



OFFICIAL GAZETTE

OF THE

HIGH COMMISSIONER FOR SOUTH AFRICA.

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PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas it is expedient to consolidate and amend the rules and regulations concerning the granting of pensions and of superannuation and other allowances to persons employed in the service of the Government of the Bechuanaland Protectorate:

Now therefore under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known as follows:—

1. The Proclamations mentioned in the First Schedule to this Proclamation shall be and are hereby repealed: provided always that such repeal shall not affect in any way whatsoever any pension, gratuity or allowance already granted under any law so repealed, or the conditions subject to which any such pension, gratuity or allowance is payable.

PART I.

PENSIONS.

2. Any officer who is named or described in the Second Schedule to this Proclamation or who at or after the date of the taking effect of this Proclamation holds any office which is named in the Second Schedule to this Proclamation or which is hereafter added by Proclamation to such Schedule or who having held such office in the Bechuanaland Protectorate has before the commencement of this Proclamation been transferred to other public service and is at the date of such commencement serving in other public service shall be deemed to hold or to have held a pensionable office and shall be entitled subject to the provisions of this Proclamation to receive a pension upon his retirement therefrom.

3. (1) Save as is otherwise provided in this Proclamation, no pension shall be granted to any officer—

- (a) who shall be under fifty-five years of age unless a medical board appointed by the Government shall report that such officer is incapable from infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent.
- (b) who shall not have served for a period of ten years in a pensionable office.

(2) Service in an office which was pensionable under any prior law or regulation shall be deemed to be service in a pensionable office under this Proclamation.

(3) Any person appointed to the public service of the Bechuanaland Protectorate subsequent to the date of the taking effect of this Proclamation as medical officer who also exercises private practice as a physician, surgeon or accoucheur shall not be deemed to be or to have been the holder of a pensionable office unless and until he has signed an undertaking in a form approved by the Resident Commissioner to regard the claims of his private practice on his time as subordinate to those of his work for the Government of the Bechuanaland Protectorate and to hold himself liable without title to advance any claim for loss of private practice to be removed for the purposes of public service from any one place or station in the Protectorate to any other.

4. Any officer who is entitled to pension under section *two* of this Proclamation may retire or be required to retire at the age of fifty-five and shall retire at the age of sixty:

Provided that—

- (1) Any officer who, having been appointed to a pensionable office on or before the eighteenth day of June, 1926, did not exercise the option which was allowed in terms of section *five* of Proclamation No. 11 of 1926 may retire or be required to retire at the age of sixty and shall retire at the age of sixty-five; in the case of such officers the word "sixty" shall be read for the word "fifty-five" in sections *nine* and *fourteen*; and the word "sixtieths" shall be read for the word "fifty-fifths" wherever it occurs, and the word "fifty" for the word "forty-five" in section *ten*.
- (2) Hospital matrons and staff nurses may retire or be required to retire at or after the age of fifty; and in the case of hospital matrons and staff nurses the word "fifty" shall be read for the word "fifty-five" in sections *three*, *nine* and *fourteen*; and the word "fiftieths" shall be read for the word "fifty-fifths" wherever it occurs and the word "forty" for the word "forty-five" in section *ten*.

5. The service of an officer in the Bechuanaland Protectorate shall for the purposes of this Proclamation ordinarily be reckoned from the date on which he commenced to draw salary from Protectorate funds in respect of his first permanent appointment; provided that no service shall be admitted as pensionable which was prior to the attainment of the age of eighteen years.

6. (1) Acting service in a pensionable office shall when continuous with service in such an office be reckoned as service for pension:

Provided that the period of such acting service has not been taken into account as part of the service of the previous holder of the office or as part of the officer's service in other public service.

(2) Provisional or temporary service may subject to the approval of the High Commissioner be allowed to count for pension when such service shall have been immediately followed by a permanent appointment to a pensionable office.

(3) The period during which an officer is absent on leave without salary may, subject to the approval of the High Commissioner, be counted as service on full pay for pension, provided that such leave has been granted on grounds of public policy and further provided that it does not exceed one year in all.

7. Subject to the provisions of section *seventeen* of this Proclamation the service in respect of which pensions will be granted must be unbroken except in cases where the service has been interrupted by absence on leave or by circumstances not arising from misconduct or voluntary resignation in which the High Commissioner may approve of service prior to a break of service being allowed to count for pension together with service subsequent to such break.

8. (1) The pension to be granted in respect of any office under the authority of this Proclamation shall subject to the provisions of section *twelve* and sub-section (3) of section *sixteen* be calculated at the rate of one-six hundred and sixtieth of the annual salary and emoluments of the office for each completed month of an officer's service.

Provided that an officer who is entitled to receive a pension under the provisions of this Proclamation shall be entitled at his option in lieu of such pension, if he has exercised the option in manner hereinafter provided, to receive a pension equal to three-fourths of the pension payable to him together with a gratuity equal to ten times the remaining one-fourth thereof;

The option referred to above shall be exercisable—

- (a) subject to the approval of the High Commissioner not later than six months after the date of the taking effect of this Proclamation in the case of any officer who, having been appointed to a pensionable office on or before the eighteenth day of June, 1926, has not exercised such option in terms of section one of Proclamation No. 11 of 1926;
- (b) in the case of any other officer not later than twelve months after the date of publication of the *Gazette* in which his appointment to a pensionable office has been or shall be notified under section five of the Bechuanaland Protectorate Public Service Proclamation 1924.

Provided that—

- (i) an officer who has failed to exercise the option within the period herein prescribed and who subsequent to the expiration thereof has married and continued to serve in a pensionable office in the Bechuanaland Protectorate or in any other public service may within two months after the date of his marriage exercise the option with the permission of the High Commissioner which permission may be granted by the High Commissioner at his discretion after examination of the officer by a medical board appointed by the Government if the High Commissioner shall so require;
- (ii) the date of the exercise of the option shall be deemed to be the date of the receipt by the Resident Commissioner of a notification in writing by the officer that he has exercised the option;
- (iii) if an officer has exercised the option his decision shall be irrevocable so far as concerns any pension payable to him under this Proclamation.

Provided further that in the case of an officer who failed to signify in writing to the Resident Commissioner in the manner prescribed by section five of Proclamation No. 11 of 1926 his desire that Proclamation No. 31 of 1924 as amended by section four of Proclamation No. 11 of 1926 should apply to him the pension to be granted shall be calculated at the rate of one-seven hundred and twentieth, and that in the case of matrons and staff nurses the pension to be granted shall be calculated at the rate of one-six hundredth of the annual salary and emoluments of the office for each completed month of service.

(2) A pension granted to an officer under this Proclamation shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service in the Bechuanaland Protectorate.

(3) Where the officer has been or is granted a pension or pensions in respect of other public service, he shall be granted the full pension for which he is eligible in respect of his service in the Bechuanaland Protectorate but no person may at any time draw from the funds of the Bechuanaland Protectorate an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by such person at any time in the course of his service in the Bechuanaland Protectorate or in other public service.

Provided that where such a person receives in respect of some period of public service, both a gratuity and a pension, the amount of such pension shall be deemed, for the purpose of this sub-section to be four-thirds of its actual amount.

(4) In any case falling under the limitation laid down by sub-section (3) the amount of the pension to be drawn from the funds of the Bechuanaland Protectorate shall be subject to the approval of the Secretary of State in order that it may be determined with due regard to the amount of any pension or pensions similarly to be drawn in respect of other public service.

(5) For the purpose of the preceding sub-sections an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his public service by more than the sum by which the amount of his pension or pensions, apart from such additional pension, falls short of two-thirds of such highest emoluments.

9. If any officer holding a pensionable office be required to retire from the public service of the Bechuanaland Protectorate owing to the abolition of his office or any reduction in or reorganization or readjustment of departments or offices of the public service of the Bechuanaland Protectorate or if he be required to retire in order to facilitate improvements in the organization of the department or office to which he belongs a pension calculated as in the last preceding section provided shall be granted to such officer notwithstanding that he is not otherwise qualified for pension under this Proclamation and in any such case an addition of one year for every two completed years of his actual pensionable service shall be made to his actual period of service for the purpose of computing his pension; provided always that no addition shall

be made to such an officer's actual service which would qualify him for a pension of higher annual value than that for which he would have been qualified by length of service on reaching the age of fifty-five years and that in any event the addition shall not exceed ten years; and provided further that if in the opinion of the High Commissioner the fidelity and diligence of such an officer has fallen short of the first degree of merit such addition may be made at a lower rate than that of one year for every two completed years of pensionable service or may be withheld.

10. Where an officer has been permanently injured—

- (a) in the actual discharge of his duty; and
- (b) without his own default; and
- (c) by some injury specifically attributable to the nature of his duty;

and his retirement is thereby necessitated or materially accelerated a pension calculated as set out in section eight of this Proclamation shall be granted to him notwithstanding that he has not served a sufficient period to qualify him ordinarily for pension and such pension shall be increased in proportion to the extent of his injury by the addition of an allowance equal to the proportion of his salary and emoluments hereunder indicated, viz:—

Where it is proved to the satisfaction of the High Commissioner that his capacity to contribute to his support is—

- slightly impaired—five-fifty-fifths of salary and emoluments;
- impaired—ten-fifty-fifths of salary and emoluments;
- materially impaired fifteen-fifty-fifths of salary and emoluments;
- totally destroyed—twenty-fifty-fifths of salary and emoluments;

provided that his pension increased by such allowance shall in no case exceed forty-five-fifty-fifths of his salary and emoluments at the date of the injury; and provided further that such allowance may be reduced by such amount as the High Commissioner shall think reasonable in cases where the officer's retirement is due to infirmity not arising solely from the injury sustained by him.

11. For the purpose of calculating a pension—

- (1) the word "salary" shall include personal allowance any fees paid out of the Treasury by way of salary; provided that the amount to be allowed for fees shall not exceed one-fourth of the actual salary of the office;
- (2) the word "emoluments" shall include house allowance or the estimated value of free quarters rations and fuel or any allowance of a permanent character given as an equivalent of salary but shall exclude any forage or horse allowance or other travelling allowance and any temporary allowance such as acting or extra pay or bonus given as compensation for local disadvantages; provided that the amount to be allowed for house rent or for estimated value of free quarters shall be one-sixth of the salary and other pensionable emoluments of the office.

12. (1) If the officer retiring has been in receipt of the same salary and emoluments or has held a pensionable office of the same grade for not less than thirty-six months immediately preceding the date of his retirement his pension shall be calculated on the actual annual rate of salary and emoluments which he is drawing at the date of retirement.

(2) In other cases the pension shall be calculated on the average annual amount of salary and emoluments for the thirty-six months preceding the date of retirement but if the whole period of service in the Bechuanaland Protectorate is less than three years then the pension shall be calculated on the average annual amount for such period of service.

13. Pensions shall commence from the date of retirement.

14. Every officer to whom a pension shall have been granted before he shall have attained the age of fifty-five years shall until he has attained that age be liable to be called upon to serve in the public service of the Bechuanaland Protectorate or other public service in any office for which his previous experience in the opinion of the High Commissioner renders him eligible and the duties of which a medical board shall consider him physically fit to discharge; and if he shall decline to take upon himself such office or shall decline or neglect to execute the duties thereof being in the opinion of a medical board in a competent state of health he shall forfeit his right to the pension which had been granted to him.

