public powder magazine, or by or on account of the New Zealand police force, or by or on account of Her Majesty's land or sea forces.

**8. Interpretation**

For the purposes of this Ordinance the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

**9. Commencement**

This Ordinance shall come into operation on the fifteenth day of September next in the town of Auckland, and elsewhere throughout the Colony on the first day of January, one thousand eight hundred and forty-eight.

#### **4. The Savings Banks Ordinance 1847**

An Ordinance to provide for the Management of Savings Banks.  
[21st September, 1847.]

For the purpose of providing for the management of Savings Banks, and for the receipt and security of the money deposited therein:  
Be it enacted by the LieutenantGovernor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

##### **I.—Officers of the Bank, their appointment and duties**

###### **1. Governor to be President**

The Governor of New Zealand for the time being shall be the President of every Savings Bank within the Colony proclaimed by him to come within the operation of this Ordinance.

###### **2. Vice President and Trustees to be nominated by Governor**

The management of the affairs of every such Bank shall be vested in not less than four, or more than thirtysix Trustees, to be nominated by the Governor, of whom one shall be styled "Vice-President," to be elected by a majority of such Trustees present at a meeting to be convened for that purpose.

###### **3. And to be removeable**

Such Trustees, or any of them may from time to time be removed from office and be re-appointed, or others, or another may be appointed in their or his place in case of any such removal, or of any vacancy as the Governor shall from time to time think fit; and every such nomination re-appointment or fresh nomination of any such Trustee shall be signified by the publication of an order to that effect in the Government Gazette.

###### **4. Number of Trustees to form a Quorum**

All acts matters and things (save as hereinafter excepted) which the said Trustees are by any of the provisions of this Ordinance authorized or required to do, shall and may be done by any four of such Trustees: Provided always that such four Trustees be for such purpose assembled at a meeting whereof due notice shall have been given to all the said Trustees.

###### **5. Chairman**

At all meetings of the said Trustees the Senior Trustee in the order of appointment present shall preside as chairman, and shall not only vote as a Trustee but shall also in case of the equality of votes have a casting vote.

#### 6. Accountant

It shall be lawful for the Vice-President and the majority of the Trustees of any such Savings Bank, subject to the approval of the Governor, to appoint fit persons to be accountants of any such Bank and of any branch thereof, and from time to time to remove from office any such accountant and to re-appoint him or to appoint another in his place in case of any such removal or of any vacancy as such Vice President and Trustees shall think fit; and any such appointment reappointment or fresh appointment of any such Accountant shall be signified by the publication of a notice to that effect in the Government Gazette.

#### 7. Salary

It shall also be lawful for such Vice-President and the majority of such Trustees (subject to such approval as aforesaid) to appoint such salaries as they may deem fit to be paid to such accountants, regard being had to the nature and extent of the duties to be performed and to the responsibility which may respectively attach to them.

#### 8. Security to be given by Accountant

Every such accountant shall give security for the due and faithful discharge of the duties of his office by bond, with two or more sureties to be approved by the said Vice-President and such majority of Trustees, which sureties shall join with the said accountant in such bond, and they and he shall bind themselves jointly and severally to the Vice-President and Trustees of the Savings Bank in such penal sum as shall be named by the said Trustees and be approved by the Governor.

#### 9. Clerk

It shall also be lawful for any such VicePresident and the majority of such Trustees, subject to such approval as aforesaid, to appoint Clerks and such other subordinate officers as they in their discretion shall think necessary for the execution of the several duties hereby reposed in them.

#### 10. Their Salary

It shall also be lawful for such Vice-President and Trustees, out of the interest received by them on moneys lent out as hereinafter directed, to pay the salary so appointed to be paid to the Accountant of any such Banks as hereinbefore provided, and such other salaries to the Clerks and subordinate officers as the said Vice-President and the Trustees with the consent and approbation of the Governor shall think fit and allow, and also such incidental charges and expenses as shall be necessarily incurred in conducting the business and keeping the accounts of any such Savings Bank, and which shall be allowed and approved by the Governor.

#### **11. Trustees to make Rules**

It shall also be lawful for the Vice-President and the majority of the Trustees of any such Bank to make such rules and regulations for the conduct and management of such Bank as to them shall seem meet, and from time to time to revoke alter and modify such rules and regulations respectively: Provided always that no such rules or regulations or any revocation alteration or modification thereof shall be deemed valid or be acted upon until the same shall have been submitted to the Governor for his approval, and shall have been confirmed and allowed by him under his hand.

#### **12. Rules to be recorded in the Supreme Court**

All such rules and regulations which shall be so confirmed and allowed as aforesaid shall be forthwith transcribed on parchment and deposited with the Registrar of the Supreme Court, and the said transcript shall be filed by such Registrar and preserved amongst the records of the said Court without any fee or reward in respect thereof, and a copy of the same shall be kept in the said Bank, open to the inspection of the depositors during the hours of business.

#### **13. And to be binding on depositors**

The rules and regulations so deposited shall be binding on the several members and officers of such Bank and upon all depositors therein and their representatives, all of whom shall be deemed to have full notice thereof; and the transcript thereof so deposited as aforesaid, or a true copy thereof examined with the original and proved to be a true copy, shall be received as evidence of such rules and regulations respectively as aforesaid; and every copy of such transcript so deposited as aforesaid shall be made without fee or reward except the actual expense of such copy.

#### **14. Liability of Trustees limited**

The Trustees of any such Bank shall not be answerable or accountable for the other or others of them, but each and every of them only for his and their own acts receipts neglects or defaults respectively; and the said Trustees or any of them shall not be amenable or accountable for any banker broker or other person with whom or in whose hands or custody any part of the moneys of such Bank shall or may be deposited or lodged for safe custody or otherwise in the execution of the trusts hereby in them reposed, or for the insufficiency or deficiency of any security or securities in or upon which any moneys shall be placed out or invested, or for the defect of title or value of any lands, nor for any other misfortune loss or damage which may happen in the execution of the aforesaid trusts or in relation thereunto, except the same shall happen by or through their own wilful default respectively.

#### **15. No Trustee, &c., to be depositor, &c.**

No person being a Trustee or District Trustee or Treasurer of any such Bank, or being in any wise concerned in the management thereof, shall be allowed to deposit any sum or sums of money therein nor to borrow any money therefrom

nor to derive any benefit from any deposit made in such Bank, nor shall act in the capacity of Accountant or Clerk, or District Accountant or Clerk, of such Bank, nor receive directly or indirectly any salary allowance profit or benefit whatsoever from the funds of the said Bank.

#### 16. Penalty

If any person being a Trustee or District Trustee or Treasurer of any such Bank shall offend in any one of the particulars hereinbefore mentioned, he shall forfeit and pay for such offence the sum of one hundred pounds, to be sued for in the Supreme Court by any person having money deposited in the said Bank to the amount of thirty pounds; and such penalty shall be paid, one-half to Her Majesty, her heirs and successors, for the public uses of the Colony and the support of the Government thereof, and one-half to the informer.

#### 17. Bank to have prior claim on Assets of Officer

If any person holding any office in such Bank or any branch thereof, and having in his hands or possession any moneys or effects belonging to the said Bank, or any deeds or securities relating to the same, shall become bankrupt or insolvent or shall make any assignment of his lands goods chattels or effects for the benefit of his creditors, or against whose lands goods chattels or effects any execution attachment or other process shall have issued, or if any such officer shall die, then and in any such case it shall be lawful for any two or more of the Trustees of any such Bank respectively to apply to such officer, or to his assignees, or to the Sheriff or other person executing such process, or to his executors or administrators, or to any other person or persons having legal right as the case may require, and to demand that such moneys or effects belonging to the said Bank, and all deeds securities or papers relating to the same, shall be paid over or delivered up to the said Trustees or to such persons asthey shall appoint, and the party or parties so applied to and having the same shall within forty days after such demand as aforesaid deliver over to such Trustees or to any person or persons whom they may appoint to receive the same, all effects or other things belonging to such Bank, and all deeds securities or papers relating to the same, and shall pay out of the assets or effects of such person all sums of money belonging or due by such officer to the said Bank before any other of the debts of the said officer shall be paid or satisfied or before the money directed to be levied by such process as aforesaid be paid over to the party issuing such process as the case may be, and all assets goods chattels and effects shall be bound to the payment and discharge thereof accordingly.

#### 18. Trustees to prepare Balance Sheet

The Trustees of such Bank, or any four of them shall, within one calendar month after the close of every year, cause a balance sheet to be prepared containing a true statement of the receipts and payments on account of such Bank during the past year, and of the balance of money deposited as hereinafter provided, and of all sums of money which may in any manner be due to the Trustees of such Banks as such Trustees as aforesaid, and shall certify that they have counted the

cash in hand, and have to the best of their belief ascertained the correctness of the said account or balance sheet, which they have subscribed with their names, and shall within ten days after such subscription cause the same to be laid before the Governor for the time being for his approval, and shall also cause the same after being approved by him to be published in the Government Gazette.

## II.—Deposits, Interest, etc

### 19. Amount of deposits limited

It shall be lawful for any one or more of such Trustees together with the Accountant, or in the event of his absence for any limited two or more of such Trustees, at such time and place as shall be fixed by such rules and regulations as aforesaid, and at no other time or place whatsoever, to receive from any person or persons in the way of deposit any sum or sums of money not being of value less than one shilling, nor by one or by successive deposits exceeding the sum of fifty pounds in any one year exclusive of interest, nor of one hundred pounds in the whole, to the credit of any one account except as hereinafter provided, and the amount of the money so received shall be entered in a book (to be provided for that purpose) to the credit of the party making such deposit or to the credit of such other person as he may appoint: Provided always that no sum or sums of money shall be paid by way of deposit into any Bank which shall be established under this Ordinance by any person whatsoever without disclosing his or her name, together with his or her profession occupation calling and residence, to the person receiving the same, and such name profession occupation calling and residence shall forthwith be entered by the person receiving such deposit in the books wherein the entry of the said deposit is hereinbefore directed to be made: Provided always that nothing herein contained shall prevent the said Trustees from receiving from any person of the Native race, by one or more deposits, any greater sum than one hundred pounds, provided that the excess above each sum shall not bear interest as hereinafter provided.

### 20. Deposits how first disposed of

The amount of such deposits and all other sums of money received into any such Bank shall with all convenient speed be deposited in such place as shall be approved of by the Vice-President and a majority of the Trustees, and the same shall be there placed to the credit of such Bank in an account to be intituled "The account of the Vice-President and Trustees of the Savings Bank," and no money so paid into such account shall be withdrawn without the written order of two or more Trustees, countersigned by the Accountant or the person (for the time being) acting in that capacity, being first had and obtained.

### 21. Withdrawal of deposits

It shall be lawful for the depositor of any sum or sums of money in any such Bank, or for any person duly authorized by such depositor, or for his executor or

other lawful representative, to claim and receive back such sum or sums of money together with the interest due thereon or any part thereof in the manner and upon the conditions following, that is to say,—

If the sum or sums so required to be repaid shall not exceed five pounds, the claimant thereof shall, on some day appointed for the meeting of the Trustees, deliver or cause to be delivered to them or to their Accountant a notice signed with his name declaring his intention to withdraw such sum from the Bank at the expiration of seven days from the date of the said notice.

If the sum to be withdrawn shall exceed five pounds but be not more than twenty pounds, then fourteen days' notice shall be given in like manner.

If the sum to be withdrawn shall exceed twenty pounds but be not more than fifty pounds, then twentyone days' notice shall be given in like manner; and if the sum to be withdrawn shall exceed fifty pounds, then twentyeight days' notice shall be given.

## 22. Rate of Interest

Any person depositing with the said Trustees by one or more payments any sum not less than twenty shillings, or the person on whose account such deposits may have been paid and to whose credit they are placed in the books of any such Bank, shall be entitled to receive interest upon the same at the rate of five pounds by the year for every hundred pounds and in the same proportion for any shorter time: Provided that no interest shall be allowed on any sum less than one pound or on odd shillings or pence, and that the interest shall be calculated by months, omitting odd days, but that any sums deposited within the first seven days of a month shall be entitled to bear interest for the whole of that month.

## 23. From what source to be paid

The said Trustees may and shall pay such interest as aforesaid out of the interest received by them on sums lent out as herein provided:

Provided always that if the moneys so received by the said Trustees, after paying therefrom the salaries charges and expenses of any such Bank, shall be insufficient to pay interest on deposits at the rate aforesaid, the sum or sums required to make up such deficiency shall be payable, by warrant under the hand of the Governor for the time being, out of the general revenue of the Colony or Province in which such Bank may be situated.

## 24. Rate of Interest may be reduced

It shall be lawful for the Trustees of any such Bank or a major part of them, at a general meeting to be held in the month of January in every year, with the consent and approbation of the Governor, to reduce the rate of interest hereinbefore prescribed: Provided always that no such reduction in the rate of interest shall be made until after three calendar months' notice be given by advertisement to be published in the Government Gazette.

## 25. Interest, when to be added to credit of depositor

Interest, subject to the rules and regulations aforesaid, shall be added to and incorporated with the sum which may be then standing in the books of the said Bank to the credit of each party, and shall bear interest subject to the rules aforesaid from the first day of the said month of January, and interest shall be allowed to him upon the total sum so long as the same shall remain deposited in such Bank: Provided always that nothing in this Ordinance contained shall entitle any person, by one or by successive deposits, to place in the charge of the Trustees of such Bank any sum exceeding one hundred pounds in the whole.

#### 26. Dividends

If at the close of any year a surplus over and above one hundred pounds shall remain after such interest and all such salaries charges and expenses as aforesaid shall have been paid, including any debt due to the Colonial Government in respect of advances made by the said Government in aid of the funds of any such Bank for the payment of interest as hereinbefore provided, the said Trustees may and shall cause such surplus to be divided among and placed to the credit of the several persons having deposits in such Bank in proportions corresponding with the amount of the respective sums standing to their credit at the close of the preceding year and with the number of months in such year during which such sums may have remained inserted in the names of the several depositors.

#### 27. Governor may guarantee Loans

And whereas by reason of the funds of such Bank being invested in manner herein provided the Trustees of the said Bank may without the assistance of the Government be unable to meet the demands made upon them from time to time by depositors desirous of withdrawing their deposits, be it further enacted that it shall be lawful for the Governor to guarantee the repayment of any loan which it may be necessary for the Trustees to negotiate in order to meet the demands of such depositors: Provided that no loan or loans outstanding at any time and so guaranteed shall exceed the sum of one thousand pounds without the previous advice and consent of the Colonial Legislature.

### III.—Depositors.

#### 28. Infants may be depositors

In case the Trustees of any such Bank shall receive any deposit of money from or for the use and benefit of any person under the age of twentyone years, it shall be lawful for the said Trustees to pay such person his share and interest in the funds of the said Bank in the manner and upon the conditions herein appointed in the case of other depositors, and the receipt of such person shall be a sufficient discharge for any money paid to him as aforesaid notwithstanding his incapacity or inability in law to act for himself.

29. Deposits made by a Woman who shall subsequently marry, or by a married woman, may be paid upon the receipt of such Woman, unless notice given. In case any deposit shall have been made in any such Bank by any married woman without notice of her marriage, or in case any deposit shall have been made by any woman who shall marry subsequently to making such deposits it shall be lawful for the Trustees of such Bank to pay any sum of money in respect of any such deposit to any such woman unless the husband of such woman or his representatives shall give to such Trustees notice in writing of such marriage and shall require payment to be made to him or them.

30. Friendly Societies, &c., may become depositors

It shall be lawful for the said Trustees of any such Bank by order of the Governor to receive any sum or sums of money (although such sum shall exceed one hundred pounds) which may have been or may hereafter be received and deposited in any Savings Bank or Friendly or other Society within the Colony from the Treasurer or Trustees of such Bank or Society or other person competent to pay the same, and to place the same in any such Bank in the name or names of the person or persons to whom such money so to be transferred shall respectively belong, and to give credit in the books and accounts of such Bank to such persons for the several and respective sums to which they may be entitled at the time of such transfer, and to pay interest for the same at and after the same rate as if such sums had been originally deposited in any such Bank by the several individuals to whom the same shall respectively belong.

31. On death of depositors, deposits not exceeding £20—how to be disposed of. In case any depositor in the funds of any such Bank shall die leaving a sum of money in such Bank, which with the interest thereon shall not exceed in the whole twenty pounds, it shall be lawful for the said Trustees and they are hereby authorized, in case they shall be satisfied that no will was made and left by such deceased depositor, and that no letters of administration will be taken out of the goods and chattels of such depositor, to pay the same at any time after the decease of such depositor, according to the rules and regulations of such Bank; and in the event of there being no rules and regulations made in that behalf, then the said Trustees are hereby authorized to pay out of such sum of money all just debts due or owing by such deceased depositor, and to defray the expenses of his funeral, so far as the said sum of money shall extend, and to pay and divide the surplus (if any) to and amongst the person or persons entitled to the effects of the deceased intestate, according to the Statute of Distritions.

32. If deposit exceed £20

In case any depositor shall die leaving any sum or sums of money in the funds of any such Bank, or there shall be any dividends or interest due thereon belonging to him at the time of his death, which said several sums shall exceed in the whole the sum of twenty pounds, the same shall not be paid to any person or persons claiming to be the representative next of kin or creditor of such depositor unless such person deliver or cause to be delivered to the said Trustees or to the

Accountant of such Bank a notice in writing signed with his name in the presence of two credible witnesses, setting forth the grounds upon which he claims to be entitled to receive the said sum of money belonging to such depositor at the time of his death or any part thereof: Provided always that the said notice shall have been previously published thrice or oftener in the Government Gazette and in some one or more of the newspapers of the Colony at the discretion of the Trustees and three calendar months at least shall have elapsed subsequently to such last publication before payment be made in satisfaction of any claim or demand: Provided also that if any creditor of the deceased whose debt shall not exceed the sum of ten pounds shall put in his claim to be paid, it shall be lawful for the said Trustees to pay the same without such public notice as aforesaid: Provided always that the above regulations shall not be taken to interfere with the legal title and claim of any representative of such depositor deceased who shall procure probate of the will of the same or letters of administration of his effects, or with the action of the official administrator.

**33. Such disposal valid against Persons lawfully entitled**

If any payments shall be made from the funds of any such Bank by the Trustees thereof as hereinbefore directed, and the party claiming and receiving the same shall afterwards be proved not to be the lawful representative of the depositor so deceased as aforesaid, or otherwise not entitled to the same, such payment shall be valid against any demand of any other person or persons as representative or representatives of the said deceased depositor or any other person or persons whomsoever, nevertheless such lawful representative or representatives or other person or persons shall have remedies for such moneys so paid as aforesaid against the person or persons who shall have so wrongfully received the same.

**IV.—Investment of Deposits**

**34. Bills may be discounted**

At any meeting or meetings to be for that purpose appointed by the Trustees of any such Bank, it shall be lawful for the Trustees attending thereat, not being less than four, to discount at a rate of interest not less than eight pounds per cent. per annum any bill of exchange or promissory note for any amount not exceeding one hundred pounds, provided the same shall bear the names of not less than two persons, not being Trustees of the said Bank, to be approved by such Trustees so attending as aforesaid or the major part of them, and be payable at a period not exceeding three calendar months from the time when the same shall be discounted.

**35. Or deposits may be invested on Mortgages**

It shall also be lawful for any number of the said Trustees, not being less than four, attending any meeting convened for the purpose, to lend any sum or sums of money upon security by mortgage of any lands and hereditaments of an estate

of inheritance in fee simple in the Colony of New Zealand: Provided that such lands and hereditaments be free from all incumbrances and shall not be at a greater distance than twenty miles from the town in which such Bank may be situated, and that wherever the same shall be or become liable to the dowry of the wife of the mortgagor thereof she shall join in such mortgage for the purpose of releasing the same, and that no such loan shall exceed the amount of five hundred pounds to any one person: Provided always that not more than one third of the entire funds of any such Bank shall be invested on mortgage security as aforesaid.

36. Or in Government Securities, or in Colonial Bank

It shall also be lawful for any number of the said Trustees, not being less than four, attending any such meeting as aforesaid, to cause any proportion of the funds of any such Bank at their discretion, with the approval of the Governor, to be invested in Government securities in the Colony of New Zealand, or to be deposited in any Bank or Banks in the Colony at such rate of interest as may be agreed upon between the Directors of any such Banks and such Trustees as aforesaid.

V.—Securities and Remedies

37. Real Estate, &c., to be vested in Vice President

All lands and hereditaments so mortgaged to any such Bank as aforesaid shall be conveyed to the Vice-President thereof for the time being in fee simple, subject to a proviso for redemption on payment of all principal money and interest, and to a power of sale in default of payment of principal money and interest.

38. Bonds, &c., may be put in suit in name of Vice President

All bonds mortgages warrants of attorney and other securities which shall be taken in the name of any person as Vice-President of any such Bank for and on account of the same, shall and may be put in suit and be sued and prosecuted at law or in equity in the name of the Vice-President for the time being in whose name the same may have been taken, or in the name of any person who shall have succeeded to that office at the time such proceedings be instituted notwithstanding that the name of any such succeeding Vice-President be not inserted in such bond mortgage warrant of attorney or other such security as an obligee, mortgagee, assignee, or payee.

39. Death of Vice President not to abate Action

The death resignation removal or other act of any such Vice-President in whose name any such security as aforesaid shall be put in suit, shall not abate any action suit or other proceeding had thereon, but the same may be continued where it left off and be prosecuted and carried on in the name of any person who

may have succeeded to that office or may be or become the Vice-President of the said Bank for the time being.

40. Legal Estate, &c., to vest in new Vice President without conveyance

The legal estate in all lands and tenements belonging or mortgaged to any such Bank shall become vested in such new Vice-President as aforesaid to all intents and purposes immediately upon the recording of the memorial of the name of such new Vice-President in the Supreme Court as herein directed, and so on toties quoties whenever any new appointment of Vice-President for the time being of any such Bank shall take place, and such new memorial shall be enrolled and recorded in the Supreme Court as herein directed.

41. All monies, Securities, &c., to be vested in Vice President

All moneys goods chattels and effects whatsoever, and all securities for money and obligatory instruments and evidences or muniments and other effects whatever, and all rights and claims belonging to any such Bank, shall be vested in the Vice-President for the time being for the use and benefit of the respective depositors therein according to the provisions of this Ordinance; and after the death resignation or removal of any such Vice-President, shall vest in the succeeding Vice-President for the same estate and interest as the former Vice-President had therein, and subject to the same trusts without any assignment or conveyance whatever: Provided always that all sums of money paid on the redemption of any lands and hereditaments may be received by any one Trustee, together with the Accountant for the time being of any such Bank, and all receipts and other acquittances for the same may be signed by any one Trustee together with the said Accountant in the name of and for and on behalf of the said Vice-President, and such receipts and acquittances so signed as aforesaid shall be deemed and taken to be as valid at law and in equity as if the same had been signed by the Vice-President of the said Bank.

42. Vice President to bring action, &c

The Vice-President of every such Bank may institute any action suit prosecution and other proceedings at law and in equity, by and on behalf of such Bank or wherein such Bank may be concerned, against any person or persons, body politic or corporate, and whether such person or persons shall be a Trustee or officer of the said Bank or otherwise.

43. Actions, &c., to be carried on in name of Accountant

Every such action suit prosecution and proceedings shall be commenced or instituted and carried on in the name of the Accountant of such Bank for the time being as the nominal plaintiff complainer or petitioner for and on behalf of the said Bank, and all actions suits and proceedings as aforesaid to be commenced instituted or prosecuted against any such Bank shall be defended by the said Vice-President, but the same shall be commenced instituted and prosecuted against the said Accountant for the time being of such Bank as the nominal defendant for and on behalf of the said Bank.

44. In case of prosecution for Fraud, &c., name of Accountant to be used  
All prosecutions for fraud upon or against any such Bank, or for embezzlement  
robbery or stealing the bills notes bonds money goods chattels effects or  
property of the said Bank, or for any other offence against the said Bank, shall or  
may be so commenced or instituted and carried on in the name of the said  
Accountant for the time being of the said Bank; and in all indictments and  
information it shall be lawful to state the property of any such Bank to be the  
property of the said Accountant for the time being; and any offence committed  
with intent to injure or defraud the said Bank shall and lawfully may in any  
prosecution on account of the same be stated or laid to have been committed  
with intent to injure and defraud such Accountant, and any offender or offenders  
may thereupon be lawfully convicted of any such offence.

