

G.

R.



# OFFICIAL GAZETTE

OF THE  
HIGH COMMISSIONER FOR SOUTH AFRICA.

PUBLISHED BY AUTHORITY OF HIS EXCELLENCY THE HIGH COMMISSIONER.

VOL. LXXXVII.]

PRETORIA, FRIDAY, 15TH AUGUST, 1924.

[No. 1201.]

## HIGH COMMISSIONER'S NOTICE No. 95 OF 1924.

It is hereby notified for general information that, in terms of section two of Proclamation No. 1 of 1912, His Excellency the High Commissioner has been pleased to confer upon Sub-Inspector Ernest Edward Strong jurisdiction to try minor offences while stationed at Mokhotlong, District Qacha's Nek, with power to punish any offender by a fine not exceeding five pounds or by imprisonment with or without hard labour for a period not exceeding three months, or by both such fine and such imprisonment.

By Command of His Excellency  
the High Commissioner.

B. E. H. CLIFFORD,  
Imperial Secretary.

High Commissioner's Office,  
Capetown, 8th August, 1924.

## HIGH COMMISSIONER'S NOTICE No. 96 OF 1924.

With reference to High Commissioner's Notice No. 54 of 1923, the subjoined report, which has been presented to His Excellency the High Commissioner by the Swaziland Mineral Development Commission, and the accompanying Draft Proclamation are published for general information.

By Command of His Excellency the  
High Commissioner.

B. E. H. CLIFFORD,  
Imperial Secretary.

High Commissioner's Office,  
Capetown, 9th August, 1924.

## SWAZILAND MINERAL DEVELOPMENT COMMISSION.

### REPORT

TO MAJOR-GENERAL HIS EXCELLENCY THE RIGHT HONOURABLE THE  
EARL OF ATHLONE, G.C.B., G.C.M.G., G.C.V.O., D.S.O., A.D.C.,  
HIGH COMMISSIONER FOR SOUTH AFRICA.

May it please Your Excellency:

We, the undersigned, members of the Swaziland Mineral Development Commission, appointed by Your Excellency's predecessor, His Royal Highness Prince Arthur of Connaught, have the honour to submit the following report:—

### INTRODUCTORY.

- Our terms of reference require us—
  - to inquire into and report upon the present position with regard to the development of mineral concessions in Swaziland, and to recommend what steps should be taken by the Swaziland Administration in consultation with the holders of such concessions for authorizing and encouraging prospecting and mining operations thereon in such manner as may be best suited to the general interests of the territory;
  - to advise as to the terms of any legislation that may, in our opinion, be required for that purpose.
- We held our first sittings at Mbabane on the 9th and 10th July, 1923, when evidence was given by the following witnesses:—  
His Honour the Resident Commissioner (Mr. De S. M. G. Honey, C.M.G.); Mr. Tom Kelly, previously manager of the Swaziland Tins, Limited, and now engaged in tin mining at Mbabane on his own account; Mr. Albert Millin, attorney, practising in Swaziland, and member of the Advisory Council of the territory; Mr. William Mather, prospector; and Mr. J. W. Reilly, manager of the McCreedy Tins, Limited.

Two further sittings for the purpose of taking evidence were subsequently held in Johannesburg on the 31st July, when Mr. W. H. A. Lawrence gave evidence on behalf of the Central Mining and Investment Corporation, Limited, and on the 1st September, when Mr. Allister M. Miller, managing director of the Swaziland Corporation, Limited, gave evidence.

Notice was given of the meetings of the Commission, and persons desiring to give evidence were invited to attend, but no other witnesses offered themselves.

A verbatim report of the evidence given is submitted as an annexure\* to our report.

3. In Swaziland ownership of the surface of the land does not carry with it ownership of, or rights to, minerals. Almost the whole of the territory is parcelled out in mineral concessions held by private owners; the total area in respect of which mineral rights are held by private concessionaires is, according to the Schedule supplied to us, dated 1923 (Appendix "B"),\* approximately 1,812,000 morgen; the mineral rights in respect of the remaining 207,000 morgen are held by the Crown. Many of the mineral concessions cover very large areas; six of the concessions in private ownership have areas exceeding 100,000 morgen in extent.

4. The majority of the mineral concessions are prior in date to the land titles affecting the same areas: in the event of a conflict of rights between the mineral concessionaire and the holder of land or surface rights, the rights which are prior in date have the preference. (Cf. Swaziland Administration Proclamation, 1904, Section 25, and the provisions of Proclamations Nos. 11, 12, and 13 of 1910, dealing with water, surface, and ancillary rights.)

5. All the mineral concessions date from the period 1880 to 1888. A few are unlimited in duration, but the majority are limited to 100 years, being granted for 50 years in the first instance, with a right of renewal for a further period of 50 years, and some are for shorter periods.

Most of the concessions confer on the concessionaire all rights to precious and base metals on the area which is the subject of the grant for the period of the concession: rentals of varying amount are payable under the concessions.

### PRESENT POSITION WITH REGARD TO THE DEVELOPMENT OF MINERAL CONCESSIONS IN SWAZILAND.

6. The Resident Commissioner was good enough to furnish us with a memorandum on this subject (Appendix "A"),\* to which reference should be made for detailed information. The general position with regard to mineral development in Swaziland may be summarized as follows:—

7. Prospecting for minerals has been carried on in Swaziland more or less continuously for the past thirty years, but the fact that the minerals are held in the main under concessions by private owners has probably to some extent militated against the activities of independent prospectors. Speaking generally, the mineral formations closely resemble those of the Transvaal, always excepting the auriferous beds of the Witwatersrand.

8. From time to time a small output of reef gold has been obtained from the explored areas of Horo, Wyldsdales, Havelock, Kobolondo, Piggs Peak, and Forbes Reef. A little alluvial gold has been won from creek alluvial deposits, but there is no indication of any extensive alluvial gold field. No precious stones have been discovered in Swaziland.

9. Tin, chiefly in the alluvial form, is the most important mineral discovered to date, and in places, especially in and near Mbabane, it has been worked on a considerable scale. The fluctuations in the price of the metal are rather against large enterprises, but there is a considerable field for tin mining on a small scale in selected areas, as the Swaziland valleys in the high and middle veld offer ideal conditions for the natural concentration of minerals.

10. Coal has been proved in several portions of Swaziland, and there are indications of large deposits of medium quality extending over a considerable area west of the Lebombo Mountains. Owing to lack of railway facilities and the anthracitic character of the coal so far proved, none of this coal has been worked up to date.

11. Difficulties of transport, while specially fatal to coal propositions, have been and still continue to be a serious factor in increasing costs and impeding the mineral development of the territory.

### ORIGIN OF PROPOSALS SUBMITTED BY RESIDENT COMMISSIONER.

12. On the 17th June, 1921, the Swaziland Mineral Rights Proclamation, 1921 (No. 33 of 1921), was promulgated. The preamble to the Proclamation recited that it was expedient to impose a tax on mineral rights in Swaziland in cases where the property in respect of which the same were held was not being adequately exploited. The tax imposed was 5s. per 100 morgen, payable

\* Not printed.

annually in respect of every property not adequately exploited during the preceding calendar year by the carrying on of prospecting or mining operations thereon. The decision as to whether or not the tax was payable in respect of any particular property lay with the Resident Commissioner, subject to an appeal to the High Commissioner. A concessionaire liable to the tax was entitled to deduct from the amount of the tax due by him for a calendar year the amount of any rental payable to the Government under his concession.

Payment of the tax imposed by the Proclamation has not yet been enforced. The concessionaires addressed a petition to the High Commissioner protesting against this tax, and discussions on the subject have since taken place between the Resident Commissioner, as representing the Swaziland Administration, and Mr. William Pott, a member of this Commission, as representing the mineral concessionaires. In the course of these discussions alternative proposals for the stimulating of mineral development in Swaziland have been evolved, and these are the proposals which the Commission has been specially invited to consider.

#### PROPOSALS OUTLINED.

13. Details of these proposals were laid before us in a memorandum prepared by the Resident Commissioner (Appendix "B")\*;

\* Not printed.

to this memorandum were attached letters which had passed between himself and his officials and Mr. Pott, showing the course which their discussions had taken. The essence of Mr. Honey's proposals was that each mineral concessionaire should be offered the choice between three alternatives, namely, (1) that he should work his ground himself, or (2) that he should consent to it being thrown open for prospecting and mining by others on conditions similar to those prescribed by the Precious and Base Metals Act, 1908, the law which regulates prospecting and mining in the Transvaal, or (3) that he should pay a tax such as is provided for in Proclamation No. 33 of 1921.

14. Under present conditions prospectors and miners who wish to work in Swaziland, outside the limited Crown mineral areas, have to make their own arrangements with the mineral concessionaire on whose land they wish to work. Some concessionaires have in the past afforded opportunities to prospectors to work on their land subject to agreements laying down the rewards to which they are to be entitled in the event of any discovery. But Mr. Honey's view was that if mineral concession areas were thrown open to prospecting and mining under Government control on uniform terms prescribed by law, and mining titles in respect of such areas were obtainable from the Government, prospectors and miners would have greater confidence, and would be encouraged to come to the country, and mineral developments would thus be stimulated.

#### ATTITUDE OF CONCESSIONAIRES.

15. The evidence which we have heard from concessionaires and their representatives has been unanimous in favour of the adoption of Mr. Honey's proposal that some provision should be made for the throwing open of mineral concession areas to mining and prospecting, subject to provisions based generally on the lines of the Transvaal law; and some concessionaires are even prepared to accept compulsory throwing open of all concession areas which are not being adequately worked by or under the authority of the concessionaires themselves. Provisions for compulsory throwing open would, of course, render the third proposed alternative, a tax on unworked areas, unnecessary. But other concessionaires prefer the third alternative of a tax to the compulsory throwing open of areas without the concessionaires' consent. The terms of our reference, which require us to recommend "what steps should be taken by the Administration in consultation with the holders of mineral concessions for authorizing and encouraging mining operations thereon," do not seem to us to contemplate compulsory throwing open of concession areas; further, provision for the compulsory throwing open of all unworked areas may give rise to objections on grounds of principle, as involving undue interference with private rights, and it appears from evidence given that compulsory throwing open might conceivably cause serious hardship to a concessionaire who, though intending ultimately to develop his concession himself, might be temporarily unable to do so; the third alternative of a tax on unworked areas should therefore, in our opinion, be retained.

16. Two other suggestions were made by witnesses representing mineral concessionaires, which may be conveniently mentioned here.

17. Mr. Allister Miller, who gave evidence on behalf of the Swaziland Corporation, suggested that there should be a fourth alternative—namely, that a concessionaire should be entitled, if he chose, to abandon his concession. He advocated the giving of this right to mineral concessionaires, both in their own interests, in order that they might be enabled to escape the liabilities involved in continuing to hold their concessions, and in the interests of the farming community and of the development of the country as a whole. His idea was that if the right of abandonment were given, the owners of land rights in respect of areas abandoned by mineral concessionaires would be relieved of the incubus of prior-dated mineral rights, including ancillary rights, and that the position of the surviving mineral concessionaires would be rendered more secure, and less open to controversy, owing to the restriction of the areas subject to prior-dated mineral rights.