15. If any officer to whom a pension has been granted under this Proclamation or any prior law is appointed to another office in the service of the Bechuanaland Protectorate and subsequently retires in circumstances in which he may be granted a pension, he shall be granted in lieu of his previous pension a pension computed as if the periods of his service had been continuous, and such pension shall be based on his pensionable emoluments on his previous or final retirement from the service of the Bechuanaland Protectorate whichever may be the greater;

Provided that if on his previous retirement he was paid a gratuity and reduced pension, the gratuity to be paid to him on final retirement shall be reduced by the amount of the gratuity already paid.

16. (1) For the purpose of this section the term "Scheduled Government" means any Government included in the fourth Schedule to this Proclamation; and the term "Service in the Group" means service under the Government of the Bechuanaland Protectorate and under a Scheduled Government or Governments.

(2) (i) Where the other public service of an officer has been wholly under one or more of the Scheduled Governments and he has held a pensionable office in the Bechuanaland Protectorate for a period of at least twelve months, and his aggregate service would have qualified him had it been wholly in the Bechuanaland Protectorate for a pension under this Proclamation, he shall, on his ultimate retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, be granted a pension from the Bechuanaland Protectorate of such an amount as shall bear the same proportion to the amount of pension for which he would have been eligible had his service been wholly in the Bechuanaland Protectorate as the aggregate amount of his pensionable emoluments during his service in the Bechuanaland Protectorate shall bear to the total amount made up of such aggregate amount together with the aggregate amount of his pensionable emoluments from any of the Scheduled Governments; Provided that in determining the pension for which he would have been eligible if his service had been wholly in the Bechuanaland Protectorate—

- (a) the final pensionable emoluments taken shall be those of his last period of service in the group;
- (b) no regard shall be had to section *nine* or section *ten* of this Proclamation;
- (c) regard shall be had to the condition that the pension may not exceed two-thirds of the final pensionable emoluments.

Provided further that any period of other public service under any Scheduled Government by which no gratuity or pension is granted to an officer shall not be taken into account either in determining the amount of the pension for which he would have been eligible if his service had been entirely in the Bechuanaland Protectorate or in calculating the aggregate amount of his pensionable emoluments.

Provided further that where an officer entered the public service prior to the first day of January, 1930, his pension in respect of his service in the Bechuanaland Protectorate may be calculated as though any Scheduled Government under which he has served had not been included in the Fourth Schedule to this Proclamation if this should be to his advantage.

(ii) The aggregate amount of his pensionable emoluments shall be taken as the total amount of salary which the officer would have drawn, and the total amount of the other pensionable emoluments, including any allowance authorized for an officer who is not provided with free quarters, which he would have enjoyed had he been on duty on full pay in his substantive office or offices throughout the period of his service in the Bechuanaland Protectorate or under any Scheduled Government by which a gratuity or pension is granted to him.

(3) Except as provided in sub-section (5), where the other public service of an officer has not included service under any of the Scheduled Governments, and he has held a pensionable office in the Bechuanaland Protectorate for a period of at least twelve months, and his aggregate service would have qualified him, had it been wholly in the Bechuanaland Protectorate for a pension under this Proclamation, he shall, on his ultimate retirement from the public service in circumstances in which he is permitted by law or regulations of the service in which he is last employed to retire on a pension or gratuity, be granted in respect of his service in the Bechuanaland Protectorate a pension at the rate prescribed in sub-section (1) of section *eight* of the amount of his pensionable emoluments at the date of his transfer or retirement, as the case may be, from the service of the Bechuanaland Protectorate for each completed month of his pensionable service in the Bechuanaland Protectorate.

Provided that in the case of a matron or staff nurse any pension granted under this sub-section in respect of service in the Bechuanaland Protectorate shall be calculated at the rate of one-six hundredth part of the amount of the pensionable emoluments at the date of her transfer or retirement.

(4) Except as provided in sub-section (5) where a part only of the public service of an officer has been under one or more of the Scheduled Governments, the provisions of sub-section (2) shall apply; but in calculating the amount of pension, regard shall be had only to service in the group.

(5) Any officer who has been transferred from a pensionable office in the public service of the Union of South Africa, or of any of the former Colonies now constituting part of the Union of South Africa, or in the public service of Southern Rhodesia to a pensionable office in the Bechuanaland Protectorate and has served not less than ten years in all in a pensionable office shall on retirement receive under this Proclamation in respect of the period of such other public service and of his service in a pensionable office in the Bechuanaland Protectorate such pension as would have been payable to him if the whole of such service had been in the Bechuanaland Protectorate notwithstanding that he may not have completed ten years' actual service in the Bechuanaland Protectorate; provided however that the amount of any sum payable by the Government of the Union of South Africa or the Government of Southern Rhodesia, as the case may be, towards the pension of any such officer may if such sum is not paid into Bechuanaland Protectorate funds be deducted from the pension payable to such officer out of Bechuanaland Protectorate funds.

(6) For the purpose of this Proclamation service under the British South Africa Company in the Administration of Southern Rhodesia or of Northern Rhodesia shall be deemed to have been service in the public service of Southern Rhodesia or Northern Rhodesia as the case may be.

(7) Where an officer who has been transferred from other public service is compulsorily retired from the public service in the circumstances mentioned in section *nine* or *ten* he may, if at the time he is in the service of the Bechuanaland Protectorate, be granted from the funds of the Bechuanaland Protectorate the additional pension allowed by that section, subject to the provisions of sub-section (5) of section *eight* in addition to the pension granted under sub-section (2) (3) (4) or (5) of this section as the case may be.

(8) Where an officer who has been transferred from other public service is required to retire under the provisions of section *nine* the pension to be granted to him under that section shall be calculated as if his service had been wholly in the Bechuanaland Protectorate.

(9) Where by reason of the fact that an officer whose case falls under sub-section (7) or (8) has held a pensionable office in the Bechuanaland Protectorate for less than twelve months, he is not eligible for a pension under sub-section (2) (3) or (4) as the case may be, he may nevertheless, if at the time of his retirement he is in the service of the Bechuanaland Protectorate, be granted from the funds of the Bechuanaland Protectorate, a pension of the same amount as the additional pension allowed by sub-section (7) or (8).

(10) (i) Where an officer who has been transferred to or from the service of the Bechuanaland Protectorate from or to other public service, retires from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, but has not completed in the aggregate the minimum period of ten years' service qualifying him for a pension, he shall be granted from the funds of the Bechuanaland Protectorate a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under sub-section (2) (3) (4) or (5) as the case may be.

(ii) Where such an officer is compulsorily retired from the public service in the circumstances mentioned in section *ten* he may, if at the time he is in the service of the Bechuanaland Protectorate be treated as if he had no other public service, but he shall not be granted, in addition, the gratuity for which he is eligible under the preceding paragraph of this sub-section.

(11) Where an officer who is transferred to other public service is not granted a pension or gratuity in respect of his employment in the service in which he is last employed, solely by reason of the fact that he has not completed twelve months' service therein, he shall not, on that account, be disqualified from receiving a pension or gratuity from the funds of the Bechuanaland Protectorate, if otherwise eligible therefor.

(12) The provisions of this section as regards their application in the case of Tanganyika Territory and Zanzibar shall be deemed to have had force and effect as from the eighteenth day of July, 1930.

17. (1) Notwithstanding anything contained in this Proclamation where any officer holding a pensionable office served with the consent of the High Commissioner or the Secretary of State with His Majesty's armed forces or in any other capacity connected with the state of war at any time from the 4th day of August, 1914 to the 31st day of August, 1921 the provisions of this Proclamation shall be deemed to apply to such officer as fully and in like manner as if his service with His Majesty's armed forces or in such other capacity had in fact been service on full pay in the office held by him in the public service of the Bechuanaland Protectorate.

(2) Where an officer holding a pensionable office resigned his office in the public service of the Bechuanaland Protectorate at any time during the period from the 4th day of August 1914 to the 11th day of November 1918, in order to join or to attempt to join the armed forces of His Majesty or to serve in any other capacity connected with the state of war then prevailing and he joined or attempted to join those forces or served or attempted to serve in any other capacity connected with such state of war within three months from the date of the termination of his services by reason of such resignation and had after such attempt or within six months of his demobilization from those forces or of the 11th day of November 1918 been reappointed to the public service of the Bechuanaland Protectorate there shall notwithstanding anything contained in this Proclamation be taken into account in computing the pension or gratuity of such officer his service in the Bechuanaland Protectorate prior to the termination of such service by reason of such resignation and there shall further be taken into account as service in the office which he resigned or in any other pensionable office to which he had been reappointed, the period from the date when he terminated his services by reason of such resignation to the date of his reappointment in the public service of the Bechuanaland Protectorate, in the same way as if such officer had during such period been serving in the Bechuanaland Protectorate on full pay. The provisions of this sub-section shall apply in the case of any officer who was temporarily employed in the public service of the Bechuanaland Protectorate at the date of his resignation notwithstanding that he did not hold a pensionable office prior to

such date provided that he has fulfilled the other conditions set forth in this sub-section and provided that he is subsequently appointed to a pensionable office in the public service of the Bechuanaland Protectorate and that on such appointment he was allowed under sub-section (2) of section six of this Proclamation or any prior law to count for pension his provisional or temporary service.

18. Where any officer mentioned in the last preceding section became entitled under sections *ten* and *seventeen* of this Proclamation or any prior law to any benefits in respect of permanent injury sustained while serving with His Majesty's armed forces or in any other capacity connected with the state of war existing between the 4th day of August 1914 and the 31st day of August 1921 and where such officer in respect of the same injury has been awarded any pension or allowance under any law or regulation applicable to His Majesty's armed forces or to persons serving in any other capacity as aforesaid, such pension or allowance shall be deducted from any sum payable to him under section *ten* of this Proclamation or any prior law so that the sum payable to him thereunder shall be the amount (if any) by which the pension or allowance to which he would have been entitled in respect of such injury under this Proclamation or any prior law exceeds any pension or allowance which he may receive in respect of the same injury under any other law or regulation affecting His Majesty's armed forces or persons serving in any other capacity as aforesaid.

PART II.

GRATUITIES.

19. (1) Where an officer holding a pensionable office is compelled to retire from the public service by reason of ill-health but has not completed the minimum period of ten years' service qualifying him for a pension, he shall be granted from the funds of the Bechuanaland Protectorate a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under section *eight*.

(2) The computation of salary and emoluments for this purpose shall be governed by sections *eleven* and *twelve*.

(3) Subject to the approval of the High Commissioner any person in the employment of the Government of the Bechuanaland Protectorate who does not hold a pensionable office may on the termination of his employment after not less than ten years' continuous good service be granted a gratuity of one month's salary in respect of each year of service, provided that the amount of such gratuity shall not exceed one year's salary.

20. (1) When an officer holding a pensionable office dies while holding such office there shall be paid subject to the provisions of sub-section (4) to the persons mentioned in sub-section (3) a gratuity equal to one year's pensionable emoluments of such officer at the date of his death.

(2) Where the death of an officer to whom this section applies is caused in the manner described in section *twenty-eight* the gratuity payable under this section shall be the amount if any by which one year's pensionable emoluments of the officer at the date of his death exceed the total sum granted by the High Commissioner by way of gratuity under section *twenty-eight*.

