1915. *November* 2, 3, 4, 5, 10, 11. DE VILLIERS, J.P., MASON and GREGOROWSKI, JJ.

Insurance.—Fire policy.—Liability except for damage in consequence of civil commotion or occasioned thereby.—Meaning of civil commotion.—"In consequence of."—"Occasioned thereby."

A claim in an insurance policy provided that the insurance company was not liable for loss or damage by fire during or in consequence of civil commotion, unless it be proved by the insured that the loss or damage was not occasioned thereby. *Held*, that as the clause had been taken over from English policies, the English meaning of the words "civil commotion" must govern; *Held*, further, that the essential elements of civil commotion are the rising of a considerable portion of the people for general purposes of mischief; that actual violence was not necessary, and that threatened violence or a tendency to violence was sufficient; *Held*, further, that the words "in consequence of" and "occasioned thereby" included any loss arising incidentally out of a state of civil commotion.

Lindsay and Pirie v. *General Accident Fire and Life Assurance Corporation, Ltd.* (1914, A.D. 574), followed and applied.

Action on a fire insurance policy.

The plaintiff claimed from the defendant an amount of £981 10s. 6d., alleged to be the defendant's share of liability under a fire insurance policy issued by the defendant to the plaintiff on the 26th January, 1915, the plaintiff's premises having been destroyed by fire on the 13th May. The defendant denied liability and relied upon clause 5 of the policy, which, insofar as it was relevant, read as follows: "The insurance does not cover loss or damage by fire during (unless it be proved by the insured that the loss or damage was not occasioned thereby) or in consequence of . . . . . (*b*) invasion, act of foreign enemy, riot, civil commotion, rebellion, insurrection, military or usurped power, or martial law." It was alleged in the plea that at the time when the fire occurred on the 13th May, there existed in Johannesburg a condition or state of events or occurrences amounting to a riot, civil commotion, and usurped power, within the meaning of clause 5 (*b*).

It was admitted at the trial that the *onus* was upon the defendant to prove that at the time when the fire occurred there was such a state of riot or civil commotion, and it was also admitted that, if the defendant succeeded in proving that, the *onus* was shifted on to the plaintiff to prove in its turn that, although the fire occurred during such a time, it was not occasioned thereby.

Further facts appear from the judgment.

After hearing the evidence:

C. F. Stallard, K.C. (with him *S. S. Taylor*), for the plaintiffs, first dealt with the evidence. In order to constitute civil commotion or riot there must be violence to persons, and there is no evidence of injury to persons. There was no civil commotion within the meaning of the principles laid down in *Lindsay & Pirie* v. *General Accident Fire and Life Assurance Corporation, Ltd.* (1914, A.D. 574). See also *London and Manchester Plate Glass Co.* v. *Heath* (1913, 3 K.B. 417); *Field* v. *Receiver of the Metropolitan Police* (1907, 2 K.B. 853, at p. 859). The destruction was all an agreed plan of a few people, but there was no civil commotion. There was not such a " state of things " as contemplated in the *Lindsay and Pirie* case, amounting to civil commotion. Plaintiff has discharged the *onus* that the fire was not due to civil commotion; at the most the loss was due to an organisation at the back of it and I submit that the loss would have occurred in any case even if no crowd had assisted.

J. Stratford, K.C. (with him *D. de Waal* and *Mulligan*), for the defendant: *Lindsay and Pirie's* case (*loc. cit.*, pp. 591, 598) covers the present case. Four elements are required for civil commotion: (1) Turbulance or tumult; (2) violence or an intention to commit violence; (3) a rising on an extensive scale; (4) a common purpose. These elements are present; personal violence is not a necessary element. Some violence is necessary, but potential violence is all that is required. See *Field's* case (*loc. cit.*, pp. 853, 860); *Spring Garden Ins. Co.* v. *Imperial Tobacco Co.* (20 L.R. An., N.S. 277, 279). Counsel argued on the merits.

Taylor replied.

