The application with plans shall, moreover, lie for one month at the office of the Mining Commissioner for inspection of interested parties, who may send in their objections to the Mining Commissioner concerned within that period. In Ob

Should these objections be found groundless by the Mining Commissioner, after hearing the parties, he may grant the application. He

When more than one applicant makes application to obtain one and the same water-right, the Mining Commissioner, after hearing the parties, shall decide who is entitled thereto.

From the decision of the Mining Commissioner an appeal may be entered within fourteen days to the Head of the Mining Department, whose decision shall be final. Ap of pa

132. All grants of water-rights are sent up to the Head of the Mining Department for confirmation, accompanied by a copy of the application, the plans, and the report of the Mining Commissioner regarding the desirability, or otherwise, of the confirmation, regarding the consideration of the objections, if there were any, etc. Gra rig fir of pa

In future no water-rights shall be considered valid unless confirmed by the Head of the Mining Department, or included in a certificate of "bezitrecht." Not coi

133. On all water-rights intended and used for motive-power the sum of 1s. per month shall be paid for each horse-power for every water-right not exceeding ten horse-power; and 2s. 6d. per month for each horse-power above ten horse-power. Claims to which a water-right is attached and on which water-right payment, according to this article, must take place, may not be renewed, unless the monies due on the water-right have been duly paid. Wat mo Clain ren mo wat hav

134. On the lapsing of claims or "mijnpacht," or of a right to work tailings, the water-right granted for the working of such claims, "mijnpacht," or tailings lapses also. The last holder of such water-right has, however, for the period of one month after the date on which the abovementioned mining-right lapsed, a preferent right to recover the water-right for working other claims, "mijnpacht," or tailings belonging to him, when he sends in a new application for the same in the ordinary way. Lapsi rig Last fere one

A water-right may also, on the representation of the Mining Commissioner, be declared by the Head of the Mining Department to have lapsed, when within two years after the confirmation thereof the machinery for which the water-right was applied for is not in working order, or no proper use is as yet being made of the water-right. Lapse used year

135. No owner of a claim shall have the right to dam up natural or running water for his own use to the detriment of other claim-holders unless a water-right is taken out by him in accordance with this law. Water obtained artificially shall not fall under this provision, Runnir may dam

Section 10. Right to Firewood and other Wood.

136. A permit may be obtained for the right to cut or carry firewood or other wood on or from Government ground on payment of £1 (one pound) for a wagon load, 7s. 6d. (seven shillings and sixpence) for a Scotch-cart load, and 6d. (sixpence) for one person's load. The said permits may be obtained on Government grounds from the Mining Commissioner or Responsible Clerk. With regard to the cutting of wood on private ground an agreement must be entered into with the owner. Permit wood e r n groun Agreem owner vate g

If a person pegs off a piece of ground as a claim on which would grows, he shall not be entitled to cut and to carry away such wood for sale or trading purposes. (*a*) Wood r be cut ing pu

With regard to private grounds, these sums shall be paid to the private owner. Any person cutting or carrying away wood without a permit or without leave from the owner shall be punished with a fine not exceeding £25, or in default imprisonment not exceeding six months, besides and above liability for damages for the wood cut or romoved.

Should it be found that more wood is taken away on a permit than that permit gives the right to, the offender shall be punished with a fine not exceeding £50, or in default with imprisonment, with or without hard labour, not exceeding twelve months.

The informer of the contraventions shall be entitled to the half of the fines paid.

(a) This provision does not apply to stone dug out of the mines in the course of mining operations. Thus, where the defendants dug out stone in the ordinary course of gold mining operations and sold it to the Johannesburg Sanitary Board, and the plaintiff sued them for the value of such stone, it was held that the *dominium* of the stone was in the defendants, the claim-holders, and not in the plaintiff, the owner of the soil. *Bezuidenhout* vs. *Worcester G. M. Co.* (C.L.J., Vol. XI., p. 305), decided on the 29th of June, 1894, per Kotzé, C.J.

137. Any white person or family shall, however, be allowed to obtain gratis for his or their own domestic use firewood on Government ground under permit to be obtained from the Mining Commissioner, Responsible Clerk, Justice of the Peace, or Field-Cornet, on payment of 1s. per permit per month, on which permit not more than one wagon-load of firewood may be carried away, such permits to be renewed monthly.

CHAPTER IV.

Miscellaneous Provisions.

138. Anyone who digs a water furrow through a road or footpath which is used, shall construct a sufficiently safe bridge; if he does not do so, any official or private person may fill up the furrow, and the offender shall further be liable to a fine of from £1 to £10, or in default of payment to imprisonment as laid down in Article 8.

He who closes or obstructs a road or footpath in any other way shall be liable to the same penalty.

139. Anyone who removes quartz from or out of the claim or "mijnpacht" of another shall be responsible for all damages, and shall moreover have to pay as compensation three times the value of what has been taken by him, apart from the criminal prosecution to which he exposes himself.

140. He who makes himself guilty of altering, shifting, or removing the beacons of a claim shall be punished with a fine not exceeding the sum of £100, or in default of payment with imprisonment as laid down in Article 8.

141. Anyone who makes himself guilty of injuring or destroying a mine, claim, machinery, watercourse, or other mining property or belongings, or who shall be guilty only of an attempt to commit the said offences shall be punished with a fine of from £100 to £1,000, or with imprisonment with hard labour for the period of from one to ten years, according to the nature of the case.

142. Anyone who makes himself guilty of the wilful pegging off of claims which belong to others, and which are in proper order according to law, shall be punished with a fine of not less than £25 and not more than £100 for every claim thus wilfully pegged off, or with imprisonment as laid down in Article 8.

The word "*moedwillig*" is equivalent to "*malo animo.*" *Charlton* vs. *The State* (C.L.J., Vol. XI., p.

291), decided on the 3rd August, 1894, *coram* Kotzé, C.J., and Ameshoff and Morice, J.J.; *Sylvester* vs. *The State* (Official Reports, I. 2., p. 48), decided on the 4th June, 1894, *coram* Kotzé, C.J., and Jorissen and Morice, J.J.

143. Every digger, inhabitant, or licence-holder shall, when called upon, render assistance to maintain public order, under penalty of loss of licence and of a fine not exceeding the sum of £25. Digg sist tain

144. Everyone within the boundaries of a proclaimed field being found guilty of the crime of high treason or "gekwetste majesteit," or public violence, shall, above and besides the punishment provided by the law for such crime, forfeit all his goods, movable as well as immovable, in favour of the State. Treas lic on fiek

Held, by the majority of the Court (Kotzé, C.J. and Ameshoff, J.; Morice, J., diss.), that a bank account falls within the terms of Article 148 of Law 19 of 1895. Held (per Morice, J., diss)., that Article 148 refers to real rights to property, movable or immovable, situated within the Witwatersrand Gold Fields, including shares in companies the property of which is situated within such gold fields, but does not refer to bank accounts. *In re the State Attorney* vs. *Lionel Phillips and others* (C.L.J., Vol. XIII., p. 162.