(3) Where an officer to whom this section applies dies leaving a widow or minor child or children surviving him the gratuity payable under sub-section (1) shall be paid to or for the benefit of such person or persons as the High Commissioner in his discretion shall decide and may be paid to any one of them or be divided among them in such portions as he shall think fit. Where the officer dies without leaving a widow or minor child surviving him the gratuity shall be paid to his legal personal representative.

(4) Where on the death of an officer to whom this section applies any debt is due by him to the Government the amount of such debt may be deducted from any gratuity payable under this section and the balance remaining after such deduction shall be the amount to be paid to or for the benefit of the persons mentioned in sub-section (3).

21. In the case of any native holding permanent employment under the Bechuanaland Protectorate Government whether or not in any of the offices specified in the Third Schedule to this Proclamation to whom the benefits conferred by section *twenty-nine* of this Proclamation shall not have been extended the High Commissioner shall award—

- (a) on retirement from the service after not less than ten years' continuous good service a gratuity calculated at the rate of one-half month's pay for every year of service not exceeding thirty years in all; or
- (b) on retirement or discharge from the service in consequence of any injury or disease received or contracted in the actual discharge of his duty and without his own default such special gratuity not being less than at the rate of one-half month's pay for every year of service as the High Commissioner may deem reasonable; or
- (c) in the event of his death a gratuity to his widow, minor children or parents calculated at the rate of one-half month's pay for every year of service not exceeding thirty years in all.

22. In the computation of gratuities awarded under section *twenty-one* the provisions of sections *eleven* and *twelve* shall apply.

PART III.

GENERAL PROVISIONS.

23. (1) If an officer holding a pensionable office is removed or required to retire from office—

- (a) on the ground of negligence, irregularity or misconduct or
- (b) on the ground of infirmity of mind or body where such infirmity is due to his own misconduct or
- (c) on the ground of inability to discharge efficiently the duties of his office where such inability does not arise from permanent infirmity of mind or body

the High Commissioner may in his discretion grant to him a pension or gratuity at such rate or of such amount as he may decide not exceeding in any case the pension or gratuity to which the officer would have been entitled had his retirement taken place under the conditions described in paragraph (a) of sub-section (1) of section *three*.

24. No pension granted under this Proclamation shall be assignable or transferable or capable of being hypothecated or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever.

25. If any person to whom a pension has been granted under this Proclamation or under any prior law is convicted before any competent court, whether within or without His Majesty's dominions, of any crime or offence, then in every such case it shall be lawful for the High Commissioner to direct that such pension shall forthwith cease; provided always that the pension shall be restored with retrospective effect in the case of a person who, after conviction as above described, at any time receives a free pardon; and provided further that where a pension ceases by reason of the conviction of the pensioner as aforesaid it shall be lawful for the High Commissioner to cause all or any part of the moneys to which the pensioner would have been entitled by way of pension to be paid or applied for the benefit of any wife, child or children of the pensioner, or, after the expiration of his sentence, also for the benefit of the pensioner himself, in the same manner and subject to the same qualifications and restrictions as in the case of insolvency herein after provided.

26. If any person to whom a pension has been granted under this Proclamation becomes insolvent then such pension shall forthwith cease; provided always that in any case where a pension ceases by reason of the insolvency of the pensioner it shall be lawful for the High Commissioner from time to time during the remainder of such pensioner's life or during such shorter period or periods either continuous or discontinuous as the High Commissioner shall think fit to cause all or any part of the moneys to which such pensioner would have been entitled by way of pension had he not become insolvent to be paid to or applied for the maintenance and personal support or benefit of all or any, exclusive of the other or others of the following persons, namely, such pensioner and any wife, child or children of his in such proportions and manner as to the High Commissioner appears proper.

27. If any person to whom a pension has been granted under this Proclamation becomes on his final retirement from the public service of the Bechuanaland Protectorate or from other public service either a director of any company the principal part of whose business is in any way directly concerned with the Protectorate, or an officer or a servant employed in the Protectorate by any such company, without in every such case the permission of the High Commissioner in writing first had and obtained, then in every such case it shall be lawful for the High Commissioner to direct that such pension shall forthwith cease; provided always that it shall be lawful for the High Commissioner on being satisfied that the person in respect of whose pension any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in the Protectorate, as the case may be, to give directions for the restoration of such pension with retrospective effect if he shall see fit, to such a date as he shall specify.

28. If the death of the holder of an office in respect of which a pension or gratuity may be granted is caused by an injury occasioned without his own default in the actual discharge of his public duty and specifically attributable to the nature of his public duty the High Commissioner shall grant to the widow of the deceased, or if the deceased does not leave a widow and if his mother was at the time of the death wholly dependent upon him for her support to the mother of the deceased a pension of one-sixth of the deceased's salary and emoluments at the date of the injury and there shall further be granted to the children of the deceased a gratuity of the number of pounds which is equal to the number obtained by subtracting the number of years completed by each of the children at the date of the father's death from fifteen and adding the remainders together the total gratuity not to be less than ten pounds or unless there are in the opinion of the High Commissioner special circumstances to justify a larger gratuity more than fifty pounds and in the case of motherless children the High Commissioner shall grant double the amount which would otherwise be given.

29. The High Commissioner may extend any of the benefits conferred by this Proclamation either wholly or in part to any person who shall, either before or after the date of the taking effect of this Proclamation, have held any office which is named in the Third Schedule and may extend any benefits conferred by section *twenty-eight* to the widow, mother or children of any such person, and where such extension is granted the office held by such person shall for the purpose of such extension be deemed to be a pensionable office; provided that—

- (a) each case in which such extension is proposed shall be specially recommended to the High Commissioner both by the head of the department in which the person concerned shall have served and by the Resident Commissioner as a fit and proper case for such extension;
- (b) a pension may be granted under this Proclamation to any such person in favour of whom such extension is made though such person shall not have served more than eight years under the Government of the Bechuanaland Protectorate.

30. The provisions of this Proclamation shall apply to all officers holding a pensionable office in the Bechuanaland Protectorate at or after the commencement of this Proclamation, and to all those who, having held such pensionable office in the Bechuanaland Protectorate have before the commencement of this Proclamation been transferred to other public service and are still in other public service at the commencement of this Proclamation.

Provided that, if any officer to whom the provisions of this Proclamation apply was prior to the commencement of this Proclamation eligible for pension or gratuity under conditions more favourable to him than those prescribed by this Proclamation the pension or gratuity of such officer shall be computed in accordance with the conditions which would have applied to him if this Proclamation had not been issued.

31. Where a person who has held a pensionable office in the Bechuanaland Protectorate is or has been transferred therefrom or from other public service to the office of Governor in other public service and retires from that office before attaining the age of fifty-five years, but in circumstances which render him eligible for a pension under any Act of the Parliament of the United Kingdom providing for pensions of Governors he shall be entitled to a pension from Bechuanaland Protectorate funds under section *sixteen* of this Proclamation as if he had retired at the age of fifty-five years.

32. In this Proclamation—

the term "public service" shall mean service in a civil capacity under the Crown or under the Government of any portion of His Majesty's dominions or of any territory under the protection of His Majesty or in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and any such other service as the High Commissioner may determine to be public service for the purpose of any provision of this Proclamation;

the term "other public service" shall mean public service not under the Government of the Bechuanaland Protectorate.

33. This Proclamation may be cited as the Bechuanaland Protectorate Pensions Proclamation 1933 and save as is otherwise provided shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria, this Second day of May One thousand Nine hundred and Thirty-three.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency the
High Commissioner.

SHIRLEY EALES,
Administrative Secretary.

FIRST SCHEDULE.

LAWS REPEALED.

Proclamation No. 31 of 1924.
Proclamation No. 52 of 1924.
Proclamation No. 11 of 1926.
Proclamation No. 27 of 1926.
Proclamation No. 10 of 1930.
Proclamation No. 7 of 1932.

SECOND SCHEDULE.

Resident Commissioner.
Assistant Resident Commissioner.
Government Secretary.
Financial Secretary, Master of the Resident Commissioner's Court and Registrar of Deeds whether these posts are held by one officer or are separately held.

Accountant.

Chief Clerk to the Resident Commissioner.

Clerks to the Resident Commissioner (including any officer employed in the High Commissioner's Office and drawing his salary from the funds of the Bechuanaland Protectorate).

Resident Magistrates.

Assistant Resident Magistrates.

Clerks in the Bechuanaland Protectorate Service whose appointment as such has been or shall hereafter be notified in the *Gazette*.

Postmasters and Assistant Postmasters.

Engineers.

Principal Medical Officer.

Medical Officers.

Hospital Matrons and Staff Nurses.

European Hospital Assistants and Dispensers.

Chief Veterinary Officer.

Veterinary Officers.

Dairy Experts and Inspectors.

Stock Inspectors.

Scab Inspectors.

Controller of Stores.

European Customs Officers.

European Gaolers.

European Warders.

European Gaol Matrons.

Fence Foreman.

Auditor (in so far as his salary or emoluments have been or may be drawn from the funds of the Bechuanaland Protectorate Administration).

Inspector of Education (in so far as his salary or emoluments have been or may be drawn from the funds of the Bechuanaland Protectorate Administration).

THIRD SCHEDULE.

Carpenters.

Native Non-Commissioned Officers and Men of the Bechuanaland Protectorate Police.

Native Clerks, Interpreters, Warders (Gaol Guards), Drivers, Leaders, Messengers, Gaol Cooks, Labourers, Gardeners, Nurses, Hospital Cooks, Ward Attendants, Mechanics, Washerwomen.

FOURTH SCHEDULE.

South African High Commission:—

Basutoland.

Swaziland.

Great Britain and Northern Ireland.

Crown Agents for the Colonies.

Colonial Audit Department (Home Establishment).

Bahamas.

Barbados.

Bermuda.

British Guiana.

British Honduras.

Ceylon.

Cyprus.

Falkland Islands.

Federated Malay States.

Fiji.

Gambia.

Gibraltar.

Gold Coast.

Hong-Kong.

Jamaica.

Kenya.

Kenya and Uganda Railways and Harbours Administration.

Leeward Islands.

Malta.

Mauritius.

Nigeria.

Northern Rhodesia.

Nyasaland.

Palestine.

St. Helena.

Seychelles.

Sierra Leone.

Somaliland.

Straits Settlements.

Tanganyika Territory.

Trinidad.

Turks and Caicos Islands.

Uganda.

Western Pacific:—

Gilbert and Ellice Islands Colony.

British Solomon Islands Protectorate.

New Hebrides.

Tonga.

Windward Islands:—

Grenada.

St. Lucia.

St. Vincent.

Zanzibar.

No. 25 of 1933.]

PROCLAMATION

By His Excellency The High Commissioner.

Whereas it is expedient to amend and consolidate the law relating to the granting of pensions and of superannuation and other allowances to European members of the Bechuanaland Protectorate Police Force;

Now therefore under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:—

1. The Bechuanaland Protectorate Police Pensions Proclamation 1924 (No. 33 of 1924) together with Proclamations Nos. 53 of 1924; 12 of 1926; 27 of 1926 and 8 of 1932 shall be and are hereby repealed: provided always that such repeal shall not affect in any way whatsoever any pension, gratuity or allowance already granted under those Proclamations or the conditions subject to which any such pension, gratuity or allowance is payable.