Some mineral concessions contain a clause giving the concessionaire the right to "abandon" his concession on certain conditions.

While we do not think that any absolute right should be given to a concessionaire to surrender a concession, we think it is desirable that provision should be made enabling the High Commissioner to accept the surrender of a concession on such terms as he shall think fit. Where the surrender of a concession is accepted we propose that all rights held under the surrendered concession should vest in the High Commissioner, who will be able to deal with such rights in such manner as seems expedient in the interests of the whole territory.

18. Mr. J. W. Reilly, manager of the McCreedy Tins, suggested in his evidence that two years' notice should be given to mineral concessionaires before legislation on the lines suggested is brought into force. In view, however, of the fact that the Swaziland Mineral Rights Taxation Proclamation was promulgated in June, 1921, and provided for payment of the proposed tax in respect of

the year 1921, and of the discussions which have since been in progress between the Swaziland Administration and the concessionaires, we do not think that this further period of notice before legislation on the lines proposed takes effect can reasonably be asked for.

#### ATTITUDE OF FARMING COMMUNITY.

19. No witness specially chosen to represent the farming community and the landowning interests of Swaziland appeared before us, but the Resident Commissioner was able to give us information as to the views and anxieties of the landowner, and Mr. Millin, as member of the Advisory Council, and Mr. Allister Miller, as representing a company with large land interests, also dealt with the proposals made in reference to their effect on the interests of farmers and landowners.

20. Mr. Honey said that there was some anxiety on the part of landowners on the question of ancillary rights. "The owners of farms rather fear an inrush of prospectors, who under ancillary rights would be able to cut timber, plant mealies, graze cattle, and so on." "On the point of ancillary rights I want to make it clear that in any scheme of this kind it would be most essential to limit these rights, whether the fears of the farmers are illusory or not, in the case of individuals, not in the case of mineral concessionaires working themselves." He suggested that the ancillary rights granted to prospectors and miners on concession areas should be restricted to those which may be granted to prospectors and miners on Crown mineral areas under the Crown Mineral Areas Proclamation, 1912. With regard to cultivation rights, he said that, in his opinion, the miner who was not a concessionaire should not be allowed to grow mealies to feed his mine boys. He could have a garden attached to his home, but he should not have rights of cultivation in addition to that. He also referred to the question of imposing on the claimholder on a concession area responsibility for compensating the surface-owner for injurious acts.

21. Mr. Millin, in dealing with these points, said:—"The farming people are anxious to encourage the mineral development of the country, but they are rather afraid of the ancillary rights that exist in Swaziland. They realize that these are vested rights to-day. But if these ancillary rights are handed on to prospectors indiscriminately, they may abuse them to the detriment of the landholders, who have no real remedy against them. The present holder is a man of substance; he has an asset in his mineral concession. The prospector may come into the country who may be a man of straw, and if he abuses the ancillary rights it may be impossible for the farmer to be reimbursed for losses sustained. That is one of their objections to handing over these rights to peggers. A second point is this: the ancillary rights are a very harsh servitude against the land titles, which, until recently, they did not fully understand. Up to date the mineral work of the country has been so little as to make little difference to them. But handing them over to peggers will have the effect of keeping down the value of land in the country generally. They wish these ancillary rights, as far as peggers are concerned, to be on the same basis as if a pegger came into the country to-day under the Proclamation of 1912 on a Crown mineral area. The miner should have the use of ancillary rights in the same way as granted under the Crown Mineral Areas Proclamation, and if he requires surface rights he should make application to the Resident Commissioner in the same way."

22. The provisions which we suggest should be made to meet these points can best be explained in the course of our comments on the draft of the proposed Proclamation, to which we are about to refer.

#### LEGISLATION REQUIRED.

23. The Crown Mineral Areas of Swaziland Proclamation, 1912, in making provision for prospecting and mining upon Crown mineral areas, followed to a certain extent the lines of the Precious and Base Metals Act, 1908, of the Transvaal, and it will be convenient to apply some of the provisions of that Proclamation for the purpose of regulating the prospecting and mining which it is now proposed to authorize on mineral concession areas in Swaziland. But that Proclamation did not make provision for discoverers' rights in the manner in which it will now be necessary to make such provision; and owing to the fact that such rights have now to be provided for, and that provision has also to be made for granting to the mineral concessionaire the right to select a reserve, corresponding to the *mynpacht* under the Transvaal law, and otherwise protecting his rights, as well as for further safeguarding the position of the landowner, many difficult questions which are not covered by the Crown Mineral Areas Proclamation arise in working out a detailed scheme of legislation to give effect to the general proposals put forward by the Resident Commissioner.

24. We recommend the adoption of the Resident Commissioner's proposals as outlined in paragraph 13, and in order to put our detailed recommendations in concrete form, we submit for Your Excellency's consideration, in compliance with the requirement of paragraph (b) of our terms of reference, a draft of the Proclamation which will be required in order to give effect to these proposals. We now propose to offer such comments as appear to be necessary for the purpose of explaining and justifying the provisions of this draft.

#### COMMENTS ON DRAFT PROCLAMATION.

25. The draft follows generally on the lines of the Crown Mineral Areas Proclamation where it deals with matters which are covered by the provisions of that Proclamation. Certain provisions of that Proclamation have been incorporated by reference (*vide* clause 20). In other cases it has been found preferable, for the sake of clearness, to reproduce *in extenso*, with the necessary verbal alterations, the provisions of that Proclamation which were to be applied. Many of the provisions of the draft are based on the Precious and Base Metals Act, No. 35 of 1908, of the Transvaal. In order to facilitate comparison, marginal notes have been inserted giving reference to the corresponding provisions of these two enactments.

#### Preliminary Provisions.

26. The definitions are for the most part on the same lines as those contained in the Crown Mineral Areas Proclamation, 1912, the majority of which are in turn based on the definitions contained in the Precious and Base Metals Act, 1908, of the Transvaal.

Other definitions, such as those of "mineral concession" and "improvement," are based on definitions contained in the Swaziland Ancillary Rights Proclamation, 1910, and kindred Proclamations, but have been adapted to meet the requirements of this draft.

The only definitions with which it is necessary to deal specially are the definitions of precious and base metals. These definitions are based on the corresponding definitions in the Precious and Base Metals Act, 1908, of the Transvaal, which were reproduced almost verbatim in the Crown Mineral Areas Proclamation, 1912, the only material difference being that lime, stone, sand, and clay were excluded from the Swaziland definition of base metals. But in one important respect the definition of base metals contained in the present draft differs from the definition of base metals contained in the Crown Mineral Areas Proclamation: the new definition specially excludes from "base metals" coal, torbanite, and oil-shale.

27. The question of coal has already been referred to (*vide* paragraph 10). The existence of coal in Swaziland has been known for many years, and extensive coal-beds have been opened up in several places. At present it does not pay to work this coal, owing to absence of railway communication. In view of the exploration work already done, and the information obtained, discoverers' rights with regard to coal could not now be reasonably claimed in those areas where it is known or believed to exist, and, as the Resident Commissioner remarked, "there would be no object in allowing a discoverer to sit on that coal (i.e. the coal measures already located) until a railway came." We have therefore considered it advisable to exclude coal and its kindred minerals, torbanite and oil-shale, from the scope of the proposed Proclamation.

28. We have omitted from the draft any reference to precious stones. The evidence of past prospecting is against any probability of any precious stones being found in Swaziland, and it does not therefore appear necessary to provide for their being worked under the new law.

29. A further point of some importance arises in connection with the proposed definition of "precious metals." The definition adopted in the Crown Mineral Areas Proclamation follows the lines of the definition contained in the Precious and Base Metals Act, 1908, by including, in addition to gold and silver, "any other metal (not being a base metal) declared by the High Commissioner by notice in the *Gazette* to be a precious metal."

30. Owing to the recent proclamation of platinum as a "precious metal" under the Transvaal Act, the power of proclaiming additional metals as "precious metals" has become a subject of controversy. But in Swaziland the question of the distinction between precious and base metals is of very much less importance than in the Transvaal. The question whether a metal is a precious or a base metal vitally affects the rights of the Transvaal landowner, because the Transvaal law recognizes in the fullest way the rights of the landowner to base metals, but retains for the Crown the right of mining for and disposing of all precious metals, and only gives the landowner limited rights of participation in the mining of precious metals, while severely restricting his rights over the surface of his land when such land has been proclaimed a public digging for prospecting and mining for precious metals. In Swaziland the distinction between precious and base metals does not affect the landowner in any way, owing to the fact that ownership of land does not carry with it any right either to precious or base metals. The mineral concessions are as a rule concessions for both precious and base metals; to this rule there appear to be only two exceptions, namely, two concessions (Nos. 20 and 47), which confer rights to precious metals and precious stones, but not to base metals. Under the Crown Mineral Areas Proclamation higher rates are charged, as under the Precious and Base Metals Act of the Transvaal, for prospecting and diggers' licences in the case of precious metals (section 17), and the taxation payable by the person carrying on mining operations for base metals is at a lower rate than in the case of precious metals (section 28). The mineral concessionaire, if, as is proposed, he receives the claim licence moneys in respect of claims on his ground, will benefit by the higher rate charged in the case of precious metals.

No platinum has as yet been discovered in Swaziland, so the question of the classification of that metal in Swaziland is of no immediate practical importance. But if the enabling words at the end of the definition of precious metals, as contained in the Crown Mineral Areas Proclamation, were omitted in the new Proclamation, this omission would no doubt be interpreted as a decision that no metal other than gold or silver would be recognized as a precious metal in Swaziland, and this might have an embarrassing effect in future, and lead to a divergence between the classification of metals adopted in Swaziland and that in force in the Transvaal. On the whole, therefore, while abstaining from expressing in this report any opinion on the merits of the controversy which has arisen in the Union on the subject of the definition of precious metals, we think it best to adhere in the proposed Proclamation to the definition of "precious metals" contained in the Crown Mineral Areas Proclamation, and to retain the enabling words at the end of the definition.

#### Chapter I.—Prospecting.

31. Clause 4 enables the Resident Commissioner to declare any mineral concession area or portion thereof open for prospecting, provided that the written consent of the mineral concessionaire has first been obtained. This clause should be read in relation to the taxation provisions contained in Chapter V of the draft, and more especially clause 27, the first clause of that chapter. It will be observed that a proviso to the sub-clause (1) lays down that any portion of a mineral concession area on which mining operations have already been carried on shall not be included in an area thrown open for prospecting unless the Resident Commissioner is satisfied that it is reasonable to require that opportunities shall be given for prospecting on such portion (*cf.* the corresponding proviso to clause 27). The object of these provisos is to afford reasonable protection to existing mine workings on which operations have been suspended, but which a concessionaire may wish to keep intact with a view to resumption of work at a later date. It will be observed that under sub-clause (4) of this clause an area may be thrown open for prospecting for particular precious or base metals only.