In January, 1896, an interdict was granted against all the property of the Reform Committee on the Witwatersrand Gold Fields. On the application of J. S. Curtis, one of the members of the Reform Committee, it was held that his property did not fall under the interdict, because it was situated on an unproclaimed portion of Doornfontein. *J. S. Curtis* vs. *The State*, decided 12th March, 1896, *coram* Morice J. (unreported).

See Article 144 of this law.

145. No person may carry on any trade whatever in unwrought precious metal, amalgam or precious stones, under which is included the buying or selling, the bartering or exchanging, of such unwrought precious metal, amalgam or uncut precious stones, unless he has a special licence for the purpose, for which he must pay £10 a year; provided, however, that the individual digger or company need not take out any licence for the sale of the unwrought precious metal, amalgam or uncut precious stones dug out or found by him or it personally or on his or its instructions. The Government has the right to suspend, wholly or in part the working of the first portion of this article with regard to one or more precious metals, amalgam or precious stones. No tr unw preci witho ial lic Excepti Suspe Articl

He who carries on trade in unwrought precions metal, amalgam or uncut precious stones as above described, without having a special licence to do so, is punished with a fine not exceeding £100, or imprisonment with or without hard labour, or both together, for the first offence; for the second offence a fine not exceeding £200 or imprisonment for a period uot exceeding 12 months, with or without hard labour, or both together, and for any further offence a fine or imprisonment, or both together, in the discretion of the Court. Penalty.

146. Anyone who is found in possession of amalgam or unwrought gold or uncut precious stones and can give no proof that he obtained possession of the same in a lawful manner, shall be punished with a fine not exceeding £500, or imprisonment with or without hard labour for a period not exceeding two years, or both together, according to the nature of the case, for the first offence. For the second offence a fine not exceeding £1,000, or three years' imprisonment, with or without hard labour, or both together, and for any further offence, a fine or imprisonment, or both together, in the discretion of the Court, besides forfeiture in favour of the State of the amalgam or unwrought gold or uncut precious stones found in his possession. Being in sion wrough cious in

In *The State* vs. *James Bacon* (C.L.J., Vol. IX., p. 182), where B. was indicted for being in possession of unwrought gold, it was held that it was the duty of the judge to define "unwrought gold," and that the question as to whether or not the gold was unwrought, was a question for the jury to decide. Decided on the 23rd of February, 1892, *coram* Kotzé, C.J. and De Korte and Morice, J.J.

147. A licensed dealer in unwrought precious metal, amalgam or uncut precious stones, shall keep such books of his business as the Government from time to time shall deem fit to prescribe, and the said dealer shall every month, on the first day of each month, send up to the head of the Mining Department a true and sworn copy of such books, and in such form as the Government from time to time shall prescribe.

The Government shall at any time have the right to cause such books to be examined.

Every contravention of this article shall be punished with a fine not exceeding £50, or in default of payment with imprisonment as laid down in Article 8.

148. The managers of banks, store-keepers, agents and in general all persons who buy, sell, exchange, take or give for safe keeping, or despatch, unwrought gold, gold amalgam, and other gold alloys are obliged to send in duplicate a declaration thereanent, on or before the 15th of each month, for the preceding month, to the office of the Mine Inspector concerned.

In case no Mine Inspector's office is established on or near the place where the transaction takes place, such declaration must be sent to the Mining Commissioner, Responsible Clerk, or Landdrost of the district. These declarations must be made according to the forms prescribed for that purpose by the State Mining Engineer.

Contraventions of this provision shall be punished with a fine not exceeding £50, or in default of payment with imprisonment for a period not exceeding three months. The persons who, according to this article, are obliged to make monthly returns, can obtain the required forms for one or more months in advance at the offices of the officials to whom the declarations must be sent in, either by personal application or by written application posted, and are responsible for the consequences when they do not provide themselves with the forms early enough.

The sending in of the returns may be effected by personally handing them in at the appointed office or by post, in which latter case the letter must be registered and the sending in shall be considered to have taken place on the day that the return was sent by post. Should the last day of the time for sending in fall on a Sunday or holiday, the return must be made the day before.

149. Anyone trading without a licence to trade shall be liable to the penalties laid down by the law of the land. Further, shall be punished with a fine of not less than £5, and not more than £25, or in default of payment, with imprisonment as laid down in Article 8 for every contravention :—

(*a*) He who digs or prospects for precious metal or precious stones without a licence.

(*b*) He who pegs off a claim or claims without prospecting or digger's licence. Moreover such pegging off shall be considered as unlawful, shall not be recognised, and shall entail no right whatever.

(*c*) He who with or without licence digs or prospects for precious metals or precious stones on Government grounds which have not been thrown open for the purpose by the Government in accordance with Article 64 of this law, unless special permission has been given by the Government. This special permission shall, however, not be given for longer than twelve months, and shall lapse if within six months after the date of the permission no prospecting has been begun.

On the 13th of January, 1888, it was decided that a person could peg off claims and *then* get licences. *Madeline Reef Syndicate* vs. *Coetzee and others* (C.L.J., Vol. V., p. 16; Official Reports, I. 1., pp. 134, 135).

The law was altered by Law 9 of 1888, Article 30, which imposed a penalty for pegging off claims without a licence.

On the 20th of February, 1893, it was decided that if a person pegs claims without licences and then obtains licences, before anyone else with licences pegs the same ground, he will have a good title to the claims notwithstanding Article 70 of Law 18 of 1892 (which corresponds with Article 149 of Law 21 of 1896). *Humphreys* vs. *The Claim Inspector of Heidelberg and Symons and Lys* (Official Reports, I. 1., pp. 134, 135).

A person who pegs claims without licences always runs the risk of somebody else with licences pegging the same ground before he can obtain his licences, as in the case of *Blomfield* vs. *Mining Commissioner of Johannesburg and F. J. Bezuidenhout, jun.* (Official Reports, I. 1., p. 132), decided on the 17th of March, 1894, *coram* Kotzé, C.J. and Jorissen and Morice, J.J. There the plaintiff and defendant pegged off the same piece of ground as claims without licences, the plaintiff's pegging being prior to the defendant's. The defendant then obtained licences and retrapped his pegs before the plaintiff could do so. It was held that the defendant had a better title than the plaintiff. (Decided 17th of March, 1894.) Article 70 of Law 14 of 1894, which corresponds with Article 149 of this law, enacted: "Moreover such pegging off shall be considered as unlawful, shall not be recognised, and shall entail no right whatever." It would seem, therefore, that, as the law now stands, if a person pegged off claims without licences and then obtained licences before any other person with licences pegged the same ground, he would not acquire any title to the ground.