PART I.**PENSIONS.**

2. Any police officer who shall have served as such at or after the date of the taking effect of this Proclamation or who having served as such in the Bechuanaland Protectorate has before the commencement of this Proclamation been transferred to other public service and is at the date of such commencement serving in other public service shall be deemed to hold or to have held a pensionable office and shall be entitled subject to the provisions of this Proclamation to receive a pension upon his retirement therefrom.

3. Save as is otherwise provided in this Proclamation no pension shall be granted to any police officer—

(a) who shall be under fifty years of age unless a medical board appointed by the Government shall report that such officer is incapable from infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;

(b) who shall not have served for a period of ten years in a pensionable office.

4. (1) Retirement shall be compulsory for any police officer who is entitled to pension under section two of this Proclamation on reaching the age of fifty, provided that the Resident Commissioner may, subject to the approval of the High Commissioner and with the consent of the officer extend the service of such an officer for a period not exceeding five years.

(2) Any police officer who is transferred from the police force to another department of the service, and any member of another department who is transferred to the police force, shall be subject to the pension regulations governing that department of the service to which he belongs at the time of his retirement, in like manner as if the whole term of his service had been spent in that department.

5. The service of a police officer in the Bechuanaland Protectorate shall for the purposes of this Proclamation ordinarily be reckoned from the date on which he commenced to draw salary from Protectorate funds in respect of his first permanent appointment; provided that no service shall be admitted as pensionable which was prior to the attainment of the age of eighteen years.

6. (1) Acting service in a pensionable office shall when continuous with service in such an office be reckoned as service for pension.

Provided that the period of such acting service has not been taken into account as part of the service of the previous holder of the office or as part of the officer's service in other public service.

(2) Provisional or temporary service may subject to the approval of the High Commissioner be allowed to count for pension when such service shall have been immediately followed by a permanent appointment to a pensionable office.

(3) The period during which a police officer is absent on leave without salary may, subject to the approval of the High Commissioner, be counted as service on full pay for pension; provided that such leave has been granted on grounds of public policy and further provided that it does not exceed one year in all.

7. Subject to the provisions of section seventeen of this Proclamation the service in respect of which pensions will be granted must be unbroken except in cases where the service has been interrupted by absence on leave or by circumstances not arising from misconduct or voluntary resignation in which the High Commissioner may approve of service prior to a break of service being allowed to count for pension together with service subsequent to such break.

8. (1) The pension to be granted to any police officer under the authority of this Proclamation shall subject to the provisions of section twelve be calculated at the rate of one six-hundredth of the annual salary and emoluments of the office for each completed month of a police officer's service.

Provided that a police officer who is entitled to receive a pension under the provisions of this Proclamation shall be entitled at his option in lieu of such pension, if he has exercised the option in manner herein after provided, to receive a pension equal to three-fourths of the pension payable to him together with a gratuity equal to ten times the remaining one-fourth thereof.

The option referred to above shall be exercisable—

(a) subject to the approval of the High Commissioner not later than six months after the date of the taking effect of this Proclamation in the case of any police officer who, having been appointed to a pensionable office on or before the eighteenth day of June, 1926, has not exercised such option in terms of section one of Proclamation No. 12 of 1926;

(b) in the case of a commissioned officer of police not later than twelve months after the date of publication of the *Gazette* in which his appointment to a pensionable office has been or shall be notified under section five of the Bechuanaland Protectorate Public Service Proclamation 1924;

(c) in the case of a police officer below commissioned rank, within twelve months of the date of such police officer's re-engagement after his first period of two years' service has been completed.

Provided that—

(i) any police officer who has failed to exercise the option within the period herein prescribed and who subsequent to the expiration thereof has married and continued to serve in a pensionable office in the Bechuanaland Protectorate or in any other public service may within two months after the date of his marriage exercise the option with the permission of the High Commissioner which permission may be granted by the High Commissioner at his discretion after examination of the police officer by a medical board appointed by the Government, if the High Commissioner shall so require;

(ii) the date of the exercise of the option shall be deemed to be the date of the receipt by the Resident Commissioner of a notification in writing by the police officer that he has exercised the option;

(iii) if a police officer has exercised the option his decision shall be irrevocable so far as concerns any pension payable to him under this Proclamation.

(2) A pension granted to a police officer under this Proclamation shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service in the Bechuanaland Protectorate.

(3) Where the police officer has been or is granted a pension or pensions in respect of other public service, he shall be granted the full pension for which he is eligible in respect of his service in the Bechuanaland Protectorate but no police officer may at any time draw from the funds of the Bechuanaland Protectorate an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by such police officer at any time in the course of his service in the Bechuanaland Protectorate or in other public service.

Provided that where such a police officer receives in respect of some period of public service, both a gratuity and a pension, the amount of such pension shall be deemed, for the purpose of this sub-section to be four-thirds of its actual amount.

(4) In any case falling under the limitation laid down by sub-section (3) the amount of the pension to be drawn from the funds of the Bechuanaland Protectorate shall be subject to the approval of the Secretary of State in order that it may be determined with due regard to the amount of any pension or pensions similarly to be drawn in respect of other public service.

(5) For the purpose of the preceding sub-sections an additional pension granted in respect of injury shall not be taken into account; but where the police officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his public service by more than the sum by which the amount of his pension or pensions, apart from such additional pension, falls short of two-thirds of such highest emoluments.

9. If any police officer be required to retire owing to the abolition of his office or any reduction in or reorganization or readjustment of the police force or if he be required to retire in order to facilitate improvements in the organization of the police force a pension calculated as in the last preceding section provided shall be granted to such officer notwithstanding that he is not otherwise qualified for pension under this Proclamation and in any such case an addition of one year for every two completed years of his actual pensionable service shall be made to his actual period of service for the purpose of computing his pension; provided always that no addition shall be made to such a police officer's actual service which would qualify him for a pension of higher annual value than that for which he would have been qualified by length of service on reaching the age of fifty years and that in any event the addition shall not exceed ten years; and provided further that if in the opinion of the High Commissioner the fidelity and diligence of such a police officer has fallen short of the first degree of merit such addition may be made at a lower rate than that of one year for every two completed years of pensionable service or may be withheld.

10. Where a police officer has been permanently injured—

- (a) in the actual discharge of his duty; and
- (b) without his own default; and
- (c) by some injury specifically attributable to the nature of his duty;

and his retirement is thereby necessitated or materially accelerated a pension calculated as set out in section eight of this Proclamation shall be granted to him notwithstanding that he has not served a sufficient period to qualify him ordinarily for pension and such pension shall be increased in proportion to the extent of his injury by the addition of an allowance equal to the proportion of his salary and emoluments hereunder indicated, viz.:—

Where it is proved to the satisfaction of the High Commissioner that his capacity to contribute to his support is—

- slightly impaired—five-fiftieths of salary and emoluments;
- impaired—ten-fiftieths of salary and emoluments;
- materially impaired—fifteen-fiftieths of salary and emoluments;
- totally destroyed—twenty-fiftieths of salary and emoluments;

provided that his pension increased by such allowance shall in no case exceed forty-fiftieths of his salary and emoluments at the date of the injury; and provided further that such allowance may be reduced by such amount as the High Commissioner shall think reasonable in cases where the officer's retirement is due to infirmity not arising solely from the injury sustained by him.

11. For the purpose of calculating a pension—

- (1) the word "salary" shall include personal allowance and any fees paid out of the Treasury by way of salary; provided that the amount to be allowed for fees shall not exceed one-fourth of the actual salary of the office;
- (2) the word "emoluments" shall include house allowance or the estimated value of free quarters rations and fuel or any allowance of a permanent character given as an equivalent of salary but shall exclude any forage or horse allowance or other travelling allowance and any temporary allowance such as acting or extra pay or bonus given as compensation for local disadvantages provided that the amount to be allowed for house rent or for estimated value of free quarters shall be one-sixth of the salary and other pensionable emoluments of the police officer.

12. (1) If the police officer retiring has been in receipt of the same salary and emoluments or has held a pensionable office of the same grade for not less than thirty-six months immediately preceding the date of his retirement his pension shall be calculated on the actual annual rate of salary and emoluments which he is drawing at the date of retirement.

(2) In other cases the pension shall be calculated on the average annual amount of salary and emoluments for the thirty-six months preceding the date of retirement but if the whole period of service in the Bechuanaland Protectorate is less than three years then the pension shall be calculated on the average annual amount for such period of service.

13. Pensions shall commence from the date of retirement.

14. Every police officer to whom a pension shall have been granted before he shall have attained the age of fifty years shall until he has attained that age be liable to be called upon to serve in the public service of the Bechuanaland Protectorate or other public service in any office for which his previous experience in the opinion of the High Commissioner renders him eligible and the duties of which a medical board shall consider him physically fit to discharge; and if he shall decline to take upon himself such office or shall neglect or neglect to execute the duties thereof being in the opinion of a medical board in a competent state of health he shall forfeit his right to the pension which had been granted to him.

15. If any police officer to whom a pension has been granted under this Proclamation is appointed to another office in the service of the Bechuanaland Protectorate and subsequently retires in circumstances in which he may be granted a pension, he shall be granted in lieu of his previous pension a pension computed as if the periods of his service had been continuous, and such pension shall be based on his pensionable emoluments on his previous or final retirement from the service of the Bechuanaland Protectorate whichever may be the greater.

Provided that if on his previous retirement he was paid a gratuity and reduced pension, any gratuity to be paid to him on final retirement shall be reduced by the amount of the gratuity already paid.

16. (1) For the purpose of this section the term "Scheduled Government" means any Government included in the Schedule to this Proclamation; and the term "Service in the Group" means service under the Government of the Bechuanaland Protectorate and under a Scheduled Government or Governments.

(2) (i) Where the other public service of a police officer has been wholly under one or more of the Scheduled Governments and he has held a pensionable office in the Bechuanaland Protectorate for a period of at least twelve months, and his aggregate service would have qualified him had it been wholly in the Bechuanaland Protectorate for a pension under this Proclamation, he shall, on his ultimate retirement from the public service in circumstances in which he is permitted by

the law or regulations of the service in which he is last employed to retire on pension or gratuity, be granted a pension from the Bechuanaland Protectorate of such an amount as shall bear the same proportion to the amount of pension for which he would have been eligible had his service been wholly in the Bechuanaland Protectorate as the aggregate amount of his pensionable emoluments during his service in the Bechuanaland Protectorate shall bear to the total amount made up of such aggregate amount together with the aggregate amount of his pensionable emoluments from any of the Scheduled Governments; Provided that in determining the pension for which he would have been eligible if his service had been wholly in the Bechuanaland Protectorate—

- (a) the final pensionable emoluments taken shall be those of his last period of service in the group;
- (b) no regard shall be had to section nine or section ten of this Proclamation;
- (c) regard shall be had to the condition that the pension may not exceed two-thirds of the final pensionable emoluments.

Provided further that any period of other public service under any Scheduled Government by which no gratuity or pension is granted to an officer shall not be taken into account either in determining the amount of the pension for which he would have been eligible if his service had been entirely in the Bechuanaland Protectorate or in calculating the aggregate amount of his pensionable emoluments.

Provided further that where a police officer entered the public service prior to the first day of January, 1930, his pension in respect of his service in the Bechuanaland Protectorate may be calculated as though any Scheduled Government under which he has served had not been included in the Schedule to this Proclamation if this should be to his advantage.