#### Chapter II.—Discovery.

32. The provisions of this chapter follow closely on the lines of those contained in the corresponding chapter of the Precious and Base Metals Act. The only point to which it is necessary to refer specially is the provision in clause 10 (1) with regard to the discoverer's reward. In this clause a distinction is made between a discovery of an alluvial deposit and other discoveries. In the case of discoveries of precious or base metals not being alluvial deposit, the maximum and minimum numbers of claims which a discoverer may obtain the right to peg are the same as in the Transvaal, namely, in the case of precious metals not less than 10 (the figure applicable to private land in the Transvaal) and not more than 50, and in the case of base metals not less than 10 and not more than 100 (the figures applicable to Crown land in the Transvaal). But in the case of alluvial deposits the figures proposed are much smaller, the minimum number being 1 and the maximum 5 for both precious and base metals.

33. This provision with regard to alluvial deposits has special reference to the deposits of alluvial tin which have been found in Swaziland. The best deposits usually lie in limited areas along the beds of streams. It is therefore necessary to restrict the number of discoverers' claims in order that the discoverer may not take the whole of the alluvial deposit, though the result of such restriction may be that, where the deposit is of low grade, the number of claims allotted to the discoverer will not be sufficient by themselves to constitute a workable proposition.

34. The Commission was urged by one witness, Mr. W. Mather, to increase the reward given to discoverers in Swaziland above that allowed in the Transvaal, on the ground that the difficulties of transport in the territory were such as to involve a serious addition to the prospector's costs. In view, however, of the fact that similar difficulties exist in parts of the Transvaal, we do not think that this fact affords a sufficient reason for increasing the maximum number of claims that may be awarded to discoverers in Swaziland. But such difficulties will no doubt be taken into account in fixing the number of claims within the maximum limit fixed to be allotted to any individual discoverer.

#### Chapter III.—Rights of Mineral Concessionaires.

35. By this chapter the mineral concessionaire is given two rights in respect of land forming portion of his concession area which is proclaimed as a public digging under the next succeeding chapter, namely:—

- (1) The right to select a concessionaire's reserve; and
- (2) the right to receive the whole or a share of the licence moneys and rentals payable by the holders of mining title.

On the other hand, the chapter provides (clause 13) that under proclamation the concessionaire shall cease to be entitled to exercise any rights conferred by his concession in respect of any portion of the land proclaimed other than the concessionaire's reserve, and that so long as the land remains proclaimed all such rights shall be deemed to vest in the High Commissioner for the purposes of the new law.

36. The "concessionaire's reserve" corresponds to the *mynpacht* under the Transvaal law, but no new rights are conferred on the concessionaire in respect of this reserve during the life of his concession; he simply retains intact in respect of the reserve the rights already enjoyed under his concession. When the concession expires, the concessionaire is to have the right (clause 12) to obtain, if he wishes it, a mineral lease of the land included in his reserve, so that he may continue his mining operations thereon. For this lease he will be charged a rental equivalent to the claim licence moneys which would be payable if the land were held as claims.

37. The draft provides that the right to select a concessionaire's reserve on any land shall only arise where notice of intention to proclaim has been given, and that the reserve shall consist of one or two areas, which shall not in the aggregate exceed 600 morgen or be more than one-fifth of the land to be proclaimed within the mineral concession area. Under clause 16, 3,000 morgen is fixed as the maximum area of a digging included in one proclamation. The proportion which the reserve will bear to the area to be proclaimed is the same as the *mynpacht* in the Transvaal bears to the land to be proclaimed or to the farm, and the maximum area to be included in one proclamation has been fixed at 3,000 morgen so as to correspond with the normal area of a Transvaal farm. Most mineral concession areas are much more than 3,000 morgen in extent, and it is necessary to fix some reasonable unit of size for the purpose of proclamation so as to prevent concessionaires' reserves being unduly large.

38. The position with regard to claim licence moneys and rentals is complicated by the fact that it is necessary to distinguish—

- (1) between prior-dated and later-dated mineral concessions (i.e. mineral concessions prior or subsequent in date to land rights); and
- (2) between the period while the mineral concession remains in force and the period subsequent to its expiry or cancellation.

39. We have adopted the proposal of the Resident Commissioner that in the case of proclaimed land which is subject to a prior-dated mineral concession the concessionaire shall be entitled to the full amount of the claim licence moneys and rentals under mineral leases.

40. The holder of a later-dated mineral concession is in a very different position under the law to the holder of a prior-dated mineral concession; before he can prospect on his area he has to obtain either the consent of the owner of the surface rights over his area or a permit from the Resident Commissioner (Swaziland Surface Rights Proclamation, 1910, section 3). Before he can mine on his area he has either to obtain the consent of the owner of the surface rights or to go before a board (consisting of the Assistant Commissioner of the district or some other person specially appointed by the High Commissioner and two unofficial members), which can grant or refuse permission, and fix the compensation payable for interference with surface rights (section 4 of the same Proclamation). We propose that where there is a later-dated mineral concession, the licence moneys and rentals shall be divided between the mineral concessionaire and the holders of surface rights in such proportions as may be agreed upon between them or, failing agreement, in such proportions as may be determined by the board, and that any share of claim

licences or rentals awarded to the owner of surface rights by the board shall be deemed to be on account of the compensation to which he is entitled under the section last quoted.

41. We propose that after the expiry of the mineral concession the licence moneys and rentals shall be paid half to the owners of surface rights and half to the public revenue. This provision must be viewed in relation to the provision contained in clause 25 that the existence of a public digging and the rights held in respect thereof, other than the rights of the mineral concessionaire, shall not be affected by the expiry or cancellation of the mineral concession within the area of which the digging has been established. From the expiry or cancellation of a mineral concession the mineral rights in respect of the area affected, if not included in any other mineral concession, vest, not in the landowner, but in the High Commissioner on behalf of the Crown under the provisions of the Crown Lands and Minerals Order-in-Council, 1908; but such rights will be later dated to the land rights in respect of the same area, and no provision appears to be made in the Surface Rights Proclamation for enabling such rights to be exercised (cf. section IV of Report of Swaziland Water Commission, 1909).<sup>\*</sup> It is not desirable that the expiry of a mineral concession should involve the closing of a public digging, but the landowner is entitled to some compensation for the burden thrown upon him by its continuance, and therefore it seems best in this case to give the owner of surface rights a fixed share of the claim licence moneys and rentals which are paid by the holders of mining title on such digging. When there is more than one holder of surface rights, provision is made for apportionment between the different holders of the amount payable.

42. By clause 13 (2) a discretionary power is given to the Resident Commissioner to permit, subject to regulation, the holders of mining title to exercise surface or ancillary rights in respect of the land proclaimed, but only so far as may in his opinion be necessary for the purpose of effective exploitation of the land held under mining title. Further reference to this point will be made when we come to clauses 21 to 23 in the next chapter.

43. Clause 13 (3) provides that any rights to mine or prospect for minerals granted by a mineral concessionaire before the taking effect of the new Proclamation, or before a date to be specially fixed, shall not be affected by proclamation of the land to which they relate. This seems to be the best way of dealing with any mineral leases granted by concessionaires prior to the date when this proposed legislation becomes public. Normally land included in mineral leases so granted will not be proclaimed. If such leases are granted after the date when this proposed legislation is made public, or is promulgated, the lessees will have had notice of the possibility of interference with their rights by reason of the proclamation of their land, and any such rights will therefore be regarded as granted subject to the contingency of such interference.

#### Chapter IV.—Proclamation of Public Diggings.

44. We have already dealt with the provisions of clause 16, which limits to 3,000 morgen the area of a public digging included in one proclamation.

Clause 19 enables the Resident Commissioner to deal with proclaimed land either by throwing it open to pegging or by granting mineral leases. Clause 20 incorporates the provisions of the Crown Mineral Areas Proclamation which relate to pegging and certain other matters, including the royalty payable to the Swaziland Administration on base metals won. In the event of any considerable development on mineral concession areas, some of these provisions, e.g. that relating to lapsing of claims to the Crown contained in section 22 of the Crown Mineral Areas Proclamation, may require revision and modification, but it seems unnecessary to open up such questions at this stage.

45. Clause 21 provides for the manner in which the three Proclamations of 1910, relating respectively to water, surface rights, and ancillary rights, are to operate in respect of proclaimed portions of mineral concession areas. The plan proposed is that in the case of all such proclaimed land with the exception of concessionaires' reserves the Government, as represented by the Assistant Commissioner of the district, or some other officer specially appointed, shall take the place of the proprietor of the mineral concession for the purpose of all proceedings under these Proclamations, and shall be primarily liable for payment of any compensation awarded to the owners of surface rights, and for the costs of any work ordered to be done for the protection of such owners, subject to the qualification that the Government will not be liable for payment of compensation or costs in respect of any acts done by a holder of mining title unless the board awarding the compensation finds that the act was done by such holder in accordance with permission granted by the Resident Commissioner.

46. Clause 13 (2), as already mentioned, gives the Resident Commissioner power to permit holders of mining title to exercise surface or ancillary rights or rights to water conferred in respect of proclaimed land by the mineral concession within the area of which it is situate so far as he thinks necessary for the purpose of the effective exploitation of the land held by them. Clause 22 provides that the holder of mining title shall not be entitled to use the surface of the ground held thereunder otherwise than for mining, save in accordance with permission given under clause 13.

47. Clause 23 makes it an offence for a holder of mining title on proclaimed land to interfere with any improvement made thereon by any proprietor of surface rights or any person holding under such proprietor without written permission given by or on behalf of the Resident Commissioner, and provides for the summary assessment and award of any damages caused by contravention of this section. Clause 43, which may also be referred to in this connection, makes it an offence for any person to prospect or mine on land thrown open or proclaimed under this Proclamation in unauthorized or forbidden places, and section 23 of the Crown Mineral Areas Proclamation, which is made applicable by clause 20 to land thrown open for prospecting or proclaimed under this Proclamation, contains a list of such places: the places in which prospecting is not authorized without special written permission include land used as a garden or orchard or under cultivation and land within 200 yards of any house, homestead, or building.

48. We think these different provisions provide adequate safeguards for the owners of surface rights in respect of the points referred to in paragraphs 20 and 21 of this report. For damage

done to improvements by a holder of mining title, the landowner will be entitled to claim against the Government if the act causing the damage was done in accordance with permission given by the Resident Commissioner. The Resident Commissioner's power to give such permission and to permit the exercise of surface and ancillary rights on proclaimed land is restricted by clause 13. Damage to improvements caused by holders of mining title when acting without the necessary permission renders such holders liable to prosecution for an offence under clause 23, and in proceedings under this clause the amount of damage done can be summarily assessed and awarded to the aggrieved party.