DE VILLIERS, J.P. (after stating the facts as above): The first question which we have to consider is whether the defendant has proved that at the time when the plaintiff's premises were destroyed by fire there was this state of civil commotion. Now if it had not been for the able way in which Mr. *Stallard* argued the point before the Court, I would have thought that, upon the evidence laid before us, there was no doubt that, during portion of Wednesday, the 12th May, and during practically the whole of Thursday, the 13th May, at all events in the central portion of Johannesburg, there was such a state of civil commotion. But Mr. *Stallard* has argued that, in

order to constitute civil commotion, there must be serious personal violence, which in this case he maintains is absent. And he has also argued that in any case there was not that "state of things" which is contemplated in the judgment of the Appellate Division in *Lindsay and Pirie's* case, amounting to civil commotion. We have, therefore, first to examine the law on the subject, and, after having ascertained what the law is, we shall have to see whether, upon the evidence which has been brought before the Court, a state of civil commotion has been established.

Now, whatever may have been the difficulties surrounding the term "civil commotion," before the judgment in *Lindsay and Pirie's* case—and I do not say that there were any difficulties—those difficulties have been set at rest by the judgment of the Appellate Division in that case, which is reported in the Appellate Division Reports for 1914, at p. 574. There Sir William SOLOMON, who delivered the judgment of the Court, in adopting and expanding the definition which had been given by Lord MANSFIELD, came to the conclusion that, in effect, civil commotion, in this particular collocation, meant the rising of a considerable portion of the people, for general purposes of mischief. He did not purport to give a general definition of the term, but, for all practical purposes, this description includes all the essential elements of civil commotion. He points out that the term "civil commotion" is placed between "riot" and "insurrection", and infers that there must be some distinction drawn between it and insurrection, which probably has here a larger connotation than the term "civil commotion"; and insurrection, too, is levelled at the Government, whereas civil commotion is not necessarily levelled at the Government. No doubt an insurrection or a rebellion may also be fitly styled a civil commotion, but, in this particular collocation, he held that, whilst civil commotion does not amount to insurrection or rebellion, it must be taken to be something more than a mere "riot". Now the definition which he has given—the rising of a considerable number of the people for general purposes—implies, in the first place, the idea of turbulence or tumult, a disturbance. I think that is quite clear. The idea, of course, is in the very nature of things. The law on the subject has probably been derived from the *Digest* (47, 8, 4) where Ulpian draws a distinction between what he calls *rixa* and *turba*. He points out that the word *turba* (which is the root of the word "disturbance"), implies a tu-

mult, and he says that for an ordinary *rixa*—what is known in English law as an "affray"—only two persons are necessary; whereas, in the case of *turba* there must be at least ten or fifteen. This is how he then proceeds: *Et rectissime Labeo inter turbam et rixam multum interesse ait; namque turbam multitudinis hominum esse turbationem et coetum; rixam, etiam duorum.* Now, implied in the idea of disturbance, turbulence, or tumult, we also have the idea of violence, and that is what Lord Justice BUCKLEY means when he says civil commotion connotes violence or an intention to commit violence. But it is going too far to say that there must have been actual violence. It is sufficient if there has been threatened violence or a tendency to violence. That is well illustrated by the case of *Field* v. *The Receiver of the Metropolitan Police*. In that case the facts were that a number of hooligan boys—eight or nine youths, of ages ranging from fourteen to eighteen—were congregated together on the foot pavement of a road named Martindale Road, shouting and using rough language; the pavement adjoined a 9-in. wall of considerable length enclosing a yard and which toothed into a house. Some of the youths were standing with their backs against the wall, and others were running against them, or against the wall, with their hands extended. After they had gone backwards and forwards in this way for about a quarter of an hour, the wall fell, to the extent of twelve or thirteen feet, and as soon as it fell the caretaker of the premises came out into the street and the youths dispersed in different directions—which shows there was no intention of offering violence on the part of the youths. There the authorities were very carefully reviewed by Mr. Justice PHILLIMORE, and he quotes with approval, amongst others, some passages from Hawkins' *Pleas of the Crown*, which, I think, I ought to read. Hawkins requires that the rioters should have an intent mutually to assist one another against anyone who should oppose them in the execution of their enterprise, and should actually execute the same in a violent and turbulent manner, to the terror of the people. A riot ought to be accompanied, he says, by some offer of violence either to the person of a man or to his possessions, as by beating him or forcing him to quit possession of his land or goods, and there must be, at least, some such circumstances, either of actual force, or violence, or at least of an apparent tendency thereto, as would be calculated to strike terror into the people. It follows also from the definition of civil commotion

that it must be on a fairly considerable scale. But, as Sir William SOLOMON points out, it is difficult to know when to draw the line between a riot and civil commotion; in other words, it is not always easy to say when a riot ceases to be merely a riot and can be fitly considered to be civil commotion. Finally, we have the implication that it is for some common purpose of mischief.