It is not necessary that a person pegging off claims should have his licences with him. If his representative takes out the licences and he pegs simultaneously, his pegging is good, though he be miles away from his representative. But Article 39 (4th paragraph) of this law enacts: "No person shall have the right to peg off claims before he or his representative *is present with his licences on the ground* which he wishes to peg off." This new law came into force on the 1st of November, 1896.

Servants n be paid wrought cious m

150. No one shall be allowed to pay his servants in unwrought precious metal, amalgam or uncut precious stones, under penalty of a fine not exceeding the sum of £100, or, in default of payment, of imprisonment as laid down in Article 8, besides a forfeiture of such unwrought precious metal, amalgam and uncut precious stones in favour of the State.

Purchasin wrought cious u from col persons.

151. Anyone who purchases, barters, or accepts unwrought precious metal, amalgam or uncut precious stones, from coloured persons either on a proclaimed public field or elsewhere within the borders of the South African Republic, shall be punished with a fine not exceeding £1,000 and imprisonment, with or without hard labour, for a period not exceeding five years, besides forfeiture of such unwrought precious metal, amalgam or uncut precious stones in favour of the State.

Coloured p selling, unwrou precious

152. A coloured person who sells, barters, delivers, or receives unwrought precious metal, amalgam or uncut precious stones, or is found in possession of unwrought precious metal, amalgam or uncut precious stones, shall be punished with not more than fifty lashes, and imprisonment for a period not exceeding five years, with or without hard labour, and forfeiture of such rough precious metal, amalgam or uncut precious stones, in favour of the State.

Coloured p must have

153. Every coloured person within the boundaries of a public diggings must have a monthly pass which is obtainable at the office of the Mining Commissioner or other persons appointed thereto, on payment of a sum calculated at one shilling per month, except in such cases where Law No. 23 of 1895 applies. For every contravention of this article the offender shall be punished with a fine of five shillings.

This article is also applicable to coloured labourers exclusively employed in mining and digging on private unproclaimed grounds, and on private farms where in accordance with Article 26 written permission has been obtained, and on grounds which are worked under concession or "mijnpacht," on Government as well as on prospecting grounds thrown open to the public, and on townships.

Coloured pe leaving ser without mission, using insult language his master.

154. A coloured person who has entered into a contract, whether verbally or in writing, to serve his master as a domestic servant or as a servant in a shop or store, or to assist him in working a claim, machinery or waterfurrow on any proclaimed field,

and who departs without leave from his master's service, or is negligent or refuses to do any work in discharge of his duty which can according to law be asked and required of him, or who uses threatening or insulting language to his master, his master's wife, or any other person lawfully placed over him, shall be punished with a fine not exceeding the sum of £2, or with imprisonment, with or without hard labour, for a period not exceeding one month, or with lashes not exceeding twenty-five in number.

A servant as above-mentioned, not being a coloured person, who is found guilty of any of the offences described in this article, shall be punished with a fine not exceeding the sum of £5 or with imprisonment, with or without hard labour, for a period not exceeding three months. The Mining Commissioner shall further, within the limits of the field over which he is appointed, have the same duties and rights which, according to Law No. 11 of 1892, Landdrosts have, except on such fields where Special Landdrosts are appointed.

Concluding provision.

155. This law, as amended, comes into force from the 1st. November, 1896, with the exception of Articles 118 to and including 124 (as now amended) which shall remain in force until the further decision of the Hon. The First Volksraad.

S. J. P. KRUGER,
State President.

Dr. W. J. LEYDS,
State Secretary.

Government Office, Pretoria,
19th September, 1896.

APPENDIX A.

Resolution of the Hon. First Volksraad, Article 1,282, dated 20th September, 1895

The First Volksraad, with reference to the Executive Council's Resolution, Article 639, contained in the Government missive, dated the 5th instant, with the proposal submitted therewith for amendment of Article 121, etc., of the Gold Law, as approved by the Hon. Second Volksraad, now under consideration; considering the fact that the Gold Law has been dealt with by the Second Volksraad, and that the First Volksraad has not all the data before it which were laid before the Hon. Second Volksraad; further, considering that there exist great differences, as well in the Second as in the First Volksraad, concerning the so-called undermining rights, and that it is therefore not desirable to introduce amendments to the said law, where such great differences exist; resolves that it can not agree with the resolution of the Hon. Government regarding Articles 121, 122, and 124, but resolves to accept the resolutions of the Second Volksraad with regard to the Gold Law as notice, with the exception of Articles 122 to 128 inclusive, and to hereby suspend the operation of the latter until the next ordinary session, and instructs the Hon. Government to collect the necessary information, and to snbmit the same at the next session, in order to enable the Raad to become better acquainted with the circumstances and with the feelings of the burghers of the Republic.

Suspens Articl 128 c Law (Law 1896).

N.B.—Articles 121, 122, 124, referred to in the above resolution, correspond to Articles 117, 118, and 120 in the Gold Law of 1896, and Articles 122 to 128 also referred to above, correspond to Articles 118 to 124 in the Gold Law of 1896.

APPENDIX B.

No. 235. R/6963/95.

GOVERNMENT NOTICE.

For general information are published herewith the following regulations with regard to the drawing of lots for claims on private and Government ground, approved by Article 1,129 of the resolutions of the Hon. Second Volksraad, dated 2nd August, 1895, which resolution was accepted as notice by the Hon. First Volksraad by Article 916 of its minutes, dated 14th August, 1895.

Dr. W. J. LEYDS,
State Secretary.

Government Office, Pretoria,
15th August, 1895.

REGULATIONS.

For the drawing of lots for claims on private and Government ground.

Whereas it is necessary and desirable to make special provision for the pegging off of claims on the proclamation of some farms in cases where there are great gatherings of people, whereby serious irregularities might take place, now therefore it is laid down as follows:—

1. In future no private or Government ground, declared by proclamation to be a public diggings, shall be available for the pegging off of claims, before the proclamation has been read on the ground to be proclaimed, where also the licences shall be issued for the first time.

2. That, where in future it may appear to the head of the Mining Department that on the proclamation of private farms and Government ground, the circumstances require it, the Government, with the advice and consent of the Executive Council, shall have the power to instruct the Surveyor-General to cause such farms or Government ground to be surveyed in claims, and to have a diagram thereof made before the day of throwing open, which claims must be properly numbered on such diagram.

   On this diagram must further appear the situation of the claims mentioned in Articles 9, 10, and 14 of Law 14 of 1894, which must likewise be surveyed and numbered before the day of throwing open, as also the "mijnpachten," homestead, building and arable lands granted, and other grounds reserved under Article 20 of the said law, and the grounds reserved by the Mining Commissioner, in accordance with the second paragraph of Article 28 of Law 14 of 1894.