(ii) The aggregate amount of his pensionable emoluments shall be taken as the total amount of salary which the police officer would have drawn, and the total amount of the other pensionable emoluments, including any allowance authorized for a police officer who is not provided with free quarters, which he would have enjoyed had he been on duty on full pay in his substantive office or offices throughout the period of his service in the Bechuanaland Protectorate or under any Scheduled Government by which gratuity or pension is granted to him.

(3) Except as provided in sub-section (5), where the other public service of a police officer has not included service under any of the Scheduled Governments, and he has held a pensionable office in the Bechuanaland Protectorate for a period of at least twelve months, and his aggregate service would have qualified him, had it been wholly in the Bechuanaland Protectorate for a pension under this Proclamation, he shall, on his ultimate retirement from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on a pension or gratuity, be granted in respect of his service in the Bechuanaland Protectorate a pension at the rate of one six-hundredth part of the amount of his pensionable emoluments at the date of his transfer or retirement, as the case may be, from the service of the Bechuanaland Protectorate for each completed month of his pensionable service in the Bechuanaland Protectorate.

(4) Except as provided in sub-section (5) where a part only of the other public service of a police officer has been under one or more of the Scheduled Governments, the provisions of sub-section (2) shall apply; but in calculating the amount of pension, regard shall be had only to service in the group.

(5) Any police officer who has been transferred from a pensionable office in the public service of the Union of South Africa, or of any of the former Colonies now constituting part of the Union of South Africa, or in the public service of Southern Rhodesia to a pensionable office in the Bechuanaland Protectorate and has served not less than ten years in all in a pensionable office shall on retirement receive under this Proclamation in respect of the period of such other public service and of his service in a pensionable office in the Bechuanaland Protectorate such pension as would have been payable to him if the whole of such service had been in the Bechuanaland Protectorate notwithstanding that he may not have completed ten years' actual service in the Bechuanaland Protectorate; provided however that the amount of any sum payable by the Government of the Union of South Africa or the Government of Southern Rhodesia, as the case may be, towards the pension of any such police officer may if such sum is not paid into Bechuanaland Protectorate funds be deducted from the pension payable to such police officer out of Bechuanaland Protectorate funds.

(6) For the purpose of this Proclamation service under the British South Africa Company in the Administration of Southern Rhodesia or of Northern Rhodesia shall be deemed to have been service in the public service of Southern Rhodesia or Northern Rhodesia as the case may be.

(7) Where a police officer who has been transferred from other public service is compulsorily retired from the public service in the circumstances mentioned in section nine or ten he may, if at the time he is in the service of the Bechuanaland Protectorate, be granted from the funds of the Bechuanaland Protectorate, the additional pension allowed by that section, subject to the provisions of sub-section (5) of section eight in addition to the pension granted under sub-section (2) (3) (4) or (5) of this section as the case may be.

(8) Where a police officer who has been transferred from other public service is required to retire under the provisions of section *nine* the pension to be granted to him under that section shall be calculated as if his service had been wholly in the Bechuanaland Protectorate.

(9) Where by reason of the fact that a police officer whose case falls under sub-section (7) or (8) has held a pensionable office in the Bechuanaland Protectorate for less than twelve months, he is not eligible for a pension under sub-section (2) (3) or (4) as the case may be, he may nevertheless, if at the time of his retirement he is in the service of the Bechuanaland Protectorate, be granted from the funds of the Bechuanaland Protectorate, a pension of the same amount as the additional pension allowed by sub-section (7) or (8).

(10) (i) Where a police officer who has been transferred to or from the service of the Bechuanaland Protectorate from or to other public service, retires from the public service in circumstances in which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity, but has not completed in the aggregate the minimum period of ten years' service qualifying him for a pension, he shall be granted from the funds of the Bechuanaland Protectorate a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under sub-sections (2) (3) (4) or (5) as the case may be.

(ii) Where such a police officer is compulsorily retired from the public service in the circumstances mentioned in section *ten* he may, if at the time he is in the service of the Bechuanaland Protectorate be treated as if he had no other public service, but he shall not be granted, in addition, the gratuity for which he is eligible under the preceding paragraph of this sub-section.

(11) Where a police officer who is transferred to other public service is not granted a pension or gratuity in respect of his employment in the service in which he is last employed, solely by reason of the fact that he has not completed twelve months' service therein, he shall not, on that account, be disqualified from receiving a pension or gratuity from the funds of the Bechuanaland Protectorate, if otherwise eligible therefor.

(12) The provisions of this section as regards their application in the case of Tanganyika Territory and Zanzibar shall be deemed to have had force and effect as from the eighteenth day of July, 1930.

17. (1) Notwithstanding anything contained in this Proclamation where any police officer holding a pensionable office served with the consent of the High Commissioner or the Secretary of State with His Majesty's armed forces or in any other capacity connected with the state of war at any time during the period from the 4th day of August, 1914, to the 31st day of August, 1921, the provisions of this Proclamation shall be deemed to apply to such police officer as fully and in like manner as if his service with His Majesty's armed forces or in such other capacity had in fact been service on full pay in the office held by him in the public service of the Bechuanaland Protectorate.

(2) Where a police officer holding a pensionable office resigned his office in the public service of the Bechuanaland Protectorate at any time during the period from the 4th day of August, 1914, to the 11th day of November, 1918, in order to join or to attempt to join the armed forces of His Majesty or to serve in any other capacity connected with the state of war then prevailing and he joined or attempted to join those forces or served or attempted to serve in any other capacity connected with such state of war within three months from the date of the termination of his services by reason of such resignation and had after such attempt or within six months of his demobilization from those forces or of the 11th day of November, 1918, been reappointed to the public service of the Bechuanaland Protectorate there shall notwithstanding anything contained in this Proclamation be taken into account in computing the pension or gratuity of such police officer his service in the Bechuanaland Protectorate prior to the termination of such service by reason of such resignation and there shall further be taken into account as service in the office which he resigned or in any other pensionable office to which he had been reappointed, the period from the date when he terminated his services by reason of such resignation to the date of his reappointment in the public service of the Bechuanaland Protectorate, in the same way as if such officer had during such period been serving in the Bechuanaland Protectorate on full pay. The provisions of this sub-section shall apply in the case of any police officer who was temporarily employed in the public service of the Bechuanaland Protectorate at the date of his resignation notwithstanding that he did not hold a pensionable office prior to such date provided that he has fulfilled the other conditions set forth in this sub-section and provided that he is subsequently appointed to a pensionable office in the public service of the Bechuanaland Protectorate and that on such appointment he was allowed under sub-section (2) of section *six* of this Proclamation or any prior law to count for pension his provisional or temporary service.

18. Where any police officer mentioned in the last preceding section became entitled under sections *ten* and *seventeen* of this Proclamation or any prior law to any benefits in respect of permanent injury sustained while serving with His Majesty's armed forces or in any other capacity connected with the state of war existing between the 4th day of August 1914 and the 31st day of August 1921 and where such police officer in respect of the same injury has been

awarded any pension or allowance under any law or regulation applicable to His Majesty's armed forces or to persons serving in any other capacity as aforesaid, such pension or allowance shall be deducted from any sum payable to him under section *ten* of this Proclamation or any prior law so that the sum payable to him thereunder shall be the amount (if any) by which the pension or allowance to which he would have been entitled in respect of such injury under this Proclamation or any prior law exceeds any pension or allowance which he may receive in respect of the same injury under any other law or regulation affecting His Majesty's armed forces or persons serving in any other capacity as aforesaid.

PART II.

GRATUITIES.

19. (1) Where a police officer holding a pensionable office is compelled to retire from the public service by reason of ill-health but has not completed the minimum period of ten years' service qualifying him for a pension he shall be granted from the funds of the Bechuanaland Protectorate a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under section *eight*.

(2) The computation of salary and emoluments for this purpose shall be governed by sections *eleven* and *twelve*.

20. (1) When a police officer dies before retiring from the service there shall be paid subject to the provisions of sub-section (4) to the persons mentioned in sub-section (3) a gratuity equal to one year's pensionable emoluments of such police officer at the date of his death.

(2) Where the death of any police officer to whom this section applies is caused in the manner described in section *twenty-six* the gratuity payable under this section shall be the amount if any by which one year's pensionable emoluments of the police officer at the date of his death exceed the total sum granted by the High Commissioner by way of gratuity under section *twenty-six*.

(3) Where a police officer to whom this section applies dies leaving a widow or minor child or children surviving him the gratuity payable under sub-section (1) shall be paid to or for the benefit of such person or persons as the High Commissioner in his discretion shall decide and may be paid to any one of them or be divided among them in such portions as he shall think fit. Where the officer dies without leaving a widow or minor child surviving him the gratuity shall be paid to his legal personal representative.

(4) Where on the death of a police officer to whom this section applies any debt is due by him to the Government the amount of such debt may be deducted from any gratuity payable under this section and the balance remaining after such deduction shall be the amount to be paid to or for the benefit of the persons mentioned in sub-section (3).

PART III.

GENERAL PROVISIONS.

21. (1) If a police officer holding a pensionable office is removed or required to retire from office—

- (a) on the ground of negligence, irregularity or misconduct or
- (b) on the ground of infirmity of mind or body where such infirmity is due to his own misconduct or
- (c) on the ground of inability to discharge efficiently the duties of his office where such inability does not arise from permanent infirmity of mind or body

the High Commissioner may in his discretion grant to him a pension or gratuity at such rate or of such amount as he may decide not exceeding in any case the pension or gratuity to which the officer would have been entitled under this Proclamation had his retirement taken place under the conditions described in paragraph (a) of section *three*.

22. No pension granted under this Proclamation shall be assignable or transferable or capable of being hypothecated or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever.

23. If any person to whom a pension has been granted under this Proclamation or under any prior law is convicted before any competent court, whether within or without His Majesty's dominions, of any crime or offence, then in every such case it shall be lawful for the High Commissioner to direct that such pension shall forthwith cease; provided always that the pension shall be restored with retrospective effect in the case of a person who, after conviction as above described, at any time receives a free pardon; and provided further that where a pension ceases by reason of the conviction of the pensioner as aforesaid it shall be lawful for the High Commissioner to cause all or any part of the moneys to which the pensioner would have been entitled by way of pension to be paid to or applied for the benefit of any wife, child, or children of the pensioner, or, after the expiration of his sentence, also for the benefit of the pensioner himself, in the same manner and subject to the same qualifications and restrictions as in the case of insolvency hereinafter provided.

24. If any person to whom a pension has been granted under this Proclamation becomes insolvent then such pension shall forthwith cease; provided always that in any case where a pension ceases by reason of the insolvency of the pensioner it shall be lawful for the High Commissioner from time to time

during the remainder of such pensioner's life or during such shorter period or periods either continuous or discontinuous as the High Commissioner shall think fit to cause all or any part of the moneys to which such pensioner would have been entitled by way of pension had he not become insolvent to be paid to or applied for the maintenance and personal support or benefit of all or any exclusive of the other or others of the following persons, namely such pensioner and any wife child or children of his in such proportions and manner as to the High Commissioner appears proper.