45. Action, &c., not to abate on death of Accountant

No such suit action or prosecution shall be discontinued or abated by the death  
of such Accountant, or by his resignation or removal from office which he held at  
the time when such action suit or prosecution was commenced, but the same  
shall and may be proceeded with in the name of any person who may be or  
become Accountant of such Bank for the time being, and such person shall pay  
or receive like costs as if such action or suit had been commenced in his name  
for the benefit of or to be reimbursed from the funds of the said Bank.

46. Vice President and Accountant not prevented giving evidence

Provided always that the said Vice-President or Accountant being the plaintiff  
complainant petitioner or defendant in any action suit petition or other  
proceedings as aforesaid on behalf of any such Bank, shall not prevent or affect  
the competency of any such Vice-President or Accountant so as to prevent him  
from being a witness in any such action suit petition or other proceeding, in the  
same manner as he might have done if his name had not been made use of as  
such plaintiff complainant petitioner or defendant in any such action suit petition  
or other proceeding.

47. Memorial of Names of Vice President and Accountant to be recorded

A memorial of the name of the Vice-President and a memorial of the name of the  
Accountant for the time being of every such Bank, in the form or to the effect for  
that purpose set forth in the Schedule hereunto annexed, signed by at least four  
of the said Trustees of such Bank, shall respectively be recorded upon oath in  
the Supreme Court within thirty days after such Bank shall have been proclaimed  
to come within the operation of this Ordinance as aforesaid; and when and as  
often as any Vice-President shall be appointed by the said Governor as  
hereinbefore directed, or any Accountant of any such Bank shall be newly  
elected Accountant thereof, a memorial of the name of such newly appointed  
Vice-President or of such newly elected Accountant, in the same form or to the  
same effect as the above-mentioned memorial, signed by such newly appointed  
Vice-President or such newly elected Accountant as the case may be and by four

of the said Trustees of such Bank at the time of the appointment of such Vice-President or of the election of such Accountant, shall in like manner be recorded upon oath in the said Court within thirty days next after such Vice-President shall be appointed or such Accountant shall be so elected as the case may be.

48. Until so recorded, name of Vice President, &c., not to be used

Until a memorial of the name of the Vice-President or of the Accountant for the time being be recorded in the manner herein directed, no action suit or other proceeding shall be brought by any such Bank in the name of the Vice-President or of the Accountant of the said Bank as aforesaid under the authority of this Ordinance.

49. Proof of Memorial being recorded, unnecessary

Provided always that in any action to be brought in the names of the said Vice-President or Accountant of the said Bank by virtue of this Ordinance, the plaintiff therein shall not be non-suit nor shall a verdict be given against him for want of proof of the record of such memorial or memorials as hereinbefore mentioned; but in case the defendant in any such action shall make it appear on such trial that no such memorial or memorials has or have been recorded, then a non-suit shall be entered in such action.

50. Disputes to be referred to arbitration

If any dispute shall arise between any such Bank or any person or persons acting on behalf thereof and any individual depositor therein, or any executor administrator next of kin or creditor of any deceased depositor, or any person claiming to be such executor administrator next of kin or creditor, then and in every such case the matter so in dispute shall be referred to the arbitration of two indifferent persons, one to be chosen and appointed by the Trustees of the said Bank and the other by the party with whom the dispute arose; and in case the arbitrators so appointed shall not agree, then such matter in dispute shall be referred in writing to an umpire, having no interest in such matter or in the said Bank, to be elected by the said arbitrators previously to entering upon the consideration of the matter referred to them; and whatever award order or determination shall be made by the said arbitrators or by the said umpire shall be binding and conclusive on all parties, and shall be final to all intents and purposes without any appeal.

## VI.—District Trustees

51. Governor may appoint District Trustees

And whereas it may be expedient to extend to country districts the operation of this Ordinance: Be it therefore enacted that it shall be lawful for the Governor from time to time as occasion may require to appoint proper persons to act as Trustees in connection with any such Bank for such districts as to the said

Governor shall seem meet, to be signified by the publication of an order to that effect in the Government Gazette.

52. To receive deposits from country depositors

Such Trustees shall be appointed for the receipt respectively of deposits in such Bank, in order that the same may be transmitted to and be invested by the Vice-President and Trustees of the said Bank for the benefit of country depositors in like manner and subject to the same regulations as hereinbefore provided concerning other depositors.

53. District Accountant to be appointed

It shall be lawful for the Vice-President and Trustees of such Bank to appoint a Clerk or Accountant for any such district as aforesaid, who shall give reasonable security to the satisfaction of such Vice President and Trustees that he will duly account for such moneys of depositors as shall come to his hands.

54. To receive deposits

Such Clerk or Accountant shall in the presence of, and not otherwise of, one or more of such District Trustees, receive deposits from persons residing within his district at such times and places as the District Trustees shall appoint, and give proper vouchers to the parties depositing the sums signed by him and by any one of the Trustees who may be present at the receipt thereof.

55. And to remit the same to Bank

It shall be the duty of such District Clerk or Accountant, and he is hereby required at such times and in such manner as the Trustees of such Bank may direct, to remit all sums of money so deposited to the Accountant of such Bank, together with an account, verified by one or more of the District Trustees respectively, of the names residences and description of the depositors and of the sums received by such District Clerk or Accountant as aforesaid, in order that such depositors may be entitled to the benefit of this Ordinance.

56. Notice of withdrawal

It shall be lawful for any such district depositors or for any person duly authorized by him or for his executor or other lawful representative to claim and receive back the money so deposited by him as aforesaid or any part thereof in manner following, that is to say,—

If the sum so required to be repaid shall not exceed five pounds, the claimant thereof shall, on some day to be appointed by the District Trustee or Trustees respectively, deliver or cause to be delivered to the District Clerk or Accountant a notice, signed with his name, declaring his intention to withdraw such sums from the Bank at the expiration of fourteen day from the date of such notice.

If the sum to be withdrawn shall exceed five pounds but be not more than twenty pounds, then twenty-one days' notice shall in like manner be given, and thirty days' notice shall be given when the sum to be withdrawn shall exceed twenty pounds.

**57. Notice to be forwarded to Bank**

Upon the receipt of such notice the District Clerk or Accountant shall forth with transmit the same, verified under the hand or hands of one or more of the said District Trustees respectively, to the Accountant of such Bank, in order that proper steps may be taken for transmitting the money to such District Clerk or Accountant for the payment to the party lawfully claiming the same, which Clerk or Accountant shall take from such party a proper receipt in writing for the money so paid, and transmit the same to the Accountant of the said Bank.

**58. In case of death of district depositor**

If any district depositor shall die leaving any sum or sums of money in such Bank, or any interest or dividend due thereon belonging to him at the time of his death, the same shall be paid only on the conditions hereinbefore provided in case of the death of other depositors in such Bank.

**59. Interpretation**

For the purposes of this Ordinance, unless there be something either in the subject or context repugnant to such construction, words importing the masculine gender only shall include females, and the word " Governor " shall be taken to include the LieutenantGovernor or the Officer Administering the Government of the Colony for the time being.

**Schedule**

**Form of Memorial**

Memorial of the name of the VicePresident [or Accountant, as the case may be,] of Savings Bank, pursuant to the Savings Bank Ordinance, Sess. VIII. No. 4.

A.B. Vice-President [or Accountant, as the case may be,]

C.D.

E.F. Trustees

G.H.

I.K.

of, , Gentlemen, , of the abovenamed Bank, maketh oath and sayeth that he was present and did see the foregoing memorial signed by the abovenamed Vice President [or Accountant, as the case may be,] and Trustees respectively whose names appear thereto.

Sworn this day of .

## 5. The Slaughterhouse Ordinance 1847

An Ordinance for regulating the Slaughtering of Cattle in certain places.  
[2nd September, 1847.]

For the purpose of regulating the slaughtering of cattle in certain places:

Be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

### 1. Power to Governor to proclaim districts

That it shall be lawful for His Excellency the Governor by Proclamation from time to time to constitute and define certain districts for the purpose

### 2. Within such districts Cattle not to be slaughtered without Licenses

Within any such district, and after a day to be prescribed by any such Proclamation, no person shall keep a slaughterhouse or place for slaughtering cattle intended for sale barter shipping or exportation except such house or place be duly licensed for that purpose in manner hereinafter provided.

### 3. Penalty

If any person shall slaughter or cause to be slaughtered any cattle as aforesaid in any house or place within such district which shall not be duly licensed for that purpose as aforesaid, he shall forfeit and pay the sum of five pounds for every head of cattle so slaughtered.:—

### 4. Power to Governor to appoint certain places in Towns for slaughtering Cattle

It shall be lawful for His Excellency the Governor, when and as he shall see fit, by Proclamation to direct and appoint that one or more slaughterhouse or houses within or near any town within the Colony shall be a public slaughterhouse or houses for such period as he shall in that behalf appoint, and by any such Proclamation to direct that all cattle slaughtered in any such town or within three miles from the outer boundary thereof for sale barter shipping or exportation shall be slaughtered at such slaughter-house or houses only: Provided always that until such Proclamation shall be made, slaughter-houses in or near any such town may be licensed as hereinbefore provided.

### 5. Penalty

Every person who shall slaughter or cause to be slaughtered any cattle as aforesaid in any house or place within or near any such town as aforesaid contrary to the provisions of such Proclamation, shall forfeit and pay the sum of five pounds for every head of cattle so slaughtered.

### 6. Power to Justices to grant Licenses

Every person desirous of obtaining a license for a slaughterhouse or place for slaughtering cattle shall, ten days before any annual quarterly or special meeting of the Bench of Magistrates nearest to such intended slaughterhouse or place, give to the Clerk of the Bench a notice in writing of his intention to apply for such license, and shall describe in the said notice the house or place intended to be licensed, and the Bench of Magistrates (two or more being present) shall consider such application, and if they consider that the applicant is a person of unexceptionable character, and that the place proposed to be licensed as a slaughterhouse is in a convenient and desirable situation, they shall grant to such person a license under the hands of any two of them in the manner and form hereinafter set forth.

7. Licenses to be in force for one year

Every such license shall be in force for one year from the date thereof, and the person to whom the same shall be granted shall pay to the Clerk of the Bench the sum of two shillings and sixpence for every such license.

8. Power to Justice to enter and direct the cleansing of Slaughter Houses

For the purpose of preserving cleanliness in towns and the health of persons residing therein, it shall be lawful for any Justice of the Peace and for any constable authorized by writing under his hand from time to time, as any such Justice shall see occasion, to visit and inspect any slaughterhouse or place which may be situated within the boundaries of any town, and to give such directions concerning the cleansing of any such slaughter-house or place both within and without as to him shall seem needful.

9. Penalty for neglect

If any butcher or the owner or occupier of any such slaughterhouse or place shall obstruct or molest such Justice or constable in the inspection thereof, or shall refuse or neglect to comply with such directions within a reasonable time, every such person shall on conviction upon the information of any such Justice or constable forfeit and pay for every such offence or neglect any sum not exceeding ten pounds nor less than five pounds.

10. Power to Justice, &c., to enter to search

It shall also be lawful for any Justice of the Peace, or Inspector of Police, Inspector of Slaughter-houses, or constable duly authorized in that behalf, to enter at any time of the day or night any slaughterhouse or place so licensed as aforesaid, wherever the same may be situated, and where there shall be good cause to suspect that stolen cattle have been slaughtered, and to make such search and inquiry therein as shall seem necessary for the discovery of the offence and of the offender.

11. Penalty for obstructing

Every person who shall by any obstruction or hindrance prevent any such Justice, or Inspector of Police, Inspector of Slaughter-houses, or constable, from

entering any such licensed premises for the purpose of such search and inquiry, shall be deemed guilty of a misdemeanour and shall be dealt with accordingly as in cases of misdemeanour at Common Law.

12. Power to Governor to appoint Inspectors of Slaughter Houses who shall keep a Register of Cattle slaughtered, and make returns.

It shall be lawful for His Excellency the Governor to appoint, within such towns or districts as he shall from time to time direct by a notice to be published in the Government Gazette, fit persons to be called Inspectors of Slaughterhouses and of Cattle intended for slaughter, and every person who shall be so appointed shall and is hereby required and directed to repair without delay to the place or places within his district in which he shall have information of any horned or neat cattle having been slaughtered, or of any such cattle intended to be slaughtered, and also in all cases in which notice shall have been given to him or left at his place of residence of the intention to slaughter any cattle, and every such Inspector shall examine the said cattle slaughtered or so intended to be slaughtered in his district, and shall take a particular description thereof, with the colour mark or marks brand or brands sex and apparent age, together with the time and place of slaughter, which particulars he shall carefully enter or cause to be entered in a book to be kept by him for that purpose, and which book such Inspector shall produce for examination before any annual quarterly or special meeting of the Bench of Magistrates within or nearest to the district for which he shall be appointed, and for the information of any Justice or Justices, whenever he shall be so required, and such Inspector shall also make a weekly return to the Bench of Justices within or nearest to the district of the number of cattle so slaughtered as aforesaid.

13. Persons intending to slaughter Cattle, to give notice to Inspectors, under a Penalty of Five Pounds, except under unforeseen circumstances.

That every person intending to slaughter any such horned or neat cattle within any town or district, in which an Inspector shall be slaughter cattle to appointed as aforesaid, shall first give six hours' notice in writing to such Inspector of the cattle intended to be slaughtered, specifying the penalty of £5 except place and time, under the penalty of five pounds for each and every circumstances. head of such cattle which shall be so slaughtered without such notice having been given thereof as last mentioned, unless it shall be made to appear to the Justice before whom such fine shall be sought to be recovered that such notice could not have been given, and that owing to some unforeseen accident it was necessary that such cattle should have been immediately slaughtered; and in all cases in which any such cattle shall have been slaughtered within any such town or district without having been previously inspected as aforesaid, notice thereof shall be immediately given to the said Inspector, and the skins of such cattle shall be kept or preserved for three days, and be produced on demand at the place of slaughter to the Inspector for the town or district wherein such cattle should have been slaughtered, under the penalty of five pounds for every skin so neglected to be preserved and produced.

14. Keepers of Slaughter Houses where no Inspector appointed, to keep register of Cattle slaughtered, and to make returns.

That every keeper of a licensed house or place for slaughtering cattle, excepting in any town or district for which an Inspector shall be appointed as aforesaid, shall keep a book in which he shall enter a particular account and description of all such horned or neat cattle slaughtered in such house or place, specifying the colour mark or marks sex and apparent age of such cattle, and, if purchased, the name of the person for whom the same shall have been slaughtered and the time of slaughter, and shall transmit monthly to the Bench of Justices in or nearest to the district wherein such slaughter house or place for slaughtering cattle shall be situated, a report in writing, under the hand of such keeper, containing the particulars above stated, and shall produce such book for the information of any Justice whenever he shall be so required; and if any such keeper of a licensed slaughterhouse or place for slaughtering cattle shall neglect to keep such book or record, or shall wilfully make a false entry therei, or shall fail or refuse to make such monthly report as aforesaid, or shall refuse to produce such book or record to any Justice, he shall for every such offence forfeit a sum not exceeding five pounds.

15. Not to extend to persons slaughtering Cattle for their own consumption

That nothing hereinbefore contained shall extend to any person. or persons slaughtering, at his her or their own residences or farms, cattle for his her or their own use.

16. Power to Justice to demand production of skins. Penalty for refusing

That it shall and may be lawful for any Justice of the Peace to demand the skin of any horned or neat cattle whatsoever that may have been slaughtered within one month previous to the date of such demand, or a full and satisfactory account to whom such skin has been sold or in what manner disposed of; and any person who upon such demand shall refuse or neglect to produce the skins of any such cattle that have been slaughtered, or, in case the same cannot be produced, to give a full and satisfactory account of how and in what manner the same have been disposed of, shall on conviction forfeit and pay for every such offence a sum not exceeding ten pounds.

17. Persons destroying brand liable to penalty

And if any person shall cut out burn or otherwise destroy or deface any brand which shall have been on any skin, or shall be in possession of or shall purchase any such skin from which the brand shall have been cut or burnt or otherwise destroyed or defaced, without being able to give a satisfactory account thereof, every such person shall upon conviction of every such offence forfeit and pay a sum not exceeding ten pounds.

18. Governor to fix scale of fees

It shall be lawful for His Excellency the Governor from time to time as occasion may require to fix a scale of fees to be levied collected and received from every party who shall bring any cattle to be slaughtered at any public slaughter-house or place for slaughtering cattle, and such scale of fees from time to time to alter vary and modify, and such fees shall be recoverable in a summary manner by the party to whom the same shall be payable: Provided always that the amount of the fees so to be fixed as aforesaid shall in no case exceed the sums mentioned in the Schedule to this Ordinance annexed and marked B, and shall upon every alteration be forthwith published in the Government Gazette.

#### 19. Hours of Slaughter

It shall be lawful for the Bench of Magistrates of any such district, if they shall see occasion so to do, to prescribe the hours within which any such cattle shall be slaughtered, and to enforce any regulations so to be made in that behalf by a penalty not exceeding five pounds.

#### 20. How Fees to be accounted for

All fees received by the keeper of any public slaughterhouse under the authority of this Ordinance shall be accounted for and paid over to the Colonial Treasurer or the Treasurer of the district, as the case may be, for the public uses of the Colony and for the support of the Government thereof.

#### 21. Penalties, &c., recoverable in a summary way

All fines and penalties imposed under the authority of this Ordinance shall be recoverable in a summary way.

#### 22. Interpretation

For the purposes of this Ordinance the word " Cattle," unless otherwise expressly stated, shall be taken to include horned or neat cattle sheep goats and swine, and the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

### Schedules

#### Schedule A.

#### Form of License

We, \_\_\_\_\_, of Her Majesty's Justices of the Peace, do certify that, by virtue of the authority vested in us in this behalf, Mr. \_\_\_\_\_, of \_\_\_\_\_, is hereby authorized to keep a licensed slaughterhouse in his \_\_\_\_\_, situated and being in . And this license is to remain in force from the date hereof until the \_\_\_\_\_ day of \_\_\_\_\_.

Given under our hands at \_\_\_\_\_, this day of \_\_\_\_\_.

## Schedule B.

## 6. The Impounding Ordinance 1847

An Ordinance to authorize and regulate the Impounding of Cattle.  
[16th September, 1847.]

Be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

## I.—Pounds and Poundkeepers

## 1. Power to Governor to establish Public Pounds

It shall be lawful for His Excellency the Governor, when and as often as he may deem necessary, and at such places and for such districts as may appear convenient, to erect and maintain and to authorize any private person to erect and maintain or to appoint any suitable premises already elected, adjoining to some public highway, to be established and maintained as public pounds for the purposes of this Ordinance, and for the greater convenience of resort to such pounds, from time to time to cause any such pound to be removed to and erected at any other place.

## 2. And to appoint Poundkeepers

It shall also be lawful for the Governor to appoint fit and proper persons to be the keepers of any such pounds at such salaries as to him may appear reasonable, and from time to time to displace and remove the keeper of any such pound and to appoint a fit and proper person in his place.

### 3. Who shall give security

Every such poundkeeper shall from time to time give security for good behaviour in his office by bond by himself and such sureties in such form and in such reasonable sum or sums respectively as His Excellency the Governor may think fit to require.

#### 4. Notice in Government Gazette proof of appointment

A notification of the appointment or removal of any public pound or poundkeeper as the case may be shall be inserted in the Government Gazette, signed by the Colonial Secretary in ordinary form, and such notification shall be taken to be sufficient evidence that such pound or pound keeper hath been legally appointed or removed as in the said notification shall be contained.

**5. Power to Governor to advance funds for the building of Pounds**

It shall also be lawful for the Governor to advance and issue such sums as may be necessary for erecting and maintaining any such pounds as aforesaid.

**6. Pounds to be securely fenced and divided**

Every such pound shall be properly fenced and enclosed and adapted as far as may be for keeping cattle infected with any contagious disease separate and apart from those in health, and if any poundkeeper shall not keep up and maintain the said enclosures in proper repair, or shall knowingly keep or permit to be kept any cattle infected with disease in the same enclosure with cattle not so infected, or shall not keep the said pound clean or in good order, or the cattle which from time to time shall be impounded therein supplied with sufficient wholesome food and water, every such poundkeeper shall upon conviction of any such neglect forfeit a sum not exceeding five pounds nor less than one pound.

**II.—Pound Fees, Damages, and Charges**

**7. Pound Fees and Charges**

The fees to be taken and charged by any poundkeeper as and for pound fees, and the price to be charged and paid for the sustenance of cattle committed to any such pound, shall be those specified in Schedule A hereunto annexed: Provided always that it shall be lawful for the Governor, by notification in the Government Gazette, from time to time to increase reduce or otherwise vary the said fees and charges as occasion may require.

**8. Justices to assess rates of ordinary damages**

It shall be lawful for the Justices of any district in which any such pound shall be established, at any meeting for the purpose of which notice shall have been given, or the major part of them, to estimate and assess reasonable rates for the general or ordinary damages which shall and may be demanded in a summary way by the owner of any lands, without proof of special damage, for the trespass of any cattle thereon, which rates shall be proportioned according to the respective descriptions and value of the crops growing upon the lands trespassed upon, and also to the respective descriptions and nature of the cattle trespassing and to frame a table of such rates as near as may be according to the form in the Schedule B hereunto annexed.

**9. And to fix other fees**

It shall also be lawful for such Justices, at any such meeting as aforesaid, to specify an such reasonable fees as shall be taken and charged by any poundkeeper for any matter or thing required to be done by him under and by virtue of this Ordinance and not herein specially provided for: Provided always that such rates and fees shall be subject to the alteration or disallowance of the Governor, and after being so altered or allowed, and after such alteration or allowance shall have been notified in the Government Gazette, shall and may be lawfully taken demanded and recovered respectively as aforesaid.

**10. Pound fees and charges may be received by Poundkeeper**  
It shall be lawful for the keeper of any public pound to demand and receive as pound fees and charges for the cattle of the several descriptions which shall be impounded therein, the several and respective sums which may from time to time be appointed in manner herein provided, and if the owner of any cattle impounded shall release the same upon payment to the keeper of the said pound of the sum of money for which the said cattle were impounded, the said poundkeeper shall pay the same to the party who impounded such cattle on his demand thereof; and if such poundkeeper shall fail so to do, he shall on conviction forfeit and pay for such his default the penalty of five pounds.

**11. And other fees**

It shall also be lawful for any such keeper to demand have and receive for the impounding of any cattle, and for feeding and maintaining the same whilst impounded, and for giving notice thereof to the owner, and for all other matters and things which are by this Ordinance required to be done by him, all such fees and charges as shall at any time be authorized to be taken and charged as herein provided. Such fees and charges so to be taken as aforesaid shall be duly and faithfully accounted for and paid over by such poundkeeper once in every quarter of a year, or on or before the first days of January April July and October respectively, to the Colonial Treasurer, to be applied to the public uses of the Colony and support of the Government thereof: Provided always it shall be lawful for the Governor from time to time to appoint and declare that such fees and charges or any or what proportion thereof shall go to and be applied by any such poundkeeper as aforesaid in full payment or on account of salary and remueration.

**12. Penalty for taking fees not authorized**

If any poundkeeper shall demand or take any greater sum for the impounding of any cattle, or for doing any act matter or thing, than such poundkeeper shall be so authorized to demand or take, or shall fail duly to account and pay as aforesaid, every such poundkeeper shall forfeit and pay for every such offence a sum not exceeding five pounds nor less than one pound.

**III.—The Impounding of Cattle**

13. Cattle trespassing may be impounded on his own land by owner of land trespassed upon

It shall be lawful for any person, or the agent, bailiff, or servant of any person upon whose land enclosed by a fence and within any such district as aforesaid any cattle the owner whereof shall be by the owner of the known to him may be found trespassing, to impound and detain the same in any convenient place upon his lands if he shall think fit so to do, provided that he shall within twentyfour hours of such impounding give or cause to be given to the owner of the said cattle the like notice as is hereinafter required to be given to the keeper of any public pound by any person sending cattle thereto, and provided also that he shall feed and maintain the same cattle whilst so impounded, and shall not keep them so impounded longer than three whole days of twenty-four hours each, but shall, at the expiration of such three days, if not sooner released, upon payment of his lawful charges, drive or cause the same to be driven to the nearest public pound, and lodged therein in manner hereinafter mentioned: Provided also that any person impounding cattle on his own land as aforesaid, or his agent, bailiff, or servant, shall not be entitled to demand or receive any compensation for damage done by the said cattle save and except for such damage as was done before their first-mentioned impounding, or any fee or charge for such impounding except such as shall by law be chargeable by the keeper of the nearest public pound for feeding and maintaining.