Articles 9, 10, 14, 20, and 28 of Law 14 of 1894, correspond with Articles 47, 46, 48, 54, and 15 respectively of Law 21 of 1896.

3. The claims thus measured and reduced to diagram, with the exception of those mentioned in Articles, 9, 10, and 14 of the Gold Law, shall be given out by lot to the public on the day of throwing open, and if necessary on the following days.

The Mining Commissioner or his lawful representative shall at this drawing of lots and giving out of claims have to take into consideration:

(1) The number of claims available for the public.

(2) The number of persons present on the day of throwing open who wish to obtain claims.

In no case shall more than twelve claims be awarded to one person by lot, in connection with which Article 61A and 61C must be taken into consideration, or such other provision as may at present exist or in future be made thereanent in the Gold Law.

Article 61A of Law 14 of 1894 corresponds with Article 65 of Law 21 of 1896, while Article 61C is left out of Law 21 of 1896.

4. The expenses of surveying the claims thus surveyed shall have to be paid to the Government by the claimholder immediately on issue of the licence, in default of which the Mining Commissioner or responsible clerk is entitled to refuse the licence, in which case these claims shall be dealt with in terms of Article 61B of the Gold Law.

Article 61B of Law 14 of 1894 corresponds with Article 86 of Law 21 of 1896.

5. In case, on the day of throwing open, all the claims have not yet been surveyed, only the claims which have been surveyed or reduced to diagram shall be drawn for. The remaining claims shall however as speedily as possible be surveyed and drawn for on a day to be fixed by the head of the Mining Department, of which drawing at least three weeks' notice must be given in the "Staatscourant."

6. The manner of drawing lots shall be regulated by the head of the Mining Department in consultation with the Government, while after the termination of every drawing, a report must be sent in by the Mining Commissioner as soon as possible to the head of the Mining Department.

7. These regulations come into force immediately after publication in the "Staatscourant."

No. 247 R. 8030/95.

GOVERNMENT NOTICE.

For general information are herewith published the following Regulations for drowing lots for claims on private and Government ground in accordance with the resolution of the Executive Council, Article 603 of its Minutes, dated 20th August, 1895.

DR. W. J. LEYDS,

State Secretary.

Government Office, Pretoria,
20th August, 1895.

REGULATIONS.

For the drawing of lots for claims on private and Government ground, approved by resolution of the Honourable Second Volksraad, Article 1,129, dated 2nd August, 1895, and accepted as notice by resolution of the Honourable First Volksraad, Article 916, dated 14th August, 1895.

In consequence of the above Regulations, and for the carrying out of the same, ıe Government has deemed fit to give out, by way of drawing lots, the claims on the ortion of the farm "Witfontein," No. 572, formerly in the district of Potchefstroom, ow in the district of Krugersdorp, and portion of "Luipaardsvlei," No. 682, formerly ı the district of Potchefstroom, now in the district of Krugersdorp, and "Palmietfon-ein," No. 697, in the district of Potchefstroom, which will be proclaimed respectively n the 30th of August, 1895; 2nd of September, 1895, and the 27th August, 1895.

The manner in which the drawing for the claims must take place shall be as ollows:—

(1) In accordance with the above-mentioned regulations, the claims, as surveyed and reduced to diagram, in blocks of six claims, on the above-mentioned farms, by the Surveyor-General, shall be drawn for.

(2) The person or persons who are present on the day of proclamation on the ground to be proclaimed, shall be entitled to obtain gratis one ticket for each person on each of the farms to be proclaimed, provided he produces his receipt or certificate to show that he has paid his personal taxes for the current year.

(3) The number of tickets shall be regulated according to the number of persons who, on the day of proclamation and after the reading of the same, shall be present on the ground to be proclaimed, and who shall be obliged to present themselves to the Mining Commissioner or responsible clerk, and to give him notice, after production of the receipt for personal taxes, that they wish to take part in the drawing.

(4) The drawing for claims takes place on the day of proclamation, and if necessary on the following days, and shall commence directly after the reading of the proclamation.

(5) When the number of persons present, who wish to take part in the drawing, exceeds the number of blocks of 6 (six) claims, blank tickets must be put into the drum after the tickets on which the blocks of 6 (six) claims in due sequence on each ticket have been noted have been placed in it.

(6) The names of the persons who wish to take part shall be placed in drum No. 1, and the tickets with the number and the numbers (six claims) and the blank tickets in drum No. 2. The official charged with the drawing shall have to draw a ticket out of drum No. 2, while an official to be named by the Head of the Mining Department shall have to draw a name out of drum No. 1.

(7) The Claim Inspector shall be obliged to point out to each person who has drawn a ticket representing claims the pegs and the situation of such claims.

(8) The Head of the Mining Department shall have to exercise due supervision and to instruct the officials from time to time in accordance with these regulations.

No. 255. R. 8241/95.

GOVERNMENT NOTICE.

For general information is herewith published the following Article 1,408 of the resolutions of the Hon. Second Volksraad, dated 27th August, 1895, with regard to the taking part in the drawing for claims by youths of sixteen years, which resolution was accepted as notice by the Hon. First Volksraad by Article 1,023 of its minutes, dated 28th August, 1895, wherein it was laid down that this resolution should come into force immediately after publication in the *Staatscourant*.

DR. W. J. LEYDS,
State Secretary.

Government Office, Pretoria,
29th August, 1895.

Resolution of the Hon. Second Volksraad, Article 1,408, dated 27th August, 1895.

The Second Volksraad, having considered the Government missive, now on the order, including a letter from Field-Cornet Botha, and a telegram from Field-Cornet Cronjé, with regard to the drawing for claims, now to take place, by youths of sixteen years, the Second Volksraad, taking into consideration that this drawing is a special matter, resolves:

That in such special cases youths above the age of sixteen years, whose names appear on the Field Cornet's lists, and the taxes of whose parents have been paid for the current year, shall be entitled to take part in the drawing under the following conditions:—

(1) Each of them must be provided with a Field-Cornet's or Assistant Field-Cornet's certificate, showing the name and date of his registration in the Field-Cornet's books.

(2) A certificate from the official under whose jurisdiction his parents come showing that the taxes of his father or guardian for the current year have been paid.

(3) Each of them shall be present in person on the day of drawing.

This resolution shall only be of force on places for drawing of lots of claims, and shall not be applicable in any other case.

APPENDIX C.