And here I may distinguish the present case from the case of the *London and Manchester Plate Glass Co.*, upon which very strong reliance was placed by Mr. *Stallard;* because there, according to the facts, there was no evidence of any congregation of women, or of any tumult; there was no evidence that the women ever assembled in public at all, although, of course, there was ample evidence of concert. The women were not charged with riot, or with unlawful assembly, but each woman was charged with malicious injury, and convicted. From the judgment of Mr. Justice HAMILTON I infer that the windows were broken by each of the women singly, and each woman went up very quietly before she broke the window, and then broke it; one broke as many as four. In that case, although there was sufficient evidence of concert and common purpose, there was no commotion at all. The commotion, as Mr. Justice HAMILTON points out, was not the cause but was the result of the breaking of the plate glass windows: "Now, in that state of affairs, remembering that this claim is for damage caused directly by or arising from civil commotion, and bearing in mind that it is the evidence of all the witnesses that the women made no noise until they broke the windows—nor indeed were they likely to, because secrecy and an innocent appearance were of the very essence of the scheme—and considering that they all agree that such excitement as there was was created by the crashing of the glass, and the sight of women in custody, it is quite clear that, instead of the damage sued for being caused by or arising from civil commotion, it was civil commotion, if there was any, which was caused by or arose from the damage." That case is, therefore, clearly distinguishable from the present case.

Now Mr. *Stallard* has argued, as I have said, that in order to constitute a riot or civil commotion, there must be violence to persons, according to the English law; and it is common cause that the clause, having been taken from English policies, the English meaning of the words must govern. He says there must be resistance, and there must be actual violence to persons, and this vio-

lence must be characteristic of the disturbance, and must be practically as widespread as the disturbance. Now I may say at once that there is no evidence of such violence before the Court. There is indeed the evidence of violence to which Mr. *Stratford* yesterday drew our attention, and to which I do not propose to refer in detail. But the evidence of violence which Mr. *Stallard* requires is absent in this case; in fact it is remarkable, in such disturbances, that there should be such an absence of serious violence to the person. Of course, that may have its explanation in the object which the crowd had in view, and that was merely the destruction of German property. But, as I have explained, according to the English law, which governs in this case, it is sufficient if there is a tendency to violence, or threatened violence.

Now, can there be any doubt in the mind of anybody, after having heard the evidence, that there was a great show of force and that, in all probability, there would have been bloodshed if, in certain cases, resistance had been made? Take the case of Verseput, for example. He did not strike me as being a timid individual; on the contrary, he behaved bravely; but when he tried to save something from the fire at his employer's he was hit in the back, his hat was knocked into the fire, and he was told to clear out and that unless he did so he himself would be thrown into the fire. Under these circumstances, Mr. *Stallard's* argument on the first portion of the case must fail.

Then he has argued that there was not such a "state of things" as is contemplated in the judgment in *Lindsay and Pirie's* case, amounting to public commotion. Now I do not know whether I ought to go into the evidence at any great length; I will only refer shortly to the evidence of some of the principal witnesses. We have the evidence of Col. Vachell, the head of the C.I.D. in Johannesburg, who explains that the feeling in Johannesburg was already tense, before the sinking of the "Lusitania," which happened on the 8th May. That is borne out also by Col. Douglas. Col. Vachell says that after that time the feeling was greatly aggravated. He puts the disturbances down to three causes; the first was the sinking of the "Lusitania," the second was the number of interned prisoners who were coming out from the camp and who were carrying on their business in Johannesburg; and the third was a poster which was exhibited by the *Rand Daily Mail* on the Wednesday, having upon it in large letters: "German shops sacked", which