14. Or may be taken to the Pound

It shall also be lawful for any person, or the agent, bailiff, or servant of any person upon whose land so enclosed and being within any such district as aforesaid any cattle shall be found trespassing, to drive or lodge or cause the same to be driven or lodged in the public pound nearest to the said land, and the person impounding any such cattle shall specify in writing to the keeper of the said pound the number and kinds of the cattle impounded and the name of the owner, if he be known, or supposed owner, or that he is wholly unknown, the place where the said cattle were trespassing, and the amount of damages claimed for the trespass.

15. Penalty for otherwise impounding

If any owner or occupier of land, or his agent, bailiff, or servant, shall impound any cattle in any pound or place not authorized by this Ordinance, or in any manner contrary to the directions and provisions thereof, every person so offending shall upon conviction forfeit and pay for every such offence a fine not exceeding ten pounds.

16. Notice to be given to owner of cattle impounded

If any impounded cattle shall not be followed to the pound or claimed by the owner thereof or by some one on his behalf within twentyfour hours after the same shall have been impounded, the keeper of the said pound shall, as soon as possible after the expiration of the twentyfour hours, send notice in writing to the

said owner, if he be known to him and shall reside within five miles of the said pound, or to his agent or bailiff if the said owner shall reside at a greater distance and have a known agent or bailiff residing within five miles, which notice shall contain the same particulars as are required to be given to the pound keeper by the person impounding the same, and also shall contain notice of the time and place where the said cattle will be sold if not sooner released from the said pound by the owner or some one on his behalf, and also the sum of money for which the same were impounded; and the said notice shall within the distance aforesaid be delivered personally to the said owner, agent, or bailif, or left for him at his usual place of abode. And if the said owner, agent, or bailiff be known, and reside at a greater distance than five miles from the said pound, then the said poundkeeper shall send the like notice, addressed to the owner, agent, or bailiff, by post, as soon as possible after the expiration of twenty-four hours from the time of impounding; and if neither owner, nor agent, nor bailiff be known to the said poundkeeper, then he shall cause the like notice to be posted at the nearest church, post office, or police station, and the notice in the Schedule marked E hereunto annexed to be inserted in the Government Gazette which shall be published next after the expiration of the said twenty-four hours, and in which it shall be possible to cause the same to be inserted: Provided always that when the cattle impounded under the provisions of this Ordinance shall consist of sheep goats swine or calves and be not more than two in number, it shall not be necessary to give any other notice of such ipounding than by affixing a notice thereof on the pound in manner herein directed.

#### 17. If not released, Cattle to be sold

If any impounded cattle shall not be released from the said pound by the owner thereof or by some one on his behalf within seven days after notice shall have been given to the said owner, his agent or bailiff by delivering the same to him personally, or by leaving the same at his usual place of abode, or within twenty-one days after the notice shall have been despatched through the post or inserted in the Government Gazette, as the case may require, which periods of seven days and twenty-one days respectively shall be reckoned exclusive of the day upon which the said notice shall have been delivered or despatched or inserted, it shall be lawful for the said poundkeeper to apply to any Justice of the Peace, not being a party interested in the said matter, for an order for the sale of the said cattle; and the poundkeeper shall at the time of such application produce and show to the said Justice the pound-book kept by him as by this Ordinance directed, or an extract of so much thereof as may apply to the case, ad also such other proofs by the oath of the said poundkeeper or others as the said Justice may require, that such poundkeeper has complied with the terms and provisions of this Ordinance; and thereupon such Justice shall and may, if he be satisfied that such terms and conditions have been complied with, make an order under his hand authorizing the sale of such cattle, or otherwise shall direct such acts to be done as shall have been omitted, and in the meantime shall suspend the order for the said sale until a future day to be appointed anew by him and until the said terms shall have been complied with, the notice of which suspension

and future time of sale shall be given by the said poundkeeper to the owner, his agent or bailiff, personally or at his usual place of abode, or through the general post, or by insertion in the Government Gazette, as the case may require, and in the same manner respectively as herein provided for giving the original notice of impounding: Provided always that when any such delay ad suspension of sale shall be necessary in consequence of the neglect of the said poundkeeper, the costs of all further proceedings and notice, as well as of the future feeding and maintaining of the said cattle, shall be borne by the said poundkeeper.

#### 18. Time of Sale

All sales of impounded cattle shall take place on the tenth day after the same shall have been impounded in an cases where notice of impounding shall have been affixed as aforesaid or given to the owner, or his agent or bailiff, by delivering the same to him personally or by leaving the same at his usual place of abode, and in an other cases on the twenty-fourth day after such notice shall have been despatched through the post or inserted in the Government Gazette or affixed as aforesaid, unless the said tenth or twenty-fourth day as the case may be shall happen to be Sunday or Christmas Day or Good Friday, and then on the following day, and unless the sale be suspended by order of a competent Judge.

#### 19. Place of Sale

All such sales shall take place at the public pound where the said cattle shall have been impounded and shall commence at the hour of noon, and not more than ten head of sheep or goats or five pigs shall be put up in any one lot, and not more than one horse or one head of any other cattle; and neither the person who impounded the said cattle, nor the keeper of the said pound, nor his surety, nor the Justice who made the order for the sale, shall, either personally or by any other, purchase the said cattle nor any part thereof, upon pain that every person offending therein shall forfeit and pay for every such purchase contrary to the true intent and meaning hereof the sum of five pounds over and above restitution of the animals so purchased.

#### 20. How to be sold

All impounded cattle directed to be sold under the provisions of this Ordinance shall and may be sold by the poundkeeper by public auction to the highest bidder, notwithstanding that he shall not have taken out a license as an auctioneer.

#### 21. Proceeds of sale how to be applied

It shall be lawful for every such poundkeeper to receive the price of any impounded cattle so to be sold as aforesaid and to apply the same first in the payment of all lawful fees and charges due to himself, secondly in the payment of the sum due to the party at whose instance the same were impounded, and the residue he shall pay over to the owner of the cattle sold, where he is known, or to his known agent or bailiff, upon the same being demanded; and if the owner of

the cattle shall be unknown, and have no known agent or bailiff, the said poundkeeper shall, within one calendar month after the sale, pay the amount into the hands of the Colonial Treasurer, in trust for the party entitled thereto, and the receipt of the said Treasurer shall be the legal discharge of the said poundkeeper for the amount named therein. In case no claim to the same shall be duly made within two years next after the said money shall have been so paid into the hands of the Colonial Treasurer, it shall be lawful for the Governor by warrant under his hand to direct the same to be applied to the public uses of the Colony and to the support of the Government thereof.

22. If proceeds of sale insufficient to satisfy damages, &c., the owner of cattle to pay difference

Provided always that if the proceeds of any cattle impounded by any person, or his agent or bailiff, for trespassing or doing damage upon the lands of such person, and sold under the authority of this Ordinance, shall be insufficient to satisfy the lawful fees and charges of the poundkeeper respecting the same, the residue of such fees and charges shall be paid to the said poundkeeper by the proprietor of the said cattle if known.

23. Instead of impounding Cattle, parties aggrieved may make complaint to Justices

For the purpose of avoiding as far as may be the impounding of cattle: Be it enacted that where any cattle shall be found so trespassing or doing damage within any such district as aforesaid, and the rate of damage for the said trespass shall have been estimated and assessed by the Justices and allowed by the Governor as aforesaid, it shall be lawful for the person entitled to such rate or damage to take drive or send such cattle to their owner, or his known agent or bailiff and he is hereby required to pay the same as and for a satisfaction of the said damages and trespass; and if the owner of such cattle or some person in his behalf shall not pay the amount of such fixed rate of damage upon the same being demanded, it shall be lawful for the party aggrieved by such trespass, instead of impounding the cattle, to make his complaint to the Resident Magistrate or any two Justices of the Peace, and such Magistrate or Justices shall summon before him the owner of any cattle so having trespassed, or if he be absent, his known agent or bailiff, and it shall be lawful for such Magistrate or Justices at the time appointed by such summons for the appearance of the party complained against, whether he appear or not, upon proof of the service of such summons, summarily to inquire into and examine and hear and determine the matter of such complaint, and upon satisfactory proof of such trespass, and of the neglect and refusal of the party complained against to pay the fixed rate of damage, to issue his or their warrant to levy the same, together with such costs as to the said Magistrate or Justices shall appear fair and reasonable.

24. Or may waive assessed damages, and proceed for special damages

Provided always and be it further enacted that nothing herein contained shall extend or be construed to prevent the owner of any land trespassed upon and

being within any such district as aforesaid from waiving the ordinary damages to be estimated assessed and allowed as herein provided, and claiming in any competent Court full satisfaction for any special damage sustained by him in consequence of any trespass; but if the plaintiff in any such suit or action shall not after waiving the ordinary damages recover more than the amount of such ordinary damages, then he shall not be entitled to or receive the costs of such suit or action from the defendant in the same, but such defendant shall be entitled to and receive from the plaintiff the costs incurred by the said defendant; and if the plaintiff in any such suit or action become nonsuit, or discontinue his said suit or action, or a judgment be given against him therein, the defendant shall be entitled to and receive double costs from such plaintiff.

25. Penalty for rescuing cattle from Pound, &c.

If any person shall rescue any cattle which shall have been lawfully seized for the purpose of being impounded, or shall break down injure or destroy any pound legally constructed, whether any cattle shall be impounded therein or not, or shall commit any pound breach or rescue, whereby any cattle of any description shall escape or be enlarged from any such pound, every such person shall be deemed guilty of a misdemeanour, and upon conviction of such offence before any competent Court shall be liable to suffer fine and imprisonment with or without hard labour at the discretion of the Court before whom such offender shall be tried and convicted.

26. Power to Justices to determine causes of action arising out of the impounding of cattle

Provided always and be it enacted that it shall be lawful for any two Justices of the Peace not interested in the matter in dispute to take cognizance of and decide in a summary way all causes of action arising out of the impounding of cattle for trespass, wherein neither the party impounding nor the party whose cattle shall be impounded claims any greater amount of damage than twenty pounds.

27. And to order cattle to be liberated

If the party whose cattle shall be impounded shall take out a summons in prosecution of his suit, and shall enter into security to the satisfaction of such Justices to prosecute his suit, it shall be lawful for the said Justices to direct the poundkeeper in whose custody the cattle shall be to liberate the same, and thereupon the poundkeeper upon payment to him of his lawful fees and charges due in respect of such cattle shall liberate the same in like manner as if the said cattle had been replevied.

28. And to enforce their orders in a summary way

Upon hearing the parties and upon examination of the merits of the case it shall be lawful for such Justices to make such order as to damages and costs to be paid by either party, and as to the detention or delivery of the cattle, and as to the sale thereof or any part thereof in case of the nonpayment of the amount of

damage found to be due by them, or of any costs payable by the owner of them, as shall be just, and to enforce the payment of such damages and costs in a summary way.

#### IV.—Duties, etc., of Poundkeeper

##### 29. Poundkeepers to keep Pound Book

The keeper of every public pound shall have and preserve at to or near to the said pound a copy of this Ordinance, and also a poundbook ruled and divided into columns as near as may be in the form in Schedule C hereunto annexed, and he shall enter into the said poundbook in a legible handwriting the particulars of all cattle lodged in the said pound, specifying the day and hour as near as may be when and the cause for which the same were respectively impounded and by whom they were sent, the time and mode of giving notice of the said impounding as by this Ordinance required, and also when and in what manner the same were released and by whose order and to whom delivered, the particulars of sales and of the proceeds thereof and by whose order the same were made, and the said entries shall be made at the time the said acts were respectively done or as soon after as possible, but not after any dispute concerning such entry shall have arisen.

##### 30. And to produce same for inspection

A copy of this Ordinance and of the said poundbook shall at all reasonable times be produced by the said poundkeeper to and be open for the inspection of any person desiring to see the same upon payment to the said poundkeeper of the sum of sixpence for every such inspection, and the said poundkeeper shall grant extracts (signed by himself) from the said poundbook upon payment of one shilling for every such extract not exceeding one hundred words, and for every subsequent number of words not exceeding one hundred, sixpence, and shall preserve and keep for not less than twelve calendar months all orders made by Justices concerning any cattle impounded.

##### 31. Penalty for default

If any poundkeeper shall neglect or refuse to produce a copy of this Ordinance or of the said poundbook for the inspection of any person desirous to see the same, upon his lawful fee for the same being first paid or offered to be paid, or shall neglect to make any lawful entry therein, he shall forfeit and pay for every such default a sum not exceeding twenty shillings; and if any poundkeeper shall wilfully delay making any entry, or shall knowingly make any false entry in the said poundbook, or shall wrongfully erase or destroy any entry previously made therein, he shall forfeit and pay for every such offence the sum of ten pounds.

##### 32. Keeper to erect painted Table of Fees

The keeper of every such pound shall erect and maintain in some conspicuous part of the said pound a board having painted thereon, in legible black characters

on a white ground, a table of all such lawful fees and charges as he may be hereby authorized to demand have and receive, together with all rates of ordinary damages as estimated assessed and allowed as herein provided.

### 33. Penalty for default

Every such keeper as aforesaid who shall fail to erect the said board and to keep and maintain the same in proper repair after it has been erected, or to make any lawful alteration therein which may afterwards become necessary within a reasonable time after the said alterations ought to be made, or shall knowingly paint or cause to be painted any false statement thereon, shall forfeit and pay for every day that such board shall not be erected, except during such reasonable time as the same shall be taken down for alteration or repair, and for every day that such board shall not be maintained in proper repair or lawful alterations be not made after a reasonable time for making the same respectively shall have elapsed as aforesaid, the sum of two shillings and sixpence, and for every day he shall knowingly suffer any false statement to remain on the board the sum of five shillings.

### 34. To be responsible for safe keeping of cattle and their delivery to owner

The keeper of every such pound shall receive and detain in his custody any cattle lodged in such pound, and shall be responsible to the owner thereof for every loss and damage sustained by the wilful act or the neglect of such poundkeeper or his servants but not otherwise. And the said poundkeeper shall and may detain all cattle so impounded until the same shall be replevied in due course of law, or until the sum for which the same were impounded, with his lawful fees and charges, shall be paid or tendered or secured to be paid in the manner herein provided, or until he shall receive the written order of the person impounding such cattle to deliver the same, together with his lawful fees and charges; and upon such payment as aforesaid being tendered or paid or secured as hereinafter provided, or such order being received from the person impounding, together with his fees and charges as aforesaid, the said poundkeeper shall immediately deliver such cattle to the owner thereof, or his agent, bailiff, or servant or other person duly authorized by such owner to receive the same.

### 35. Penalty for default

Every poundkeeper who shall fail to deliver such cattle as hereinbefore required and directed, shall forfeit and pay for every such offence a sum of not less than forty shillings nor more than five pounds.

### 36. Form of security

The security hereinbefore mentioned shall be an undertaking in writing and shall be in the form and to the effect mentioned in Schedule D hereunto annexed, and shall be signed by the owner of such impounded cattle, his agent or bailiff; and every agent or bailiff, who shall sign such note whereby such cattle shall be released from pound shall be deemed the authorized agent of his employer

without any further proof being required thereof; and every such security or undertaking shall be paid at all events at the time and place thereinbefore mentioned without any further notice or demand for such purpose, and upon failure of such payment the amount or sum secured by such undertaking shall and may be recovered in a summary way before any Justice of the Peace upon the production of such undertaking or security before such Justice and the oath of the poundkeeper that the same is still due and unsatisfied.

**37. Keeper to post on Pound description of cattle impounded**

The keeper of every such pound, whenever and so often as any cattle shall be impounded therein for trespass, shall post a written notice on the gate or some other conspicuous part of the said pound setting forth a description of such cattle, and such notice shall remain so posted until the said cattle shall have been claimed or otherwise disposed of by due course of law.

**38. Penalty for default**

Every such keeper who shall neglect to post such notice as aforesaid shall for every such neglect forfeit and pay a fine of forty shillings.

**V.—Miscellaneous**

**39. Fines, &c., to be recoverable in a summary way**

All fines and penalties to be imposed under the authority of this Ordinance shall be recoverable in a summary way.

**40. Conviction may be pleaded in bar**

A Judgment of conviction duly made under the authority my be hereof shall and may be pleaded in bar of any suit action or information which shall be commenced instituted or prosecuted for such and the same cause or offence in any Court whatsoever.

**41. Provisions of Ordinances not to interfere with provisions of "Cattle Trespass Ordinance."**

Provided always and be it enacted that nothing herein contained shall be held to interfere with or prevent the operation of " The Cattle Trespass Ordinance," Session VII., No. 17.

**42. Interpretation, Cattle**

And be it further enacted that in the construction of this Ordinance the word "Cattle" shall be deemed and taken to mean and to include horses mares fillies asses mules bulls cows oxen heifers steers calves deer rams ewes sheep lambs goats and swine, and shall be deemed and taken to mean and include and apply to any one animal of the said several kinds; and that when any word or words is or are used denoting the singular number or the masculine gender only, yet the

same shall be understood to include and apply to several persons as well as to one person, and to females as well as to males.

#### 43. Interpretation

For the purposes of this Ordinance the word " Governor " shall be taken to include the Lieutenant-Governor or the Officer Governor Administering the Government for the time being.

#### Schedules

##### Schedule A.

###### Poundage Fees

For each entire horse above the age of twelve months	... ... ... ...	2/6
mare, gelding, colt, filly, foal, mule, ass, goat, and pig	... ... ... ...	1/-
Bull above the age of twelve months	... ... ... ...	2/6
Ox, cow, steer, heifer, or calf—For the first ten	... ... ... ...	6d
For the rest ten	... ... ... ...	4d
For the next thirty	... ... ... ...	3d
For all others above fifty	... ... ... ...	2d
Ram above the age of nine months	... ... ... ...	1/-
Ewe, wether, or lamb—For the first twenty	... ... ... ...	2d
For the rest thirty	... ... ... ...	1.1/2d
For the next fifty	... ... ... ...	1d
For all others above one hundred	... ... ... ...	1/2d

The above fees to be paid for each day, or part of a day, during which the animal is kept in pound.

###### Charge for Food

For every horse, mare, gelding, mule, ass, colt, filly, or foal	... ... ... ...	1/-
Bull, cow, ox, steer, or heifer	... ... ... ...	6d
Calf under six months	... ... ... ...	2d
Sheep or lamb	... ... ... ...	1d
Goat	... ... ... ...	2d
Boar, sow, or other pig	... ... ... ...	6d

The above charges to be paid for each day or part of a day during which the animal is supplied with food and water by the poundkeeper; but the owner may supply food and water, in which case these charges are not to be made.

##### Schedule B.

Table of Rates to be charged for trespass of cattle in the District of .....

Fixed by the Justices assembled at , the day of .  
Allowed by His Excellency the Governor.

By Order.  
Colonial Secretary.

Schedule C.

Form of Poundkeeper's Book

Schedule D.

I, A.B., of [describing residence of owner of cattle impounded hereby promise to pay within thirty days from the date hereof, to C.D. [the poundkeeper], at [naming either the pound or place of residence of the poundkeeper as may be required], the sum of £ [specify the full amount of poundage as well as fees and charges therein] without any deduction whatever. And in default thereof I consent that the said sum, together with the costs necessarily incurred by the said default, shall be levied by distress and sale of my goods and effects wheresoever found.

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

(Signed) A.B.  
Or for A.B., C.D.,  
Agent of the said A.B.

Schedule E.

Form of Advertisement in the "Government Gazette."

Impounded at [Here state the place, and kind of cattle, and where and how branded].

If not claimed, to be sold on

A.B., Poundkeeper.

[Where there is no brand, the animals are to be shortly described by stating age, colour, and any particular mark.]

## 9. The Registration Ordinance 1847

An Ordinance for Registering Births Deaths and Marriages in the Colony of New Zealand.

[15th October, 1847]

Whereas it is expedient to provide the means for a register of the births deaths and marriages of Her Majesty's subjects in the Colony of New Zealand:

Be it therefore enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

### I.—Register Offices and Officers

#### 1. Registrar General and Deputy Registrars to be appointed

For the purposes hereinafter mentioned there shall be appointed fit persons who shall be and be called the " Registrar-General " and " Deputy Registrars " of Births Deaths and Marriages, and who shall exercise the several duties of this Ordinance appointed to be exercised by such Registrar-General and Deputy Registrars respectively.

#### 2. How to be appointed

Every such Registrar-General and Deputy Registrar shall be appointed by Her Majesty, her heirs and successors, and shall hold his office during Her Majesty's pleasure: Provided that it shall be lawful for the Governor to appoint any such Registrar-General or Deputy Registrar provisionally until Her Majesty's pleasure shall be known; and in case any such RegistrarGeneral or Deputy Registrar shall, by reason of sickness absence suspension from office or other causes, be unable to discharge the duties of his office, it shall be lawful for the Governor to appoint a fit person to act in the place of such Registrar General or Deputy Registrar as long as such inability as aforesaid shall continue.

#### 3. Registrars entitled to levy fees

The said Registrar-General and Deputy Registrars shall be and they are hereby entitled to levy and receive the several fees authorized to be collected by them respectively under and by virtue of this Ordinance and of the Ordinance intituled " An Ordinance for regulating Marriages in the Colony of New Zealand," to be applied in manner hereinafter provided.

#### 4. Power to Registrar General to make regulations

It shall be lawful for the RegistrarGeneral with the approbation of the Governor to make regulations, not being repugnant to the provisions of this Ordinance, for the management of the register office or register offices to be established for the

purposes hereof, and for the duties of the Deputy Registrars in the execution of this Ordinance, and the regulations so to be made and affirmed as aforesaid shall be binding on the Deputy Registrars.

**5. Registrar General to file copy of register**

The Registrar-General shall once in every six months file a copy of the registers kept by him during the foregoing six months in the General Registry Office, to be deposited and kept with the other records of the said office for the purposes hereinafter mentioned.

**6. District to be proclaimed.**

It shall be lawful for the Governor by Proclamation to be for that purpose issued to divide the Colony of New Zealand into such and so many districts as he shall think fit, and every such district shall be called by a distinct name and shall be a Deputy Registrar's district: Provided always that it shall be lawful for the Governor to revoke such Proclamation and to issue from time to time a new Proclamation dividing the Colony anew into such and so many districts as he shall think fit: Provided also that the number of districts once constituted shall not be reduced by any such new proclamation, and that no such Proclamation shall invalidate the acts of any Deputy Registrar appointed previously to the issuing of the same.

**7. Books, &c., to be furnished to Deputy Registrar**

The Registrar-General shall furnish to every Deputy Registrar a sufficient number of register books of births of register books of deaths and of register books of marriages and of forms for certified copies thereof as hereinafter provided; and every Registrar-General and Deputy Registrar shall be authorized and is hereby required to inform himself carefully of every birth death and marriage that shall happen within his district, and to enter and register as soon after the event as conveniently can be done, without fee or reward save as hereinafter mentioned, in one of the said books the particulars required to be registered according to the forms in the Schedules A B and C hereunto annexed touching every such birth death or marriage as the case may be which shall not have been already registered, every such entry being made in order from the beginning to the end of the book.

**8. Registrars not liable to serve on Juries, &c.**

Every such RegistrarGeneral and Deputy Registrar appointed under the provisions of this Ordinance shall be freed and exempted to from being returned and from serving on any jury or inquest and from every parochial and Corporate office whatever.

**II.—Registration of Births and Deaths**

**9. Notice of Births and Deaths to be given to Deputy Registrar of the district**

The father or mother of any child born, or the occupier of every house or tenement in the Colony of New Zealand in which any births or deaths shall happen, shall, in the case of the birth of a child, under a penalty not exceeding ten pounds, within fortytwo days next after the day of such birth, and in case of death within ten days after the day of such death respectively, give notice of such birth or death to the Deputy Registrar of the district; and in case any newborn child or any dead body shall be found exposed, a constable of the district in the case of a newborn child, and the Coroner in the case of a dead body, shall forthwith give notice and information thereof and of the place where such child or dead body was found to the Deputy Registrar.

10. Occupier, who deemed.

For the purposes of this Ordinance, the master or keeper of every gaol prison house of correction or hospital or lunatic asylum or public or charitable institution shall be deemed the occupier thereof.

11. Particulars of Births to be given when required.

The father or mother of ever child born in the Colony, or in case of the death illness absence or inability of the father or mother, the occupier of the house or tenement in which such child shall have been born, shall within fortytwo days next after the day of every such birth give information upon being requested so to do to the Deputy Registrar, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child.