On the 12th of June, 1891, J. S. Curtis bought 78 prospecting claims on Turffontein from a certain Rautenbach. On the 18th of June, the secretary of the Village Main Reef G.M. Company, on behalf of which Curtis had acquired the claims, applied to the Mining Commissioner of Johannesburg for digger's licences for the said claims. On the refusal of the Mining Commissioner to grant digger's licences, the secretary applied for renewal of the prospecting licences. This request was also refused. Thereupon Curtis, in his capacity of managing director of the said company, made an application to the Court to compel the Mining Commissioner to renew the licences, maintaining that the main reef ran through the ground in dispute, and that such ground was proclaimed ground. The Mining Commissioner alleged that he refused to renew the licences because in consequence of a contract between the Government and the Deep Level Developing and Mining Township Syndicate, dated the 29th of October, 1889, the ground had been reserved for a township.

A rule *nisi* having been granted, the Court (Kotzé, C.J., and Jorissen, J.) refused to confirm it, Kotzé, C.J., said:—"The Court is of opinion that the rule *nisi* must be set aside. Assuming that the Mining Commissioner can be ordered, under certain circumstances, to renew prospecting licences, or to change them into digger's licences, such circumstances are not present here. Under Section 67 of Law 8 of 1889, the Government has the right to grant stands, provided it be not on gold-bearing ground. It is here disputed, and it is not known whether the ground is gold-bearing or not. Moreover, the Government has the power to grant a piece of ground larger in extent than the size of a stand, and that under one licence. Of this right the Government has made use, and there is nothing to show that it has here made an unfair use of his power. More especially is this so because the respondent was, and is, in possession, and the applicant was warned of this fact, and, notwithstanding this, went and pegged off, well knowing that months before the ground had been granted to the respondent. The respondent is entitled to the costs."

Curtis N.O. vs. *The Mining Commissioner of Johannesburg, and the Johannesburg Township Company*, decided on the 12th of August, 1891 (unreported).

The farm Klein Paardekraal was proclaimed on the 11th of October, 1886 with the exception of such portion as had been beaconed off for a "mijnpacht." On the th of November, 1888, the plaintiff pegged off a claim immediately adjoining the southern line of the Alexandra "mijnpacht," on the said farm. Some days afterwards the defendants shifted the southern line of the Alexandra "mijnpacht," so as to take in a portion of the plaintiff's claim, and shortly afterwards again shifted the line so as to entirely include the said claim in the "mijnpacht." In an action instituted by the plaintiff, the defendants were ordered to move the southern line of their "mijnpacht" to the place where it was at the date of plaintiff's pegging, and interdicted from committing any trespass on the said claim in the future.

Cathcart vs. *The Main Reef G.M. Company*, decided on the 25th of November 1889 (unreported), *coram* Kotzé, C.J., and Esselen and De Korte, J.J.

The beacons erected at the time of proclamation are the true boundaries, and they indicate the position of the "mijnpacht," and not the chart or diagram, when such does not agree with the beacons.

Substantial damages, assessed by the Court without evidence of special damage, ordered to be paid by trespassers who pegged, notwithstanding the fact that they saw the beacons which had been erected.

Nabob G.M. Company vs. *Phœnix G.M. Company*., decided on the 1st of March, 1890 (unreported), *coram* Kotzé, C.J., and Esselen and De Korte, J.J.

Where certain lapsed claims had been bought from the Government, and the purchaser, from whom the defendants, Barnato Bros., derived their title, finding that some of these claims were not on the line of reef, on the advice of the Claim Inspector took certain other claims on the line of reef instead, without filing powers of attorney for the fresh claims thus taken. Held: That the plaintiff, who subsequently pegged off the said fresh claims according to law, had a better title to them.

When a lapsed claim is bought, a title is acquired to a certain definite piece of ground, and not to any indefinite piece the size of a claim.

Powers of attorney once used for the purpose of obtaining licences for claims cannot be used a second time, but are, as it were dead.

Underwood vs. *Barnato Bros. and the Mining Commissioners of Boksburg, coram* Kotzé, C.J., and Ameshoff and Gregorowski, J.J.; decided on the 13th of June, 1896, and reported in the *Cape Law Journal*, Vol. xiii., p. 226.

Where the Mining Commissioner of Boksburg had provisionally granted an application for a water-right made by the Gauf Syndicate, and the Head of the Mining Department had returned the said application to the Mining Commissioner to have a certain discrepancy between the application and the diagram eliminated, and the plaintiff pegged the ground, which was the subject of the application, before the publication of the amended application. Held, that, as the final confirmation of the water-right by the Head of the Mining Department was still pending, the ground was not open ground and could not be pegged.

Ginsberg vs. *The Gauf Syndicate and the Mining Commissioner of Boksburg*, decided on the 8th and 9th of July, 1896, *coram* Ameshoff, Morice and Gregorowski, J.J. (C.L.J. Vol. xiii., p. 225).

N.B. The application for a water-right in this case was made some time after the proclamation of the farm Leeuwpoort.

The plaintiff entered into a contract with the first defendant by which he acquired the right to *prospect* on a certain farm and the further right to purchase the said farm, within a certain period, for a certain price. The first defendant, notwithstanding this, sold the farm to the second defendant. The plaintiff sued the defendants for performance of the contract and rescission of the sale. The first defendant took the exception that the contract was *ab initio* null and void because it had not been *notarially* drawn. Kotzé, C.J., in delivering judgment, said: "The only question which the Court must decide is whether the contract is *ab initio* null and void under the Volksraad Besluit of August the 12th, 1886, Article 1,422. We are of opinion that the contract alleged in the summons does not fall under the terms of the V.R. Besluit or under the provisions of Article 14 of Law 7 of 1883. It is only said that the right to *prospect* or search for gold, etc., is granted to the plaintiff, with the further right to purchase the farm out and out. This is not a case of a grant of

rights to minerals or regarding rights to dig (*afstand van regten of mineralen of omtrent regten om te delven*), of which Article 1,422 speaks, nor of a grant of a right to minerals which are supposed to be present or are actually present on any farm as laid down in Article 14 of Law 7 of 1883. All that is granted to the plaintiff is the *mere right to search* for gold and other minerals and, whether these are found or not, the further right to purchase the farm. There is no *grant or cession of mineral rights or rights to minerals*, and we are therefore of opinion that the exception must be set aside with the costs."

Pearce v. *Olivier and others*, decided on the 13th of November, 1889 (unreported), *coram* Kotzé, C.J., and De Korte and Ameshoff, J.J.

On the 28th of May, 1887, a certain contract was entered into between the plaintiff (and others) on one side and the defendant on the other, one of the clauses of which contract was as follows; "The owners of and parties interested in the half farm Welgegund adjoining Oudedorp and transferred to the name of J. P. K. N. Bezuidenhout have agreed as follows,—that all rights, profits, and privileges, arising out of the mineral rights on the said half farm Welgegund shall be divided as follows, etc."