25. If any person to whom a pension has been granted under this Proclamation becomes on his final retirement from the public service of the Bechuanaland Protectorate or from other public service either a director of any company the principal part of whose business is in any way directly concerned with the Protectorate, or an officer or a servant employed in the Protectorate by any such company, without in every such case the permission of the High Commissioner in writing first had and obtained, then in every such case it shall be lawful for the High Commissioner to direct that such pension shall forthwith cease; provided always that it shall be lawful for the High Commissioner on being satisfied that the person in respect of whose pension any such direction shall have been given has ceased to be a director of such company, or to be employed as an officer or servant of such company in the Protectorate, as the case may be, to give directions for the restoration of such pension with retrospective effect if he shall see fit, to such a date as he shall specify.

26. If the death of a police officer is caused by an injury occasioned without his own default in the actual discharge of his public duty and specifically attributable to the nature of his public duty the High Commissioner shall grant to the widow of the deceased, or if the deceased does not leave a widow and if his mother was at the time of the death wholly dependent upon him for her support to the mother of the deceased a pension of one-sixth of the deceased's salary and emoluments at the date of the injury and there shall further be granted to the children of the deceased a gratuity of the number of pounds which is equal to the number obtained by subtracting the number of years completed by each of the children at the date of the father's death from fifteen and adding the remainders together, the total gratuity not to be less than ten pounds or unless there are in the opinion of the High Commissioner special circumstances to justify a larger gratuity more than fifty pounds and in the case of motherless children the High Commissioner shall grant double the amount which would otherwise be given.

27. Save as is otherwise provided in this Proclamation the provisions of the Bechuanaland Protectorate Public Service Proclamation 1924 shall apply *mutatis mutandis* to police officers to whom this Proclamation applies, and the office of a police officer shall for the purposes of the said Proclamation be deemed to be a pensionable office.

28. The provisions of this Proclamation shall not apply to any police officer who failed to notify the Resident Commissioner in the manner prescribed by section *twenty-six* of the Bechuanaland Protectorate Police Pensions Proclamation 1921 that he desired to come under the provisions of the said Proclamation but any such police officer shall be subject to the provisions of the Bechuanaland Protectorate Pensions Proclamation 1933 as if this Proclamation had not been issued.

29. The provisions of this Proclamation shall apply to all police officers holding a pensionable office in the Bechuanaland Protectorate at or after the commencement of this Proclamation, and to all those who, having held such pensionable office in the Bechuanaland Protectorate have before the commencement of this Proclamation been transferred to other public service and are still in other public service at the commencement of this Proclamation:

Provided that, if any police officer to whom the provisions of this Proclamation apply was prior to the commencement of this Proclamation eligible for pension or gratuity under conditions more favourable to him than those prescribed by this Proclamation the pension or gratuity of such police officer shall be computed in accordance with the conditions which would have applied to him if this Proclamation had not been issued.

30. Where a police officer who has held a pensionable office in the Bechuanaland Protectorate is or has been transferred therefrom or from other public service to the office of Governor in other public service and retires from that office before attaining the age of fifty years but in circumstances which render him eligible for a pension under any Act of the Parliament of the United Kingdom providing for pensions of Governors he shall be entitled to a pension from Bechuanaland Protectorate funds under section *sixteen* of this Proclamation as if he had retired at the age of fifty years.

31. In this Proclamation—

the term "public service" shall mean service in a civil capacity under the Crown or under the Government of any portion of His Majesty's dominions or of any territory under the protection of His Majesty or in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and any such other service as the High Commissioner may determine to be public service for the purpose of any provision of this Proclamation; the term "other public service" shall mean public service not under the Government of the Bechuanaland Protectorate; the term "police officer" shall mean any European member of the Bechuanaland Protectorate Police Force.

32. This Proclamation may be cited as the Bechuanaland Protectorate Police Pensions Proclamation 1933 and save as is otherwise provided shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria, this Second day of May One thousand Nine hundred and Thirty-three.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency the
High Commissioner.

SHIRLEY EALES,
Administrative Secretary.

SCHEDULE.

South African High Commission:—

Basutoland.
Swaziland.
Great Britain and Northern Ireland.
Crown Agents for the Colonies.
Colonial Audit Department (Home Establishment).
Bahamas.
Barbados.
Bermuda.
British Guiana.
British Honduras.
Ceylon.
Cyprus.
Falkland Islands.
Federated Malay States.
Fiji.
Gambia.
Gibraltar.
Gold Coast.
Hong-Kong.
Jamaica.
Kenya.
Kenya and Uganda Railways and Harbours Administration.
Leeward Islands.
Malta.
Mauritius.
Nigeria.
Northern Rhodesia.
Nyasaland.
Palestine.
St. Helena.
Seychelles.
Sierra Leone.
Somaliland.
Straits Settlements.
Tanganyika Territory.
Trinidad.
Turks and Caicos Islands.
Uganda.

Western Pacific:—

Gilbert and Ellice Islands Colony.
British Solomon Islands Protectorate.
New Hebrides.
Tonga.

Windward Islands:—

Grenada.
St. Lucia.
St. Vincent.
Zanzibar.

(Printed by the Government Printer, Pretoria.)

No. 26 of 1933.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas it is desirable to make provision for regulating the supply and use of electric power in Basutoland:

Now therefore under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:—

1. The Resident Commissioner may, subject to the approval of the High Commissioner, make regulations governing the supply and use of electric power in any area of Basutoland and in particular but without prejudice to the generality of his powers hereby conferred may prescribe a tariff or tariffs of charges for the supply of such power, and may in such regulations provide penalties for the contravention thereof and may alter or withdraw any such regulation.

2. Every regulation made under section *one* shall when approved by the High Commissioner be published in the *Gazette* and shall thereupon have the force of law within the area for which it is made.

3. Any person who shall contravene or aid or abet the contravention of any regulation made under this Proclamation shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in such regulations.

4. This Proclamation may be cited as the Basutoland Electricity Supply Proclamation 1933 and shall have force and take effect from the date of publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Fifth day of May One thousand Nine hundred and Thirty-three.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency
the High Commissioner.

SHIRLEY EALES,
Administrative Secretary.

(Printed by the Government Printer, Pretoria.)

No. 27 of 1933.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas it is desirable to empower the High Commissioner to reduce by notice in the *Gazette* in respect of any year the amounts payable by virtue of the Bechuanaland Protectorate Proclamation No. 44 of 1922, which Proclamation, as amended, is hereinafter referred to as the principal law, and further to empower the Resident Commissioner in certain cases to extend the period prescribed for payment of the tax imposed by the principal law and to exempt persons from such tax.

Now therefore under and by virtue of the powers in me vested, I do hereby declare proclaim and make known as follows:—

1. The High Commissioner may by notice in the *Gazette* reduce in respect of any year the amount of the poll tax imposed under section one of the principal law and may by like notice reduce in respect of any year the additional sum required to be paid by persons who fail to pay the tax within the time allowed by law.

2. The Resident Commissioner may, where it is proved to his satisfaction that any person liable to pay the tax imposed by the principal law is unable to do so within the time prescribed extent the time within which the tax may be paid by such person and if the tax is duly paid within such extended time such person shall not be liable to pay any additional amount under section one of Proclamation No. 14 of 1932.

3. Sub-section (2) of section two of the principal law is hereby repealed and the following sub-section substituted in place thereof:—

“(2) The Resident Commissioner may exempt from the payment of poll tax for any year any person who shall satisfy him that he is indigent or that for other sufficient reason he is unable to pay the tax.”

4. This Proclamation may be cited as the Bechuanaland Protectorate Poll Tax Further Amendment Proclamation 1933 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Tenth day of May One thousand Nine hundred and Thirty-three.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency
the High Commissioner.

SHIRLEY EALES,
Administrative Secretary.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 62 OF 1933.

It is hereby notified for general information that His Excellency the High Commissioner has been pleased to approve of the subjoined regulations entitled the “Electricity Supply Regulations” which have been made by the Resident Commissioner of Basutoland under the provisions of section one of the Basutoland Electricity Supply Proclamation 1933.

By Command of His Excellency the
High Commissioner.

SHIRLEY EALES,
Administrative Secretary.

High Commissioner's Office,
Pretoria, 12th May, 1933.

BASUTOLAND.

ELECTRICITY SUPPLY REGULATIONS.

SECTION 1.

These regulations may be cited for all purposes as the “Electricity Supply Regulations” and shall have force and take effect within the following areas, viz., the Maseru Reserve and extending to the Leper Settlement, Botsabelo.

1. For the purpose of these Regulations, unless the context otherwise requires, the following terms shall have the following meanings:—

“Government” shall mean the Government of the Territory of Basutoland.

“Government Agent” shall mean a member or employee of the firm of Reunert & Lenz, Limited, Engineers, Johannesburg.

“Owner” shall include any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rents or profits if such land or premises were let, whether on his own account or as agent for any person entitled thereto or interested therein.

“Premises” shall include any land, building, room, structure, van or vehicle.

“Consumer” shall mean the owner or occupier of any premises to which the Government has contracted to supply or is actually supplying electric energy or any person who has entered into a contract with the Government for such supply of electric energy.

“Installation” shall mean and include all material or apparatus situated upon the premises of any consumer and used or intended to be used for or in connection with the supply of electric energy to such premises, but shall not include the Government agent's service.

“Supply mains” shall include any cable or wire other than the service which is used for the supply of electric energy to consumers.

“Service” shall mean the wires or any cables and other apparatus for the supply of electric energy by the Government between the supply mains and meter or main cut-outs on the consumer's premises.

“Contractor” shall mean the responsible person or firm doing work or placing materials in or on premises for the purpose of using electric energy.

“Director of Public Works” shall mean the officer for the time being acting as Director of Public Works for Basutoland or any other person duly authorized to perform the duty in this behalf.

“Owner”, “occupier”, “consumer”, “contractor” or “person” shall in the case of a firm or partnership include all or any one or more of the members of such firm or partnership, and in the case of any public company or of any body of persons, not being a firm or partnership, in the ordinary meaning of these terms, the secretary or manager of such company or body of persons, or should there be no secretary or manager then any member of the board of directors, managing board or committee of such public company or body of persons.

2. Any notice, order or other document under these regulations requiring authentication by the Government shall be sufficiently authenticated if signed by the Director of Public Works or other official or persons duly authorized thereto by the Government.

3. Where any notice or other document is required by these regulations to be served on or given to any person, it shall either be served personally on such person or left at or sent by post to his last known place of abode or business, and if sent by post it shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post, and in proving such service it shall be sufficient to prove that the notice or other document was properly addressed and put into the post.

4. Any person who fails to comply with any notice or order duly given or made under these regulations shall be deemed to have committed a breach of these regulations.

5. Any installation connected or about to be connected with the supply mains shall be provided and fixed and maintained by the consumer at his own expense in accordance with the regulations which the Government may from time to time issue, copies of which will be obtainable at the offices of the Public Works Department.

6. The Government agent or Director of Public Works or any duly authorized officer of the Government may at any reasonable time or in emergency at any time enter any premises and inspect any service meter or installation and may remove any earth, bricks, stone, iron or woodwork or other covering on any portion of the premises for the purpose of discovering whether or not any breach of these regulations has been or is being committed, and the Government shall not be liable for any compensation in respect thereof, but the Government shall restore such premises to their former condition.

7. Any person who shall refuse admittance or reasonable information to any duly authorized Government official or the Government agent in carrying out the provisions of these regulations, or shall obstruct any such official in carrying out any duty connected with or related thereto, shall be guilty of a breach of these regulations.

8. (a) No person shall use a supply of electric energy from the mains unless or until he shall have entered into a contract with the Government for such supply, and such contract shall in all respects govern such supply.

