1891.
June 8.
" 9.
" 30.

Berea Syndicate *vs.* Leyds, N.O.

was done in order to find out whether there was gold in payable quantities or not. The result we do not know, and from the nature of the case it is too vague and uncertain to award anything for it. I adhere to the principles laid down in *Brunskill* vs. *Preston*,* and for this reason I think that we cannot take the alleged value of the claims at that time into consideration, more especially as there is no evidence that the plaintiffs had a fair prospect of selling or would have sold the claims for that sum. The value of the adjoining claims cannot, on the authority of *Brunskill* vs. *Preston*, be taken into consideration. There is another item in the account, viz., £300 for the erection of buildings and beacons. The buildings are still there, and I should be disposed to award £200 for them. We cannot give anything for the beacons, for the plaintiffs were obliged by the Gold Law to erect them. I am therefore of opinion that there must be judgment in favour of the plaintiffs for £1,242, *plus* £687, *plus* £200—*i.e.*, £2,129, with costs.

DE KORTE and JORISSEN, JJ., concurred.

PRETORIUS *vs.* THE STATE.

Summons for slander.—Must state in whose presence slander was uttered.

Where, in a suit for slander the summons merely stated that the slander was uttered "openly," the Court held *that the persons in whose presence the slander had been uttered should be specified, and if the persons were unknown that the summons should state "in the presence of persons unknown."*

1891.
July 2.

Pretorius *vs.* The State.

This was an appeal from a decision of the Landdrost at Krugersdorp. The summons was a criminal one for slander. The slanderous words were set forth, but it was only stated that they were uttered "openly," without alleging in whose presence.

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* *See* Kotzé's and Barber's Reports. p. 113.

1891.
July 2.

Pretorius *vs.* The State.

Curlewis, for the appellant: The accused might be seriously prejudiced by the omission to state in whose presence the words were used.

Cloete, for the State: The allegation is sufficient. Suppose the Public Prosecutor does not know the names of the persons in whose presence the slander was uttered, can it be said that no proceedings can then be taken?

KOTZÉ, C.J.: The names of the persons in whose presence the slander was spoken should be stated. If the names are unknown, it ought to be so alleged in the summons or indictment. The appeal must be allowed and the conviction set aside.

DE KORTE and JORISSEN, JJ., concurred.

TRANSVAAL SILVER MINES *vs.* JACOBS, LE GRANGE AND FOX.

Pre-emption.—Prior contract.—Refusal.

Where, in a suit for cancellation of a contract of lease of a farm in perpetuo *on the ground of the existence of a prior contract giving plaintiffs the first refusal in the event of sale, it was contended that the right of retraction or pre-emption had lapsed because no offer had been made by plaintiffs to take over the second contract, the Court* held *that, as the second contract had been made by defendant F. with defendants J. and L., with full knowledge of the first contract, plaintiffs had a right of pre-emption or retraction, and were entitled to have F.'s contract of perpetual lease cancelled, with costs.*

1891.
June 20.
,, 22.
,, 23.
July 4.

Transvaal Silver Mines *vs.* Jacobs, Le Grange & Fox.

This was a suit for cancellation of a certain contract entered into between Hattingh for the widow Jacobs and one Le Grange with Fox, with reference to a portion of the farm Dwarsfontein, on the ground that it infringed a prior contract between Jacobs and a certain Sonnenberg, to whose rights the Transvaal Silver Mines Co. had succeeded. This latter contract contained a clause to the effect that in