49. While the primary liability for payment of compensation to the owner of surface rights is imposed by clause 21 on the Government, sub-clause (2) of that clause gives the Resident Commissioner power to allocate and apportion any payments of compensation which the Government may be called on to make among the holders of mining title concerned. We have added a provision enabling the Resident Commissioner to make the amounts so allocated or apportioned payable in monthly instalments and recoverable from claimholders as additional claim licence moneys.

50. Clause 24 makes provision for deproclamation of public diggings on the lines of the corresponding section of the Transvaal law.

51. Clause 25, to which we have already referred when dealing with clause 14, provides not only that expiry or cancellation of a mineral concession shall not affect the existence of a public digging established within the area of such concession, but also that the surrender or transfer of the mineral concession to the Crown shall not affect the existence of such a public digging, and excludes the application to such a digging of the provisions of the Crown Mineral Areas Proclamation. It is obviously undesirable that a digging once established under the new Proclamation should, owing to a change in the position with regard to the mineral concession within the area of which it is established, become subject to the provisions of another mining law which differs in some material respects from the new Proclamation as now proposed.

52. Clause 26 contains further protection for the holders of surface rights by expressly providing that nothing in the Proclamation shall authorize the High Commissioner, or the Resident Commissioner on his behalf, to confer on the holder of any mining title in respect of any portion of any mineral concession area greater rights in respect of such area during the life of the mineral concession than those conferred by the concession on the mineral concessionaire himself. While the mineral concession lasts, therefore, the landowner on proclaimed land will be protected against any interference with his rights which is not authorized by the terms of the mineral concession. For the extra burden which may fall upon him through the continued existence of a public digging on his land after the mineral concession expires he will be compensated by his share of the claim licence moneys. The only extra burden which may possibly fall upon the landowner under the provisions of this Proclamation without entitling him to compensation will result from the provisions of clause 6, which enables a prospector, for the purpose of authorized prospecting, to graze a limited number of draught animals, and to use water and dead wood as permitted by the Resident Commissioner, even where such privileges are not enjoyed by the mineral concessionaire under his concession.

#### Chapter V.—Undeveloped Minerals Tax.

53. This chapter makes fresh provision, on the lines of the Mineral Rights Taxation Proclamation, 1921, for taxation of unworked mineral concession areas where the mineral concessionaire, on being invited to consent to the throwing open of his area for prospecting, declines or fails to do so. It thus provides for the third of the three alternatives mentioned in paragraph 13 of this report.

54. The chapter provides (clause 28) that the Resident Commissioner shall prepare a provisional assessment list showing the concessionaires who appear to him to be liable to payment of the tax, the areas in respect of which the tax appears to him to be payable, and the amount of the tax payable by each concessionaire. This list is to be open for inspection, and notice is to be given to the concessionaires affected. Clause 29 provides that objection to any provisional assessment may be made on certain specified grounds, and clause 30 requires the Resident Commissioner to deal with such objections, and enables him to set aside or reduce the assessment or to confirm the same.

55. Clause 32 gives any concessionaire who is dissatisfied with the decision of the Resident Commissioner on an objection made to a provisional assessment the right to appeal to the High Commissioner. Clause 33 requires the High Commissioner to appoint an Appeal Board to which he may refer appeals made under this section. The board is to consist of not less than three and not more than five members, and, if there are three members, not less than two, and if there are more than three, not less than three are to be persons having technical knowledge of mining. The board is to report to the High Commissioner, and the High Commissioner, before dealing with an appeal which has been referred to the board, is required to consider the board's report thereon.

56. We think that the establishment of this proposed board, to advise the High Commissioner with regard to appeals, will, if the taxation provisions become operative, serve a useful purpose in settling the principles upon which any questions which may arise, in connection with the assessment of the tax, as to the adequate exploitation of particular mineral concession areas are to be decided.

#### Chapter VI.—Further Provisions as to Mineral Concessions.

57. This chapter contains two further provisions affecting mineral concessions. The provision in clause 37 with regard to the surrender of mineral concessions has already been dealt with in paragraph 17 of this report. Clause 38 makes provision for protecting a mineral concessionaire from liability for contingent payments under the terms of his concession by reason of any discovery made or work done under the authority of a prospecting permit or mining title issued under the Proclamation outside the concessionaire's reserve, where such discovery is made or work done by some person other than the concessionaire himself who is not acting on his behalf. The clause provides that the Proclamation shall not affect in any other way the liability of a mineral concessionaire to pay rental or other sums in accordance with the terms of his concession.

<sup>\*</sup> See Notice No. 31 of 1909, published in *High Commissioner's Gazette* No. 397 of 18th June, 1909.

## Chapter VII.—General.

58. This chapter contains provisions as to the making of regulations, as to various offences, and as to other miscellaneous matters which do not call for special comment.

All of which we humbly submit for Your Excellency's consideration.

RICHARD FEETHAM,  
*Chairman.*  
U. P. SWINBURNE,  
*Commissioner.*  
WM. POTT,  
*Commissioner.*

10th June, 1924.

L. J. PUTTICK, *Secretary.*

## DRAFT PROCLAMATION.

By His Excellency THE HIGH COMMISSIONER.

Whereas it is expedient to provide by law for the throwing open of areas of land in Swaziland held under mineral concessions to prospecting and mining by persons other than the concessionaires subject to the consent of the concessionaires being first obtained;

And whereas it is expedient to provide that where a concessionaire withholds such consent in respect of any land held under a mineral concession which is reasonably capable of exploitation by prospecting or mining and which is not being adequately exploited by the concessionaire such land shall be subject to an undeveloped minerals tax subject to such conditions as are herein after contained;

And whereas it is expedient to enable the High Commissioner to accept the surrender of mineral concessions where the concessionaires desire to surrender the same;

And whereas it is expedient to make other provisions incidental to, or connected with the matters above mentioned;

Now therefore under and by virtue of the powers, authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903, as amended by Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare, proclaim and make known as follows:—

## Definitions.

1. In this Proclamation unless the context otherwise requires—

"arbitration" shall mean arbitration in accordance with the Arbitration Ordinance 1904 of the Transvaal as in force in Swaziland and any amendment thereof;

"base metals" shall mean quicksilver, iron, lead, copper, tin, zinc, cobalt, nickel, arsenic, manganese, antimony, bismuth, as well as the ores of such metals and sulphur, graphite, or any other mineral substance, not specially excluded from this definition, for the exploitation of which no special provision is made by law, but shall not include coal, torbanite, oil, oil-shales, limestone, sand or clay;

"claim" shall mean a portion of any mineral concession area lawfully pegged as a claim under this Proclamation, and on which the right to prospect and dig for precious or base metals has been lawfully obtained hereunder;

"diagram" shall mean a diagram prepared by a person lawfully admitted to practice as a land surveyor;

"dig" shall mean intentionally to win precious or base metals (as the case may be) from the earth and shall include all excavating necessary for the purpose whether by underground working open cutting boring or otherwise;

"digger's licence" shall mean a digger's licence issued under this Proclamation;

"discoverer" shall mean a person who holds a certificate issued under section ten of this Proclamation;

"imprisonment" shall mean imprisonment either with or without hard labour;

"improvement" shall mean any cultivated soil, road, dam, furrow, plantations, crops, buildings, drainage, fencing, clearing, or other work or structure by which the value of land has been increased;

"mine" when used as verb shall have the same meaning as "dig";

"mineral concession" shall mean a concession made by or on behalf of the King or Paramount Chief of Swaziland and confirmed either by the late Chief Court of Swaziland or by the High Commissioner under Proclamation No. 63 of 1908, giving a right to precious or base metals precious stones minerals or mineral products on any piece of land, and where the area subject to any such concession has been subdivided shall include the title to any subdivision thereof, but shall not include any such concession which is vested in the High Commissioner or other authority representing the Crown;

"mineral concessionaire" shall mean any person in whose name is registered in the Deeds Office of Swaziland any mineral concession; it shall further include the legal representative of any such person who has died become insolvent is a minor or is of unsound mind or is otherwise under disability; provided that a person shall not be deemed to be a mineral concessionaire by reason only of the fact that he is the holder of a concessionaire's reserve or of any rights in respect of such reserve;

"mining title" shall mean a prospecting or digger's licence or any other right to mine granted under this Proclamation or any amendment thereof;

"precious metals" shall mean (a) gold and silver and their ores and gold or silver found in combination with a base metal where such gold and silver cannot be worked apart from such base metal and the value of the gold or silver exceeds the cost of producing both such precious and base metals; (b) any other metal (not being a base metal) declared by the High Commissioner by notice in the *Gazette* to be a precious metal for the purposes of this Proclamation and the regulations;

"proclaimed land" shall mean land proclaimed a public digging under this Proclamation provided it has not been lawfully deproclaimed;

"prospecting" shall include all work which is necessary for or incidental to the search for precious or base metals;

"prospecting licence" shall mean a prospecting licence issued under this Proclamation;

"prospector" shall mean the person or persons by whom or on whose behalf a prospecting permit is held under this Proclamation;

"regulation" shall mean a regulation made by the High Commissioner under the powers of this Proclamation;

2. The supervision and control of prospecting and mining on all mineral concession areas or portions thereof thrown open to prospecting or proclaimed under this Proclamation shall be vested in the Resident Commissioner who shall exercise all rights powers and jurisdiction conferred upon him by this Proclamation or any law amending the same subject to any instructions or regulations not inconsistent therewith issued or made by the High Commissioner from time to time.

3. The High Commissioner may from time to time appoint such other officers as he may consider necessary to assist the Resident Commissioner in carrying out the provisions of this Proclamation and any regulations made hereunder.

## CHAPTER I.

## PROSPECTING.

4. (1) It shall be lawful for the Resident Commissioner by notice in the *Gazette* to declare any mineral concession area or portion thereof open for prospecting provided that the written consent of the mineral concessionaire to such declaration has first been obtained in the form prescribed by regulation: And provided always that any portion of a mineral concession area on which mining operations have already been carried on shall not be included in any area thrown open for prospecting under this section, unless the Resident Commissioner is satisfied that it is under all the circumstances reasonable to require that opportunities shall be given for prospecting on such portion under this Proclamation.

(2) Any such notice shall specify the land to which it applies by reference to the mineral concession area of which such land forms part and such land shall for the purpose of the notice be described as a "section" which shall be identified by letters or numbers or by a combination of letters and numbers, or may be divided into one or more sections which shall be so identified.

(3) No section shall contain land forming part of more than one mineral concession area except where the same area of land is subject to more than one mineral concession, or where the same concessionaire holds similar rights under different concessions in respect of adjoining areas.

(4) It shall not be necessary to survey the boundaries of sections before the same are thrown open for prospecting under this section, but such boundaries may for the purpose of any notice hereunder be indicated by reference to the boundaries of other concessions or to natural features or otherwise, and where any doubt arises as to whether or not a piece of land is included in a particular section the question shall be referred to the Resident Commissioner whose decision shall be final.