(b) Any person who shall use or permit to be used a supply of electric energy after the same has been disconnected by the Government and before it has been reconnected by the Government shall be deemed to be guilty of a breach of these regulations.

9. No person shall sell or supply electric energy supplied to his premises under a contract with the Government to any other person for use upon any other premises than those in respect of which such contract is made, or permit or suffer such sale or supply to be made.

No person supplied from the Government agent's system shall re-sell or supply electric energy to any person for use upon the premises in respect of which he has entered into a contract with the Government at a higher rate than the average monthly rate per unit charged to him by the Government.

10. No person shall tap or attempt to tap or allow or procure to be tapped any main or service wire in such a way that a supply of electric energy or current can or might be obtained other than or in excess of that contracted for.

11. No person unless specifically authorized by the Government or Government agent shall directly or indirectly connect any installation with the supply mains or service.

12. No person unless specifically authorized by the Government agent or the Government shall reconnect with the supply mains or service any premises or installation which shall have been disconnected by the Government.

13. No person shall in any way tamper or interfere with any meter or service wire or service fuse.

14. No person shall connect or allow to be connected any lamp or lighting apparatus to any installation supplied with energy at a rate lower than the rate ordinarily charged by the Government for supply for lighting purposes unless specifically authorized by the Government.

15. The occupier of any premises on which a breach of these regulations shall be committed during his occupancy shall be deemed to be guilty of such breach just as though he had been the person actually committing such breach, unless it shall be proved that he was not cognisant of such breach.

16. Every person committing a breach of these regulations shall, in addition to the prescribed penalty, be liable to recompense the Government or Government agent for any loss or damage suffered or sustained by it in consequence of such breach.

17. Any person contravening any of the provisions of regulations Nos. 7, 8 (a), 8 (b), 9, 10, 11, 12, 13 or 14 hereof shall be liable to a penalty not exceeding £50 in respect of each such contravention, and in addition thereto to a further penalty not exceeding £5 in respect of each such contravention for every day upon which such contravention shall continue.

18. Any person contravening regulations Nos. 4 or 5 hereof shall be liable to a penalty not exceeding £5 sterling.

SECTION 2.

General Conditions for Supply of Electric Energy.

These conditions shall form part of any agreement for the supply of electric energy for any purpose.

1. Application for the supply of electric energy for lighting, power or any other purpose must be made on the form, which can be obtained at the offices of Director of Public Works, Maseru.

2. No connection shall be made to the mains or service except by a person authorized by the Government.

3. The Government agent will fix the necessary service and meter in a position selected by its authorized officer, and will bring the service lines from the mains to the consumer's premises.

All material utilized shall comply with the Union Government Regulations and the Mines, Works and Machinery Regulations where such may be applicable.

4. The meter, fuse boxes, etc., will be sealed or locked by the Government agent and on no account must these seals or locks be tampered with.

Any unauthorized person tampering with the meter, service cables or fuse is liable to prosecution and a penalty not exceeding £50 under regulation No. 13.

5. The Government agent's responsibility ceases at the consumer's main terminals. The installation must be maintained and kept in good order by the consumer. The Government agent does not undertake to attend to failure of lights, etc., except when due to the blowing of the main service fuses through no fault of the consumer.

6. The consumer shall be responsible for any damage, other than that due to the electric supply, to any meter, cut-out, service cable or other apparatus on his premises.

7. The Government will be responsible or accidental interruption to the supply and may temporarily disconnect any premises for the purpose of repairs, tests, etc.

8. The Government shall have the right to disconnect at any time, without notice, any installation or premises for which the rates or other charges due to the Government shall be in arrear, or where any of these conditions are being violated.

9. The contractor shall notify the Government in writing before any new installation, extension to existing approved installations, or alteration to the wiring of any installation is begun, stating the nature of the work, number of lamps, etc., required.

When for any building or block of buildings more than one installation or supply from a common main or more than one distribution board or meter shall be required, the wiring diagram of the circuits starting from the main cut-outs and a specification shall be supplied to the Government in duplicate for approval before the work is commenced.

10. Every facility shall be given to the Government Agent to inspect any parts of an installation in progress, or connected to or intended to be connected to the mains.

The Government Agent may require the contractor to open up any joints or wires or remove any casings or fittings for purposes of inspection, and the contractor shall reinstate at his own expense any work so opened up or removed.

SECTION 3.

Wiring Regulations.

Every installation shall conform with the latest edition of the wiring rules of the Institution of Electrical Engineers (London) and with the Mines, Works and Machinery Regulations of the Union of South Africa.

Testing.

The Government will not supply current to any installation—

(a) If there are any temporary wires or fittings, except in special cases allowed by the Government in writing.

(b) If the work is incomplete, or not in accordance with these rules.

(c) If when testing with a pressure of 500 volts between the conductors and earth the resistance fall below 75 megohms divided by the number of lights, that is—

For 12 lamps 6.25 megohms.

For 25 lamps 3.00 megohms.

For 50 lamps 1.50 megohms.

For 75 lamps 1.00 megohms.

And no individual lamp circuit is to show a lower insulation resistance than 5 megohms.

After the test the lamps must all be inserted and they will be inspected to see that every lamp lights properly.

It must be clearly understood that the Government Agent makes this examination, test and inspection for its own satisfaction, and that the contractor is not thereby in any way relieved of responsibility; and it must not (in the event of the premises being connected up) be taken as indicating that the installation has been carried out in the best way.

Subsequent additions to the installation must be tested in the same manner as the original.

Neglect to give notice of such additions may involve the whole supply being cut off until proper tests have been made.

The contractor or his representative shall be present when the final test and inspection is made by the Government Agent, who shall have the right for inspection purposes to unscrew any fittings, connections, etc., to open any trap-door or joint boxes, or lift flooring boards, or to cut open joints, and the replacement of parts so disturbed must be done by the contractor at his own expense.

In cases where a second or subsequent inspection is necessary, the contractor shall pay the cost of such inspection.

The contractor shall only be called upon to dismantle one ceiling rose, one wall plug, and one switch for inspection purposes in every 25 or less points wired.

SECTION 4.

Tariff, etc.

The consumer shall pay for electric energy supplied at the rate fixed in the tariff for the time being in force per unit of 1,000 watt hours as registered by meter. Such payment shall be made to the Assistant Commissioner or to any other officer appointed by the Resident Commissioner on or before the 15th day of the month following that in which the consumption in respect of which such payment is due has taken place. The tariff at present in force at the date when this application is made is appended below.

If the consumer has reason to suppose that the meter is out of order or registering incorrectly, he shall immediately give notice to the Government Agent. The meter may at any time be tested by the Government Agent on the consumer paying a fee of 20s., which will be refunded in case the test shows the meter to have been registering more than 5 per cent. fast or slow. A meter shall be considered to be correct unless it has an error of over 5 per cent. fast or slow.

Should the meter at any time be out of order and register incorrectly, the Government Agent on receiving notice thereof will repair or replace such meter as soon as possible, and the quantity of the energy to be paid for by the consumer from the date of the meter ceasing to register correctly up to the time of its repair or replacement shall be estimated by the Government on the basis of the previous consumption of electric energy upon such premises, or in the event of such an estimate being impossible upon the basis of the subsequent consumption after such repair or replacement has been effected.

The consumer agrees to be bound absolutely by the reading of the meter for the purpose of calculating how much money is due from him to the Government for electric energy supplied during any particular period, and for the purpose of proving meter reading, he agrees to be bound by the entry in the book of the Government Agent showing such meter reading in the absence of evidence showing either that such entry has been incorrectly made or that the meter was at the

time of such reading in default. He agrees in every such case that it shall not be necessary to produce the person who read the meter or the person who made the entry in order to prove the reading or entry: Provided further that should any consumer suspect a leakage or fault, and request that a test be made by the Government Agent, a deposit of 10s. will be paid to the Government Agent, which will be refunded should a fault be found due to faulty workmanship or material originally installed by the Government Agent. This clause shall not apply to any defect in wiring or other work carried out by contractors other than the Government agent.

The consumer shall pay interest at the rate of 5 per cent. on every month or portion of a month for which any overdue accounts for electric energy supplied to him remain unpaid, reckoned from the date upon which such amounts became due.

Tariff.

Electric energy will be supplied to all consumers at the following rates:—

Minimum charge per month, 10s.

Electric supply:—

I. Domestic.

1s. per B.O.T. unit for the first 15 units.

9d. per B.O.T. unit for the next 15 units.

6d. per B.O.T. unit for every unit over 30 units per month.

II. Power.

6d. per B.O.T. unit.

In the event of a fuse blowing through any cause other than the actual load, such as interference with fittings, wrong voltage, domestic appliances, the Government Agent shall be entitled to make a charge of 2s. 6d.

No charge shall be made for disconnecting any premises on a written request from a consumer from the electric supply, but a charge of 2s. 6d. shall be made by the Government Agent when the premises are re-connected to the electric supply.

A charge of 2s. 6d. for re-connection after disconnection for non-payment of account shall be made by the Government Agent.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 63 of 1933.

The subjoined Report by E. S. B. Tagart, Esquire, C.B.E., the Special Commissioner appointed by His Excellency the High Commissioner to inquire into the conditions existing among the Masarwa in the Bamangwato Reserve of the Bechuanaland Protectorate and certain other matters appertaining to the natives living therein, and a Memorandum thereon by the Administration of the Territory, are hereby published for general information.

By Command of His Excellency
the High Commissioner.

SHIRLEY EALES,
Administrative Secretary.

High Commissioner's Office,
Pretoria, 12th May, 1933.

REPORT UPON THE CONDITIONS EXISTING AMONG THE MASARWA IN THE BAMANGWATO RESERVE OF THE BECHUANALAND PROTECTORATE, AND CERTAIN OTHER MATTERS APPERTAINING TO THE NATIVES LIVING THEREIN.

SECTION 1.

THE TERMS OF REFERENCE.

The matters referred for inquiry and report are set forth as follows in the Schedule to a Proclamation of His Excellency the High Commissioner for South Africa made at Capetown on the 11th of July, 1931:—

"To inquire into—

"(a) The conditions under which Masarwa are employed by the Bamangwato tribe; the nature, extent, and system of their remuneration, if any; the extent to which they are free to engage in any occupation or transfer their services from one employer to another, or move from one place to another, and able to exercise such freedom; their general conditions of life including their status in regard to rights of person and property; and the circumstances which have led to the present subject position of these people;

"(b) The system under which corporal punishment is inflicted among natives in the Bamangwato Reserve, the extent to which, having regard to present tribal condition, such a system should be allowed to continue, and the nature of the safeguards which exist or are necessary to control and regulate such form of punishment and to prevent its abuse;

and to make recommendations."

SECTION 2.

PROGRESS OF THE INQUIRY.

Before leaving England for South Africa, a general idea of the present condition of Native Affairs in the Bechuanaland Protectorate, and in the Bamangwato Reserve in particular, was gathered from a perusal of such reports and correspondence in the Dominions Office as were considered relevant to the subject.

I sailed from Southampton on the 19th of June and arrived at Capetown on the 6th of July, 1931.

At Capetown the opportunity was taken to examine further reports and correspondence, and to discuss matters generally with His Excellency the High Commissioner and the Imperial Secretary.

Mafeking, the headquarters of the Bechuanaland Protectorate, was reached on the 13th of July.