12. Registration to be made within limited time

After the expiration of fortytwo days following the day of the birth of any child, it shall not be lawful for the Deputy Registrar to register such birth save as hereinafter is next mentioned: Provided that in case the birth of any child shall not have been registered according to the provisions hereinbefore contained, it shall be lawful for any person present at the birth of such child, or for the father or guardian thereof, at any time within six calendar months next after the birth to make a solemn declaration of the particulars required to be known touching the birth of such child, according to the best of his or her knowledge and belief, and it shall thereupon be lawful for the Deputy Registrar then and there to register the birth of the said child according to the information of the person making the said declaration; and in every such case the Deputy Registrar before whom the said declaration is made shall sign the entry of the birth, and for every such registry as last aforesaid the Deputy Registrar shall be entitled to have a fee of ten shillings and sixpence from the person requiring the same to be registered.

13. Penalty

Every person who shall knowingly register or cause to be registered the birth of any child otherwise than hereinbefore is last mentioned, after the expiration of fortytwo days following the day of the birth of such child, shall forfeit and pay for

every such offence sum not exceeding fifty pounds, to be recovered in a summary way.

**14. Births at Sea, &c.**

Provided always that nothing hereinbefore contained shall be taken to extend to prevent the registration of the birth of any child, although born at sea or out of the Colony, of parents whose ordinary place of abode is within the Colony. But it shall be lawful for the Deputy Registrar, upon a solemn declaration of the parents or guardians of such child of such particulars of the birth of the child as are hereinbefore required, then and there to register the birth of the child according to such information.

**15. No Birth to be registered after six months**

After the expiration of six calendar months following the birth of any child born within the Colony, it shall not be lawful for any Deputy Registrar to register the birth of such child, and no register or certified copy of a register of births shall be given in evidence to prove the birth of any such child, wherein it shall appear that six calendar months have intervened between the day of the birth and the day of the registration of the birth of such child.

**16. Penalty**

Every person who shall knowingly register or cause to be registered the birth of any child so born within the Colony as aforesaid, except as hereinbefore provided for, after the expiration of six calendar months following the day of the birth of such child, shall forfeit and pay for every such offence a sum not exceeding fifty pounds, to be recovered in a summary way.

**17. Notice to be given of Name**

If any child born within the Colony, whose birth shall have been registered as aforesaid, shall within six calendar months next after it shall have been so registered have any name given to it in baptism or in the presence of any Deputy Registrar, the parent or guardian of such child or other person procuring such name to be given shall, within seven days next after such baptism or the giving of such name, procure and deliver to the Deputy Registrar in whose custody the register of the birth of the child may then happen to be, a certificate according to the form in Schedule D to this Ordinance annexed, signed by the Minister who shall have performed the rite of baptism or by the Deputy Registrar who shall have been present when the name was given, which certificate such Minister or Deputy Registrar as the case may be is hereby required to deliver immediately after the baptism or immediately after the name has been given whenever the same shall be then demanded, on the payment of the fee of one shilling, which he shall be therefore entitled to receive; and the Deputy Registrar, upon the receipt of such certificate and on payment of the fee of one shilling which he shall be therefore entitled to receive, shall without any erasure of the original entry forthwith register therein that the child was baptised by such name or had such

name given to it in his presence, and the Deputy Registrar shall thereupon certify upon the said certificate the additional entry so made: Provided always that nothing hereinbefore contained shall be taken to extend to any child born previously to the commencement of this Ordinance, but it shall be lawful for the parent or guardian of any such child to cause his birth to be registered under the same provisions as by this Ordinance are attached to the registration of the birth of children born within the Colony subsequently to the commencement of this Ordinance.

**18. Notice of Deaths to be given**

Some inmate of the house or tenement in which any death shall have happened shall within eight day next after the day of such death give information, upon being requested so to do, to the Deputy Registrar, according to the best of his or her knowledge or belief, of the several particulars hereby required to be known and registered touching the death of such person: Provided always that in every case in which an inquest shall have been held on any dead body, the jury shall inquire of the particulars herein required to be registered concerning the death, and the Coroner shall inform the Deputy Registrar of the district of the finding of the jury, and the Deputy Registrar shall make the entry accordingly.

**19. Registrar General may require place of Birth or Death to be registered**

It shall be lawful for the RegistrarGeneral, if he shall think fit, to direct that the place of birth or death of any person whose birth or death shall be registered under this Ordinance shall be added to the entry in such manner as the Registrar-General shall direct, and such addition when so made shall be taken to all intents to be part of the entry in the register.

**20. Notice of Birth or Death to be signed by Informant**

Every person by whom the information contained in any register of birth or death under this Ordinance shall have been given shall sign or attest his name description and place of abode in the register. and no register of births or deaths according to this Ordinance shall be given in evidence which shall not be signed or attested by some person professing to be the informant to the Deputy Registrar.

**21. No Body to be buried without a certificate from Deputy Registrar.**

Every Deputy Registrar immediately upon registering any death, or as soon thereafter as he shall be required so to do, shall without fee or reward deliver to the undertaker or other person having charge of the funeral a certificate under his hand, according to the form in Schedule E to this Ordinance annexed, that such death hath been duly registered, and such certificate shall be delivered by such undertaker or other person to the minister or officiating person who shall be required to bury or to perform any religious service for the burial of the dead body; and if any dead body shall be buried for which no certificate shall have been so delivered, the person who shall bury with or without any funeral or religious service, or perform any funeral or religious service for the burial, or who

shall in any other way dispose of the body, shall forthwith give notice to the Deputy Registrar: Provided always that the Coroner upon holding any inquest may order the body to be buried, if he shall think fit, before registry of the death, and shall in such case give a certificate of his order in writing under his hand, according to the form in Schedule F to this Ordinance annexed, to such undertaker or other person having charge of the funeral, which shall be delivered as aforesaid.

**22. Penalty.**

Every person who shall bury or perform any funeral or religious service for the burial of any dead body for which no certificate shall have been duly made and delivered as aforesaid either by the Deputy Registrar or the Coroner, and who shall not within one month give notice thereof to the Deputy Registrar, shall forfeit and pay any sum not exceeding ten pounds for every such offence, to be recovered in a summary way.

**III. —Registration of Marriages**

**23. Marriages to be registered by Minister**

Every officiating minister, or person acting as such, and every Deputy Registrar immediately after a marriage solemnized by him or which may have taken place in his presence, shall register in a book to be kept for that purpose the several particulars relating to such marriage according to the form in Schedule C to this Ordinance annexed, and every such entry shall be signed by such officiating minister or person or Deputy Registrar, as the case may be, present at such marriage, and by the parties married, and by two witnesses, and shall be made in order from the beginning to the end of such book: Provided always that in case of a marriage solemnized by any officiating minister or person acting as such whose usual place of residence is not within this Colony, then and in every such case such marriage shall be attended by the Deputy Registrar of the district within which such marriage shall take place, who shall forthwith register the same in the " Marriage Register Book," in the presence of the parties, and such registry shall be signed by both the parties, and by two witnesses, as well as by the officiating minister or person as the case may be, and by the Deputy Registrar, and for every such registry there shall be paid to the Deputy Registrar a fee of ten shillings.

**24. Penalty**

Every such officiating minister, or person, or Deputy Registrar, who shall neglect to register the marriage solemnized by him or which may have taken place in his presence, shall forfeit and pay a penalty as hereinafter provided.

**25. Minister to forward copies of Marriage Registers to Deputy Registrar quarterly**

Every officiating minister, or person, or Deputy Registrar, as the case may be, before whom any marriage is solemnized or hath taken place shall, in the months of July October January and April respectively, make and deliver to the Registrar-General a true copy, certified by such officiating minister, or person, or Deputy Registrar, under his hand, of all the entries of marriages in the register books kept by him since the last certificate, the first of such certificates to be given up in the month of April, one thousand eight hundred and fortyeight, and to contain all the entries made up to that time, and if there shall be no marriage entered therein since the last certificate, he shall certify the fact under his hand and shall keep the said marriage register books safely. I

#### 26. Registration of Marriages before commencement of Ordinance

For the purpose of affording to persons who shall have been married before the commencement of this Ordinance, the means of preserving a record of the evidence of their marriage, it shall be lawful for the parties thereto or the survivor of them (on giving twenty-one days' notice to a Deputy Registrar of their intention so to do) to produce to him such documentary evidence of their marriage as they may be possessed of, and such Deputy Registrar is hereby authorized and required to receive and record the same by taking a copy thereof; and in case no such evidence as aforesaid shall be produced, then the Deputy Registrar shall enter into a book to be kept for the purpose of registering such marriages, the name of the officiating minister or other person who may have performed the marriage ceremony, the name of the place and the time when the same took place, together with the names of the witnesses present thereat. The Deputy Registrar shall be entitled to have a fee of five shillings for every such registration from the persons requiring the same; and every register book so to be kept as aforesaid shall be open to inspection in the same manner and on the terms and conditions provided for the inspection of the indices hereinbefore mentioned.

### IV.—Register Books

#### 27. Register Books to be open for inspection

Every person and every Deputy Registrar who shall have the keeping for the time being of any register book of births deaths or marriages shall, at all reasonable times, allow searches to be made of any register book in his keeping, and shall give a copy certified under his hand of any entry or entries in the same on payment of the fee hereinafter mentioned, that is to say,—For every search extending over a period not more than one year, the sum of one shilling and sixpence additional for every additional year, and the sum of two shillings and sixpence for every single certificate: Provided always that when such certified copy is given under the seal of the Deputy Registrar, he shall be entitled to receive the sum of five shillings.

#### 28. Indices to be kept by Deputy Registrar

Every Deputy Registrar shall cause indices of the register books in his office to be made and kept with the other records of his office, and any person shall be entitled at all reasonable hours to search the said indices and to have a certified copy of any entry or entries in the said register books under the hand of the Deputy Registrar on payment of the fees hereinafter mentioned, that is to say,— For any general search, the sum of five shillings; and for any particular search, the sum of one shilling; and for every certified copy, the sum of two shillings and sixpence.

#### 29. Indices to be kept by Registrar General

The Registrar-General shall cause indices of all the certified copies of the registers of the Deputy Registrars to be made and kept in the General Register Office; and every person shall be entitled, on payment of the fees hereinafter mentioned, to search the said indices between the hours of ten in the morning and four in the afternoon of every day except Sunday, Christmas Day, Good Friday, and the Queen's birthday, and to have a certified copy of every entry in the said certified copies of the registers; and for every general search of the said indices shall be paid the sum of five shillings, and for every particular search the sum of one shilling; and for every such certified copy the sum of two shillings and six pence and no more shall be paid to the RegistrarGeneral or such other officer as shall be appointed for that purpose on his account.

#### 30. Certified copies of entries to be received as evidence

All certified copies of entries purporting to be made under the hand and seal of the RegistrarGeneral or of any such Deputy Registrar as aforesaid, shall be received as evidence in any Court of Justice within the Colony of the birth death or marriage to which the same relates without any further or other proof of such entry; and upon a certificate being made by the RegistrarGeneral that the register of births deaths or marriages for any specified period and for any particular district is lost or destroyed, then and in all such cases the certificate of such RegistrarGeneral under his hand and seal shall be received as evidence in any Court of Justice within the Colony of the matter to which the same relates without further proof being required; and upon the issue of such certificate there shall be paid to the RegistrarGeneral a fee of five shillings.

#### 31. Errors in entries how to be corrected

No person charged with the duty of registering any birth or death or of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, shall be therefore liable to any of the penalties hereby imposed if, within one calendar month next after the discovery of such error, in the presence of the parents of the child whose birth may have been so registered, or of the parties married, or of the inmates of the house or tenement where the death registered may have occurred, or in case of the death or absence of the respective parties aforesaid then in the presence of the Deputy Registrar and of two credible witnesses, who shall respectively attest the same, he shall correct the erroneous entry according to the truth of the case by entry in

the margin without any alteration of the original entry, and shall sign the marginal entry and add thereunto the day of the month and year when such correction shall be made: Provided also that in the case of a marriage register he shall make the like marginal entry attested in like manner in the marriage register book, and in every case shall make the like alteration in the certified copy of the register book to be made by him as aforesaid, or in case such certified copy shall have been already made, provided he shall make and deliver in like manner a separate certified copy of the original erroneous entry and of the marginal corrections therein made.

## V.—Penalties

### 32. For making false statements

Every person who shall wilfully make or cause to be made, for the purpose of being inserted in any register of births deaths or marriages, any false statement touching any of the particulars herein required to be known and registered, shall be deemed guilty of a misdemeanour.

### 33. For omitting to register

Every person who shall refuse or without reasonable cause omit to register any marriage solemnized by him or in his presence or which he ought to register, and every Deputy Registrar who shall refuse or without reasonable cause omit to register any birth or death or marriage of which he shall have had due notice as aforesaid, and every person having the custody of any register book or certified copy thereof or of any part thereof who shall carelessly lose or injure the same or carelessly allow the same to be injured whilst in his keeping, shall forfeit and pay a sum not exceeding fifty pounds for every such offence, to be recovered in a summary way.

### 34. For destroying, &c., Register Book

Every person who shall wilfully destroy or injure or cause to be destroyed or injured any such register book or any part or certified copy of any part thereof, or shall falsely make or counterfeit or cause to be falsely made or counterfeited any part of any such register book or certified copy thereof, or shall wilfully insert or cause to be inserted in any register book or certified copy thereof any false entry of any birth death or marriage, or shall wilfully give any false certificate or shall certify any writing to be a copy or extract of any register book knowing the same register to be false in any part thereof, or shall forge or counterfeit the seal of the RegistrarGeneral or of any Deputy Registrar, shall be deemed and adjudged to be guilty of felony, and shall be transported for the term of fourteen years.

## VI.—Miscellaneous Provisions

### 35. For neglecting, &c., to deliver certified copies to Registrar-General

Every person who is hereby required to make and deliver to the Registrar-General a certified copy of the entries of any births deaths or marriages registered by him, or the certificate herein required that there have been no entries since the last certificate, and who after being duly required to deliver such certified copy or such certificate as aforesaid shall refuse or during one calendar month neglect so to do, shall be liable for every such offence to forfeit a sum not exceeding ten pounds, to be recovered in a summary way.

36. Fees how to be accounted for

All fees collected under the authority of this Ordinance or of the Ordinance for regulating Marriages in the Colony of New Zealand, by any Registrar-General or Deputy Registrar, shall be accounted for quarterly and paid over to the Colonial Treasurer or the Treasurer of the district, for the public uses of the Colony and for the support of the Government thereof.

37. Ordinance not to extend to Natives, except by Proclamation

Nothing herein contained shall apply to the registration of the births deaths or marriages of persons of the Native race: Provided that this Ordinance shall come into operation in respect of the births deaths and marriages of such persons in such districts and at such times as the Governor shall by Proclamation from time to time appoint.

38. Commencement

This Ordinance shall come into operation on the first day of January, one thousand eight hundred and forty-eight.

39. Interpretation

For the purposes of this Ordinance the word " Governor " shall be taken to include the Lieutenant-Governor, or other the Officer Administering the Government for the time being.

Schedules

Schedule A.

Schedule B.

Schedule C.

Schedule D.

I, A.B., [Minister of or Deputy Registrar of \_\_\_\_\_,] do hereby certify that I have this day baptised, by the name of Thomas, [or that the name of Thomas hath this day been given to] a male child produced to me by William Green, as the son of William Green and Rebecca Green, and declared by the said William Green to

have been born at       , on the   day of   , one thousand eight hundred and forty-seven.

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

A.B., Minister or Deputy Registrar.

Schedule E.

I, A.B., Deputy Registrar of Births and Deaths in the District of , do hereby certify that the death of Henry Hastings was duly registered by me on the day of   , one thousand eight hundred and forty-seven.

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

A.B., Deputy Registrar.

Schedule F.

I,   , Coroner for the District of   , do hereby order the burial of the body now shown to the Inquest-jury as the body of Thomas Jones.

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

, Coroner.

## 10. The Education Ordinance 1847

An Ordinance for promoting the Education of Youth in the Colony of New Zealand.

[7th October, 1847.]

Whereas it is fitting that provision be made for promoting the education of youth in the Colony of New Zealand:

Be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

### 1. Schools to be supported by Public funds

It shall be lawful for the Governor for the time being, with the advice of the Executive Council, out of the public funds of the Colony, to establish and maintain schools for the education of youth, and to contribute towards the support of schools otherwise established, as he shall from time to time see occasion.

**2. And to be subject to inspection**

Every such school shall be subject to inspection in manner hereinafter provided.

**3. Nature of education to be given**

In every school to be established or supported by public funds under the provisions of this Ordinance, religious education, industrial training, and instruction in the English language shall form a necessary part of the system to be pursued therein; but in order to provide for the instruction of the children of parents dissenting from the religious doctrines to be taught in any such school, such children as shall attend the same as dayscholars only may, upon application to be made in that behalf by their parents or guardians, be taught therein without being instructed in the doctrines of religion.

**4. General Superintendence**

Every such school shall be placed under the superintendence and management of such one of the persons named or referred to in the Schedule hereunto annexed as the Governor, with the advice of the Executive Council, shall in the case of each such school especially direct.

**5. Appointment of Teachers**

The teachers of every such school shall be appointed by the person under whose superintendence and management the same shall respectively be placed as aforesaid, and shall be removable by him at pleasure.

**6. Schools to be inspected yearly**

In order to secure the efficiency of schools to be supported by public funds, every such school shall be inspected once at least in every year by an Inspector or Inspectors to be for that purpose appointed by His Excellency the Governor.

**7. And report to be made**

As soon as conveniently may be after the inspection of any such schools, such Inspector or Inspectors shall make a report in writing to the Governor for the time being, setting forth the name or description of such school, the number of children educated therein, the funds out of which the same may be supported and the amount thereof respectively, the salaries paid to the teachers thereof, and the yearly cost incurred for the support and education of each pupil maintained therein, and shall also report upon the discipline and management of the school, the nature and extent of the industrial instruction pursued therein, the attainments of the children, and the state of the school generally as regards its efficiency.

**8. All the reports to be published at the same time**

As soon as the several schools which may be supported under the provisions of this Ordinance shall have been inspected as aforesaid, the whole of the reports relating thereto shall be together laid before the Colonial Legislature if the said

Legislature shall be then in Session, and if not then within one calendar month next after the commencement of the then next ensuing Session.

9. Amount of aid from public funds, how limited

Provided always and be it further enacted, That the whole amount of the sums to be advanced under the authority of this Ordinance in any one year shall not exceed one twentieth part of the estimated revenue of the Colony or Province as the case may be for such year.

10. Interpretation

In the construction of this Ordinance the word " Governor " shall be taken to mean the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

Schedule

The Bishop of New Zealand.

The Bishop or other the head of the Roman Catholic Church in the Colony of New Zealand.

The Superintendent of the Wesleyan Mission.

The Head or Minister of any other Religious Body who shall have engaged in the education of youth in the Colony of New Zealand.

12. The Footpath Ordinance 1847

An Ordinance to provide for the protection of Footpaths in the Colony of New Zealand.

[14th October, 1847.]

Be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. Public Footpath, what

When and so soon as any footpath already laid out or which shall hereafter be laid out in any street road or public place within the Colony shall be well and sufficiently made and completed for the use and accommodation of footpassengers, it shall be lawful for His Excellency the Governor to declare the same, by a notice to be published in the Government Gazette, to be a public footpath, and from and after such notification the same shall be deemed and taken to be public footpath within the meaning of this Ordinance.

**2. How to be described**

Every such notice shall set forth as nearly as may be the situation and extent of the footpath to be named therein.

**3. Penalty for riding or driving thereupon**

If any person shall wilfully run draw or drive any truck wheelbarrow cart or carriage whatsoever, or shall wilfully ride lead or drive any horse or any horned or neat cattle, on any such public footpath as aforesaid, every person so offending shall upon conviction forfeit and pay for every such offence any sum not exceeding twenty shillings, to be recovered in a summary way.

**4. Penalty for continuing the offence**

If any person who shall be found running drawing or driving any truck wheelbarrow cart or carriage, or who shall be found riding leading or driving any horse or any horned or neat cattle, upon any such footpath as aforesaid, shall continue so to do after being warned to the contrary by any constable or other person, every person so offending shall upon conviction forfeit and pay for every such offence the sum of five pounds, to be recovered in a summary way.

**8. The Census Ordinance 1851.**

An Ordinance for taking a Census of the Colony of New Zealand.  
[15th July, 1851.]

Whereas it is expedient that authentic statistical information of the Colony of New Zealand be periodically obtained:

Be it therefore enacted by His Excellency the Governor-in-Chief of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

**1. Census to be taken at certain periods in each decade of years**

That a Census of the number and condition of the population of the Islands of New Zealand shall be taken in the first fourth and seventh year of every decade of years, on the days and in the manner hereinafter declared.

**2. Commencement of first decade**

That the first decade shall be deemed to commence with the year of the passing thereof.

**3. Persons to be appointed to leave and collect Schedules &c. How to be remunerated.**

That the Governor-in-Chief shall appoint persons to collect the information required by this Ordinance, and may cause an allowance to be made to any such person at a rate not exceeding ten shillings per day.

4. Resident Magistrate to warn all householders to be ready with information by a certain day

That in each of the years hereinbefore particularized the Senior Resident Magistrate in every settlement in the said Islands or, where there is no Resident Magistrate, some fit person to be appointed by His Excellency the Governor-in-Chief, shall, on or before the first day of March, cause notices to be affixed on the several Churches, Chapels, Court Houses, and Police Stations, and in such other conspicuous places as he shall deem proper, within such district as shall be to him assign for that purpose by His Excellency the Governor-in-Chief, requiring every householder to be prepared, on the thirty-first day of March, or as soon as thereafter as he may be called upon so to do by a Collector appointed as aforesaid, to give all such information as is required by the Schedule hereunto annexed.

5. Collectors to leave Schedules at every house. Householders to fill up same.

That the said Collectors shall, on or before the twenty-fifth day of March in each of the years hereinbefore particularized, leave at every house within the districts assigned to them respectively a Schedule, being a blank copy of the Schedule to this Ordinance annexed; and every householder able to write shall, on the thirty-first day of March, furnish in writing the information required by the said Schedule, by filling up the same and subscribing his name at the foot thereof, and shall deliver the same when called for to one of the said Collectors.

6. Collectors to call for Schedules and complete them in certain cases

That each Collector shall, as soon after the thirty-first day of March as practicable, call at every house in his district to collect the Schedules, and is hereby authorized to put such questions as may be indispensable to the complete filled up thereof, to any householder who, from inability to write, shall not have duly filled up the same, and the Collector shall thereupon fill it up himself with the information so supplied.

7. Penalties for not filling up Schedule or answering Collector's questions

That every householder who shall wilfully refuse or without lawful excuse neglect to fill up the said Schedule to the best of his knowledge and belief, or to sign and deliver the same, or shall make sign or deliver, or cause to be made signed or delivered, any false return of any of the matters specified in the said Schedule, or who shall refuse to answer, or wilfully give a false answer to such questions as aforesaid, shall for every such refusal or wilfully false answer, forfeit a sum not exceeding five pounds nor less than twenty shillings.

8. Proviso with respect to the taking of the first Census

Provided always that with respect to the present year the Census shall be taken on the first day of November, the notices given on or before the first day of October, the Schedules left on or before the twentyfifth day of October, and filled up by the householder on the first day of November, and called for and filled up, when requisite, by the Collector, as soon after that day as practicable, all in manner aforesaid.

#### 9. Commencement of Ordinance

This Ordinance shall come into operation on the first day of August, one thousand eight hundred and fifty-one.

#### 11. The Building and Land Societies Ordinance 1851.

An Ordinance for the Regulation of Building and Land Societies.  
[28th July, 1851]

Be it enacted by the Governor-in-Chief of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. Formation of Societies; members may receive shares advance, execute mortgages to Societies, frame rules, impose fines, but not receive annual profits It shall be lawful for any number of persons in New Zealand to form themselves into and establish Societies for the purpose of raising, by subscriptions to shares not exceeding the value of one hundred and fifty pounds for each share and such subscriptions not to exceed in the whole twenty shillings per month for each share, a stock or fund for the purpose of enabling any member of such society to receive out of the same the amount or value of his share, to erect or purchase dwellinghouses or any real or leasehold estate, to be secured by way of mortgage to such Society until the amount or value of his share shall have been fully repaid to such Society, with interest and all fines and other payments incurred in respect thereof: and for the assurance for loss by fire of houses mortgaged to such Societies; and also for the several members of each Society from time to time to assemble together and make such rules and regulations for the government of the same as to the major part of the members so assembled shal seem meet, so as such rules shall not be repugnant to the express provisions to this Ordinance and to the general laws of the realm; and to impose reasonable fines and penalties upon any member who shall offend against such rules, to be paid to and for the benefit of the Society as such rules shall direct, and also from time to time to alter and amend or repeal such rules and make new rules in lieu thereof: Provided that no member shall receive from the funds of the Society any interest or dividend by way of annual or other periodical profit upon

any share, until the amount or value of such share shall have been realized, except on the withdrawal of such member according to the rules then in force.