(5) Sections of land thrown open for prospecting by a notice issued hereunder shall only be open to prospecting for such precious or base metals as may be specified in such notice, and the Resident Commissioner may in such or any subsequent notice attach conditions subject to which such prospecting shall be carried on.

(6) The Resident Commissioner may at any time by like notice withdraw from prospecting any land declared open for prospecting under this section without prejudice to any rights acquired under any prospecting permit while the land was so open.

5. Where any land has been declared open to prospecting under this chapter prospecting for such metals as may be mentioned in the notice may be carried on thereon under the authority of a prospecting permit, and no such prospecting shall be carried on thereon without such authority.

Supervision and control of prospecting and mining vested in Resident Commissioner. Cf. Section 3, Crown Mineral Areas Proclamation, 1912.

Power of High Commissioner to appoint officers. Cf. Section 4, Crown Mineral Areas Proclamation, 1912.

Power of Resident Commissioner to declare mineral concession area open to prospecting, subject to concessionaires' consent being obtained.

Cf. Section 10 (3), Precious and Base Metals Act, and section 5 (2), Crown Mineral Areas Proclamation.

Prospecting may be carried on under prospecting permit on land declared open. Cf. Crown Mineral Areas Proclamation, section 5.

Issue of and rights attaching to prospecting permits. Cf. Mineral Areas Proclamation, 1912, section 6; Precious and Base Metals Act, 1908, section 14.

How exclusive rights of prospecting on an area may be obtained. Cf. Precious and Base Metals Act, 1908, section 15.

Duty of prospector to report discovery of precious or base metals. Cf. Precious and Base Metals Act, 1908, section 17.

Investigation as to prospecting. Cf. Precious and Base Metals Act, 1908, section 18.

Rights and duties of discoverer. Cf. Precious and Base Metals Act, 1908, section 19.

6. (1) Subject to the provisions of this chapter a prospecting permit shall upon application be issued by the Resident Commissioner or other person authorized thereto by him to any white person of the age of sixteen years or upwards either on his own behalf or on behalf of another such person or persons or of an incorporated company. Every prospecting permit shall be in the form prescribed by regulation.

(2) A prospecting permit shall be available for prospecting for precious or base metals on land thrown open for such prospecting subject to the provisions of this Proclamation. It shall be in force for twelve months from the date of its issue, and a fee of five shillings shall be payable therefor.

(3) A prospector shall, for the purpose of authorized prospecting, be entitled to graze, free of cost, four draught animals, and, with the written consent of the Resident Commissioner or other person authorized thereto by him, such additional number of draught animals up to sixteen or may appear necessary; the prospector shall further have the right to use such water (not being water artificially conserved), and to take so much dead wood as the Resident Commissioner or such other person may authorize in writing.

7. (1) On land on which prospecting is permitted under this chapter, a prospector may peg an area (called a prospecting area) as far as possible rectangular in shape and not exceeding two thousand feet in length and two thousand feet in breadth. Such area shall be pegged by placing, in accordance with regulation, pegs on its sides and angular points. A prospector who has fulfilled the conditions of this section shall have the exclusive right of prospecting in such area so long as he prospects to the satisfaction of the Resident Commissioner and maintains his pegs according to regulation. In default of compliance by the prospector with the provisions of this section, the Resident Commissioner may declare forfeited the rights acquired thereunder, and such area, and any portion thereof, shall not be open for pegging by the same prospector within a period of twelve months from the date of such forfeiture.

(2) The prospector may at any time abandon the area, and shall report the pegging or the abandonment to the Resident Commissioner within one month, and if he abandon the area or forfeit the rights aforesaid, or whenever his prospecting permit expires, he shall remove the pegs. If the prospector fails to comply with any provision of this sub-section he shall be liable to a fine not exceeding ten pounds.

(3) No prospector shall be entitled under this section to peg or hold more than one prospecting area at one and the same time unless he satisfies the Resident Commissioner that he intends to prospect for liquid oil by deep boring, in which case he may be granted special permission to hold such number of prospecting areas as the Resident Commissioner may determine, within such area and for such period as the Resident Commissioner may think fit.

## CHAPTER II.

### DISCOVERY.

8. (1) It shall be the duty of every prospector who has discovered precious or base metals on land thrown open for prospecting under this Proclamation, to give notice in writing of such discovery to the Resident Commissioner within thirty days thereafter. With such notice there shall be transmitted a declaration containing particulars of the time when and the place where such discovery was made and any further particulars prescribed by regulation.

(2) If a prospector fails to comply with any provision of this section, or makes a declaration false in any material particular knowing the same to be false, he shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, and in default of payment to imprisonment for a period not exceeding three months; upon conviction of a prospector for such false declaration, the Resident Commissioner may declare forfeited any rights granted in consequence of it.

9. The Resident Commissioner may cause investigation to be made concerning the nature, extent, and results of prospecting, with a view to ascertaining if any discovery of precious or base metals, whether notified or not, has been made.

10. (1) When a discovery shall have been notified in accordance with section seven, in respect of any place on land thrown open for prospecting under this Proclamation, and the Resident Commissioner is satisfied that it is, or, having regard to all the circumstances, should be regarded as a genuine discovery and that there are reasonable grounds for believing that precious or base metals exist in payable quantities at such place, the Resident Commissioner shall give to the prospector a notice entitling him within a period specified thereby (not being less than thirty days) to peg at such place as follows:—

- (a) in the case of a discovery of precious metals (not being an alluvial deposit) not less than ten and not more than fifty claims;
- (b) in the case of a discovery of base metals (not being an alluvial deposit) not less than ten and not more than one hundred claims;

(c) in the case of alluvial deposits of precious or base metals not less than one and not more than five claims.

Provided that, if the discovery was made by prospecting or boring to a greater depth than one thousand feet, the Resident Commissioner shall increase the size of the area which may be pegged to such an extent as the High Commissioner may in each case approve, but not exceeding in any case fifty claims for every additional thousand feet of depth.

(2) If the prospector does not comply with the terms of the said notice within the period specified thereby, he shall be deemed to have abandoned his rights under this section.

(3) Such area shall, as far as possible, be rectangular in shape, and where a definite reef exists shall in respect of the proportions of length to breadth along and across the reef be at the highest as two is to one.

(4) As soon as the prospector shall have complied with the terms of the said notice, he shall be entitled to have issued to him a certificate in respect of the area pegged by him.

(5) Such certificate shall entitle the holder to the exclusive right of prospecting and mining on the said area for a period of three years from the date of the said certificate, but if the prospecting and mining is not carried on to the satisfaction of the Resident Commissioner, licence moneys calculated as provided in section seventeen of the Crown Mineral Areas (Swaziland) Proclamation 1912 shall thereupon be payable in respect of the area, and in any event shall become payable after the expiry of the said period of three years.

(6) As soon as the certificate is issued the provisions of the Crown Mineral Areas (Swaziland) Proclamation 1912 relating to claims, as incorporated in this Proclamation, shall apply to the said area, and as soon as licence moneys become payable, the said area shall, for all the purposes of this Proclamation and the regulations, be deemed to be claims.

(7) The terms of the notice mentioned in sub-section (1) shall be published in the *Gazette* and in a newspaper circulating in Swaziland and thereupon all prospecting, except by the discoverer, shall cease within such distance from the place where the discovery was made as the Resident Commissioner may determine.

## CHAPTER III.

### RIGHT OF MINERAL CONCESSIONAIRES IN RESPECT OF PROCLAIMED LAND.

11. (1) Where notice has been given under section sixteen of this Proclamation of intention to proclaim any mineral concession area or portion thereof as a public digging the mineral concessionaire shall, subject to the discoverer's rights (if any), have the right to select on the land to be proclaimed either one or two areas called a concessionaire's reserve which shall not in the aggregate exceed six hundred morgen or be more than one-fifth of the land to be proclaimed within the mineral concession area.

(2) The mineral concessionaire shall retain in respect of his reserve all rights conferred by his mineral concession.

(3) Where a definite reef exists, the proportion of the length of the reserve along the reef to its breadth across the reef shall be at the highest as two is to one, and it shall, as far as possible, be rectangular in shape.

(4) The mineral concessionaire shall lodge at the office of the Resident Commissioner a diagram of the reserve so selected together with a certificate of the Registrar of Deeds that he is the registered holder of the concession.

(5) If the concessionaire shall not have complied with the provisions of sub-section (4) within a period of six months after notice of intention to proclaim, he shall be deemed to have abandoned his right to the reserve.

(6) Ground selected as a reserve under this section shall, upon proclamation, be deemed to be proclaimed land, but shall not be dealt with under section nineteen save as is otherwise expressly provided in this Proclamation.

12. (1) The holder of a concessionaire's reserve shall be entitled on making application to the Resident Commissioner as herein provided to obtain a lease under section nineteen of this Proclamation of the area included in the reserve or any portion thereof as from the date of the expiry of the mineral concession under the terms of which the reserve is held provided that before such lease can be claimed all rental or other moneys payable under such concession up to the date of expiry thereof shall have been duly paid, and all the terms and conditions of such concession shall have been fulfilled by the concessionaire.

(2) Such application shall be made in the form prescribed by regulation not later than three months before the expiry of the concession or at such later date as the Resident Commissioner may in special circumstances allow.

(3) Such lease shall be for such period not being less than one year as the concessionaire may require, and shall be renewable from time to time at the will of the lessee, but shall contain such conditions as to cancellation for non-payment of rent or other breach of the conditions thereof as may be prescribed by regulation.

Rights of concessionaire to select concessionaire's reserve. Cf. Precious and Base Metals Act, 1908, section 20.

Right of holder of concessionaire's reserve to obtain lease on expiry of concession.

(4) The rental payable under such lease shall be payable in advance for each successive period of six months, and shall be the equivalent of the amount of claim licence moneys which would be payable in respect of the area leased if the same were held as claims.

(5) After the expiry or cancellation of the mineral concession under the terms of which a concessionaire's reserve is held, any land included in such reserve which is not leased under the provision of this section may be dealt with under section *nineteen* of this Proclamation.

Rights in respect of proclaimed and other than concessionaire's reserve.

13. (1) Upon proclamation of any portion of a mineral concession area the mineral concessionaire shall cease to be entitled to exercise any rights conferred by his concession in respect of any portion of the land proclaimed other than the concessionaire's reserve, and so long as the proclamation of such land remains in force all such rights shall be deemed to vest in the High Commissioner on behalf of His Majesty for the purposes of this Proclamation.

(2) It shall be lawful for the Resident Commissioner to permit subject to regulation the holders of any mining title in respect of land proclaimed under this Proclamation to exercise any surface or ancillary rights or any rights to water conferred by the mineral concession in respect of any land so proclaimed so far as may in his opinion be necessary for the purpose of enabling such holders effectively to exploit the land held by them under mining title.