The plaintiff sued the defendant to have the agreement drawn up *notarially* in accordance with one of the terms of the agreement. The defendant pleaded that the plaintiff was debarred from suing because the agreement on which he sued was not *notarial* in accordance with the Volksraad Besluit of the 12th of August, 1886. The majority of the Court (Kotzé, C.J., and De Korte, J.) held that judgment should be given for the plaintiff. Kotzé, C.J., gave as his reasons, (1) that the literal interpretation of the above-mentioned clause removed the contract from the operation of the Volksraad Besluit; (2) that the circumstances of the case showed that in the above-mentioned clause no grant of mineral rights, but only a division of the privileges and proceeds thereof was in the contemplation of the parties; (3) that even if the said clause fell within the terms of the Volksraad Besluit, still the defendant could not be heard when he attempted to make use of that Besluit to the prejudice of the plaintiff, for this would be equivalent to a fraud on him. The action was brought to compel the defendant to comply with the terms of the Volkraad Besluit, by executing a proper notarial agreement as contracted between the parties. De Korte, J., based his judgment on the last ground above-mentioned.

Esselen, J. (diss.) held that the said clause fell within the terms of the Volksraad Besluit.

Steyn vs. *Bezuidenhout*, decided on the 6th of March, 1890 (unreported).

The Paarl Pretoria Company, claiming to be the owner of certain claims on the farm Langlaagte, in November, 1888, sold all its right to the said claims to the Central Langlaagte Company. In January. 1889, Donovan, maintaining that the ground was open, pegged off the same claims and instituted an action against the Central Langlaagte Company for ejectment. The claims were awarded to Donovan. When the summons was served on the Central Langlaagte Company, this company's attorney wrote on the 21st March, 1889, to the attorneys of the Paarl Pretoria Company giving them notice of the action, and advising that the Paarl Pretoria Company should intervene, seeing that this company sold the claim to Central Langlaagte Company.

The Paarl Pretoria Company took no steps to intervene, and, after judgment was given in favor of Donovan, instituted an action against Donovan and Wolff, as repre-

senting the Royal Langlaagte Company, to whom Donovan had in the meanwhile sold the claims. The defendants (Donovan and Wolff N.O.) pleaded *Res judicata*, and this plea was upheld and the plaintiffs held to be estopped from instituting the action on the ground that they ought to have intervened in the action of *Donovan* vs. *The Central Langlaagte Company*.

The Paarl Pretoria G.M. Coy. vs. *Donovan and Wolff, N.O.*, decided on the 25th November, 1889 (unreported), *coram* Kotzé, C.J., and Esselen and De Korte, J.J.

On the 2nd February, 1889, certain Scott and Sparks pegged off 12 claims on ground afterwards known as Schweizer's Township, and on the 7th February, 1889, they pegged off 12 more claims. In April, 1889, those claims were amalgamated in blocks and registered in the name of the Non Pareil Syndicate consisting of Scott, Sparks and Thomas Whitty. On the 2nd and 7th of September, 1889, the Mining Commissioner of Johannesburg refused to renew the prospecting licences, because, as he stated, he wished to compel the Non Pareil Syndicate to take out digger's licences instead of prospecting licences. Scott and Sparks alleged that the renewal was refused because the Government wished to lay out a township on the ground. The Non Pareil Syndicate made no objection and lodged no protest against the refusal to renew.

On the 21st September, 1889, a contract was entered into between the Government and Schweizer, giving the latter the right to lay out a township on the ground held by him. Schweizer had pegged in July, 1889, and he caused a diagram to be made of all ground held by him, which included the 24 claims above-mentioned. In March, 1890, Schweizer caused a sale to be held of the stands laid out by him, but only a few were sold. He thereafter ceded all his rights to Hollard and Van Boeschoten, who again ceded to the Rand Exploring Syndicate. In 1893, on the advice of a Government Commission, the Government decided to change the stands into claims and to issue claim licences to the Rand Exploring Syndicate, and the syndicate had to indemnify the Government against any claims which might be set up by persons who had previously held portions of the ground included in Schweizer's Township. Thereupon the Non Pareil Syndicate sent in a claim for a block of 12 claims, but this was refused, and an action was consequently instituted against the Rand Exploring Syndicate in March 1895. After the closing of the pleadings the Non Pareil Syndicate ceded all its rights to the Schweizer's Claimholders Rights Syndicate, which obtained leave, with the consent of the defendant syndicate, to appear as plaintiff. The Court found that the renewal of the *prospecting* licences was refused because the Mining Commissioner wished to compel the Non Pareil Syndicate to take out *digger's* licences instead, under Article 17 of Law 10 of 1887, and held that this syndicate must be taken to have abandoned its rights on the ground that it did not protest either when the renewal of prospecting licences was refused, or when Schweizer put up the stands for sale. Judgment was, therefore, given for the defendant with costs. The Court considered that the taking over of the rights of the Non Pareil Syndicate by the Schweizer's Claimholders Rights Syndicate was impeachable on the ground of champerty, but did not think it necessary to decide the case on that ground.

Schweizer's Claimholders Rights Syndicate, Ld., vs. *The Rand Exploring Syndicate, Ld.*, decided on the 25th of August, 1896, *coram* Kotzé, C.J., and Gregorowski, J., (not yet reported).

Certain persons who alleged that they were entitled to certain claims (127 in all) on the farm Turffontein, in the possession of the Rand Exploring Syndicate, joined with certain other persons present who had no interest in these claims, and formed the

Schweizer's Claimholders Rights Syndicate, Limited, with the object of obtaining possession of the said claims and working them. The consideration received by those persons who alleged that they were entitled to claims consisted of shares in the Syndicate, while the working capital of the company, out of which the expenses of litigation were to be defrayed, was advanced by some of the other persons who had no interest in the claims. The syndicate instituted action against the Rand Exploring Syndicate, and the defendants raised the plea of champerty. The Court held that the articles of association of the syndicate were tainted with champerty and were, therefore, *contra bonos mores*, and granted absolution from the instance with costs.

Schweizer's Claimholders Rights Syndicate, Limited, vs. *Rand Exploring Syndicate, Limited*, decided on the 4th September 1896, *coram* Kotzé, C.J., and Ameshoff and Gregorowski, J.J. (not yet reported).

The plaintiff, Schuler, had certain prospecting rights over certain property. On the 27th February, 1895, he entered into a contract with the defendants Sacke and Saenger, the terms of which were contained in a letter written by Saenger on behalf of himself and Sacke. According to this agreement Schuler was to receive a certain sum of money and a certain number of shares on "flotation, sale, or otherwise" of the property. On the 24th of September, 1895, the defendants sold all their rights to George Albu as trustee for a certain company to be floated. The company was floated on the 1st of November, 1895, under the name of the Sacke Estates and Mining Company, Limited. The defendants, while admitting the agreement of the 27th of February, said that the property had never been sold or floated into a company, but that they had merely sold their rights under the agreement to George Albu Q.Q., and that, therefore, the Sacke Estates and Mining Company, Limited, stood in their shoes and would be liable to the plaintiff when the property was actually sold or floated.