2. May receive bonus on shares advanced

Any such Society may have and receive from any member thereof any sum of money, by way of bonus on any share, for the privilege of receiving the same in advance prior to its being realized, and also any interest for the share so received or any part thereof.

3. May describe forms of conveyance &c.

Any such Society may in its rules prescribe the form of conveyance mortgage transfer agreement bond or other instrument which may be necessary for carrying its purposes into execution, so as the same be set forth in a Schedule to be annexed to such rules.

4. Must in rules declare all the purposes of the Society

Every such Society, before any of the rules thereof shall be confirmed as hereinafter directed, shall in such rules declare all the purposes for which the Society is intended to be established, and also the uses and purposes to which the money which shall from time to time be subscribed to or shall in any wise belong to such Society shall be applied, and in what shares and proportions and under what circumstances any member or other person shall become entitled to such money, provided the application thereof shall not be repugnant to the uses and purposes so to be declared as aforesaid; and the moneys so subscribed to or belonging to the Society shall not be misapplied by any officer or member intrusted therewith under such penalty as such rules may impose.

5. Rules to be submitted to Revising Officer and deposited with the Clerk to the Magistrates

Two copies, fairly printed on parchment, of all rules made in pursuance of this Ordinance, signed by three members and countersigned by the Clerk or Secretary, (accompanied, in the case of any amendment of rules, with an affidavit of the Clerk or Secretary or other officer of the said Society that the provisions of this Ordinance have been duly complied with,) shall with all convenient speed be submitted to such Revising Officer as shall be appointed in that behalf by the Governor, for the purpose of ascertaining, whether such rules or amendment thereof are calculated to carry into effect the intention of the parties framing the same, and are in conformity to law. And the said Revising Officer shall advise with the said Clerk or Secretary if required, and shall give a certificate on each of the said copies that the same are in conformity to law, or point out wherein the same are repugnant thereto. And the said Revising Officer for so advising and perusing such rules or amendment and giving such certificate as aforesaid, shall demand no further fee than five guineas. And one of such copies when so certified shall be retained to the Society, and the other shall be

transmitted to the Clerk of the Magistrates for the district in which the Society is established, to be by him filed without fee or reward.

**6. No fee on amendment within three years**

Provided always that the said Revising Officer shall be entitled to no further fee in respect of any amendment of any rules upon which one fee has been already paid within the period of three years: Provided also that if any rules or amendments are sent to such officer, accompanied with an affidavit of being a copy of any rules or amendments of rules which shall have been already certified by him, the said officer shall certify and return the same as aforesaid without any fee.

**7. Revising Officer refusing to certify, a Judge of the Supreme Court may allow rules**

In case the said Revising Officer shall refuse to certify any such rules, it shall be lawful for any such Society to submit the same to a Judge of the Supreme Court, together with the reasons assigned by the said Officer in writing for such his refusal, whereupon such Judge may, if he think fit, confirm and allow such rules.

**8. Rules to be entered in a book for inspection of members**

No such Society shall have the benefit of this Ordinance unless all the rules for the management thereof shall be entered in a book to be kept for that purpose, which book shall be open at all reasonable times for the inspection of the members.

**9. Rules to be binding**

All rules so certified and in force and entered in such book and deposited with the Clerk to the Magistrates as aforesaid, shall be binding on the members and officers of such Society, and on all other parties having interest therein, all of whom shall be deemed and taken to have full notice thereof by such entry and deposit the original and proved to be a true copy, shall be received as evidence of such rules in all cases; and no certiorari or other legal process shall be brought or allowed to remove any such rules into any of Her Majesty's Courts of Record, and every copy of the copy deposited with the Clerk of the Magistrates shall be made without fee or reward, except the actual expense of making such copy.

**10. Alteration of rules**

No rule certified by the said Revising Officer or allowed by a Judge of the Supreme Court shall be altered or repealed except at a general meeting of the members, convened by public notice signed by the Secretary or Clerk of such Society in pursuance of a requisition for that purpose by seven or more members, which requisition and notice shall be publicly read at the two usual meetings of the Society to be held next before the general meeting for the purpose of such alteration or repeal: Provided always that if a Committee of members shall be nominated for that purpose at such general meeting, such

Committee shall have the like power to make such alteration or repeal: Provided also that such alteration or repeal shall be made with the concurrence and approbation of three-fourths of the members present at such meeting, or by the like proportion of such Committee.

**11. Must specify place of meeting**

Every Society shall in its rules specify the place at which it is intended to hold its meetings, and shall contain provisions with respect to the powers and duties of the members at large, and if any Committee or officers to be appointed for the management of its affairs: Provided always that the Society may alter its place of meeting upon giving one week's notice thereof in writing to the Clerk to the Magistrates for the district in which the Society is established, such notice to be signed by the Clerk or Secretary and also by three or more members, and provided that the new place of meeting shall be situate within the district in which the rules of the Society are deposited as aforesaid.

**12. Society may appoint officers who shall give bond**

Every such society may, at its usual meetings, or by any Committee to be appointed for the management of its affairs, appoint a Steward, President, Warden, Treasurer or Trustee, and also such Clerks and other officers as shall be necessary to carry into execution the purposes of such Society, and may appoint others in the room of any who may vacate or die; and such Treasurer, Trustee, and every other person who shall be appointed to any office in any wise concerning the receipt management or expenditure of the Society's money shall, before he be admitted to take upon him the execution of any such office or trust (if required so to do by the rules of the Society), become bound in a bond according to the form prescribed in the Schedule A to this Ordinance annexed, with two sureties, for the faithful execution of such office or trust, and for rendering a true account according to the rules of the Society, and in all matters lawful to pay obedience to the same, in such penal sum of money as by the major parts of the members present at any general meeting shall be thought expedient; and every such bond shall be given to the Clerk to the Magistrates where the Society shall be established without fee or reward; and in case of forfeiture it shall be lawful to sue upon such bond in the name of the Clerk to the Magistrates for the time being for the use of the Society, fully indemnifying and saving harmless such Clerk to the Magistrates from all costs and charges in respect of such suit.

**13. May appoint Committees**

Every such Society may from time to time appoint any number of its members to be a Committee for general purposes, the number thereof to be declared in its rules, and may delegate to such Committee any power given by this Ordinance, such powers and their duration being first declared in the rules; and may also appoint Committees for particular purposes, the powers delegated to each Committee being reduced into writing and entered into a book by the Secretary or Clerk; and a majority of the members of any Committee shall at all times be

necessary to concur in any act; and every Committee shall in all things delegated to it act for and in the name of the Society, and all acts and orders of such Committee under the powers delegated to it shall have the like force and effect as the acts and orders of the Society, at any general meeting thereof, could have had in pursuance of this Ordinance: Provided always that the transactions of every Committee shall be entered in a book belonging to the Society, and shall be at all times subject to the review, allowance or disallowance, and control of the Society, in such manner as the Society shall by its rules direct.

**14. Treasurer or Trustees to invest surplus moneys**

The Treasurer or Trustee for the time being of any such Society is hereby authorized and required from time to time, with the consent of the Society to be testified in such manner as shall be directed by its rules, to lay out or invest such part of all sums of money at any time received by him for the beneficial purposes of the Society as the exigencies of the Society shall not call for the immediate application or expenditure of, either on real or Government securities, in the proper name of such Treasurer or Trustee; and from time to time, with such consent as aforesaid, to alter transfer and sell such securities; and all dividends and proceeds to arise from the moneys so laid out or invested shall be regularly brought to account by such Treasurer or Trustee, and shall be applied according to the rules of the Society.

**15. To render accounts and pay over balances**

Every person who shall have or receive any money or effects belonging to any such Society, or shall in any manner be entrusted with the disposal management or custody thereof, or of any securities books papers or property of the Society, shall, or in the event of his death his executors shall, upon demand made or notice in writing given or left at the last or usual place of residence of such person or of such executors, in pursuance of any order of the Society or of any Committee to be appointed as aforesaid, immediately give his account to the Society or to such Committee thereof, to be examined and allowed or disallowed; and shall on the like demand or notice pay over all moneys remaining in his hands, and assign and deliver all securities and effects books papers and property taken or standing in his name as aforesaid or being in his hands or custody, to the Treasurer or Trustee for the time being, or to such other person as the Society or Committee shall appoint; and in case of any neglect or refusal to comply with such demand or notice, it shall be lawful for every such Society, in the name of some principal officer thereof, to exhibit a petition in the Supreme Court, which may proceed thereupon in a summary way, and make such order therein as to such Court shall seem just, which order shall be final and conclusive, and all assignments sales and transfers made in pursuance of such order shall be good and effectual in law to all intents and purposes whatsoever.

**16. In absence of Trustee, Supreme Court may appoint person to convey**

When any person seized or possessed of any land, Government securities, or other property, or any estate or interest therein, as a Trustee of any such Society,

shall be out of the jurisdiction of or not amenable to the process of the Supreme Court, or shall be idiot, lunatic, or of unsound mind, or it shall be unknown or uncertain whether he be living or dead, or such person shall refuse to convey or otherwise assure such land property estate or interest, or to transfer or endorse such Government securities to the person duly nominated as Trustee of such Society in his stead, either alone or together with any continuing Trustee, as occasion shall require, it shall be lawful for a Judge of the said Court to appoint a person on behalf and in the name of the person seized or possessed as aforesaid, to convey surrender release assign or otherwise assure the said land or property estate or interest, or indorse or transfer such Government securities, to such Trustee so duly nominated as aforesaid; and every such coveyance release surrender assignment or assurance indorsation or transfer shall be as valid and effectual to all intents and purposes as if the person being out of the jurisdiction of or not amenable to the process of the said Court, or not known to be alive, or having refused, or being idiot lunatic or of unsound mind, had been at the time of the execution thereof of sane mind memory and understanding, and had himself executed the same.

#### 17. No fee for any proceeding in Court

No fee or gratuity whatever shall be demanded or received by any officer or minister of such Court for anything done in such Court in pursuance of this Ordinance.

#### 18. Money of Society in hand of officer dying or insolvent to be first paid

If any person appointed to any office in any such Society, and being entrusted with the keeping of the accounts, or having in his hands or possession by virtue of his office any moneys or effects deeds or securities belonging to the Society or relating thereto, shall die, or become bankrupt or insolvent, or have any execution or attachment or other process issued or action raised against his lands or effects, or make any assignment thereof for the benefit of his creditors, his heirs executors administrators or assignees or other person haring legal right, or the Sheriff or other officer executing such process, or the party using such action or execution, shall, within forty days after demand made in writing by the order of the Society, or of any Committee thereof, or the major part of them assembled at any meeting deliver and pay over all moneys and other things belonging to the Society to such Officer of the Society as shall be appointed for that purpose; and shall pay out of the estates assets or effects ofsuch person all sums of money remaining due which such person may have received by virtue of his said office, before any other of his debts shall be paid or satisfied, or before the money directed to be levied by such process as aforesaid or which may be recovered or recoverable under such execution, and all such lands and effects shall be bound to the payment and discharge thereof accordingly.

#### 19. Treasurer or Trustee may bring and defend action

All property whatever, and an securities and evidences, and all rights or claims belonging to such Society, shall be vested in the Treasurer or Trustee for the

time being, for the use and benefit of the Society; and after the death or removal of any Treasurer or Trustee, shall vest in the succeeding Treasurer or Trustee for the same estate and interest as the former Treasurer or Trustee had therein, and subject to the same trusts, without any assignment or conveyance whatever; and also shall, for all purposes of action or suit, as well criminal as civil, in law or in equity, be deemed and taken to be the property of the person appointed to the office of Treasurer or Trustee of such Society for the time being, in his proper name, without further description; and such person shall and he is hereby authorized to bring or defend any action or prosecution, criminal as well as civil, in law or in equity, touching the property right or claim aforesaid of or belonging to the Society, provided such person shall have been thereunto duly authorized by the consent of the majority of members present at any meeting of the Society or Committee; and such person so appointed shall and may, in all cases concerning the property right or claim aforesaid, sue and be sued in his proper name as such Treasurer or Trustee without other description; and no such action or prosecution shall be discontinued or abated by the death of such person or his removal from the office of Treasurer or Trustee, but the same shall be proceeded in by the succeeding Treasurer or Trustee in the proper name of the person commencing the same, and such . succeeding Treasurer or Trustee shall pay or receive like costs as if the action had been commenced in his name, for the benefit of or to be reimbursed from the funds of the Society.

#### 20. Members may be witnesses

On the trial of any action or other proceeding respecting the property of any such Society, or in any proceeding before any Justice of the Peace, any member of such Society shall be a competent witness, and shall not be objected to on account of any interest he may have as such member in the result of such action or other proceeding.

#### 21. Responsibility of Treasurer or Trustees

The Treasurer or Trustee or any other officer of any such Society shall not be liable to make good any deficiency which may arise in the funds of such Society: Provided always that the said Treasurer, Trustee, and every other officer of any such Society shall be personally liable for all moneys actually received by them on account of or for the use of the said Society.

#### 22. Payment of persons appearing to be next of kin valid

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

23. Sum not exceeding £20, when members die intestate, may be paid without administration

In case any member of any such Society shall die who shall be entitled to any sum not exceeding twenty pounds, it shall be lawful for the Trustees or Treasurer of such Society, if they shall be satisfied that no will was made and left by such deceased member, and that no letters of administration will be taken out of the goods of such member, to pay the same at any time after the decease of such member according to the rules of the Society; and in the event of there being no rules made in that behalf, then the said Trustees or Treasurer are hereby authorized to pay the same to the person or persons entitled to the effects of the deceased member, without administration.

24. Proceedings before Justices in case of fraud

For the more effectually preventing fraud on such Societies, if any person whatever shall fraudulently obtain possession of any moneys of such Society, or having in his possession any sum of money belonging to such Society shall fraudulently withhold the same, and for which offence no especial provision shall be made in the rules of the Society, it shall be lawful for any one Justice of the Peace residing within the district within which the Society is established, upon complaint made on oath by an officer of the Society appointed for that purpose, to summon the person against whom such complaint shall be made to appear at a time and place to be named in such summons, and upon his appearance, or in default thereof upon proof on oath of the service of such summons, it shall be lawful for any two Justices residing within the district aforesaid to hear and determine the said complaint according to the rules of the Society, and upon conviction for such fraud the said Justices shall award double the amount of the money so fraudulently obtained or withheld, to be recovered in a summary way, and to be paid to the Treasurer of the Society, together with such costs as to such Justices shall seem meet: Provided nevertheless that nothing herein contained shall prevent the Society from proceeding by indictment or complaint against the party complained of, and provided also that no party shall be proceeded against by indictment or complaint if a previous conviction has been obtained under the provisions of this Ordinance.

25. Dissolution of Society not lawful in certain circumstances

It shall not be lawful for any such Society, by any rule at any general meeting or otherwise, to dissolve or determine itself, so long as the extent or purposes declared by it or any of them remain to be carried into effect, without obtaining the votes of consent of five-sixths in value of the shares held by the then existing members, to be ascertained in manner hereinafter mentioned, and to be notified under their hands respectively; and for the purpose of ascertaining the votes of such five-sixths in value every member shall be entitled to one vote in respect of each share held by him which he shall not have received in advance. And in all cases of dissolution the intended distribution of the property of such Society shall be fairly and distinctly stated in the proposed plan of dissolution prior to such

consent being given; and it shall not be lawful for the Society by any rule to direct any such distribution amongst its members other than for carrying into effect the general intents and purposes of the Society as declared by them and certified as aforesaid, but any such rules for the dissolution or determination of any such Society without such consent as aforesaid, or for the distribution of the property of such Society contrary to the rules which shall have been certified as aforesaid, shall be void and of none effect; and in the event of such distribution without such consent, the Trustee or other Officer or person aiding or abetting therein shall be liable to the like penalties as are hereinbefore provided for in cases of fraud.

**26. Disputes to be settled by arbitration, or referred to Justices**

Provision shall be made by one or more of the rules of every such Society, specifying whether a reference of every matter in dispute between the Society or any person acting under them, and any member Justices thereof or person claiming on account of any member, shall be made to two or more Justices of the Peace for the district in which the Society may be established, or to arbitrators to be appointed in manner hereinafter directed.

**27. Proceedings where disputes referred to arbitrators**

When the matter in dispute as aforesaid shall be referred to arbitration, certain arbitrators who shall not be beneficially interested in the funds of the Society shall be elected at the first meeting of the Society or General Committee thereof that shall be held after the deposit of its rules with the Clerk to the Magistrates as aforesaid, three of whom shall be chosen by ballot in each such case of dispute, the mode of ballot being determined by such rules: Provided always that the names of such arbitrators shall be duly entered in the book in which the rules are entered as aforesaid, and in case of the death or refusal or neglect of any of the said arbitrators to act, the Society or its General Committee shall at their next meeting elect new arbitrators as aforesaid to act in the place of the arbitrators so dying or refusing or neglecting to act; and whatever award shall be made by the said arbitrators or the major part of them, according to the true purport and meaning of such rules, shall be in the form o this Ordinance annexed, and shall be binding and conclusive on all parties, and shall not be removable into any Court of Law or restrainable by the injunction of any Court of Equity. And if either of the said parties in dispute shall refuse or neglect to conform to any such award, it shall be lawful for any one Justice of the Peace residing within the district within which the Society is established, upon proof of such award having been made and the refusal of the party to conform thereto, to summon the person against whom such complaint shall be made, to appear at a time and place to be named in such summons, and upon his appearance, or in default thereof upon proof upon oath of the service of such summons, any two Justices of the Peace may proceed to make such order thereupon as to them may seem just; and if any sum of money so awarded, together with such costs as to such Justices

**28. Proceedings where disputes referred to Justices**

When the matter in dispute as aforesaid shall be referred to the decision of Justices of the Peace, it shall be lawful for any one Justice, on complaint being made to him of any refusal or neglect to comply with the rules of the Society by any member or officer thereof to summon the person against whom such complaint shall be made to appear at a time and place to be named in such summons, and upon his appearance, or in default thereof upon proof on oath of the service of such summons, it shall be lawful for any two Justices to proceed to hear and determine the complaint according to the rules of the Society; and in case the said Justices shall adjudge any sum of money to be paid by the person against whom such complaint shall be made, and such sum of money shall not be immediately paid, then the same shall be recovered in a summary way.

#### 29. Orders of Justices to be final

Every sentence order and adjudication of any Justice under this Ordinance shall be final and conclusive to all intents and purposes, and shall not be subject to appeal, and shall not be removable into any Court of Law or restrainable by the injunction of any Court of Equity.

#### 30. Annual statement of Society's funds to be made

The rules of every such Society shall provide that the Treasurer, Trustees, Stewards, or other principal officers thereof shall, once in every year at least, prepare a general statement of the funds and effects of such Society, specifying in whose custody or possession the said funds or effects shall be then remaining, together with an account of all sums of money received and expended on account of the said Society since the publication of the preceding periodical statement; and every such periodical statement shall be attested by two or more members of the Society appointed Auditors for that purpose, and shall be countersigned by the Secretary or Clerk of the Society; and every member shall be entitled to receive a copy of such periodical statement.

#### 31. Receipt indorsed of mortgage money to operate as re-conveyance

It shall be lawful for the Trustees named in any mortgage made on behalf of such Trustees for the time being, to indorse upon any mortgage or further charge given by any member of such Society to the Trustees thereof for moneys advanced by the Society to any member, a receipt for all moneys intended to be secured by such mortgage or further charge, which shall be sufficient to vacate the same and vest the estate of and in the property comprised in such security in the person or persons for the time being entitled to the equity of redemption, without its being necessary for such Trustees to give any re-conveyance of the property so mortgaged, the form of which receipt shall be specified in a schedule to be annexed to the rules of the Society duly certified and deposited as aforesaid.

#### 32. Mortgages not to be made invalid by members owning more than one share

Any mortgage or other security given or executed in pursuance of this Ordinance shall not be affected or rendered invalid by any member or members of any such

Society holding more than one share: Provided always that the number of shares held by any one such member shall not exceed five.

## Schedule

### Schedule A.

Know all men by these presents that we, A.B., of \_\_\_\_\_, Treasurer [ or Trustee, &c.,] of the \_\_\_\_\_ Society established at \_\_\_\_\_, in the Colony of New Zealand, and C.D., of \_\_\_\_\_ (as sureties on behalf of the said A.B.), are jointly and severally held and firmly bound to E.F., the present Clerk to the Magistrates for the district of \_\_\_\_\_, in the sum of \_\_\_\_\_, to be paid to the said E.F., as such Clerk to the Magistrates, or his successor for the time being, or his certain attorney, for which payment to be well and truly made we jointly and severally bind ourselves and each of us by these presents, sealed with our seals.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord, one thousand eight hundred and

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

## Schedule B.

We, the major part of the Arbitrators duly appointed by the Society established at \_\_\_\_\_, in the district of \_\_\_\_\_, do hereby award and order that A.B. [specifying by name the party or or officer or member of the Society], do, on the

day of , pay to C.D. [specifying as before mentioned,] the sum of  
[or stating the act or acts to be done as the case may be.]

Dated this day of one thousand eight hundred and

E.F.  
G.H.

### Ordinances of New Munster.

#### Session I.

No. 7. An Ordinance to authorize the levying and collecting of Rates for the making and repairing of Roads, Streets, &c., in any Town in the Province of New Munster.

No. 9. An Ordinance to increase the efficiency of the Constabulary Force.

No.10. An Ordinance to authorize the levying and collection of Tolls on Roads, and of Rates on Land, in the Province of New Munster.

No.11. An Ordinance to abate the Dog Nuisance.

#### 7. The Town Roads and Streets Ordinance 1849 (New Munster.)

An Ordinance to authorize the Levying and Collecting of Rates for the Making and Repairing of Roads, Streets, &c., &c., in any Town in the Province of New Munster.

[2nd October, 1849.]

Whereas it is expedient to repeal an Ordinance, No. 6, Session V called " The Public Roads and Works Ordinance :"

##### 1. Repeal of No. 6 Session V.

Be it enacted by the Lieutenant-Governor of New Munster, by and with the advice and consent of the Legislative Council thereof, That the same, as far as regards the Province of New Munster, be repealed.

##### 2. Lieutenant-Governor to proclaim town.

Be it enacted, That the Lieutenant-Governor, with the advice of the Executive Council, upon a requisition to that effect from a majority of the Magistrates of the district in which such town is situated, may proclaim from time to time the towns within which the provisions of this Ordinance shall take effect.

##### 3. Commissioners to be elected.

Be it enacted, That every person who shall have to his own use, either in freehold or as the occupier, any lands or tenements within any towns proclaimed to be within the provisions of this Ordinance shall, being duly enrolled in manner hereafter provided, be qualified to vote at the election of a Board of Commissioners, to be elected for the purpose of levying a yearly rate on all houses lands and tenements situated within the town, and for the purpose of superintending and managing the making maintaining and repairing the streets roads quays and highways within the same.

4. Claims to vote to be sent in.

All claims to the right of voting shall be according to the Form to this Ordinance annexed, and shall be sent in to the Resident Magistrate of the town proclaimed as aforesaid, or if there be no Resident Magistrate in the town, then to the nearest Resident Magistrate, on or before the first day of September in each year, and all claims not so sent in shall be disallowed.

5. A Bench of magistrates to decide upon claims.

Every Resident Magistrate shall, within seven days after the receipt of such claims as aforesaid, cause the names of the claimants to be posted in alphabetical order in some public place in the town, accompanied by a notice naming some day, prior to the fifteenth of September, on which all objections to the same shall be heard and determined by a Bench of Magistrates, and the list so revised shall be deemed to be the list of electors for the ensuing twelve calendar months, and shall be published in the Government Gazette, with a notice from the Resident Magistrate to the electors to assemble at some given time and place, before the twenty-fifth of September, for the purpose of electing Commissioners (not to exceed five in number nor less than three, and such Commissioners or the majority of them shall form a Board for the town, with authority to carry into effect the provisions of this Ordinance.