(3) Notwithstanding anything in this section contained, where a mineral concessionaire has prior to the date of the taking effect of this Proclamation (or to the first day of.....1924), granted to any person any right to mine or prospect for minerals within the area of his concession such rights shall not be affected by proclamation of the land to which such rights relate.

Provisions as to persons to whom revenues derived from licence moneys and rentals shall be paid. Cf. Precious and Base Metals Act, 1908, section 42.

14. (1) All moneys received by the Resident Commissioner for the issue or renewal of prospecting or digger's licences or as rental under any lease of proclaimed land granted under section *nineteen* of this Proclamation, shall be dealt with as follows:—

(a) In the case of all such moneys as become payable in respect of any mineral concession area prior to the date at which the mineral concession expires or is cancelled, the same shall

- (i) if the mineral concession is a prior-dated concession, be paid by the Resident Commissioner to the mineral concessionaire on whose mineral concession area the claim or the land leased is situate or to his successors in title;
- (ii) if the mineral concession is a later-dated concession, be divided between such mineral concessionaire or his successors in title and the proprietors of the surface rights in respect of such area in such proportions as may be agreed between them or as failing agreement may be determined by a board exercising jurisdiction under section *four* of the Swaziland Surface Rights Proclamation, 1910; provided that any share of licence moneys or rental awarded hereunder to a proprietor of surface rights by such board shall be deemed to be on account of the compensation to which such proprietor is entitled under the said section, and if payment of such compensation is otherwise fully provided for the proprietor of surface rights shall not be entitled to any such share but the mineral concessionaire shall be entitled to receive the licence moneys and rentals without deduction.

(b) In the case of all such moneys as become payable in respect of any proclaimed portion of a mineral concession area after the date of the expiry or cancellation of the mineral concession, one-half thereof shall be paid by the Resident Commissioner to the proprietor of the surface rights in respect of such land, and the other half thereof shall be paid into the public revenue of Swaziland.

(2) Where there is more than one proprietor of surface rights in respect of any proclaimed land, the amount payable under this section to the proprietor of surface rights shall be apportioned between the different proprietors in such manner as may be agreed between such proprietors or as, failing such agreement, may be prescribed by regulation, or as the Resident Commissioner, acting under the directions of the High Commissioner, may determine.

(3) Payments required to be made under this section shall be made annually, or at such shorter intervals as may be prescribed by regulation, or determined by the Resident Commissioner.

(4) For the purpose of this section the terms "prior-dated" and "later-dated" in relation to mineral concessions and the terms "proprietor" and "surface rights" shall have the same meaning as is given to those terms by section *one* of the Swaziland Surface Rights Proclamation 1910, and the Resident Commissioner shall be deemed to be the proprietor of surface rights in respect of any native area described in the Schedule to the Swaziland Native Areas Proclamation 1917 as trustee for the natives concerned.

(5) Any moneys paid to the Resident Commissioner under this section as proprietor of surface rights in respect of a native area, shall be paid by him to the natives appearing to be entitled thereto, or otherwise applied by him for the benefit of such natives in such manner as in his discretion he may see fit.

15. (1) After the mineral concessionaire has lodged at the office of the Resident Commissioner the diagram and certificate required by sub-section (4) of section *eleven* the Resident Commissioner shall give written notice to the concessionaire requiring him to construct on the concessionaire's reserve selected by him beacons and trenches in accordance with this section and with regulation. If he does not comply with such notice within three weeks after the date thereof, the Resident Commissioner may cause the beacons and trenches to be constructed at the cost of the concessionaire.

(2) The beacons shall be constructed at the angular points of the concessionaire's reserve, and if required by the Resident Commissioner, line beacons shall be constructed at clearly visible distances (not exceeding one thousand yards) along its sides; whenever it is possible trenches shall be constructed so as to indicate the direction of the boundaries at each beacon.

(3) If the Resident Commissioner does not in the first instance require the construction of line beacons he may if he thinks necessary require the construction of such beacons at a later date, and may give written notice accordingly to the mineral concessionaire, and upon such notice being given, the provisions of sub-sections (1) and (2) shall apply in respect of the construction of such beacons.

(4) The beacons and trenches shall be maintained in repair to the satisfaction of the Resident Commissioner by the person for the time being entitled to the concessionaire's reserve, and if he shall make default in complying with a notice in writing by the Resident Commissioner, calling upon him to put the trenches and beacons in repair within a specified time, the Resident Commissioner may effect the necessary repairs at the cost of such person.

#### CHAPTER IV.

#### PROCLAMATION OF PUBLIC DIGGINGS AND PROVISIONS RELATING THERETO.

16. (1) Whenever the High Commissioner is satisfied that there are reasonable grounds for believing that precious or base metals exist in payable quantities on any land which has been declared open for prospecting under section *four* of this Proclamation, he may proclaim such land a public digging for any precious or base metals or for both precious or base metals after the discoverer's rights, if any, under this Proclamation have been ascertained and secured.

(2) The area of a digging included in one proclamation shall not exceed three thousand morgen, and no land shall be proclaimed which is not necessary for the purpose of the digging.

(3) Notice of intention to proclaim any land under this section shall be published in four consecutive weeks in the *Gazette* and in a newspaper circulating in Swaziland, and shall further be posted outside the principal door of the office of the Resident Commissioner for a period of one month.

(4) In the proclamation there shall be stated the date on which it shall take effect (not being less than thirty days after the first publication thereof), and in respect of any portion of the public digging which is to be declared open to pegging, the proclamation shall describe such portion and state the hour at which pegging may be commenced thereon.

(5) The Resident Commissioner shall cause notice to be given in the *Gazette* and in such other manner as he may think necessary of the places at which and the date upon and after which licences under section *seven* of the Crown Mineral Areas (Swaziland) Proclamation 1912, as incorporated in this Proclamation, may be obtained to peg claims on such portion.

17. After such proclamation, prospecting on the land proclaimed, other than prospecting on the concessionaire's reserve by the concessionaire or some person authorized by him, or prospecting by virtue of any such right as is mentioned in sub-section (3) of section *thirteen*, shall only be allowed under a mining title.

Beaconing of concessionaire's reserve. Cf. Precious and Base Metals Act, 1908, section 25.

Proclamation of public diggings. Cf. Precious and Base Metals Act, 1908, section 26.

No prospecting on proclaimed land, except under mining title. Cf. Precious and Base Metals Act, 1908, section 27.

18. No land shall be proclaimed a public digging until beacons in accordance with regulations have been erected at the angular points thereof as well as line beacons if deemed necessary by the Resident Commissioner at clearly visible distances at the cost of the public revenue, and a diagram of the land has been lodged at the office of the Resident Commissioner and the Deeds Office; nor, if a concessionaire's reserve has been selected, until the beacons and trenches mentioned in section *fifteen* have been constructed. If in the opinion of the Surveyor-General any existing diagram having reference to the land to be proclaimed is not sufficiently accurate, a new survey may be made by the Surveyor-General of the ground in accordance with the existing beacons and after due publication and passing of the new diagram the old diagram shall be cancelled by him.

19. The Resident Commissioner may deal with proclaimed land in either or both of the following ways:—

- (a) He may declare the whole or any portion thereof open to the public for the pegging of claims in accordance with the provisions of the Crown Mineral Areas (Swaziland) Proclamation 1912, as applied by the next succeeding section;
- (b) he may lease to any person the exclusive right to mine any precious or base metals for the

Beaconing of land before proclamation. Cf. Precious and Base Metals Act, 1908, section 29.

Alternative methods of dealing with public diggings. Cf. Precious and Base Metals Act, 1908, section 30.

Application of certain sections of Crown Mineral Areas (Swaziland) Proclamation, 1912.

digging of which the land has been proclaimed on any portion of the digging not held under mining title, subject to the provisions of this Proclamation and the regulations.

20. (1) The following sections of the Crown Mineral Areas (Swaziland) Proclamation 1912, that is to say, sections seven to thirteen inclusive, sections fifteen to twenty-two inclusive, section twenty-five as amended by Proclamation No. 22 of 1914, and sections twenty-six and twenty-eight shall be deemed to be incorporated *mutatis mutandis* in this Proclamation and shall apply accordingly to any proclaimed land and to the pegging of claims thereon and to claims so pegged and to prospecting permits and prospecting and diggers' licences issued under this Proclamation as if such land were a Crown mineral area and such claims were pegged and such prospecting permits and prospecting and diggers' licences were issued under that Proclamation, provided that the number of claims which may be pegged by any one person on any portion of a public digging declared open to pegging by any one notice issued under this Proclamation shall not exceed fifty in the case of precious metal claims or one hundred in the case of base metal claims.

(2) The references in sections twenty-one and twenty-two of the Crown Mineral Areas (Swaziland) Proclamation 1912 to section five of the said Proclamation shall in those sections as incorporated in this Proclamation be read as references to section nineteen of this Proclamation.

(3) Section twenty-three of the Crown Mineral Areas (Swaziland) Proclamation 1912 shall apply to land thrown open for prospecting under this Proclamation and to proclaimed land (other than the concessionaire's reserve) and to prospecting permits and licences issued under this Proclamation.

Proceedings under laws relating to water, surface rights, and ancillary rights.

21. (1) For the purpose of any application for a reference to or any proceedings before a board or on appeal from the decision of a board under the Swaziland Water Proclamation 1910 the Swaziland Surface Rights Proclamation 1910 or the Swaziland Ancillary Rights Proclamation 1910 in respect of proclaimed land other than a concessionaire's reserve and for the purpose of the giving of any notice under any of the said Proclamations in respect of such land and for the purpose of section five of the Surface Rights Proclamation 1910 as applied to such the Assistant Commissioner of the district in which the proclaimed land is situate or some other official appointed by the Resident Commissioner for the purpose shall represent the proprietor of the mineral concession affecting such land, and the amount of any award made by a board against such proprietor, the costs of any work ordered by a board to be done by such proprietor, the costs of any proceedings ordered by a board to be paid by such proprietor and the amount of any compensation payable by such proprietor under the said section five shall be payable out of the public revenue of Swaziland: Provided however that no compensation for any act done by a holder of mining title issued under this Proclamation and no costs of any proceedings taken for the purpose of claiming such compensation shall be payable out of the public revenue under this section unless the board shall find that the act was done by such holder in accordance with permission granted by the Resident Commissioner.

(2) The Resident Commissioner shall have power subject to regulation to allocate the amount of any payment made under the provisions of this section to the holder of mining title in respect of whose operations or for whose benefit such payments appear to him to have been made and where more than one such holder appears to be concerned to apportion the amount between such holders, and shall be entitled subject to regulation to recover any amount so allocated or apportioned from the holders of mining title concerned. Any amount so allocated or apportioned may be declared by the Resident Commissioner to be payable by monthly instalments, and such instalments shall where payable by a claim holder in respect of claims be deemed for the purpose of section twenty-two of the Crown Mineral Areas (Swaziland) Proclamation 1912, as incorporated in this Proclamation, to be additional licence moneys in respect of such claims, and the provisions of the said section shall apply accordingly, but if on the expiry of the period of three months mentioned in the said section the former licence holder has failed to recover his claims, by making the necessary payments, all unpaid instalments of such amount shall become due immediately, and may be recovered by an officer suing on behalf of the Swaziland Government, by action in any competent court.