referred to some shops which had been sacked, I believe, in Birkenhead or Liverpool. He says that also in his view contributed largely to the state of excitement which almost immediately ensued. Then he says he himself expected that some disturbance would occur on the following Saturday, when a public meeting had been called at the instance of the Petitioners' Committee; but it broke out on the Wednesday afternoon. Shortly after 2 p.m., from telephone calls, he realised that things were going wrong in Johannesburg, and he and Col. Douglas at once went to the Richmond bar. There was a crowd of about two hundred persons there; the crowd commenced to break up the premises, throwing stones at the windows. He says: "I talked to them. I got up on a chair and said it was exceedingly un-British; it was altogether against our interests to break up German property and private property. I heard them calling out: 'Remember the Lusitania'; they were throwing rocks, stones, sticks and so on, breaking up the premises. There were some men in the bar breaking up the premises." He could not say exactly how many, but he said there were three or more. Col. Douglas put it at some higher figure. Then we have the fact that Mr. van den Berg, the acting Chief Magistrate of Johannesburg, who went out and had a look at things, came to the conclusion that a state of riot existed. Of course, the Court is not bound by the opinion of the Chief Magistrate, but it is certainly a matter which weighs with the Court. We have come to the conclusion that Mr. van den Berg did not overstate the case when he made use of the word "riot" in applying sec. 70 of the Liquor Ordinance and closing the bars. Then we have the evidence of many policemen who testify to the various cases of destruction of property. But I would like to draw particular attention to the evidence of Hinde and Rowe, the two principal officers of the Fire Brigade. It may, of course, be said that they are interested, that they are on their trial, and that their evidence must be viewed with a certain degree of caution; and that is so. That is certainly also the attitude which the Court ought to adopt with regard to the evidence of the police. But, upon the evidence as it has been presented to the Court, speaking for myself, although their sympathies may have been very strongly with the wreckers, I do not see any reason to think that the chiefs of the fire brigade did not honestly try to perform their functions. That is the impression, at all events, that they left upon my mind. There is some conflict of evidence with regard to the conduct of the police.

I may deal with that matter at once. I have not made up my mind as to what to think of that. I did not realise at the time, when the police gave their evidence, that there would be such a conflict, but there is a very strong conflict between the evidence of the police and the evidence of, *e.g.*, Donaldson, as to what happened at Wehrley's store. The police say that between one and three in the morning they held the crowd back; they had formed a cordon, and they saved the place from being wrecked. Donaldson, in effect, on the other hand, says they did not; that he only saw six policemen there, and there was no cordon formed, because he must have seen it if it had been there. He says that the crowd did as they pleased, and that practically all the wrecking at Wehrley's store was done that night; whereas, from the evidence of the police, we were led to believe that the wrecking only took place the next morning. I have not been able to make up my mind as to these two versions, and for the purpose of our judgment I have not considered it necessary to go into that matter. I quite believe those witnesses who say that there were individual cases of policemen who did not do their duty. I think that is established. Further, I do not think I am entitled to go, upon the evidence which is before us. I will now briefly refer to the evidence of Hinde, the Chief Officer of the Fire Brigade, with reference to the buildings of the plaintiff. I read from p. 84 of the record: "(Q.) Now we come to the premises destroyed, the subject of this case—those of Arthur Koppel, Ltd. What time were you called? (A.) 7.30 p.m. (Q.) What did you see when you arrived? (A.) A very large crowd of people blocking up whole streets. (Q.) Can you give us a rough estimate? (A.) I should think there was quite over 3,000 people there, and they kept increasing; they were coming down in droves from the town. (Q.) Did you go into the yard? (A.) Yes. (Q.) Did you see any people there? (A.) Yes. I got off my machine, and my Second Officer and two or three men went into the yard. There were about 100 people in the yard in different places. The main building was well alight. Turning to the left, I went into the stores and saw people breaking up packing cases, taking them inside and with shavings, pouring something out of a tin and setting fire to the place. They told me that they would not allow me to get to work there, I had better clear out of it as quick as I could. (Q.) How were you greeted? (A.) I was called everything, a 'German bastard,' and all sorts of things. (Q.) Were the remarks confined to you? (A.)