6. Commissioners to continue in office for one year.

Be it enacted, That the Commissioners so elected as aforesaid shall continue in office for one year, or until the next election of Commissioners, and that any Commissioner going out of office shall be eligible for re-election; and that in case of the insolvency absence from the Province mental incapacity or death of any Commissioner, the vacancy so created shall be filled up within a month by the election of another Commissioner.

7. Commissioners to levy a yearly rate.

Be it enacted, That the said Commissioners shall levy a yearly rate, not exceeding sixpence in the pound, on all houses lands and tenements situated within the limits of any town proclaimed as aforesaid, and every such rate shall be made upon an estimate of the net annual value of the lands and hereditaments rated thereunto; and the said rate when collected shall be paid to the Colonial Treasurer.

8. Assessors to be appointed by warrant under the hands of the Commissioners. Assessment to be entered in a book.

Be it enacted, That the said Commissioners may, from time to time, by warrant under their hands, appoint one or more proper persons to be assessors to rate and assess all such houses lands and tenements, and such assessors shall, within thirty days after the delivery to them of the warrant of their appointment, return to the said Commissioners an assessment for the place named in such warrant; and the assessment shall specify, in different columns, the names of the respective owners or occupiers of all houses lands and tenements comprised in such assessment, the full and fair annual value of the same, and the amount of rate chargeable thereon respectively; and when the land or premises shall be unoccupied, the full and fair annual value thereof.

9. When assessment allowed notice thereof shall be given.

Be it enacted, That when any such assessment shall have been allowed by the said Commissioners, they shall sign the same, and shall cause public notice to be given of such assessment, and of the place where the same may be inspected, by advertisement in the Government Gazette: Provided that every person in whose custody such assessment may be shall permit every owner or occupier of property included in such assessment to inspect the same during office hours, and to make extracts therefrom, without payment of fee or reward; and if such person wilfully neglect or refuse to permit such inspection or extract to be made, he shall, on conviction before any two Justices, forfeit and pay for every such offence any sum not exceeding five pounds as the Justices shall think fit.

10. Appeal against assessment. The assessment may be altered to relieve the appellant without altering any other part of it.

Be it enacted, That if any person who shall have paid the amount of rate charged upon him by the assessment made by any Assessor under this Ordinance shall think himself aggrieved by such assessment, on the ground that such assessment includes any property for which he is not rateable under this Ordinance or that it assesses his rateable property beyond its full and fair annual value, or that any person is omitted out of such assessment, or that the property of any person is assessed below its full and fair annual value, the person so considering himself aggrieved may appeal to the next Court of Sessions of the Peace, or, until the establishment of such Court, to a Bench of not less than five Magistrates, within twenty-one days after public notice of such assessment shall have been given, as hereinbefore mentioned; and in case the said Court of Appeal shall think the appellant entitled to relief, it shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him to be returned to him; and in case he shall have appealed on the ground that any person is omitted out of the assessment, the said Court of Appeal may order the name of such person to be inserted in the assessment, and to be therein rated at such an amount as it shall deem just; and in case the appellant shall have appealed on the ground that the property of any

person is assessed below its full and fair annual value, the said Court of Appeal may order the amount at which such person is rated in the assessment to be altered in such manner as it shall deem just, and the proper officer of the Court shall, in each of the cases aforesaid, forthwith amend the assessment accordingly; but the assessment shall not be questioned or altered with respect to any other persons named therein, and the determination of the said Court of appeal shall be final and conclusive.

11. How rate may be distrained for.

Be it enacted, That if any person shall neglect or refuse to pay the rate or arrears thereof to which he shall be liable, for the space of ten clear days after personal demand thereof of the owner occupier or agent (and in case where the owner or agent cannot be found, then by notice in the Government Gazette, which shall be deemed a legal demand) by the Collector, or demand in writing left at the house land or tenement rated and assessed thereto, it shall and may be lawful for the Collector appointed to receive such rate, and his assistant, by warrant under the hand and seal of the said Commissioners, to enter into any part of any house land or tenement so rated and assessed, and to distrain the goods and chattels therein or thereon according to law.

12. Rate may be recovered.

Be it enacted, That it shall and may be lawful for any Collector appointed under this Ordinance to sue for recover and receive of recovered and from the person thereto liable, any rate or assessment payable under the provisions of this Ordinance, in any Court of competent jurisdiction; and for the purposes of any action or suit such rate or assessment shall be deemed to be due and payable to such Collector.

13. Rate becoming due leviable upon goods found on such property.

In case it shall be impossible to levy the rate due by reason of the property rateable being unoccupied or otherwise, the arrears shall at any subsequent time within seven years from the date of such rate becoming due be leviable upon any goods which may be found upon such property.

14. Commissioners to appoint one or more persons to levy the amount of rates. And be it enacted, That the said Commissioners shall from time to time nominate and appoint one or more persons to be Collectors, who shall levy the amount of rate charged in every such assessment, and duly account for and pay over the amount collected to the Colonial Treasurer, according to the provisions of this Ordinance, or in default thereof shall be deemed and taken to have embezzled the same, and be proceeded against according to law; and all money received by any such Collector may from the receipt thereof, by law be deemed the money of the said Treasurer for the time being, and may be so described in any indictment or other proceeding.

15. Collector to give security.

Be it enacted, That every Collector or other person appointed to levy the said rate and assessment shall give sufficient security, to the satisfaction of the said Commissioners, by bond, for the faithful execution of the said office; and every such Collector or other person shall, at such time and times as the said Commissioners shall direct, deliver to them true and perfect accounts of all moneys which shall have been received by him by virtue of this Ordinance, and of all moneys paid by him to the said Colonial Treasurer, together with the proper vouchers for such payments; and if any person shall refuse or neglect to produce or deliver the vouchers relating to the same, or to make payment as aforesaid, or shall not deliver to the said Commissioners, within ten days after being thereunto required, all the books papers and writings in his custody or power relating to the trust reposed in him, or shall refuse or neglect to pay such moneys as upon the balance of any account shall appear to be in his hands to the said Colonial Treasurer, every such person shall for every such neglect respectively forfeit a sum not exceeding twenty pounds, to be recovered in any Court of competent jurisdiction.

16. Collectors to pay their balances to the Colonial Treasurer.

Be it enacted, That each and every of the said Collectors shall, on the Saturday in every week, or at such other times as may be appointed by the said Commissioners, pay to the Colonial Treasurer all moneys received by him and the and then in his hands by virtue of this Ordinance.

17. Proceedings under this Ordinance to be taken according to Ordinance No. 5, Session II.

Be it enacted, That all proceedings under this Ordinance, in so far as not otherwise expressly provided, may be had and taken according to Ordinance No. 5, Session II., for the regulation of summary proceedings before Justices of the Peace.

18. Meeting of Commissioners how to be called.

Be it enacted, That no meeting of Commissioners for the purposes of this Ordinance shall be holden unless such meeting shall have been called by two Commissioners at least; notice of the time and place of every such intended meeting, specifying the business to be transacted thereat, and signed by the Commissioners calling the same, to be left at the usual place of abode of every other Commissioner three clear days at least before such meeting.

19. Questions decided by majority.

Be it enacted, That all questions which shall come before such meeting, shall be decided by the majority of the Commissioners who shall be present thereat.

20. Minutes of resolutions entered in a book.

Be it enacted, That a minute of every resolution agreed to at any such meeting shall be entered in a book to be kept for that purpose, and shall be signed by the said Commissioners who shall have agreed thereto.

21. Commissioners to enter accounts and keep vouchers. Accounts to be audited.

Be it enacted, That the Commissioners shall, in a book to be kept for that purpose, enter true accounts of all sums of money by them received and paid, and of the several matters in respect whereof such sums shall have been received and paid. All such accounts, with a full abstract or balance thereof signed by a quorum at least of the Commissioners, shall yearly at such meeting of electors as aforesaid be submitted to such meeting, and shall (as soon thereafter as conveniently may be) be examined and audited by two or more persons to be appointed for that purpose by such meeting.

22. Commissioners to exhibit balance sheet.

Be it enacted, That a copy of such abstract or balance sheet shall also be posted up by such Commissioners at or before the commencement of such meeting as aforesaid upon some conspicuous part of the place in which such meeting shall be holden.

23. Moneys books accounts and vouchers to be delivered to new Commissioners.

Be it enacted, That all moneys found by the Auditors to be due from the Commissioners under the provisions this Ordinance, together with all such books of accounts vouchers and papers shall be forthwith paid and delivered over to the Commissioners for the ensuing year.

24. Not to extend to Crown lands, Board of Ordnance, nor Native Reserves.

Be it enacted, That nothing in this Ordinance shall extend to any land or premises belonging to the Crown, or the Honourable the Board of Ordnance, or belonging to any aboriginal native or tribe, or to any lands reserved for the benefit of the Natives.

25. Not to disqualify any Judge, Resident Magistrate, or Justice from acting under the provisions of this Ordinance.

Be it enacted, That no Judge, Resident Magistrate, or Justice of the Peace shall be disqualified from acting in pursuance of any of the provisions of this Ordinance by reason of his being assessed as a ratepayer under this Ordinance.

26. Commencement of Ordinance.

Be it enacted, That this Ordinance shall commence and take effect from the day of the passing thereof.

Schedules.

Form of Claim.

To , Esquire, Resident Magistrate for the District of  
I hereby give you notice that I claim to have my name enrolled as a voter for the  
election of the Board of Commissioners for the district of [as  
landowner, lessee, or proxy for AB, as the case may be]

Dated the day of .

Place of abode and business of claimant

Tolls which may be demanded under this Ordinance.

For every lamb pig or goat	One Half-penny
Ox or head of neat cattle	One penny half-penny
Horse mare gelding or mule	Threepence
Cart dray or other such vehicle drawn by one horse or other animal	Sixpence
Other horse, or other animal above one, drawing a cart dray or other such vehicle	Threepence
Gig chaise or other such carriage drawn by one horse or other animal	Ninepence
Ditto, drawn by two horses or other animals	One shilling and sixpence

9. The Constabulary (Police Offences) Ordinance 1849 (New Munster.)

An Ordinance to increase the efficiency of the Constabulary Force.  
[23rd August 1849]

Whereas an Ordinance (No 2, Session VII) to provide for the establishment of a Constabulary Force was passed on the ninth October, one thousand eight hundred and forty-six: And whereas it is expedient to increase the efficiency of the said force:

1. Power to any one in Constabulary Force above the rank of a private constable to board ships boats or other vessels.

Be it enacted by His Excellency the Lieutenant-Governor of New Munster, with the advice and consent of the Legislative Council thereof, as follows: that any

Inspector, Sub-Inspector, or any officer of the Constabulary Force above the rank of a private constable may, with such constables as he may think proper, enter into any ship boat or other vessel (not being then actually employed in Her Majesty's service) for the purpose of inspecting and directing the conduct of any constable who may be stationed on board of any such vessel, and for preventing fire, preserving peace and good order, and for the prevention or detection of any felonies or misdemeanours on board of such vessel.

2. Provision for punishing disorderly conduct in the houses of licensed victuallers extended to other houses.

Be it enacted, that any constable may demand admittance, for the purpose of preventing or repressing disorderly conduct, into any house shop or place of public resort wherever provisions liquors or refreshments of any kind shall be sold or consumed (whether the same shall be kept or retailed therein or procured elsewhere), and any unnecessary delay in giving admission to the said constable shall subject the party to a penalty not exceeding five pounds.

3. Penalty for drunkenness.

Be it enacted, that if any person shall be convicted of drunkenness before any Justice of the Peace he shall forfeit and pay a sum of not less than five shillings nor more than twenty shillings, and in default thereof shall be imprisoned for any period not exceeding forty-eight hours. If any person shall have been so convicted three times within the space of six calendar months, he shall upon such third conviction forfeit and pay such sum as aforesaid, and be imprisoned for the term of seven days, with hard labour, at the discretion of the Magistrates.

4. Powers to any two Justices of the Peace to imprison persons having certain implements with felonious intent.

Be it enacted, that every person armed with any gun pistol sword bludgeon, or having in his possession any picklock crow-bar jack bit or other implement with intent feloniously to break into or having broken into any building for an unlawful purpose, or frequenting any street highway quay wharf or thoroughfare with intent to commit felony, may be imprisoned by any two Justices of the Peace for the term of three calendar months.

5. Power to constables to arrest persons with stolen property upon them.

Be it enacted, that it shall be lawful for any constable, finding any person with property in his possession which may reasonably be suspected of having been stolen or unlawfully obtained, to take such person before a Justice of the Peace, to be dealt with according to law.

6. Penalty for damaging public buildings.

Be it enacted, that any person who shall damage any public building wall parapet sluice bridge road street sewer culvert watercourse or other public property, shall pay the cost of repairing the same, and if the same be wilfully done shall forfeit and pay a further sum not exceeding twenty pounds nor less than five pounds.

7. Penalty on persons committing certain acts in the nature of nuisances specified in Schedule A.

Be it enacted, that any person doing or causing to be done or permitting any of the acts specified in Schedule A to this Ordinance annexed, upon the carriage or footway shall, on conviction before any Justice of the Peace, be liable to a penalty not exceeding forty and not less than five shillings.

8. Power to constables to seize certain articles enumerated in Schedule A.

Be it enacted, that any constable may require any person being the owner of any of the articles enumerated in the Schedule A to remove the same from the carriage or footway, and that any person not removing the same shall be liable to a penalty not exceeding forty and not less than five shillings for each time that he shall fail to remove any of the said articles, within reasonable time, after having been required so to do; and any constable may seize the same where the owner after having been once required to remove any article, or, where the owner of any article cannot be found, may proceed, after giving notice (in cases where the value of the article seized shall be more than ten shillings) of the seizure by an advertisement in the Government Gazette, to sell the same when the value of the article is under ten shillings, without notice the proceeds of the sale to pay the penalties incurred for the breach of any provision of this Ordinance, and the surplus, if any, to such charitable purpose as the Lieutenant-Governor may direct: Provided that nothing in this Ordinance shall be taken to prevent any person from placing an awning or verandah in front of his shop or house, but such awning or verandah must be at least seven feet above the height of the footway in front of such house or shop, and the posts must be placed close up to the curbstone or outer edge of such footway.

9. Penalty for discharging firearms and fireworks.

Be it enacted, that any person who shall discharge any firearms without lawful cause, or let off any fireworks in any street or public place, shall be liable to a fine not exceeding five pounds nor less than five shillings.

10. Penalty for burning shavings or other things in the street or setting fire to the bush.

Be it enacted, that any person burning any shavings or other things in any street or public place, or setting fire to the bush scrub or flax within the limits of any town, shall be liable to a fine of not more than forty nor less than five shillings and shall compensate any person damaged thereby, the amount of compensation to be assessed by any two Justices of the Peace.

11. Penalty for bathing in public.

Be it enacted, that any person bathing near to or within view of any public wharf quay bridge street or other place of public resort, in public so as to offend against decency, between the hours of eight in the morning and eight in the evening, shall be liable to a fine of twenty shillings.

**12. Penalty for exposing the person.**

Be it enacted, that any person who shall offend against decency by the exposure of his person shall be liable to a fine of not more than ten pounds, or may at the discretion of any two Justices of the Peace be committed to gaol and hard labour for any term not exceeding two months.

**13. Penalty for nuisances.**

Be it enacted, that upon complaint made to any two Justices of the Peace of the existence of any nuisance in the form of any noisome or unwholesome trade, or of any privy stye or receptacle for filth of any kind, the said Justices of the Peace shall inspect or order an inspection of the same, and shall give seven days' notice to abate such nuisance; and in default of the same being abated, the owner or occupier of the premises on which such nuisance exists shall be liable to a fine not exceeding ten pounds.

**14. Penalty for injuring the streets by hauling timber and other things thereon.**

Be it enacted, that if any person shall haul or draw, by himself or his servant, upon any part of a street or public place, any timber stone or other weights otherwise than upon a wheeled carriage, or shall suffer the same to drag or trail or hang over such carriage to the obstruction or injury of the said streets or ways, he shall be liable to a fine of forty shillings over and above the damage occasioned thereby.

**15. Penalty on uncovered openings in footway.**

Be it enacted, that if any owner or occupier of premises having iron or wooden rails bars or trapdoors over the areas or openings to any kitchen cellar or other part of a building beneath the surface of the footway, shall neglect to keep the same in repair or shall leave the same open (save at such reasonable times at which coals wood or other things shall be in process of putting down or taking up), so as to endanger persons passing and repassing, shall be liable to a fine of not more than five pounds nor less than forty shillings.

**16. Penalty for making any openings in the footway.**

Be it enacted, that it shall not be lawful for any person to make any cellar or any opening of a like nature beneath the surface of the footway without the approval of the Commissioners for the Repairs of Streets, or of the Resident Magistrate where there are no such Commissioners, and that any person offending against this provision shall be liable to a fine of five pounds, as well as to the expense of removing or closing up the same; such expense to be assessed by any two Justices of the Peace.

**17. Penalty for removing night-soil in the day.**

Be it enacted, that if any person shall drive or cause to be driven any carriage with any night soil or ammoniacal liquor through the streets or public places between the hours of five o'clock in the morning and ten o'clock at night, or shall

shoot from a carriage or cast any night soil filth or ammoniacal liquor upon the streets, it shall be lawful for any person whomsoever to seize and apprehend the person so offending, without any other warrant than this Ordinance, and to convey such person before any two Justices of the Peace, who are hereby empowered to fine the same offender, or the owner if the driver cannot be found, as well as the employers of the person so offending, in the sum of not more than five pounds.

18. Penalty for throwing dead animals into the streets, or into streams.

Be it enacted, that if any person shall throw or cause to be thrown any dead animals or part thereof into any street lane road or other public place, or into any river creek or stream or other water, or leave or cause the same to be left on the bank thereof, he shall be liable to a fine of not more than twenty and not less than five shillings.

19. Penalty for damaging the footpath or carriage-ways or for removing ballast, or for injuring buoys or survey marks.

Be it enacted, that if any person shall open any drain or sewer in any street, or remove or cause to be removed any turf or clay sand soil gravel stone or other material used in the formation of the streets or carriage-ways therefrom, without leave from the Commissioners for Repairs of Streets, or from the Resident Magistrate where there are no such Commissioners, or shall wantonly damage the said streets or carriage-ways, or who shall remove any ballast sea or tide embankment without written authority of the Harbour Master, or if there is no Harbour Master, of the Resident Magistrate, or who shall remove or damage or otherwise interfere with any buoys beacons or other surveying marks put up by competent authority either on shore or afloat, he shall be liable to a fine of not more than five pounds and not less than one pound.

20. Penalty for riding upon carriages without reins.

Be it enacted, that if the driver of any waggon wain cart dray or other carriage shall ride thereupon (not having some person on foot to guide the same), such as are drawn by horses and properly driven with reins only excepted, or shall wilfully remain at such a distance from his carriage whilst passing through the street as not to have the command of his horse horses or cattle, or, meeting any other carriage, shall not keep his own carriage on the left or near side of the road, or in passing shall not keep on the right or off side of the road, or shall in any manner wilfully prevent any other person from passing him, or by negligence or misbehaviour interrupt the free passage of any person or carriage along the said road, he shall be liable to a fine of not more than forty nor less than ten shillings.

21. Penalty for furious riding or driving.

Be it enacted, that any person who shall ride or drive through any street or public place so as to endanger the limbs or lives of other persons, shall be liable to a fine of not more than ten and not less than two pounds.

22. Penalty for committing nuisances in the thoroughfares.

Be it enacted, that any person shall be liable to a penalty of not more than forty shillings who shall in any thoroughfare or public place commit any of the following offences, that is to say,—

(1.) Every person who shall suffer to be at large any unmuzzled ferocious dog, or set on or urge any dog to attack worry or put in fear any person horse or other animal.

(2.) Every person who by negligence or ill usage in driving cattle shall cause any mischief to be done by such cattle, or shall in any wise misbehave himself in the driving or management of such cattle, and also every person not being hired or employed to drive such cattle who shall wantonly pelt drive or hurt such cattle.

(3.) Every person who shall wilfully damage any building wall fence paling fixture or appendage thereunto, or who shall steal or wilfully damage any tree shrub or other plant, or any seat in any walk park or garden.

(4.) Every person who shall distribute or offer for sale, or exhibit any profane indecent or obscene book paper print drawing painting or representation, or sing any profane indecent or obscene song or ballad, or write or draw any indecent or obscene word figure or representation, or use any profane indecent or obscene language, to the annoyance of the inhabitants or passengers.

(5.) Every person who shall use any threatening abusive or insulting words in the presence or hearing of any constable, or behave himself so as to provoke a breach of the peace, or whereby the passage along the street may be obstructed by causing a crowd to collect or otherwise.

(6.) Every person who shall wilfully disturb any inhabitant by ringing any door-bell knocking any door or who shall deface injure or remove any door-plate bell knocker lamp or sign board.

23. Penalty for compounding informations.

Be it enacted, that in case any person shall lodge any information before any Justice of the Peace for any offence by which he was not personally aggrieved, and shall afterwards directly or indirectly receive any sum of money or other reward for compounding delaying or withdrawing, the information, he shall be liable to a penalty of not more than ten pounds.

24. Limits of the town to be set out.

Be it enacted, that the Commissioners for the Repairs of Streets, the Resident Magistrate, where there are no such Commissioners, or any person deputed by them or him, may set out and mark the length and breadth of the footways and carriage-ways, as well as the limits of any town within or to be brought within the operation of this Ordinance, and such Commissioners for the repairs of streets, or Resident Magistrate where there are no such Commissioners, or any person deputed by them or him, shall not be deemed a trespasser by entering upon the property of any person for the purpose of setting out or measuring the limits of the footways carriageways or towns within or to be brought within the operation of this Ordinance.

25. Regulating the building of houses &c.

Be it enacted, that so soon as the limits of any town or of the foot and carriage-ways shall have been ascertained as aforesaid, and the said limits published by competent authority, any person erecting any building or part of a building, so as to encroach on the said limits without license first obtained from the Commissioners for the Repairs of Streets, or from the Resident Magistrate where there are no such Commissioners, shall be liable to a penalty of not more than twenty pounds.

26. Commissioners may regulate the management of footpaths.

Be it enacted, that the Commissioners for the Repairs of Streets, or the Resident Magistrate where there are no such Commissioners, may make regulations for the length breadth height steps or inclination, and for the general maintenance of the footways, and for that purpose may remove flagging steps posts or other impediments.

27. Declaring the limits of the Ordinance.

Be it enacted, that the provisions of this Ordinance shall immediately be in force within such limits of the Town of Wellington as marked on the map of the Surveyor-General of the New Zealand Company, as the Lieutenant-Governor, with the advice of the Executive Council, may proclaim; and it shall be lawful for the Lieutenant-Governor, with the advice of the Executive Council, from time to time, by Proclamation in the Government Gazette, to specify any further or other limits of towns within which any of the provisions of this Ordinance shall be enforced, upon a requisition to that effect from a majority of the Magistrates of the district in which such town is situate.

28. Respecting penalties imposed by other Ordinances.

Be it enacted, That nothing in this Ordinance shall be construed to repeal any penalties imposed by any other Ordinance in force in the Province of New Munster.

29. Penalty for resisting constable.

Be it enacted, That any person assaulting or resisting any constable in the execution of his duty shall be liable to a fine of not more than ten pounds.

30. Penalty for neglecting to repair and keep clean chimnies.

Be it enacted, that any person refusing or neglecting to repair the chimney of any house in his occupation after having been called upon so to do by the Resident Magistrate, and any person neglecting to keep clean the chimney of any house occupied by him, so that from the foulness thereof the same shall take fire, shall be liable to a fine of not more than two pounds.

31. Mode of procedure. That this Ordinance shall be construed with No. 2, Session VII.

Be it enacted, That all proceedings under this Ordinance shall be regulated and carried on according to the Ordinance, No. 5, Session II., for the regulation of summary proceedings before Justices of the Peace; and that this Ordinance shall be read and construed together with Ordinance No. 2, Session VII.

32. Commencement of Ordinance.

Be it enacted, That this Ordinance shall take effect from the day of the passing of the same.

Schedules

Schedule A.