Surface rights. Cf. Crown Mineral Areas Proclamation, 1912, section 24.

22. Save as may be expressly provided in any lease granted under this Proclamation the rights conferred by any mining title shall not include the right of disposal over the surface of the ground held under such title and the holder of any mining title shall not be entitled to use the surface of the ground held thereunder otherwise than for mining, save as may be permitted by the Resident Commissioner under section thirteen of this Proclamation.

Protection of improvements on proclaimed land.

23. (1) No holder of mining title on proclaimed land shall damage or disturb any improvement made thereon by any proprietor of surface rights in respect of such land or any person holding under such proprietor, without written permission of the Resident Commissioner, or some person authorized by him to grant such a permission.

(2) Any person contravening this section shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months.

(3) Where a holder of mining title is convicted of contravening this section, the court before which he is convicted may on the application of the injured party and in the presence of the convicted person, inquire summarily and without pleading into the amount of damage caused by such contravention, and may assess the amount of such damage, and give judgment for the amount assessed in favour of the injured party and against the person convicted, and such judgment shall be of the same force and effect, and be executable in the same manner as if it had been given in a civil action duly instituted before such court; provided that judgment shall not be given under this section for a sum exceeding the civil jurisdiction of such court.

(4) In any proceedings under this section the onus of proving that any act complained of was done with the written permission of the Resident Commissioner shall be upon the person charged.

(5) The words "proprietor" and "surface rights" as used in this and the next succeeding section shall have the same meanings as are given to those terms by section one of the Swaziland Surface Rights Proclamation, 1910.

24. (1) Any portion of a public digging which has been declared open to pegging under this Proclamation may be deproclaimed by the High Commissioner, if the extent of ground held under digger's licence is at the date of the notice mentioned in sub-section (3) less than one digger's claim to every twenty morgen of such portion, and, the Resident Commissioner is satisfied that neither precious nor base metals are being found or are likely to be found in payable quantities on such portion.

Deproclamation of public diggings. Cf. Precious and Base Metals Act, 1908, section 31.

(2) Any portion of a public digging which has not been declared open to pegging may be deproclaimed by the High Commissioner whenever the Resident Commissioner is satisfied that neither precious nor base metals are being found or are likely to be found in payable quantities on such portion.

(3) Notice of intention to deproclaim any portion of a public digging shall be published in four consecutive weeks in the *Gazette* and in a newspaper circulating in Swaziland.

(4) The deproclamation of any portion of a public digging shall not affect any rights granted on such portion under this Proclamation, and existing at the date of the notice of intention to deproclaim; provided that the mineral concessionaire or a proprietor of surface rights in respect of such land may with the sanction of the Resident Commissioner appropriate any such first-mentioned rights on payment of an amount, by way of compensation, to be fixed by mutual agreement, or in default of such agreement, to be determined by arbitration.

If, on or after the date of deproclamation, payment of licence moneys due in respect of such first-mentioned rights be three months in arrear, such rights shall be cancelled by the Resident Commissioner and thereupon the ground shall no longer be portion of a public digging.

25. Save as expressly provided in this Proclamation the existence of a public digging, established under this Proclamation, and the rights held in respect thereof, other than the rights of the mineral concessionaire, shall not be affected by the expiry cancellation or surrender of the mineral concession within the area of which the same has been established or the transfer thereof to the Crown; and the provisions of the Crown Mineral Areas (Swaziland) Proclamation 1912 shall not by reason of such expiry cancellation surrender or transfer apply to any such public digging save in so far as the same are incorporated in this Proclamation, but this Proclamation shall continue to apply thereto.

Expiry or cancellation of mineral concession not to affect existence of public digging.

26. Nothing in this Proclamation shall authorize the High Commissioner, or the Resident Commissioner acting on his behalf to confer on the holder of any mining title in respect of any portion of any mineral concession area greater rights in respect thereof during the period for which the mineral concession continues than those conferred on the mineral concessionaire in respect of such area by the terms of his concession.

Limitation of rights which may be conferred on holder of mining title.

#### CHAPTER V.

##### UNDEVELOPED MINERAL TAX.

27. Where a concessionaire on being invited by the Resident Commissioner to give his consent to the throwing open for prospecting of his mineral concession area or any portion thereof under section four of this Proclamation declines to give such consent, or fails to give such consent within three months after notice inviting such consent has been served upon him, such area or such portion shall be subject to a tax of five shillings per hundred morgen per annum (herein after referred to as the "undeveloped minerals tax") unless either:—

Areas subject to undeveloped minerals tax.

(a) such area or such portion thereof has been adequately exploited during the preceding calendar year by the carrying on of prospecting or mining operations thereon; or

(b) there are conflicting rights which interfere with the exploitation of such area or such portion thereof, and notwithstanding the provisions of existing legislation the adequate exploitation thereof is thereby prevented;

Provided always that any concessionaire's reserve and any portion of a mineral concession area which has in the past been exploited to such an extent that the further exploitation thereof cannot reasonably be required shall be excluded from the area in respect of which the tax is payable.

Provisional  
assessment  
lists.

28. (1) The Resident Commissioner shall cause to be prepared annually not later than the..... day of..... in each calendar year a provisional assessment list showing:—

- (a) those concessionaires who appear to him liable to payment of the undeveloped minerals tax in respect of the preceding calendar year;
- (b) particulars of the areas in respect of which such tax appears to him to be payable, and
- (c) the amount of such tax payable by each such concessionaire.

And such list shall when completed be deposited at the office of the Government Secretary of Swaziland and shall be open to inspection at such office during office hours for a period of not less than thirty days.

(2) As soon as possible after the provisional assessment list has been completed and deposited as provided in the preceding sub-section notice that the list has been completed and deposited shall be published in the *Gazette*, and notice shall also be given by the Government Secretary to each concessionaire included in such list that he has been provisionally assessed for payment of such tax.

(3) The Government Secretary shall in such notice of provisional assessment give notice to the concessionaire that any objection to the assessment made must be sent to him within twenty-one days after the date of such notice or within such further time as the Resident Commissioner may for good cause allow.

Objections  
to provisional  
assessment.

29. (1) Objections may be made against any provisional assessment on any one or more of the following grounds:—

- (i) That the area in respect of which the assessment is made is exempted from payment of the tax under paragraph (a) of section twenty-seven; or
- (ii) that such area is so exempted under paragraph (b) of section twenty-seven; or
- (iii) that such area or any portion thereof should be excluded from assessment under the proviso to section twenty-seven; or
- (iv) that the amount of the tax payable in respect of such area has been wrongly calculated.

(2) Every objection to assessment shall be in writing and shall be in the form prescribed by regulation, and shall specify in detail the grounds upon which the objection is made and shall be supported by affidavit.

Power of  
Resident  
Commissioner  
to deal with  
objections.

30. (1) On receipt of a notice of objection to a provisional assessment the Resident Commissioner shall consider the objection, and may require the objecting party to furnish any further information which he requires in relation to such objection, and may obtain such reports thereon from any officer of the Government of Swaziland and any qualified mining engineer as he shall think necessary or advisable.

(2) After consideration of the objection, and of the information and reports furnished to him in connection therewith the Resident Commissioner may set aside or reduce the assessment or may confirm the same, and shall send to the concessionaire notice of such setting aside or reduction or confirmation, and shall cause such setting aside, reduction or confirmation to be recorded and any necessary alteration to be made accordingly in the provisional assessment list, and after the period allowed for sending notices of objection has expired and all objections have been duly dealt with by the Resident Commissioner or withdrawn, and all necessary alterations have been made in the provisional assessment list in accordance with his decisions, the Resident Commissioner shall certify such list and subject to the right of appeal herein after provided, the same shall become final and conclusive.

Burden of  
proof and  
other  
provisions  
relating to  
assessment.

31. (1) The burden of proof that any mineral concession area or portion thereof included in a provisional assessment is not an area in respect of which the undeveloped minerals tax is payable shall be on the concessionaire.

(2) Where a portion only of a mineral concession area is included in any provisional assessment the Resident Commissioner or other authority shall in considering the question whether such portion has been adequately exploited in any calendar year have regard to any prospecting or mining operations carried on during such calendar year upon adjoining portions of such area which may affect the exploitation of such first-mentioned portion.

(3) Where a concessionaire is the holder of mineral concessions conferring similar rights in respect of two or more adjoining areas he shall be entitled to claim that such areas shall for the purpose of deciding any questions as to the adequate exploitation thereof be regarded as forming a single concession area.

Appeals from  
decision of  
Resident  
Commissioner.

32. (1) Any concessionaire who is dissatisfied with the decision of the Resident Commissioner on any objection made to a provisional assessment may appeal therefrom to the High Commissioner.

(2) Unless a concessionaire gives notice of such appeal within the period prescribed by sub-section (3) his objection shall be deemed to be determined.

(3) Notice of such appeal shall be in writing and shall be lodged with the Resident Commissioner within twenty-one days after the date of the notice mentioned in sub-section (2) of section thirty or within such further time as the Resident Commissioner may for good cause allow.

(4) At any such appeal the concessionaire shall be limited to the grounds stated in his notice of objection.

33. (1) The High Commissioner shall appoint an Appeal Board to which he may refer any appeals made under this section. The Appeal Board shall consist of not less than three and not more than five members of whom, if there are three members, not less than two, and, if there are more than three members, not less than three shall be persons having technical knowledge of mining.

Appointment  
of Appeal  
Board, and  
power of  
High  
Commissioner  
to deal with  
appeals.

(2) The Appeal Board shall for the purpose of hearing any appeal have the powers conferred by the Commissions Powers Ordinance 1902 of the Transvaal as in force in Swaziland, and shall report to the High Commissioner on each case referred to it.

(3) The High Commissioner may confirm, set aside or vary the decision of the Resident Commissioner in respect of which an appeal is made, provided, that where any case is referred by the High Commissioner to the Appeal Board the High Commissioner shall before dealing with such case consider the report of the Appeal Board thereon.

(4) The Resident Commissioner shall cause the assessment list to be altered in accordance with any decision on appeal given by the High Commissioner.

34. (1) The amount of any tax assessed in the assessment list shall if there has been no objection to such assessment become due and payable sixty days after the deposit for inspection of the provisional assessment list.

When tax  
becomes  
payable, and  
how it is to be  
recovered.

(2) Where there has been an objection to an assessment in a provisional assessment list the amount of the tax assessed shall be due and payable in accordance with the assessment as confirmed or varied thirty days after the objection thereto has been determined.

