APPENDIX IV

THE DRAFT GOLD LAW IN THE TRANSVAL

EXTRAORDINARY PROVISIONS

A Transvaal Government Gazette Extraordinary was issued on the 30th ultimo, containing "a Bill to consolidate and amend the Law relating to prospecting and mining for precious and base metals and to provide for matters incidental thereto". The draft Bill contains 137 sections, and occupies 23 pages of the Gazette the portions relating to coloured persons. Section 3 contains, amongst others, the following definitions:

"Coloured person" shall mean any African or Asiatic Native or coloured can person, coolie or Chinaman.

"Mining District" shall mean one of the districts into which the Colony is for the time being divided in accordance with this Act; and, when used in reference to land, shall mean the mining district in which such land is situate.

"Proclaimed Field" shall include all proclaimed land, and so much of any aimed land as may be declared portion of a proclaimed field under this Act or is at the commencement thereof a portion of a proclaimed field.

"Proclaimed Land" shall mean land proclaimed a Public Digging under this Act or Law No. 15 of 1898 or a prior law, provided it has not been lawfully deproclaimed.
SECTION 24. When land, being a Native Location, or portion of a Native Location, is proclaimed a Public Digging, the following provisions shall apply:

(1) The chief and tribe occupying the Location shall retain the right to graze their stock thereon, in so far as such right does not interfere with prospecting and mining.

(2) All kraals, and such lands as were habitually under cultivation and irrigation for two years prior to the date of the notice of intention to proclaim, shall be reserved for the use of such chief and tribe, unless they consent to the reservation not being made.

(3) Sufficient water shall be reserved for the domestic purposes, and for watering the stock of such chief and tribe.

(4) If such Location be Crown land, there shall be granted to the Chief and tribe as compensation for the land, of the use of which they have been deprived by the grant of discoverers’ rights or by the Location being proclaimed a Public Digging, the use of an equal area of other land.

(5) If such Location belong to such chief and tribe, any person who has become the holder of the mineral rights, may, in addition to any rights which he may obtain as a discoverer, select a mynpacht of a size to be fixed by the Minister for native Affairs in consultation with the Minister, but not exceeding one-fifth of the extent of the land over which such mineral rights are held. The moneys or other consideration (if any) payable to the chief and tribe for the acquisition of such mineral rights, together with one-half the moneys derived from time to time from mining titles or other rights on the land, shall be paid to the Minister for Native Affairs, and shall be held by him in trust for the
chief and tribe, and applied for such purposes as they may desire, subject to the approval of the Governor.

SECTION 104: "Unwrought precious metal" shall include precious metal in any form whatever, which, though smelted, is not manufactured or made up into any article of commerce, and shall include amalgam, slimes, and scrapings of unrefined precious metal.

SECTION 113. Any person who shall receive from a coloured person any unwrought precious metal by way of purchase, barter, pledge, or gift, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand pounds, or to imprisonment without the option of a fine, for a period not exceeding five years or to both such fine and imprisonment.

SECTION 114. Any Coloured person who shall sell, barter, pledge, or otherwise dispose of any unwrought precious metal, or who shall obtain by purchase, barter, or pledge, or who shall be in possession of any precious unwrought metal, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years; provided that nothing in this section contained shall apply to a Coloured person handling unwrought precious metal in fulfillment of any contract of service with a person excepted under sub-section (1) of Section 105.

SECTION 122. Whenever it shall appear expedient in the public interest, the Government may, by proclamation in the Gazette, declare any land adjoining, enclosed by, or situate in the neighbourhood of proclaimed land, to be portion of a proclaimed field.

SECTION 127. (1) Save as is provided in section twenty-four, no right may be acquired under this Act by a Coloured person; and the holder of a right acquired under Law No. 15 of 1898 or a prior law or
under this Act shall not transfer, or sub-let, or permit to be transferred, or sub-let, any portion of such right to a Coloured person, nor permit any Coloured person (other than his bona-fide servant) to reside on or occupy ground held under such right.

(2) Any person contravening this section shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty pounds, and in the case of a continuing contravention to a fine not exceeding five pounds for every day during which such contravention is continued.

SECTION 128. (1) No Coloured person shall be permitted to reside on proclaimed fields in districts comprised in Class A, except in Bazaars, Locations, mining compounds, and such other places as the Mining Commissioner may permit.

(2) Any Coloured person contravening this section shall be liable on conviction to imprisonment for a period not exceeding one month and upon such conviction the Mining Commissioner may cause any structures occupied by or erected for the use of such Coloured person to be removed.

(3) Nothing in this section shall apply to Coloured persons in the employ of a white person in so far as they live on the premises where they are so employed.

Indian Opinion, 4-4-1908.