And my men. (Q.) You saw a portion of the crowd setting fire, using packing cases, and that sort of thing? (A.) Yes. (Q.) Were they setting fire at more than one place? (A.) There was another place on the stair leading up to a lift. I saw them there. (Q.) How long had these fires been burning? (A.) The one burning on the right of the main store was burning for, perhaps, a quarter of an hour. It was well alight. The other places were just starting when I arrived. (Q.) There were about 100 people in the yard? (A.) Yes. (Q.) Were they doing anything? (A.) Yes, breaking up cases and taking wood and shavings inside the building, and about 20 of them came to me personally and told me to 'Get out of it. Get your men away out of this, because we won't let you get to work.' I saw I had no opportunity. I had no police protection whatever. I did not see a constable at all there. I went outside with my men on the machine and returned to the station, receiving a very fine cheer as I left. (Q.) You felt you could do nothing? (A.) I felt I could do nothing at all there; in fact, I could see I would not be allowed to get to work at all." That was the impression which the Chief of the Fire Brigade had, and he is borne out in his evidence by the second-in-command. I am not prepared to say that his impression was not correct, under the circumstances—with such a large crowd, a crowd that had got entirely out of hand, and which was not in any way controlled by the police. That being so, it admits of no doubt that Johannesburg was in a state of civil commotion at the time, at least that central portion to which I have referred. We have only to remember that, during the two days it is in evidence that the disturbances lasted, the damage which was done to property by fire was almost equivalent to what is usually done in seven years; in other words, the damage done by fire in Johannesburg during those two days amounted to £267,000, whereas the damage by fire over a period of seven years prior to that only amounted to £291,000; and the total damage to property, including damage by fire, during those two days, amounted to a sum of no less than £372,000. Mr. Hinde told us that there were no less than seventy calls on the fire brigade. And no less than one hundred and sixty-eight premises were destroyed, wholly or partially, during those two days. Crowds, of any number from ten, fifteen or twenty up to thousands, were surging in the streets. Under these circumstances, the Court must come to the conclusion that a state of civil commotion existed in Johannesburg. On the Thursday night the

Civic Guard was called out, and the police also made arrangements with the military. Under all these circumstances, therefore, it admits of no doubt that there was a state of civil commotion in Johannesburg.

But Mr. *Stallard* has argued finally that the *onus* which is upon him, namely, to prove that the loss was not occasioned by civil commotion, has been discharged by him. With reference to that, I would like to refer to what was said by Sir William SOLOMON on the last page of his judgment in *Lindsay and Pirie*'s case: "I do not think that the words 'in consequence of' and 'occasioned by', which, in my opinion, mean much the same thing, are limited to cases of damage caused directly by a mob, but rather that they would include *any loss arising incidentally out of a state of civil commotion.*" Can there be any doubt at all that this loss arose, at all events incidentally (for it is difficult to say that civil commotion itself can cause anything at all), out of a state of civil commotion? Mr. *Stallard* has argued strenuously that in this case, although there may have been civil commotion, the loss was not occasioned by civil commotion, because it is in evidence that there was an organisation at the back of it, and he has urged upon the Court to find that it would have happened in any case, whether the crowds had assisted or not. Now upon the evidence before us I am not prepared to find that. There is certainly some evidence, evidence of a very disquieting nature, that there was somebody at the back of it. The name of the Consumers' Alliance has been mentioned in the course of the evidence. The Consumers' Alliance is stated by Mr. Beamish to have been started some time previously to promote the interests of British trade. It is in evidence that there were certain lists handed about amongst the crowd (where these came from does not appear), and that there were certain leaders of the crowd who, after one place had been demolished, gave the signal for the crowd to follow them, and the name of the next place was passed amongst the crowd. There is, therefore, a certain amount of evidence before the Court that there were some people at the back of it, and certainly from the point of view of the public welfare it is most desirable that this matter should be sifted to its very foundations, unless we have become entirely indifferent to our reputation as a civilised community. But, viewing this matter simply from the point of view of this case, there is no evidence to justify us in coming to the conclusion that the destruction would have happened whether a

crowd had assembled or not. On the contrary, in spite of the evidence which Mr. Greig and other witnesses for the plaintiff have given—evidence which seemed to me to be very fair—I cannot disregard the big volume of evidence of disorder laid before the Court on behalf of the defendant. Therefore, that point of Mr. *Stallard's* must also be ruled out. Under these circumstances, I have come to the conclusion that the defendant has succeeded in establishing his plea, and as the plaintiff has failed to discharge the *onus* which rests upon him, there must be judgment for the defendant with costs.

MASON, J.: In concurring that the defendant had established his defence in this case, I wish to add very little to what has already been said by the JUDGE-PRESIDENT; but I wish to add something, as the matter is one of very great importance. The elements which constitute, in the main, civil commotion, have been set forth in the judgment in *Lindsay and Pirie's* case. That judgment shows that there is not an exhaustive definition of the words "civil commotion," but, when the elements are established, we have to take each case in accordance with its merits. Now there is no question that, in the present case, the people concerned had a common purpose. To my mind, also, there is no question that the rising of the people was on a somewhat extensive scale. That does not mean, of course, that all those who sympathised with the active elements in the crowd took a direct part. We all know that in these cases of crowds there are a few determined leaders, and there is a large body of sympathisers who may easily supply further instruments for carrying out the common purpose. The real difficulty in the case has been caused by the remarkable circumstance that there was very little violence to the person. So far as one can judge, there were practically no direct attacks upon the police constables themselves. It is possible that in one instance a bottle may have been thrown at a policeman. I think that is as far as the evidence goes; and I think in one or two other instances, where there was a big crowd, the policemen were brushed aside, without any injury to themselves, while the crowd was rushing the premises in question. But it is a remarkable fact that there is no evidence at all of any real personal violence to the police authorities. On the other hand, what is, I think, equally remarkable is that in no case was there resistance in force to the purposes of the crowd, except in the instance given, I