(3) The amount of any undeveloped minerals tax assessed in respect of any mineral concession area or part thereof shall be paid by the mineral concessionaire and shall as soon as it becomes due and payable be deemed to be a debt due to the Government and may be sued for and recovered by action in any Court of competent jurisdiction by the Receiver of Revenue suing on behalf of the Government.

(4) A concessionaire shall be entitled to deduct from any amount of undeveloped minerals tax due by him for a calendar year the amount of the rental payable to the Government in respect of that year in terms of the deed of concession from which his title is derived.

(5) In case any amount of undeveloped minerals tax remains unpaid after the date upon which the same becomes due and payable interest upon the same shall be chargeable and recoverable by the Receiver of Revenue suing on behalf of the Government at the rate of one-half per cent. for every month or portion of a month for which the tax remains unpaid reckoned from such date.

35. (1) Proceedings in any Court for the recovery of any tax payable hereunder shall be deemed to be proceedings for the recovery of a liquid debt.

Proceedings  
for recovery  
of tax.

(2) In any action or proceeding for the recovery of any tax payable hereunder it shall not be competent for the defendant to question the correctness of the assessment list as certified by the Resident Commissioner or any extract therefrom certified by the Receiver of Revenue.

36. The production of any assessment list certified by the Resident Commissioner or of any document under the hand of the Receiver of Revenue purporting to be a copy of or extract from any such list shall be conclusive evidence of the making of the assessment and, except in the case of proceedings on the hearing of any objection to the assessment, shall be conclusive evidence that the amount and all the particulars as to the area assessed appearing in such book or document are correct.

Evidence  
afforded by  
assessment  
list and  
certified  
extracts  
therefrom.

#### CHAPTER VI.

##### FURTHER PROVISIONS AS TO MINERAL CONCESSIONS.

37. Where any concessionaire makes application to the Resident Commissioner for leave to surrender a mineral concession the Resident Commissioner shall submit such application to the High Commissioner who may accept such surrender on such conditions as he shall deem fit provided that no surrender shall be accepted by the High Commissioner until all claims under any mortgage bond registered against such concession have been duly satisfied and until all the title-deeds held by the concessionaire have been delivered to the Resident Commissioner. The acceptance of any surrender of a mineral concession shall be notified in the *Gazette* and upon such notification all rights in respect of such concession shall be deemed to have been transferred to and shall vest in the High Commissioner on behalf of His Majesty.

Surrender  
of mineral  
concession.

38. (1) When under the terms of a mineral concession the holder thereof is liable on the happening of a certain event to pay over and above any rental or other sum theretofore payable by him either a sum in the nature of a bonus or sums in the nature of rental, or both, such holder shall not be liable to pay any such additional sum by reason of any discovery made or work done under the authority of a prospecting permit or mining title issued under this Proclamation outside the concessionaire's reserve, where such discovery is made or work done by some person other than the holder and not acting on his behalf.

Restriction of  
contingent  
liabilities of  
mineral con-  
cessionaires.

(2) Save as in this section provided nothing in this Proclamation shall affect the liability of the holder of any mineral concession to pay rental or other sums in accordance with the terms of his concession.

#### CHAPTER VII.

##### GENERAL.

Power to make regulations.  
Cf. Section 29, Crown Mineral Areas Proclamation, 1912.

39. The High Commissioner may from time to time by notice in the *Gazette* make alter and rescind regulations for any or all of the following purposes:—

- (1) For prescribing the form of prospecting permits, prospecting and diggers' licences, and leases to be issued under this Proclamation and for prescribing any other forms to be used for the purpose of this Proclamation;
- (2) for prescribing the mode of pegging claims and in what manner the boundaries of claims shall be indicated by pegs or beacons, and the nature of such pegs or beacons;
- (3) for prescribing the conditions under which base metal claims may be converted into precious metal claims, and vice versa and the conditions under which prospecting and mining for precious metals may be permitted on base metal claims and the conditions under which prospecting and mining for base metals may be permitted on precious metal claims, and the conditions under which persons may be compelled to take out precious metal licences for claims held as base metal claims;
- (4) for controlling the use of the surface of ground held under mining title;
- (5) for controlling and regulating the use of water on any proclaimed land and for the issue, cancellation or withdrawal of water-right grants;
- (6) for prescribing the payment of fees and charges in connection with any matter which may be dealt with by regulation;
- (7) for providing for the registration of claims or licences and of leases and water-rights issued under this Proclamation and for transfers or mortgages thereof;
- (8) generally for the better carrying out of the purposes of this Proclamation or any amendment thereof.

Such regulations may prescribe as penalties for contravention thereof fines not exceeding fifty pounds and in default of payment imprisonment for a period not exceeding three months, and daily penalties may be imposed for a continuing contravention.

40. Whenever under this Proclamation or any regulations made thereunder the Resident Commissioner is authorized or required to investigate any matter or hear any application or objection he shall for the purposes of the investigation or of hearing the application or objection have all the powers conferred by the Commissions Powers Ordinance 1902 of the Transvaal as in force in Swaziland.

Resident Commissioner to have powers conferred by Commissions Powers Ordinance, 1902.  
Cf. Section 2, Proclamation No. 22 of 1914.

Services of notices and other documents.  
Cf. Section 134, Precious and Base Metals Act, 1908.

41. Any notice or other document required by this Proclamation or any regulation to be served upon any person shall be deemed to be effectually served if delivered personally to such person, or left at his last usual place of abode or business or sent by registered post to his last known postal address, or whenever such person is absent from Swaziland, if such notice or document is served in manner aforesaid on any agent or representative in the territory of such person.

42. Any person who without lawful authority prospects or mines for precious or base metals on any land thrown open for prospecting or proclaimed under this Proclamation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five pounds and in default of payment to imprisonment for a period not exceeding six weeks, and to a further fine of five pounds and in default of payment to imprisonment for a period not exceeding seven days for every day upon which such prospecting or mining has been carried on.

43. Any person who prospects or mines for any precious or base metal on any portion of land thrown open for prospecting or proclaimed under this Proclamation on which prospecting or mining for such metal is not authorized or is expressly forbidden by this Proclamation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds and in default of payment to imprisonment for a period not exceeding three months and to a further fine of ten pounds and in default of payment to imprisonment for a period not exceeding fourteen days for every day upon which such prospecting or mining has been carried on.

44. (1) Any person prospecting or mining on land thrown open for prospecting or proclaimed under this Proclamation shall on the request of the Resident Commissioner or of any Assistant Commissioner or of any person duly authorized by the Resident Commissioner to make such request produce the permit, licence or other document under the authority of which such prospecting or mining is being carried on.  
(2) Any person failing to comply with the requirements of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds and in default of payment to imprisonment for a period not exceeding seven days.

Production on demand of permit or licence or other document.  
Cf. Section 32, Crown Mineral Areas Proclamation, 1912.

45. Any person who

- (a) wilfully alters, moves or damages any beacon or peg erected under this Proclamation or the regulations;
- (b) knowingly pegs any claim on land held under mining title by another without his permission in writing or on land forming part of a concessionaire's reserve;
- (c) occupies or resides upon land thrown open for prospecting or proclaimed under this Proclamation without any permit or licence or other right to occupy such land and fails to remove therefrom when ordered by or under the authority of the Resident Commissioner, shall be liable to a fine not exceeding one hundred pounds and in default of payment thereof to imprisonment for a period not exceeding one year.

46. Any person who—

- (a) unlawfully removes ore from ground held under any mining title; or
- (b) wilfully damages or attempts to damage any mine machinery, watercourse, or other mining property situate on proclaimed land, shall be liable to a fine not exceeding five hundred pounds or to imprisonment with or without the option of a fine for a period not exceeding five years.

Offences with regard to proclaimed land.  
Cf. Section 33, Crown Mineral Areas Proclamation, 1912.

Penalties for unlawful removal of ore and wilful damage to mining property.  
Cf. Section 34, Crown Mineral Areas Proclamation, 1912.

47. The Swaziland Mineral Rights Taxation Proclamation 1921 (No. 33 of 1921) shall be and is hereby repealed.

Repeal of Proclamation No. 33 of 1921.

48. This Proclamation may be cited for all purposes as The Mineral Concession Areas (Swaziland) Proclamation 192 , and shall have force and take effect from the first day of , 192 .

Short title.

#### SWAZILAND.

In the Estate in Swaziland of the late HANS JURIE MOOLMAN, Junior, of Balmoral District, Wakkerstroom.

All Creditors and other persons interested in the above Estate are hereby requested within a period of twenty-one days from the date of publication of this notice to lodge in writing with the Master of the Special Court of Swaziland, Mbabane, particulars of their claims against the said Estate, and their objections, if any, to the signing and sealing by him of the Letters of Administration granted to Maria Johanna Magdalena Moolman (born Wessels), as Executrix Testamentary in the above Estate, by the Master of the Supreme Court of South Africa (Transvaal Provincial Division), Pretoria, dated 6th day of June, 1918.

A. MILLIN,  
Attorney for Executrix Testamentary.

P.O. Box 24, Mbabane, Swaziland.

#### SWAZILAND.

In the Insolvent Estate of JAN CHRISTOFFEL GREYLING, of Nyamane, on Mulder's Concession, District of Hlatikulu, Swaziland.

Notice is hereby given that the Liquidation and Distribution Account of the above Insolvent Estate will lie for inspection of Creditors at the Office of the Master of the Special Court of Swaziland at Mbabane, Swaziland, for fourteen days from the date of publication of this notice, in terms of section one hundred and sixteen of Law No. 13 of 1895.

A. MILLIN,  
Attorney for Sole Trustee.

P.O. Box 24, Mbabane, Swaziland.

Insolvent Estate of JESSE DODD, of Shoshong, Bechuanaland Protectorate.

Notice is hereby given, in terms of Proclamation No. 32 of 1922 (B.P.), that I have chosen *domicilium citandi et executandi* at the Magistrate's Court, Lobatsi, Bechuanaland Protectorate.  
Dated at Mafeking, this 12th day of August, 1924.

N. C. DE KOCK,  
Provisional Trustee.

#### BECHUANALAND PROTECTORATE.

##### NOTICE OF INSOLVENCY.

Notice is hereby given that the Estate of JESSE DODD, of Shoshong, in the Nwato District of the Bechuanaland Protectorate, has, by order of the Resident Commissioner's Court, dated the 11th August, 1924, been placed under sequestration in the hands of Mr. N. C. de Kock, appointed Provisional Trustee, and that all persons having any claim upon the said Estate are required to attend two meetings of Creditors, to be held before the said Master at his office at Mafeking, the first meeting to be held on Saturday, the 6th day of September, 1924, at 10 o'clock in the forenoon precisely, for proof of debts, the second meeting on Saturday, the 13th September, 1924, at 10 o'clock in the forenoon precisely; also for the Proof of Debts and for the election of a Trustee or Trustees who shall administer the said Estate.

M. WILLIAMS,  
Master for the Bechuanaland Protectorate.

Master's Office, Bechuanaland Protectorate,  
Mafeking, 11th August, 1924.