Beat carpet, fly kites, drive a carriage for the purpose of breaking horses, ride a horse for the purpose of breaking, throw or permit to be thrown rubbish or anything annoying or offensive; slaughter or cut up any animal so near to the carriage or footway that the blood or offal shall cause a nuisance to passengers; place or cause to be placed any carriage for either persons or things; any wheelbarrow cask or barrel, except for necessity and temporary purposes; ride any horse mule or ass upon the footways; place any stall board chopping-block show-board (on hinges or otherwise); basketwares goods or merchandise of any kind whatsoever; wash or hoop any cask or vessel; place any timber stones bricks lime or other materials for buildings except the same be enclosed); expose any meat or offal, so as to overhang the street.

10. The County Roads Ordinance 1849 (New Munster.)

An Ordinance to authorize the Levying and Collection of Tolls on Roads, and of Rates on Land in the Province of New Munster.

[2nd October, 1849.]

Whereas it is expedient to raise funds, by means of tolls on roads and a rate upon land, for the repairs of certain roads in the Province of New Munster:

1. Lieutenant-Governor to proclaim district.

Be it enacted, that whenever a majority of the Justices of the Peace residing within any district proclaimed as such for the purposes of the Registration Ordinance shall memorialise His Excellency the Lieutenant-Governor, stated their desire that this Ordinance or any part thereof should be brought into operation within such district or any portion thereof, the Lieutenant-Governor, by and with the advice and consent of the Executive Council, may proclaim the district or portion thereof so indicated by the said Justices to be within the operation of this Ordinance or such part thereof accordingly.

**2. Commissioners to be elected.**

Be it enacted, that every person who shall have to his own use, either as freehold or as the occupier, any land or tenement within any district proclaimed to be within the provisions of this Ordinance, and any person duly appointed in writing as the proxy of any such person for the purposes of this Ordinance shall, being duly enrolled in manner hereinafter provided, be qualified to vote at the election of a Board of Commissioners to be elected for the purpose of levying tolls on any road and levying a rate on uncultivated land, or on cultivated, as the case may be, within the said district, to be expended in repairing the roads and making by-roads within the said district.

**3. Claims of votes to be sent in.**

Be it enacted, that all claims to the right of voting shall be according to the form to this Ordinance annexed, and shall be sent in to the Resident Magistrate of the district proclaimed as aforesaid, or if there be no Resident Magistrate in the district then to the nearest Resident Magistrate, on or before the first day of November in each year, and all claims not so sent in shall be disallowed.

**4. Resident Magistrate to decide upon claims.**

Be it enacted, that every Resident Magistrate shall, within seven days after the receipt of such claims as aforesaid, cause the names of the claimants to be posted in alphabetical order in some public place in the district, accompanied by a notice naming some day prior to the fifteenth day of November on which he will hear and determine all objections to the same, and the list so revised shall be deemed to be the list of electors for the ensuing twelve calendar months, and shall be published in the Government Gazette, with a notice from the Resident Magistrate to the electors to assemble at some given time and place before the twenty-fifth day of November, for the purpose of electing Commissioners (not less than five in number, of whom three shall be a quorum), and such Commissioners or a quorum of them shall form a Board for the district, with authority to carry into effect the provisions of this Ordinance: Provided always that no Resident Magistrate shall admit the claims of any one person to vote as proxy or more than ten owners or occupiers of land.

**5. Commissioners to continue in office for one year.**

Be it enacted, that the Commissioners so elected as aforesaid shall continue in office for one year, or until the next election of Commissioners, and that any Commissioner going out of office shall be eligible for re-election; and that in case of the insolvency absence from the Province mental incapacity or death of any Commissioner, the vacancy so created shall be filled up within a month by the election of another Commissioner.

**6. Commissioners to erect toll-bars and levy rates.**

Be it enacted, that the Board of Commissioners shall have the power within the limits of the district to erect toll-gates or bars on any road within the same, and to assess and levy a rate on all uncultivated land within the same, such rate to be

assessed on the estimated value to sell of the said uncultivated land (provided that no rate so to be assessed shall exceed the amount of twopence in the pound), and to keep in repair all roads causeways and bridges, and to make by-roads within the same: Provided always that in case the said Commissioners shall not cause the erection of any toll-bars or gates in any such district, any rate or assessment to be levied under this Ordinance shall be levied indiscriminately upon cultivated and uncultivated lands.

7. Tolls to be levied according to scale in Schedule.

Be it enacted, That no tolls to be imposed by the said Commissioners shall be levied more than once in ten miles nor shall exceed the scale contained in a Schedule annexed to this Ordinance, a copy of which scale, showing the exact amount of tolls payable as aforesaid, shall be fixed up at every toll-gate or bar, signed by the said Commissioners: Provided always that all carts drays or other such carriages licensed under Ordinance No. 7, called "An Ordinance to authorise the Levying and, Collecting of Rates for the Repairing of Roads and Streets in any Town shall be exempt from toll within the limits of the said Ordinance.

8. Commissioners authorized to make by-laws.

Be it enacted, That the said Commissioners are hereby authorized to make such by-laws for the regulation of all matters and things within their control as to them may seem meet.

9. Commissioners to cause a statement of rate to be posted. Proviso for appeal against assessment.

Be it enacted, That previously to levying any such rate the Commissioners shall cause a written or printed statement to be posted up in some conspicuous place or places within the district, setting forth the amount of rate to be levied, with a list of the names of the persons liable for the payment thereof, with the sum payable by each of such persons, and the number of acres in respect whereof the same shall be payable: Provided always that if any person who shall have paid the amount of rate charged upon him by the assessment made by any Assessor under this Ordinance shall think himself aggrieved by such assessment, on the ground that such assessment includes any property for which he is not rateable under this Ordinance, or that it assesses his rateable property beyond its full and fair value, or that any person is omitted out of such assessment, or that the property of any person is assessed below its full and fair value, the person so considering him self aggrieved may appeal to a Bench of not less than five Magistrates, within twenty-one days after such payment; and in case the said Bench of Magistrates shall think the appellant entitled to relief, it shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him in excess to be returned to him by the said Commissioners; and in case he shall have appealed on the ground that any person is omitted out of the assessment, the said Court of Appeal may order the name of such person to be inserted in the assessment, and to be

therein rated at such amount as it shall deem just; and in case the appellant shall have appealed on the ground that the property of any person is assessed below its full and fair value, the said Court of Appeal may order the amount at which such person is rated in the assessment to be altered in such manner as it shall deem just; and the proper officer of the Court shall in each of the cases aforesaid forthwith amend the assessment accordingly; but the assessment shall not be questioned or altered with respect to any other persons named therein, and the determination of the said Court of Appeal shall be final and conclusive.

10. Appointment of Collector having power to sue by summary proceedings.  
Be it enacted, that at the expiration of the time appointed for the hearing of such objections, the Commissioners shall appoint fit persons to collect the rate due, which shall on nonpayment thereof be recoverable at the suit of any such Collector by summary proceedings before any Justice of the Peace having jurisdiction within the district, and shall be leviable by distress and sale.

11. Rate uncollected to remain chargeable on land.  
Be it enacted, that in case it shall be impossible to levy the rate due, by reason of the property rateable being unoccupied or otherwise, the arrears shall at any subsequent time within seven years from the date of such rate becoming due be leviable upon any goods which may be found on such property.

12. Commissioners to publish accounts.  
Be it enacted, that the Commissioners shall once in every year publish and cause to be posted up in some conspicuous place or places within the district a statement of every sum so in arrear and of the land in respect of which the same shall be due.

13. Penalty for evading tolls.  
Be it enacted, that any one forcing his way through any tollgate or bar, or evading the payment of any toll payable for passing through the same, shall be liable to a penalty of not more than forty shillings.

14. Penalties for injuries to roads bridges drains &c., for causing obstructions, for riding on carts &c., without proper drivers, for not driving on the proper side of the road, for furious driving, for cattle &c. trespassing.

Be it enacted, that any person who himself or by means of any one under his control shall convey haul or trail timber, either with a carriage or without one, along any road in any district proclaimed as aforesaid, so as to injure the road or the sides or the banks thereof, shall for each offence be liable to a penalty of not more than two pounds nor less than ten shillings; and any person causing injury to any bridge drain fence or roadway, by placing any building within thirty-three feet of the centre of any road, or by lighting fires within fifty yards of the centre of any road, or placing timber or any other thing in any road so as to cause any obstruction, shall for each offence be liable to a penalty of not more than forty shillings; and any person riding on any cart dray or other such vehicle drawn by

one or more horses, or by any bulls or steers, without some person to guide or control the same by means of reins or otherwise, or shall obstruct the passage of any vehicle by not keeping on the proper side of the road, or who shall drive along any such road furiously, shall for each offence be liable to a penalty not exceeding five pounds; and the owners of any cattle sheep horse pig goat or other animal found trespassing on the road or the sides thereof, and causing or being likely to cause any damage or obstruction by so trespassing, shall be liable to a fine for each animal so trespassing for each offence of not more than ten shillings, and shall make good any damage caused to the road by such trespass or trespasses, such damage to be assessed by any two Justices of the Peace or by any person whom they may appoint; and in case of any cattle sheep horse pig goat or other animal found trespassing as aforesaid, and causing damage or being likely to cause damage as aforesaid, and whose owner cannot be found, the same may, by any person seeing the damage done or having reason to believe that such damage will be done, be driven or be caused to be driven to the nearest pound, and be subject to the enactments of Orinance No. 6, Session VIII., in respect of cattle trespassing on private property.

15. Moneys arising from tolls rates or penalties paid to Treasurer to be appropriated by the Commissioner.

Be it enacted, that all moneys whether arising from the payment of tolls rates or penalties leviable under this Ordinance shall be paid to the Colonial Treasurer on behalf of Her Majesty, her heirs and successors, to be appropriated by the said Commissioners in defraying the costs and expenses necessarily incurred in the exercise of the powers hereinbefore given to the Board of Commissioners, and no other expenses whatsoever.

16. Lieutenant-Governor to issue warrant for money required to carry out the provisions of this Ordinance.

Be it enacted, that the Lieutenant-Governor shall issue his warrant for any sum or sums of money required by the Commissioners elected as aforesaid, not exceeding the whole sum collected in any one district as aforesaid, in order to carry out the provisions of this Ordinance.

17. Appropriation clause.

Be it enacted, that all moneys levied or received under this Ordinance shall be paid to the Colonial Treasurer on behalf of Her Majesty, her heirs and successors, to be appropriated by the said Commissioners in defraying the expense of carrying this Ordinance into execution, and of making repairing improving maintaining and cleansing the streets quays roads and public thoroughfares within the limits of the town assessed.

18. Accounts of Commissioners to be audited.

Be it enacted, that the Lieutenant-Governor shall issue his warrant for any sum or sums of money required by the Commissioners elected as aforesaid, not exceeding the whole sum collected in any one town as aforesaid, in order to

carry out the provisions of this Ordinance; and the accounts of the said Commissioners shall be audited in the same way as any other of the ordinary accounts of the Province.

19. Commissioners empowered to make by-laws.

Be it enacted, that the Commissioners elected as aforesaid, in concert with the Lieutenant-Governor, shall have the power, and they are hereby authorized, to make all such by-laws as may appear to them necessary to the protection and proper maintenance in repair of the streets roads quays thoroughfares, &c., &c., within any town: Provided always that such bylaws shall not be repugnant to any of the provisions of this Ordinance, and shall be submitted to the Lieutenant-Governor in Council, and, upon being approved, shall have the same force and effect as if they had been inserted herein.

20. Meetings of Commissioners to be called by at least two Commissioners.

Be it enacted, that no meeting of Commissioner for the purposes of this Ordinance shall be holden unless such meeting shall have been called by two Commissioners at least; notice of the time and place of every such intended meeting, specifying the business proposed to be transacted thereat, and signed by the Commissioners calling the same, to be left at the usual place of abode of every other Commissioner three clear days at least before such meeting.

21. Questions to be decided by the majority.

Be it enacted, that an questions which shall come before such meeting shall be decided by the majority of the Commissioners who shall be present thereat.

22. Minutes of resolutions to be entered in a book.

Be it enacted, that a minute of every resolution agreed to at any such meeting shall be entered in a book to be kept for that purpose, and shall be signed by the said Commissioners who shall have agreed thereto.

23. Accounts of all moneys to be kept.

Be it enacted, that the said Commissioners shall keep, or cause to be kept, accounts of all moneys received as well as all moneys expended by them in the execution of their trust, and shall within one month after the expiration of each half-year render such accounts for such half-year to the Auditor-General of the Province of New Munster, who, after examination of the same, shall cause them to be forthwith delivered to the Colonial Secretary, to be laid before the Legislative Council, and published each half-year in the Government Gazette.

24. Assessors, with his necessary assistants, to enter lands &c.

Be it enacted, that for the execution of the purposes of this Ordinance it shall and may be lawful for any Commissioner and for any Assessor appointed under this Ordinance, with his necessary assistants, from time to time to enter upon and to go through and over any lands or ground of any person whomsoever, for the

purpose of making and carrying on any valuation or assessment authorized by this Ordinance.

25. Owners of carts &c. to take out licenses.

Be it enacted, that any person residing in or within four miles by the nearest line of road of the Town of Wellington, who himself or by means of any one under his control shall drive or cause to pass along any road within the operations of this Ordinance any cart waggon dray or other carriage without a license duly had and obtained from the said Commissioners (which they are hereby authorized to give), on the terms specified in one of the Schedules to this Ordinance annexed, shall be liable to a fine of not more than two pounds, and such person not having his name legibly painted in letters one inch long on the right or off side above the wheel of his cart waggon dray or other carriage, shall be liable to a penalty of not more than one pound.

26. No Judge &c. to be disqualified.

Be it enacted, that no Judge, Resident Magistrate, or Justice of the Peace shall be disqualified from acting in pursuance of any of the provisions of this Ordinance by reason of his being assessed as a ratepayer under this Ordinance.

27. Proceedings for penalties &c.

Be it enacted, that all proceedings under this Ordinance, in so far as not otherwise expressly provided, may be had and taken according to Ordinance No. 5, Session II., for the regulation of summary proceedings before Justices of the Peace.

28. Not to extend to certain land and buildings.

Be it enacted, that nothing in this Ordinance shall extend to any Gaol Hospital Custom House Police Office Station House other Government buildings or buildings hired by the Honorable the Board of Ordnance, or to any Native lands or reserves which have been set apart for their sole use and benefit or are in their actual possession or occupation.

29. Commencement of Ordinance.

Be it enacted, that this Ordinance shall commence and take effect from the day of the passing thereof.

### Schedules

#### Form of Claim to Vote.

To Mr AB.

I hereby give you notice that I claim to have my name put upon the Roll of Electors to vote for Commissioners for the Town of

Dated the                    day of                   , one thousand eight hundred and  
forty- .

Place of abode and  
business of claimant

Schedule A.

Schedule of Rates to be charged for Licenses for any Cart, Waggons, Drays, or  
any other Carriages plying for Hire within the Town of Wellington.

For every cart drawn by one horse or mule, not exceeding	£3
For every cart drawn by two or more horses or mules, not exceeding	£4
For every cart drawn by two bullocks or less, not exceeding	£3
For every cart drawn by more than two bullocks, not exceeding	£4

Schedule B.

Schedule of Rates to be charged for a License for any Carts, Waggons, Drays or  
any other Carriages, the owner of which resides within four miles of any point of  
the boundary of the Town of Wellington.

For every cart drawn by one horse or mule, not exceeding	£2
For every cart drawn by two or more horses or mules, not exceeding	£3
For every cart drawn by two bullocks or less, not exceeding	£2
For every cart drawn by more than two bullocks, not exceeding	£3

11. The Dog Nuisance Ordinance 1849 (New Munster.)

Whereas it is expedient to repeal the Dog Nuisance Ordinance, enacted by the Governor of New Zealand and the Legislative Council thereof in the Third Session of the said Council, and numbered nineteen, as far as regards the Province of New Munster.

1. Repeal of Ordinance, Session III. No. 19.

Be it enacted by the Lieutenant-Governor of New Munster, with the advice and consent of the Legislative Council thereof, That the said Ordinance, Session III. No. 19, be and the same is hereby, as far as regards the Province of New Munster repealed.

2. All owners of dogs required to register the same.

Be it enacted, That the owner of any dog or dogs is hereby required, from and after the first day of January, one thousand eight hundred and fifty, to register the same in a book to be kept for that purpose by the Clerk to the Bench of Magistrates.

3. Amount of fees for registration.

Be it enacted, That for the registration of every such dog the sum of ten shillings shall be paid annually to the said Clerk of the Bench of Magistrates.

4. All unregistered dogs may be destroyed.

Be it enacted, That all unregistered dogs may be destroyed by any person belonging to the Constabulary Force.

5. Penalty for maintaining unregistered dogs.

Be it enacted, That any person maintaining or having in his possession or following any unregistered dog, shall be liable to a penalty of ten shillings in addition to the registration fee.

6. Mode of procedure.

Be it enacted, That all penalties under this Ordinance shall be recoverable in a summary way.

7. Registry Book open for inspection.

Be it enacted, That the Registry Book shall be open to inspection at the Resident Magistrate's Court on payment of a fee of sixpence.

8. In cases for damages not necessary to prove defendant's knowledge of dog's propensity to injure.

Be it enacted, That in all cases tried before the Resident Magistrate or any two Justices of the Peace, where damages for injury done by a dog are sought to be recovered from the owner, it shall not be necessary for the plaintiff to prove that the owner knew of the dog's propensity to commit the injury complained of, but the defendant may bring evidence to show that he had no reason to believe that his dog was likely to commit such injury, and this evidence shall go in mitigation of damages.

9. Upon requisition of Magistrates, Lieutenant-Governor may proclaim Ordinance.

Be it enacted, That upon the requisition of the majority of the Magistrates of any district, the Lieutenant-Governor may proclaim this Ordinance to be in operation.

10. All moneys levied by way of fine &c. to be expended in repairs of roads.  
Be it enacted, That all moneys levied by way of fine penalty or forfeiture under this Ordinance are hereby reserved to Her Majesty, her heirs and successors, for the public uses of the Province of New Munster, and shall be paid into the Treasury thereof, to be issuable, by warrant, to the Commissioners of Roads, where such Commissioners exist, or to the principal officer of Government where there are no such Commissioners, to be expended in the repairs of the roads of the district wherein they are levied.

11. Natives not resident in any town, not to be subject to provisions under this Ordinance.  
Be it enacted, That nothing in this Ordinance shall extend to any aboriginal native not resident in any town, or to any dog belonging to such native.

12. Commencement of Ordinance.  
Be it enacted, That this Ordinance shall come into operation from the day of the passing thereof.

**Note.**

*This Ordinance was passed by the Canterbury Provincial Council on 9th March 1854, and assented to by the Superintendent on 21st March.*

### **3. The Church Property Trust Ordinance 1854.**

A Bill for Establishing a Trust for the Management of Property held for Ecclesiastical and Educational purposes by the Canterbury Association, and for other purposes.

Whereas by Letters Patent, under the Great Seal, bearing date the thirteenth day of November, in the year of our Lord one thousand eight hundred and forty nine, certain persons therein named were constituted a Body Corporate, with perpetual succession and a common seal, by the name of the Canterbury Association, for founding a Settlement in New Zealand; and by such Letters Patent the said Association were made able and capable in Law to purchase, receive, possess and enjoy, to them and their Successors, any goods and chattels whatsoever and wheresover, and any messuages, lands, tenements, or hereditaments in New Zealand and its dependencies, and also to sell, alienate, mortgage, charge, or otherwise dispose of such property as they should think proper, and also to act in all the concerns of the said Body Corporate for the purposes and objects mentioned in the said Letters Patent as fully and effectually, to all intents and

purposes whatsoever, as any other of her Majesty's subjects could or might do in their respective concerns; and the purposes and objects of the said Association were in such Letters Patent declared to be (amongst other things) for the Establishment and Maintenance of Ecclesiastical and Educational Institutions in the Settlement so to be founded as aforesaid in connection with the Church of England as by Law established: And Whereas, in pursuance of the said Letters Patent, the said Association founded a Settlement in New Zealand, called the Canterbury Settlement, within the Province of Canterbury: And Whereas, under and by virtue of the said Letters Patent, and of an Act of Parliament made and passed in the Thirteenth and Fourteenth years of the reign of her present Majesty, entitled " An Act empowering the Canterbury Association to Dispose of certain Lands in New Zealand," and of a certain other Act of Parliament made and passed in the Fourteenth and Fifteenth years of the reign of her said Majesty, entitled " An Act to Alter and Amend an Act Empowering the Canterbury Association to Dispose of certain Lands in New Zealand," and under and by virtue of divers acts deeds and things made done and executed in pursuance of the said Letters Patent and Acts of Parliament, the said Association, or some person or persons in trust for them, has or have become possessed of or entitled to divers goods, chattels, and personal estate, and divers messuages, buildings, lands, tenements, hereditaments, and real estate, for the Ecclesiastical and Educational purposes mentioned in the said Letters Patent: And Whereas the said Association are desirous that Trustees should be appointed within the said Settlement for the management of the said real and personal property, and that such property should be transferred to and vested in such Trustees accordingly for the Ecclesiastical and Educational purposes mentioned in the said Letters Patent in the manner hereinafter mentioned: And it is expedient that such property should be so transferred and vested accordingly, but such objects cannot be effected without the aid of some competent Legislative authority:

Be it therefore enacted, by the Superintendent of the Province of Canterbury, with the advice and consent of the Provincial Council thereof, as follows:

### **1. Interpretation Clause.**

In interpreting this Ordinance the term " Bishop " shall be held to mean the Bishop of the Church of England for the time being of the Diocese in which the Canterbury Settlement may be from time to time included; the term " Incumbent " shall be held to mean the principal Clergyman for the time being officiating under the license of the said Bishop, at or in the principal church, chapel, or place used for Divine Worship within any parish to be created under this Ordinance; the term " Parish " shall be held to mean a district formed under the authority of this Ordinance for Ecclesiastical and Educational purposes; the term " Trustees " shall be held to mean the Body of Trustees intended to be constituted by this Ordinance; the term " Canterbury Settlement " shall be held to include the territory or block of land set apart for the purposes of the said Canterbury Association under the authority of the said referred to Act of Parliament of the Thirteenth and

Fourteenth years of her present Majesty, and set forth an described in the Schedule to the said Act, together with all lands comprised within the limits of such block; the term "Church" shall mean the branch of the Reformed Catholic Church, planted in the said Settlement in communion with the Church of England as by Law established; the term " Member of the Church" shall mean and include any person who shall have received the Holy Communion, according to the rites of the Church, at least three times in the preceding year.

## **2. Constitution of Trustees.**

The Bishop, together with all the Clergy of the Church officiating within the said Settlement, under the License of the Bishop, together with Wilfred Charles Barker, William Guise Brittan, William Donald, James Edward FitzGerald, William John Warburton Hamilton, John Hall, Charles Edward Prichard, Charles Simeon, Henry John Tancred, Sir Thomas Tancred, Baronet, Conway Lucas Rose, Belfield Woollcombe, and all such other persons as shall be hereafter elected or appointed Trustees under the provisions of this Ordinance, and their Successors, shall be, and they are hereby constituted a Body Politic and Corporate by the name of the " Church Property Trustees," and by that name they shall have perpetual succession and a common seal, with full power and authority to alter, vary, break, and renew the same at their discretion, and by the same name and style to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all Courts of Law and Equity whatsoever, and to be for ever able inth Law to purchase, receive, possess, and enjoy, to them and their Successors, any goods and chattels whatsoever and wheresoever, and any messuages, lands, tenements and hereditaments in the Province of Canterbury; and also to lease, let, sell, alienate, mortgage, charge, or otherwise dispose of such property, as well real as personal, as they shall think proper; and also to act in the concerns of the said Body Politic and Corporate as effectually as any person or persons might or could do in his or their respective concerns for the purpose and object of Establishing and Maintaining Ecclesiastical and Educational Institutions within the Province of Canterbury in connection with the Church. And the said Wilfred Charles Barker, William Guise Brittan, William Donald, James Edward FitzGerald, William John Warburton Hamilton, John Hall, Charles Edward Prichard, Charles Simeon, Henry John Tancred, Sir Thomas Tancred, Baronet, Conway Lucas Rose, and Belfield Woollcombe, shall hold Office until the election of the irs Trustees under the provisions of this Ordinance; from and after which time they shall cease to be Trustees, but shall, notwithstanding, be eligible to be elected or nominated as Trustees under the provisions hereinafter contained. Provided always, that if any Trustee shall become bankrupt or insolvent, or shall become insane, or shall be convicted of any infamous offence, or shall leave and cease to reside in the said Province of Canterbury, he shall cease to be a Trustee for the purposes of this Ordinance. No Trustee acting in any matter under the provisions of this Ordinance shall be answerable for any other than his own acts, deeds, receipts, neglects, or defaults. Any Trustee herein named, a.nd any Trustee elected or nominated under the provisions of this Ordinance, may, by writing, addressed to the Bishop,

and left at the office or place of business of the Trustees, or some place appointed for this purpose, resign his Office of Trustee, and shall thereupon cease to be a Trustee.

