

they are issued to the Mining Commissioner. If the Mining Commissioner acts according to such instructions and prohibits the prospecting, then he keeps indeed within his rights. In the present instance he has acted according to instructions from the Government by prohibiting prospecting on the ground in dispute, and he was quite justified in refusing to issue licences to Hockley. The rule *nisi* must therefore be confirmed with costs.

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 —  
 SANITARY  
 BOARD OF  
 JOHANNES-  
 BURG  
 v.  
 HOCKLEY.  
 —  
 Kotzé, C.J.

MORICE and ESSER, JJ., concurred.

Attorneys for applicant: *Stegmann and Esselen.*

Attorneys for respondent: *Roux and Ballot.*

### AHRENSEN v. THE STATE.

SECTS. 1 AND 43 OF THE LIQUOR LAW, 1896—*ONUS PROBANDI.*

*When an accused person is charged with a contravention of sect. 1 of Law No. 17, 1896 (dealing with the sale of intoxicating liquor without a licence), he is presumed to be unlicensed. The proof of the contrary rests on him.*

Coram :  
 AMES-  
 HOFF, J.  
 JORIS-  
 SEN, J.  
 GREGO-  
 ROWSKI, J.

THIS was an appeal against the decision of the Special Landdrost of Boksburg, pronounced on the 30th January, 1897, in the case of *The State v. Ahrensen*, in which the latter was fined 40*l.* or two months' imprisonment with hard labour for a contravention of sect. 1 of Law No. 17 of 1896, dealing with the sale of liquor without a proper licence. From the evidence it appeared that the accused had sold intoxicating liquor to two Kaffirs in a store adjoining the bar of the licensed holder thereof, one Postolsky, there being a door between these two buildings. The Landdrost, after it had been pointed out in defence that the prosecution had not proved whether the accused was licensed or not, and that he ought to have been charged under sect. 5 and not under sect. 1, gave the following judgment :—

1897  
 —  
 24 June.

“The Court is of opinion that there is sufficient proof that the accused sold liquor to the two natives. Had the accused sold liquor out of the bar he would have been discharged on the ground

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that Mr. Postolsky, the licensed holder, would then have been responsible. The liquor was, however, sold in the store by the accused, and hence he is the responsible party.

“The Court is further of opinion that according to sect. 43 of the Liquor Law, the accused, if he be licensed, should have produced his licence, for then the charge against him would at once have collapsed. This was not done, and accordingly the Court takes it that the accused is not a licensed liquor dealer, and must be convicted under sect. 1 of the law.”

The accused appealed against this decision, and alleged as a reason for doing so that it had not been proved that he had contravened sect. 1, as it had not been shown that he did not possess a liquor licence.

*Curlewis*, for the appellant: The State has failed to establish one of the most important points, viz., that the accused does not possess a licence.

*Barber*, for the State, referred to sect. 43 of the Liquor Law of 1896, to show that the *onus probandi* lies on the accused, who had to prove that he was possessed of a licence.

The Court agreed with Barber's contention, and dismissed the appeal.

Attorney for applicant: *Paul Nel*.

*Coram:*  
 AMES-  
 HOFF, J.  
 MORICE, J.  
 GREGO-  
 ROWSKI, J.

## THE STATE v. H. L. JOUBERT.

### ROBBERY—AMOUNT OF FORCE—EXTORTION.

1897

25 June.

*Where a person deprives another of his money by placing his hand in such other's pocket under threats, there is sufficient force to constitute the crime of robbery, although no resistance was offered by the other.*

THIS was an argument on a point reserved. The accused was indicted in the Circuit Court at Zeerust on 17th May, 1897, before