think, with reference to the place at Jeppes, where one of the crowd, apparently, engaged in a tussle with the proprietor of the building, who had sons at the front, and apparently the crowd sympathised with the man who was defending his own property, and who in that case on the whole defended it successfully. With the exception of that instance, there is no case of resistance, and to my mind that is in great measure the explanation of the fact that there was very little, if any, personal violence during the whole of these disturbances. There was no individual resistance, so far as I can judge, by any of the persons whose premises were attacked and who really were Germans. That, I think, is a very striking thing. It seems to me a striking comment on the estimate which the proprietors themselves made of the forces against them. Then there was no official resistance, to any extent, to the operations of the crowd. That was due mainly to the attitude adopted by the heads of the police. They came to the conclusion that, with the forces at their disposal, which, at any rate on the Wednesday, were not very great, active resistance to the crowd would lead to a very serious state of affairs. It is possible, of course, that they made an error of judgment. But it is very difficult indeed for a Court to say that officers of experience are more likely to be wrong than other persons who merely saw portions of these occurrences and had not the same experience. But, for the purpose of this case, I do not think it makes very much difference whether the police authorities were right or wrong in their estimate of what would have occurred if they had taken decisive forcible action to put down these disturbances. One of the invariable accompaniments of civil commotion is the suspension of public authority, in part or in whole, and there is no doubt that that occurred in the present case. It may be that it was due, as I have said, to a mistaken estimate of the position by the police authorities. But that there was that suspension of public authority is quite clear, and that, to my mind, is one of the distinguishing features of civil commotion. It seems to me, therefore, that all the essential elements to constitute civil commotion were present in the case that we are considering. There was the rising on an extended scale; there was the common purpose; there was certainly turbulance; and there was a threat or intention to commit violence. I do not think there was any intention, as a matter of fact, to assault the police, but I am quite satisfied that if any German, or supposed German, had endeavoured to defend his property by force, as he was

lawfully entitled to do, he would have suffered very serious harm; and indeed not a single witness has contradicted that fact. None of the witnesses for the plaintiff have contradicted it. Therefore I think we may take it as not only the result of their evidence, but as the result of the circumstances of this case, that, at any rate as regards the individual owners, they would have been overcome if they had offered any resistance, as they were lawfully entitled to do, to the operations of the mob.

It is not actually necessary for us to determine whether there was also a riot in this case. But it seems to me that all the essential elements constituting a riot, in respect of the attack on these particular premises, were also present. There was a great mob; they burst open the doors; they swarmed over the whole place; they destroyed the property; they threatened the fire brigade; and there is no doubt, to my mind, that all the elements of riot were present on that particular occasion. Therefore, on both grounds, it seems to me that the defendants have succeeded in establishing their defence in this action.

GREGOROWSKI, J.: I concur.

Plaintiff's Attorneys: *Rooth & Wessels;* Defendant's Attorney: *B. J. A. Lingbeek.*

[G. v. P.]

OLIVER v. W. FRANCIS & SONS.

1915. *October* 25, *November* 15. DE VILLIERS, J.P., WESSELS and CURLEWIS, JJ.

Magistrate's court.—Garnishee order.—Landdrost's court judgment. —Proclamation 21 *of* 1902, *sec.* 49.—*Ordinance* 12 *of* 1904, *sec.* 6 (1).

By virtue of sec. 49 of Proclamation 21 of 1902 and sec. 6 (1) of Ordinance 12 of 1904, any magistrate has jurisdiction to grant a garnishee order in respect of an unsatisfied judgment of a Landdrost's Court of the late South African Republic.

Appeal from a decision by the A.R.M. of Johannesburg.

In 1895 the respondents obtained judgment against one J. E. Oliver in the Landdrost's Court at Pretoria. A writ of execution