Under these circumstances Jorissen, J., sitting at Johannesburg, held that there had been such a dealing with the property as was contemplated in the agreement and that, therefore, the plaintiff was entitled to the money and shares claimed. On appeal to the full Court in Pretoria this judgment was upheld.

Schuler vs. *Sacke and Saenger*, decided (on appeal) on the 4th of August, 1896, *coram* Ameshoff, Morice and Gregorowski, J.J. (not yet reported).

On the 19th of February, 1895, Jooste, who was the owner of certain 70 claims in the district of Potchefstroom, entered into an agreement with Carlis, under which the latter obtained the exclusive right to prospect for gold on these claims. It was further agreed that Carlis should "have the sole and exclusive right and power of purchasing, selling, floating into a limited liability company, or otherwise disposing of the said claims, provided that upon such purchase, sale, flotation, or disposal" he should pay to Jooste £100 or 100 fully paid-up shares for each claim so disposed of.

It was further agreed that the formation of a syndicate for the purpose of merely testing or exploiting such claims should not entitle Jooste to claim the above-mentioned consideration.

On the 26th of October, 1895, Carlis ceded his right or option under the agreement to Jacob Creewel, William Peter Taylor, and the firm of S. Neumann & Co. On the 29th of October Creewel ceded his one-third share in the said right or option to the Klerksdorp Proprietary Mines, Limited. Thereupon Jooste sued Carlis for £7,000 or 7,000 shares in the Klerksdorp Proprietary Mines, Limited. It appeared in evidence that there was an understanding that W. P. Taylor and S. Neumann & Co.

would transfer their rights to the above-named company. Carlis contended that the claims had not been sold, floated, or otherwise disposed of, but that he had merely *ceded his right or option* under the agreement of the 19th of February.

The majority of the Court (Gregorowski and Kleyn, J.J., Morice, J., diss.) held that the plaintiff was entitled to succeed, on the following grounds:—That Carlis had made over all his rights and obligations to Creewel, Taylor, and S. Neumann and Co., for value received, but Jooste obtained no rights as against these persons. That it would be unfair to allow Carlis, by cleverly framing his agreement, to keep Jooste out of his money for an indefinite time and in the meanwhile enjoy all the benefits which he would have enjoyed in the case of an actual sale. That such was not the intention of the parties. That the fact that the formation of a syndicate to test or exploit the claims did not entitle the plaintiff to payment, showed that in this case he was so entitled, as the defendants did not allege that the Klerksdorp Proprietary Mines, Limited, was such a syndicate. That Carlis was more or less in the position of an agent for Jooste, and therefore in a position of trust. That under these circumstances such an alienation as was contemplated in the agreement must be considered to have taken place.

Morice, J. (dissentiente) held that this case could be distinguished from the case of *Schuler* vs. *Sacke and Saenger*, because in that case Schuler was not the owner of the ground. He merely had certain rights *in personam* against the owner of the ground. When Sacke and Saenger made over their rights under the agreement of the 27th February, 1895, to the company, they disposed of all the rights which Schuler had possessed in the ground, and there remained nothing further which he could have transferred, and therefore he was entitled to the stipulated consideration. But in this case Jooste was the owner of the claims, and when Carlis ceded his rights and liabilities to Creewell, Taylor, and Neumann & Co., he did not transfer Jooste's *jus in rem* in the claims. Jooste could not be prejudiced because the claims were registered in his name, and he was not bound to give transfer until he received the stipulated payment. Moreover, the use of the words "assignees" and "successors" in the agreement showed that it was contemplated that Carlis could cede his rights. As a matter of fact cessions of such options were of frequent occurrence as a speculation on the goldfields. As it did not appear that such an alienation as was contemplated in the agreement had taken place, his Lordship considered that the judgment should be absolution from the instance.

Jooste vs. *Carlis and Creewel*, decided on the 27th of August, 1896 (not yet reported).

The Plaintiff Syndicate alleged that Alfred Berriman, q.q. the Berriman Syndicate, on the 21st December, 1894, took out 100 licences and pegged off 100 claims on Block B, on the farm "Draaikraal," district Heidelberg, and renewed the licences till the 21st of September, 1895. Further, that on the 21st of February, 1895, he took out 115 licences, and on the 4th of March pegged off 115 claims on another portion of the same Block B, and renewed the licences till the 15th of September, 1895. That in March, 1895, Simpson, the defendant, lodged a protest against the numbering of the said claims. That thereupon the Mining Commissioner refused to allow the claims to be numbered, and in September refused the renewal of the licences.

The defendant alleged that on the 18th of February, 1895, he took out 100 licences and pegged the ground which the plaintiff alleged Berriman pegged in December, 1894, and that he still held the claims. That Berriman did not properly peg the ground in December, 1894, because he erected *corner* beacons *only*, and that the plaintiff

audulently held about 200 claims (viz. the whole of Block B) under only 100 licences. he 115 claims were not in dispute.

The Court found that Berriman pegged only the 100 claims in December, 1894; iat he put in only *one centre* peg for each claim, and did not put in the corner pegs s required by law; and that in February, 1895, he placed an iron sign board at each rner of the block of 100 claims. It held that the provision of Article 63 of Law 14 : 1894, with regard to *two centre pegs* was unintelligible, and that the plaintiff had fficiently complied with the law. Further, that as the plaintiff had made a trench ound the block of 100 claims there could be no doubt as to their exact situation, and iat therefore the non-compliance with the provision of Article 63, with regard to rner pegs within seven days, was not fatal. Further, that the defendant was a jumper," and that in a dispute between a "jumper" and a *bona fide* pegger the ourt would not lightly deprive the latter of his claims on a mere informality, seeing iat the law does not say that such informality shall entail forfeiture.

Judgment was therefore given in favour of the plaintiff for the 100 claims in spute with costs.

Berriman Syndicate vs. *Simpson*, decided on the 4th of September, 1896, *coram* otzé, C.J., and Ameshoff and Gregorowski, J.J. (not yet reported).