### **3. General and Special Meetings of Trustees.**

An Ordinary General Meeting of the Trustees shall be held at least once in every year, and one such Ordinary General Meeting shall be held on the First day of March in each year (unless such day shall fall on a Sunday, in which case it shall be held on the Monday following), and a Special General Meeting may be called at any time by the Bishop, or by any three Trustees, by a public advertisement of the same in a public Newspaper, published in the said Settlement, three times at the least; the first of such times being fourteen days, at the least, before the day of Meeting; and any Meeting of the Trustees may be continued by adjournment; and no act or proceeding, Bylaw, Resolution, or Regulation, shall be of any force or effect unless the same shall be made, done, or passed at some Meeting duly held under the provisions of this Ordinance, at which not less than five Trustees shall have been present; and all questions at such Meeting shall be determined by a majority of votes of the persons present and voting hereat.

### **4. Chairman of Meetings.**

The Bishop, if present, shall be the Chairman of every such meeting, and in his absence a Chairman shall be elected from amongst those present: Provided that it shall be competent to the Trustees to elect some person to be perpetual Chairman of such meetings in the absence of he Bishop; and the Chairman of every meeting shall have an original and also a casting vote thereat.

### **5. Bishop to have a veto on all acts of Trustees.**

The Bishop shall have the power of disallowing any act or proceeding of the Trustees, or any Committee thereof, of what kind soever, at any ime within six calendar monhs after the adoption or passing of the same. The power of disallowance hereinbefore reserved to the Bishop shall not extend to authorize him o annul or disallow any Contract or Agreement, or any Sale, Mortgage, Lease, or other disposition of any part of the said property and esates which shall be acually enered into, made, completed, and executed.

### **6. Powers and functions of Trustees.**

The Trustees may frame and establish such Bylaws, Rules, Orders, Regulations and Resolutions as may be expedient for the Government of the said Body Politic and Corporate, and the management of the goods, moneys, estates, and business thereof, and for determining the time, place, and mode of election and appointment of Trustees under the provisions of this Ordinance, and for ascertaining the persons qualified to vote at such elections, and for regulating the proceedings of Parochial Meetings to be held under the provisions of this Ordinance, and for regulating the increase of the number of Trustees, and for making proper returns of the persons nominated or elected to be Trustees, and for the publication of all acts and proceedings under this Ordinance, and for

appointing a Standing or Managing Committee and regulating the proceedings thereof, and for dividing the said Settlement into districts agreeably to the provisions of this Ordinance, and for regulating the times and places of Meetings of the Trustees, and of the Standing, Managing, or any other Committee thereof, and for settling the appointment of Agents, Officers, Clerks, and Servants, and generally for the management and carrying on of all and singular the affairs and business of the Trustees; and the Trustees may from time to time alter, vary, or revoke such Bylaws, Orders, Rules, Regulations or Resolutions, or any of them, and may make others in their stead: Provided that any such Bylaw, Rule, Order, Regulation, or Resolution which shall be repugnant to the provisions of this Ordinance, or to the Laws or Ordinances of the Colony of New Zealand, or of the Province of Canterbury, or to any Canon or Ecclesiastical Law or Regulation now in force, or which may at any time be in force within the said Settlement under the authority of any proper Ecclesiastical Synod or other competent jurisdiction of the Church shall be, and the same is hereby declared to be absolutely null and void. The Trustees and every Managing Committee thereof shall, in all their acts and proceedings, By-Laws, Regulations, and Resolutions, conform to and obey all Canons and Ecclesiastical Laws and Regulations now or at any time in force within the said Settlement, touching or relating to the administration of the property vested in them for the purposes aforesaid.

### **7. Committee of Management.**

There shall be a Committee of Management chosen by and out of the Trustees, of which Committee the Bishop shall be Chairman when present, and such Committee shall be appointed according to Bylaws to be made in that behalf, and shall have the management and administration of the property, as well real as personal, of the Trustees, and the execution of the powers and authorities thereof, and generally the direction and conduct of all the affairs and concerns thereof, and (subject to the provisions of this Ordinance, and of any Bylaw for the time being in force) may do all such acts, deeds, matters and things as may appear to them necessary for carrying into effect the purposes and objects of the Trustees.

### **8. Books, Minutes, and Accounts.**

The Trustees shall keep proper books for containing Minutes and particulars of their proceedings, and full and true Accounts of their receipts and expenditure. And all such Books and Accounts, together with all Vouchers and other Documents relating to the same, shall be open to inspection by any Member of the Church resident within the said Settlement, at such reasonable times and places, and in such manner as shall be filed by the Trustees, and Minutes of Proceedings so kept and signed by the Chairman shall be sufficient evidence of such proceedings, and such Accounts of Receipts and Expenditure shall be Audited, at least once in the year, by some person to be appointed by the Bishop, and shall be laid before the Ordinary General Meeting, to be held every year as hereinbefore provided, and shall be published, as the Trustees shall from time to time direct, in a public Newspaper of the said Settlement.

**9. Trustees may make Parishes.**

The Trustees shall, from time to time, constitute and define certain districts within the said Settlement for the purposes of this Ordinance, and may alter the limits of every such district, and may make new and fresh districts, and every such district shall, for the purposes of this Ordinance, be deemed a parish, provided that no alteration of the limits of any existing parish shall be made without the consent of the Bishop.

**10. Parochial Meetings for the Election of Trustees.**

The Members of the Church residing within every such parish shall, once in each year, by a majority of votes, to be ascertained as hereinafter mentioned, elect a Lay person, being a Member of the Church, to be a Trustee for the purposes of this Ordinance, and at such election every male person of the age of twentyone years, being a Member of the Church, shall be entitled to vote, and the Incumbent of every such parish shall likewise, once in every year, nominate another lay person, being a Member of the Church, to be a Trustee for the purposes of this Ordinance, and the manner in which the majority of such votes shall be ascertained, and the time, place, and mode of such election and nomination respectively, shall be determined by the said Trustees, by By-laws, to be made in manner hereinbefore provided; and the Trustees so elected and nominated shall continue to hold Office until the next annual election and nomination. Provided, that if it shall at any time appear to the Trustees desirable to increase he nuber of Trustees in and for any parish, it shall be lawful for them to increase the number of such Trustees accordingly, and by any Bylaw to declare and ordain that such additional number of Trustees shall be elected and nominated as they shall think fit in and for such parish; but so, nevertheless, that in every parish the Incumbent shall at all times have the right of nominating a number of Trustees equal to the number of elected Trustees.

**11. Canterbury Association may convey property to Trustees, and receiver re-leases from them.**

It shall be lawful for the said Canterbury Association, and for any other person or persons holding in trust for them, or his or their Agent or Agents, duly authorized in that behalf, to convey and assign to the said Trustees and their Successors, in trust for Ecclesiastical and Educational purposes within the said Settlement, all or any part of the real or personal property applicable to Ecclesiastical or Educational purposes vested in the Association, or in any other person or persons in trust for them for Ecclesiastical or Educational purposes, subject to any terms or conditions which may be agreed on between the Trustees and the said Association, or their Agent or Agents on their behalf, and such other person or persons in trust for them; and it shall be lawful for the Trustees to execute and give to the said Association such Re-leases or Indemnities as may be agreed on between the said Trustees and the said Association and such Agent or Agents as aforesaid, and such Releases or Indemnities shall be ffectal to an intents and purposes.

**12. Application of Trust Property may be extended to the whole Province.**

It shall be lawful for the Trustees at any Meeting, of which four weeks' previous notice, specifying the object thereof, shall be given by Advertisement, published for four successive weeks in some Newspaper within the said Province, and at which Meeting twelve Trustees at least shall be present, by the votes of not less than twothirds of the Trustees present at such Meeting, to ordain a Bylaw for extending to any part of the Province of Canterbury, beyond the limits of the said Canterbury Settlement, the application and benefit of the whole or any part of the property and funds which may, under the provisions of this Ordinance, have been transferred to the said Trustees by the said Canterbury Association, or by any other person or persons holding in trust for them or his or their Agent or Agents duly authorized in that behalf; and any such Bylaw shall be good and effectual in the Law, and may thereafter, at any Meeting of the Trustees convened in like manner, and by a like majority, be altered, revoked and eordained; and such property and funds shall be held, administered, and applied according to and in pursuance of any such Bylaw, anything herein contained to the contrary notwithstanding.

**13. Title.**

This Ordinance shall be entitled the "Church Property Trust Ordinance, Session II., No. 3," and may be cited by such title.

**Notes.**

*This Ordinance was passed by the Canterbury Provincial Council on 9th March 1854, and assented to by the Superintendent on 16th March 1854. See the Christ's College Amendment Ordinance Sess X. No. 8.*

**4. The Immigration Ordinance 1855.**

An Ordinance for Promoting Immigration to the Province of Canterbury.

Whereas it is expedient that provision should be made for the Immigration from England or other parts into the Province of Canterbury, in New Zealand, of Labourers and other persons desirous of settling in the said Province, and for rendering assistance out of the public funds of the Province to such persons as may be unable to defray the whole cost of their passage thereto:

Be it therefore enacted, by the Superintendent of the said Province, with the advice and consent of the Provincial Council thereof, as follows:—

### **1. Superintendent to appoint Immigration Agents.**

It shall be lawful for the Superintendent of the said Province to nominate and appoint any person or persons to act as Immigration Agent or Agents in England or elsewhere, for carrying into effect the purposes and provisions of this Ordinance; and the same from time to time to remove if he shall think fit, and to appoint others in their stead.

### **2. Superintendent may make Regulations, to be laid before Provincial Council.**

The Superintendent may from time to time, with the advice of Superintendent with the advice of the Executive Council, make Regulations for the conducting and management of such Immigration, and he is hereby authorised to make such arrangements with such Agent or Agents in England, or elsewhere, as may be necessary for conducting the same, and may, with such advice as aforesaid, alter or rescind such Regulations or arrangements, or any of them, and make others in the stead thereof. And all such Regulations and arrangements shall be laid before the Provincial Council within ten days after the issue thereof, or, if the Council be not then sitting, within ten days after the opening of the next Session of the same.

### **3. Title.**

This Ordinance shall be entitled and may be cited as "The Immigration Ordinance, Session II., No. 4."

### **Notes.**

*This Ordinance was passed by the Canterbury Provincial Council on 14th March 1854, and assented to by the Superintendent on 21st March.*

### **5. Wakefield Road Alteration Ordinance 1854.**

An Ordinance to Divert a Public Road reserved along a portion of the North

Be it therefore enacted, by the Superintendent of the said Province, with the advice and consent of the Provincial Council thereof, as follows:—

### **1. Present Road may be stopped when the Chief Surveyor has certified that a new Road has been made passable, &c.**

From and after any day within a period of one year from the passing of this Ordinance, when the said Edward Gibbon Wakefield, his Heirs or Assigns shall have set out and made passable by horses, drays, and all ordinary traffic, a new Road, thirty-three feet wide, through and over the said allotment numbered 6,

according to the Plan set forth in the Schedule to this Ordinance annexed, and from and after any day within such period aforesaid, when the Chief Surveyor of Government in the Province shall, by notice in the Provincial Government Gazette, certify under his hand that such Road has been so made passable, and that the diversion of the Road from the waterside will not be injurious to the public interests, such new Road shall thenceforth be and become a Public Road, and the Public Road reserved along the North Bank of the River Avon, so far as such Road forms the Southern Boundary of the said allotment numbered 6, that is to say, from a point about six chains to the westward of the North-west corner of the Christchurch Town Reserve, running thence along the Southern Boundary of the said allotment, and extending to a certain Accommodation Road lying between the said allotment and the rural allotment numbered 7, in the said Christchurch District, shall and may be stopped up by the said Edward Gibbon Wakefield, His Heirs or Assigns, and the said Road shall thenceforth be secured to the sole use and behoof of the said Edward Gibbon Wakefield Edward Gibbon Wakefield, his Heirs and Assigns for ever.

## **2. Title.**

This Ordinance shall be entitled and may be cited as the "Wakefield Road Alteration Ordinance, Session II., No. 5."

## **Notes.**

*This Ordinance was passed by the Canterbury Provincial Council on 21st March 1854, and assented to by the Superintendent on 29th March.*

## **6. The Lyttelton And Christchurch Road Commissioner's Ordinance 1854.**

An Ordinance for Authorizing the Superintendent of the Province of Canterbury to appoint Commissioners to Report upon the best means of Communication between the Towns of Lyttelton and Christchurch.

Whereas it is desirable that the Communication between the Towns of Lyttelton and Christchurch should be Improved, and that Information should be obtained as to the best means of effecting such Improvement:

Be it therefore enacted by the Superintendent of the said Province, by and with the consent of the Provincial Council thereof as follows:

## **1. Superintendent to appoint Commissioners.**

It shall be lawful for the Superintendent of the said Province, by Warrant, under his hand, to nominate and appoint Five fit and competent persons, being Civil Engineers or Surveyors, to be a Board of Commissioners for the purposes hereinafter specified.

## **2. Duty of Commissioners.**

It shall be the duty of such Commissioners to obtain all such information as shall be necessary respecting the said means of Communication, by taking Evidence thereon, and by examining all Papers, Surveys, Plans, Drawings, Estimates and Accounts relating thereto, and generally acting in such manner as they shall think fit, to carry into effect the purposes of this Ordinance.

## **3. Commissioners to report to the Superintendent.**

It shall be the duty of the said Commissioners, as soon as conveniently may be, to report to the Superintendent upon the best Line of Communication between the towns of Lyttelton and Christchurch, and upon the best means of effecting such Communication, and the Superintendent shall publish such report in the Government Gazette of the Province, and shall lay the same before the Provincial Council within ten days after the receipt thereof, or if the Council be not then sitting, then within ten days after the commencement of the next Session of the same.

## **4. Title.**

This Ordinance shall be entitled and may be cited as the "Lyttelton and Christchurch Road Commissioners' Ordinance, Session II, No. 6."

## **Notes.**

*This Ordinance was passed by the Canterbury Provincial Council on 9th March 1854, and assented to by the Superintendent on 21st March.*

## **7. The Trespass of Cattle Ordinance 1855.**

Title.

Preamble.

1. Former Laws repealed.
2. Interpretation of terms.
3. Damages recoverable only under this Ordinance, and within thirty days of trespass.
4. Cattle trespassing in towns.
5. Cattle trespassing may be detained or driven to residence of Owner.

6. Cattle trespassing on unenclosed lands without towns.
7. Cattle trespassing on land more than five miles from any town.
8. Entire animals wandering at large.
9. Ordinary damages to be recovered in a summary way.
10. Special damages to be recovered in a summary way, and to be determined by arbitration.
11. Superintendent to appoint Arbitrators.
12. Arbitrators to make award.
13. Penalty for obstructing Arbitrators.
14. Judgment of the Court upon the award.
15. Arbitrators may award compensation for damaged fence.
16. Arbitrators to receive compensation.
17. Arbitrators to be fined for neglect or refusal.
18. Superintendent to cause Public Pounds to be erected.
19. Superintendent to appoint Pound-keepers.
20. Pound-keepers to give security.
21. Pound-keeper to keep Pound in repair, &c.
22. Pound-keeper to receive fees and charges for food.
23. Pound-keeper to keep board of pound-fees and charges displayed.
24. Penalty for over-charging, &c., by Pound-keeper.
25. Pound-keeper to keep Pound-book.
26. Penalties for not producing Pound-book, &c.
27. Cattle impounded in charge of Pound-keeper.
28. Pound-keeper to receive damages and charges for driving, &c.
29. Pound-keeper to give notice to Owner of cattle.
30. Cattle not released to be sold by auction.
31. Time, &c., of sale of cattle.
32. Justices may order sale of cattle sooner.
33. Pound-keeper to receive price of cattle sold.
34. Remedy against illegal impounding.
35. Proceedings under Summary Proceedings Ordinance.
36. Present Pounds and Pound-keepers continued.
37. Title.

An Ordinance to Repeal all former Laws and Ordinances relating to the Trespass of Cattle, and to the Recovery of Damages for the same, and to Amend and Consolidate the Law thereupon into one Ordinance within the Province of Canterbury.

**Notes.**

*This Ordinance was passed by the Canterbury Provincial Council on the 24th of March 1854, and assented to by the Superintendent on the 29th of March.*

*The full text of this Ordinance was not included in the Volume of Ordinances published by Charles Lucas, the Official Printer of the Canterbury Provincial Government.*

## **8. The Appropriation Ordinance 1854.**

An Ordinance to Appropriate the Revenue of the Province of Canterbury, for the Year ending 31st March, 1855.

Whereas certain Sums of Money of Her Majesty's General and Land Revenues of the Colony of New Zealand have been and may hereafter be paid by the Collectors of the same to the Provincial reasurer of the Province of Canterbury, under certain Instructions issued by his Excellency the Governor: Whereas doubts exist whether such Revenue may be lawfully appropriated, except under the authority of the General Assembly of the said Colony: And Whereas it is expedient that all such Sums of Money, pending any Laws to be made in that behalf by the General Assembly of New Zealand, should be by Law appropriated to the Public Service of the said Province, subject to the approval and authority of the said General Assembly:

Be it therefore enacted by the Superintendent of the said Province, by and with the consent of the Provincial Council thereof as follows:

### **1. Certain Revenues to be accounted for to the General Government.**

All sums of money of her Majesty's General and Land Revenues of the Colony of New Zealand paid, or which hereafter may be paid, under any Instructions of his Excellency the Governor of New Zealand to the Provincial Treasurer of the said Province, by any Collector of Revenue under the General Government of the said Colony, shall be taken and deemed to have been advanced out of the said General and Land Revenues, in aid of the Revenues of the said Province of Canterbury, for the public service of the same; and shall be accounted for to the General Government of the said Colony in such manner as the General Assembly shall, by any Laws or Ordinance enacted in that behalf, direct; and shall, pending such Laws or Ordinances, be liable to be appropriated as a portion of the Revenues of the said Province, to the Public Service of the same.

### **2. Appropriation of Provincial Revenue for Year ending March 31, 1855.**

Out of the Public Revenue of the Province of Canterbury, there may be issued and applied, in the manner hereinafter mentioned, any Sum or Sums of Money, not exceeding the several Sums hereinafter specified, amounting in the whole to the sum of Eighteen Thousand Nine Hundred and Ninety-nine Pounds One Shilling and Threepence, for defraying the charge of the Government of the said Province for the Year commencing on the First day of April, one thousand eight hundred and fifty-four, and ending upon the Thirty-first day of March, one thousand eight hundred and fifty-five, that is to say, for the service of

	£	s.	d.
His Honor the Superintendent	725	0	0
The Provincial Council	225	0	0
The Supreme Court	200	0	0
The Provincial Secretary	300	0	0
The Provincial Treasurer	540	0	0
The Provincial Auditor	155	0	0
The Provincial Solicitor	300	0	0
The Registrar, &c.	365	0	0
The Resident Magistrate	30	0	0
The Sheriff and Gaol	234	0	0
The Police	484	1	3
The Provincial Surgeon	413	0	0
The Coroner	27	0	0
The Harbor Master	362	10	0
The Inspectors of Sheep	400	0	0
Akaroa	293	0	0
Advances in aid of the Post-office	150	0	0
Education	1,000	0	0
Immigration	10,000	0	0
Public Works	2,445	0	0
Printing	200	0	0
Census	50	0	0
Weighs and Measures	100	0	0

£18,999 1 3

**3. Provincial Treasurer, &c., shall issue and be allowed credit for sums appropriated.**

The Provincial Treasurer and Sub-Treasurers shall issue, from time to time, any Sum or Sums of Money for the purposes hereinbefore mentioned, not exceeding in the whole the Sums respectively specified to such persons, and in such portions as the Superintendent shall, by an Order or Orders, in writing, under his hand, from time to time direct; and such Treasurer and Sub-Treasurers shall, in their Accounts, be allowed credit for all Sums paid by them in pursuance of such Orders; and the receipts of the persons to whom such Sums have been so paid, shall be a full discharge for the Sum or Sums for which such receipts shall be given, and the amount thereof shall be passed to their credit in account accordingly.

**4. Provincial Treasurer, &c., shall be allowed credit for certain sums expended up to March 31, 1854.**

And Whereas no provision has hitherto been made by Law for the Appropriation of the Revenue of the said Province from the First day of October, one thousand eight hundred and fifty-three, to the Thirty-first day of March, one thousand eight

hundred and fifty-four: Be it therefore enacted, the Provincial Treasurer and Sub-Treasurers shall, in their Accounts be allowed credit for all Sums, no exceeding in the whole the Sums hereinafter respectively specified, paid, or which may be paid by them on or before the Thirty-first day of March, one thousand eight hundred and fifty-four, to such persons and in such portions as the Superintendent shall, by an Order or Orders, in writing, under his hand, have directed; that is to say, for the service of the Departments severally of—

	£    s.   d.
His Honor the Superintendent	383 6 8
The Provincial Council	117 10 0
The Provincial Treasurer	270 0 0
The Provincial Auditor	80 0 0
The Provincial Solicitor	150 0 0
Keeper of Public Records	3 10 0
The Registrar	95 1 0
The Resident Magistrate	15 0 0
The Sheriff and Gaol	108 2 6
The Police	203 5 0
The Provincial Surgeon	206 10 0
The Coroner	13 10 0
The Harbor Master	178 15 0
The Inspectors of Sheep	37 10 0
Akaroa	146 10 0
Printing	100 0 0
Public Works	100 0 0
	£2,208 10 2

Amounting in the whole to Two Thousand Two Hundred and Eight Pounds Ten Shillings and Two-pence, and the receipts of the persons to whom such Sums shall have been so paid shall be to them a full discharge for the Sum or Sums for which such receipts shall have been given, and the amount thereof shall be passed to their credit in account accordingly.

### **5. Title.**

This Ordinance shall be entituled and may be cited as "The Appropriation Ordinance, 1854-5 Session II., No. 8."

### **Notes.**

*This Ordinance was passed by the Canterbury Provincial Council on 24th March 1854, and assented to by the Superintendent on 29th March 1854.*

## **9. The Debentures Ordinance 1854.**

Whereas by an Ordinance of the Superintendent and Provincial Council of the Province of Canterbury, passed in the Seventeenth Year of the reign of Her Majesty, entitled "The Appropriation Ordinance for the year 1854-5, Session II., No. 8," it is enacted, that out of the Public Revenue of the said Province, there may be issued and applied, in the manner hereinafter mentioned, any Sum or Sums of Money, not exceeding the several sums hereinafter specified, amounting in whole to the sum of Eighteen Thousand Nine Hundred and Ninety-nine Pounds One Shilling and Three-pence, for defraying the charge of the Government of the said Province for the Year commencing on the First day of April, one thousand eight hundred and fifty-four, and ending upon the Thirty-first day of March, one thousand eight hundred and fifty-five: And Whereas the Public Revenues of the said Province may not be sufficient to meet the whole amount by the said recited Ordinance authorized to be issued and applied as aforesaid:

Be it therefore enacted by the Superintendent of the said Province, with the advice and consent of the Provincial Council thereof, as follows:—

### **1. Superintendent may issue Debentures.**

Superintendent of the said Province to issue Debentures on account of the said Province for any Sum or Sums of Money which may be required to make up any deficiency in the Revenues of the said Province top meet the gross amount by the said Ordinance authorized to be issued and applied as aforesaid.

### **2. Such Debentures, with Interest, to be a charge upon the Revenues of the Province.**

All and singular such Debentures shall be signed by the Superintendent of the said Province, and shall together with all Interest, if any, accruing thereon (which Interest shall not exceed the rate of eight pounds sterling per centum per annum) be a charge upon, and shall be discharged out of the Revenues of the said Province.

### **3. Title.**

This Ordinance shall be entitled and may be cited as "The Province of Canterbury Debentures Ordinance, Session II., No. 9."

### **Notes.**

*This Ordinance was passed by the Canterbury Provincial Council on the 24th of March 1854, and assented to by the Superintendent on the 29th of March.*