On the 7th of December, 1894, the plaintiff, Dawe, pegged off 74 claims on the rm "Middelvlei." In February, 1895, he gave instructions to have the ground sur-eyed. On the 8th of March, 1895, the survey took place, and on the 28th of March e received the surveyor's diagram. He then for the first time found out that the round pegged comprised 105 instead of 74 claims. On the 30th of March he applied the Responsible Clerk at Doornkop, under Article 62*f* of Law 14 of 1894, for the rplus ground, *i.e.* 31 claims. This application was granted by the Responsible Clerk the 6th of April, 1895, whereupon Dawe took out the necessary licences for the id 31 claims. On the 22nd of March, 1895, Cordeaux having found out that Dawe ad pegged off more ground than his 74 licences entitled him to, provided with licences ent and pegged off 25 claims on the said ground. He at the same time made applica-on for these 25 claims, but the Responsible Clerk refused to give them to him. In ily, 1895, however, these 25 claims were granted to him by the Head of the Mining epartment. Dawe instituted an action for a declaration of rights. The Court ssumed that Dawe had acted *bona fide* in pegging 105 claims instead of 74 under 74 ences, but held that, as he had only 74 licences, and intended to peg only 74 claims, hatever surplus there was above the 74 claims had to be looked upon as *open* ground, id as Cordeaux had properly pegged 25 claims on the 22nd of March, 1895, before awe applied for the surplus ground under Article 62*f*, he thereby acquired a good tle to the said 25 claims. The Court further held that as Dawe had pegged first he as entitled to 74 claims, beginning from the place where he started pegging, and iat Cordeaux was entitled to 25 claims on the remainder of the ground. Judgment as therefore given in favour of Cordeaux for 25 claims with costs.

Dawe vs. *Cordeaux and the Responsible Clerk of Doornkop*, decided on the 4th of eptember, 1896, *coram* Kotzé, C.J. (not yet reported).

On the 13th of June, 1888, all Government ground in the district of Heidelberg as thrown open. In March, 1893, the defendants pegged off a certain piece of round on Vogelstruisbult under 800 licences. On the 10th of April, 1893. the ining Commissioner refused to renew the licences because there was a dispute etween the Government and one Botha, the owner of Daggafontein, as to whether ie ground belonged to the Government or to Botha. The Mining Commissioner

assured the defendants that if it should afterwards appear that the ground was Government ground they would retain their rights. In February, 1895, it was settled that the ground belonged to the Government, and the defendants thereupon on the 9th of March, 1895, renewed their licences. They, however, renewed only 600 licences. On the 29th of April, and 6th and 9th of May, 1895, the plaintiff pegged off the ground for which the defendants held the 600 licences under 1,173 licences. After the pegging by the plaintiff, the defendants had the ground surveyed, and found that it comprised 1,173 instead of 600 claims. They thereupon applied under Article 62*f* of Law 14 of 1894 for the 573 surplus claims, and their application was granted by the Head of the Mining Department in July. Thereupon, the plaintiff instituted action for a declaration of rights. He alleged that the defendants had no right to any of the 1,173 claims (1) because they in 1893 abondoned their rights, and did not peg again in 1895; (2) because they fraudulently held 1,175 claims under 600 licences.

The Court held that the defendants did not abandon their rights in 1893, and that when they renewed their licences on the 9th of March, 1895, their original pegging was still good. That when the plaintiff pegged in April, the defendants were in possession of the ground under 600 licences, and that it was not necessary to decide what would have happened if the plaintiff had pegged before the 9th of March, *i.e.*, before the defendants obtained renewal of their licences. Further, that although the defendants had pegged ground comprising 1,173 claims under 600 licences, there was no intention to defraud, and no one was prejudiced, and that therefore the defendants were entitled to 600 claims. With regard to the 573 remaining claims, the application for them was not granted (or made) until after the plaintiff's pegging, and consequently at a time when the ground was no longer open. Further, that, as the defendants had been the first to peg, they were entitled to choose their 600 claims first, and for this purpose they were allowed fourteen days, and that the plaintiff was entitled to the remaining 573 claims. Defendants were ordered to pay costs.

Neubauer vs. *Van Diggelen and Wilson* decided on the 4th of September, 1896 *coram* Kotzé, C.J., and Ameshoff and Gregorowski, J.J. (not yet reported).

On appeal from the decision of the Landdrost of Johannesburg, the Court held that digging a furrow to carry off water and cleaning it was sufficient working of the claims by the company holding them, and set aside the judgment of the Landdrost.

Henry Nourse G. M. Coy. vs. *Eland*, decided on the 5th of July, 1889, *coram* Kotzé, C.J., and Jorissen and De Korte, J.J. (unreported).

A person digging for gold on a proclaimed goldfield, under the Gold Law of 1875, without a licence, is a wrong-doer.

A gold-mining concession, granted by the Government and confirmed by the Volksraad, provided that all diggers at present digging on the farm embraced by the concession shall be compensated:—*Held*, that this did not entitle the diggers to peg out and work new claims on the farm, after the granting of the concession, and that they must be interdicted from so doing.

Gilbaud and Co. vs. *Walker and others*, decided on the 4th of December, 1883, *coram* Kotzé, C.J., and Burgers and Brand, J.J. (Kotzé's Reports, 1881-1884, page 82).

Digging for gold without a licence renders the digger a tresspasser under the Gold Law of 1875.

By virtue of the Volksraad Resolution of 11th June, 1883, Article 269, no one can dig for gold on private property without the consent of the owner or concessionaire.

Cohen, Goldschmidt, & Co. vs. *Stanley and Tate* (Kotzé's Reports, 1881-1884, page 133), decided on the 28th February, 1884, *coram* Kotzé, C.J. and Burgers and Brand, J.J.

A gold concession, granted to the respondents, contained a clause providing that all diggers on the farm, over which the concession was granted, shall be entitled to compensation, and in case the concessionaires and the diggers should not come to an agreement on the point, the Government shall fix the amount of compensation. The applicant, as digger, moved the Court for an order directing the respondents to proceed to arbitration as to the amount of compensation:—

Held, that the application must be refused, as there was no allegation that the applicant had applied to the Government to fix the amount of compensation.

Stanley vs. *Goldschmidt & Co.* (Kotzé's Reports, 1881-1884, page 155).

Resolution of the Honourable First Volksraad, Article 1,261, dated 25th August, 1896.

The First Volksraad, having regard to the Government missive, dated 12th instant, and to all the memorials referring to the so-called undermining rights, at present under discussion; considering that the First Volksraad, by Article 1282 of the 20th September, 1895. postponed this matter in order to hear the opinion of the public thereupon, and that the great majority have delared themselves in favour of reserving these undermining rights for the owner and also for the State: considering that digging under townships, storage stands (bewaarplatsen), etc., was always forbidden by the old Gold Law, Article 21, resolves to continue to maintain the prohibition clause (of Article 121 of the Gold Law of 1895) until such time as it shall appear necessary to the First Volksraad and to the Government to suspend the said prohibition clause, and thereupon to allow the working of such grounds under regulations framed by the First Volksraad, and subject to this proviso, that, when it is decided to do so, the preference with regard to such undermining rights shall be given to the highest bidder at a public sale, and half of the proceeds of such a sale shall, after deducting expenses, be awarded to the State and the other half to the lawful owner of such farm or ground, or his lawful heirs, and in the event of a special agreement having been made with regard to the licence monies, the person thus acquiring rights shall be entitled to the owner's half.