Here, after consultation with Colonel Rey, the Resident Commissioner, and with the assistance of Mr. Germond, an Officer of the Protectorate, whose services as secretary and interpreter were placed at my disposal, an itinerary was planned and a programme decided upon. Opportunity was also taken of obtaining evidence from Captain A. G. Stigand, Assistant Resident Commissioner, who was on the eve of retirement from the service.

From Mafeking I proceeded by train to Palapye Road on the 17th of July, and thence by car to Serowe, the native town founded by Chief Khama, and the headquarters of Government in the Bamangwato Reserve.

At Serowe I was introduced by the Resident Magistrate to the acting Chief and Elders of the Bamangwato tribe assembled in Kgotla. The proceedings were short and formal, but a cordial welcome was extended and assurances were given by the Chief and his Councillors of all possible co-operation in the conduct of the inquiry. Thereafter evidence was taken from a number of witnesses both European and native.

On the 27th of July, in company with Mr. Germond, I left Serowe by wagon and toured for three weeks among the cattle posts in the north, where many Masarwa are employed herding the cattle of their Bamangwato masters. Meetings with the Masarwa were held at all the posts visited, and thanks largely to our native orderly and interpreter, Sethla-letheto, who though himself a Mongwato had been brought up among the Masarwa, these were very well attended. No direct evidence was taken in writing from individual Masarwa, but accounts of what took place were recorded at the time and are to be found in Appendix II.* It may be mentioned here that this was perhaps the most valuable part of the time spent on the inquiry, affording as it did an opportunity to obtain first-hand impressions of the mentality and physical condition of the Masarwa, and the atmosphere in which they lived.

We returned to Serowe on the 15th of August, and evidence was taken from Captain Potts, Resident Magistrate of the Reserve, and certain natives who had not been available during our previous visit.

On the 17th of August I left Palapye Road and arrived at Francistown, where two days were spent obtaining evidence from certain Europeans, resident in the neighbourhood, who had had considerable experience among natives in the Bamangwato Reserve.

From Francistown a visit was paid to Livingstone, the capital of Northern Rhodesia, upon business not directly connected with the inquiry. Here the Governor, Sir James Maxwell, K.C.M.G., K.B.E., was good enough to grant me an interview, and every facility was given for obtaining information concerning the matters under investigation.

I returned to Mafeking on the 27th of August and there obtained further evidence from both Europeans and natives.

On the 2nd of September I joined His Excellency the High Commissioner at Pretoria, where I participated in a conference regarding proposed native legislation, and later obtained evidence from Colonel Rey, Resident Commissioner of Bechuanaland. This concluded my labours so far as the taking of evidence was concerned.

(A) THE MASARWA.

SECTION 3.

THE PRESENT CONDITION OF THE MASARWA AND THE CIRCUMSTANCES WHICH HAVE LED TO IT.

The origin of the name "Masarwa" is obscure. It has been suggested that it is connected with the Sesuto word "sirwa" and means "the people of the south". It has been applied by other tribes to people originally of a bushman type scattered widely throughout what is now the Bechuanaland Protectorate, and found there by the Bamangwato when they invaded the area which they now occupy.

Before the arrival of the Bamangwato, the Bakgalagadi had already reduced some of these Masarwa to a condition analogous to, if not precisely the same as, that of slavery. The Bamangwato, in turn, subdued the Bakgalagadi, and not only brought them and their Masarwa under domination, but pursued a deliberate policy directed towards taming and incorporating in their tribe those Masarwa, who still lived the lives of hunters, moving in family parties from place to place in pursuit of game. How this was achieved is so well

* Not printed.

described by Chief Tshekedi that it is worth quoting from his evidence at length:—

"Khama tried to improve the condition of the Masarwa—he stopped the selling of children. He appointed Bamangwato Headmen to take charge of certain areas occupied by the Masarwa. The first duty of these Headmen was to establish contact with the Masarwa. This was ordinarily done by organizing hunting parties when the Masarwa, attracted by the game killed, would come in to get a share, and would receive presents of dagga (hemp) from them, and later tobacco and sometimes beads. In this way the Masarwa gradually lost their fear and became accustomed to intercourse with the Bamangwato, and in time the Masarwa became accustomed to hunt for the Bamangwato, and received muzzle loaders and ammunition from them, while the Bamangwato received skins and meat of the game killed during their stay with the Masarwa, and left guns and ammunition with them when they went away. As time went on and the Bamangwato became rich in cattle, Khama, noticing that the game was getting scarce, ordered his people to give their cattle to be herded by the Masarwa, so that they might have the benefit of the milk. He feared that the Masarwa might otherwise disappear altogether from these parts and become scattered over the country. . . . Eventually it became the custom to give individual Bamangwato under a particular Headman a family or so of Masarwa, which they had come to know well, to herd their cattle for them. . . . A Mongwato head of a family would have a family or perhaps two or three families of Masarwa looking after his herd of cattle, and would distribute some of his herd among his sons, and some members of the Masarwa would go with the cattle to look after them. In this way a group of Masarwa, who originally belonged to one person would get split up and divided among several individuals."

This account of the process by which the Bamangwato reduced the Masarwa to their present position may be compared with that given by the Rev. John Mackenzie in his book *Ten years North of the Orange River*. An extract from this work will be found on p. 146 of Appendix III.* There the condition of the Masarwa is described as it was observed by the author some seventy years ago, before the Masarwa had reached their present stage of herding cattle, ploughing, and doing domestic work for their masters. That condition has certainly improved, but it seems at least doubtful whether the confidence that what is described as "a state of vassalage" would become "all but impracticable" and "melt away before the teaching of Christianity" has so far been justified.

Chief Tshekedi went on to say how in the case of a Mongwato master, who was exiled—a not uncommon punishment—his Masarwa would revert to the Chief and might either be eventually returned to their original owner or transferred to some new master.

Later, owing (so it is alleged) to the callousness of the Masarwa in regard to children whose parents had died, the Bamangwato adopted the practice of taking orphans into their households at Serowe and training them as domestic servants. This custom has admittedly resulted to-day in the master taking at will a child or children of a Masarwa family residing at his cattle post to work for him as a servant at Serowe. The wishes of the parents are in such cases ignored, and complaints are received from time to time by the Chief from parents who object to their children being separated from them. The principle by which the Chief, according to his own statement, is guided in deciding such cases can hardly commend itself to our ideas of justice and humanity. He says: "In some cases I send the children back to their parents, in other cases not. In cases where the child brought in is an only child, I would send her back, but where the child is one of a family of several I would order her to stay even against her will."

In the ploughing and reaping seasons, Masarwa are brought in temporarily from the cattle posts to cultivate their masters' gardens which are situated nearer to the capital, and when the work is finished they return to their ordinary avocation of herding cattle at the more remote posts.

There are still considerable numbers of Masarwa who have not been brought under the domination of the Bamangwato or any other tribe, and continue to lead a nomadic existence in the more remote parts of the Reserve, chiefly in the far west, where water is scarce and the soil poor. They live on wild fruits and roots, supplemented by honey, certain insects and reptiles, and the flesh of such animals as they can kill with their bows and arrows or trap. They have no knowledge of iron working, basket or pottery making, or other arts, save the fashioning of their bows and arrows, generally tipped with stone or bone, and invariably treated with poison either vegetable or animal. They carry water in ostrich eggshells and cook their meat on stones among the embers of the fires which they kindle in the usual primitive manner from sparks produced by friction. The scope of this inquiry hardly includes these people, but it is as well that their existence should be borne in mind in view of the possibility of the semi-domesticated Masarwa reverting to their bush life.

* Not printed.

SECTION 4.

THE NATURE AND EXTENT OF THE REMUNERATION OF MASARWA EMPLOYED BY THE BAMANGWATO.

The Mongwato master does not admit that his Masarwa servant is entitled as of right to any remuneration for his services whether as cattle-herd, agricultural labourer, or domestic servant. The master has, however, always recognized in the case of cattle-herds the right of the Masarwa family to enjoy a supply of milk from the cattle which they herd, and most masters profess to give occasional presents of cattle or goats, while the Masarwa employed in domestic service is said to be treated as one of the family and is fed and, to a certain extent, clothed by his master.

Chief Tshekedi maintained that his Masarwa cost him about £1,000 a year in this way.

Headman Phetu said that he fed and clothed his Masarwa, gave them presents and paid the taxes of those who lived in Serowe.

Mathiba said he had no Masarwa belonging to him, but some worked for him as herds at wages from 10s. to 20s. a month; and Leburu, that he treated his Masarwa like his children, did not pay them, but if they wanted anything they could have it!

Such remuneration, then, as the Masarwa receive for their services to Bamangwato masters is given as a matter of grace and not of right. It is irregular and depends on the whim of the master.

For a sympathetic understanding of the position it is essential to appreciate that the Masarwa have come to occupy a well-defined place in the Bechuana conception of the patriarchal family group. The head of the family accepts full responsibility for their maintenance, just as he does for that of his own children, and it is as strange to him to hear that he ought to pay them for their services as it would be for a civilized father to be told that he should pay his daughter for any domestic duties which she performs for the benefit of the household. The salient difference between the position of the Masarwa and other "children" of the family group is, of course, that the former must always remain minors and can never be freed from the paternal power.

From the evidence of John Ratshosa it would, however, appear that Khama, in his latter years, laid down a definite policy in favour of payment being made in kind to the Masarwa, but there seems to have been considerable opposition to this innovation. Khama died before he was able to carry it through, and even he did not go so far as to say that the Masarwa could claim payment as a matter of right.

Chief Tshekedi expressed himself on the whole as opposed to the regular payment of Masarwa, contending, somewhat disingenuously I fear, that if this were done the Masarwa would be worse off than they are now and would themselves be opposed to it, since far fewer would be employed and the work made more exacting. But to do the Chief justice, it must be admitted that feeling among many of the Masarwa interviewed seemed to be lukewarm on this point. The possibility of receiving regular wages from their masters was a new idea to them, and though several professed themselves as dissatisfied with their present lot, the only remedy which occurred to them was that Government should order the masters for whom they had worked for nothing during many years to share their cattle with them.

In this connection it is interesting to note the account given by a trader of the manner in which he supposed that the Masarwa who worked for him for regular wages maintained their relationship with their masters. He says: "When a Masarwa has been away at work for, say, six months, he will go back to his master and present his accumulated earnings before him, as it were offering the whole amount, and the master would take, say, a shilling or sixpence as a token of their relationship and tell the servant that the remainder was his (the servant's) property." One may be permitted to imagine that the Masarwa would not offer their earnings in this way unless they were fairly sure that the major portion would be returned to them again.

SECTION 5.

FREEDOM OF CONTRACT.

There is no doubt that according to tribal custom the Masarwa is not free to work for anyone save his master except with that master's permission. The position in this regard is thus described by Captain Nettelton: "It is true that you find Masarwa working for Europeans both within and outside the Reserve, but such Masarwa either have had the permission of their Bamangwato masters or have deserted from them. But on the whole the Masarwa take very little advantage of such opportunities as there are to work independently."

The fact is that there is very little opportunity for any natives to obtain paid employment either in the Bamangwato Reserve, or indeed in other parts of the Protectorate. It is probably not going too far to say that this has been the most potent factor in perpetuating the servile condition of the Masarwa, and remains the greatest obstacle in the way of their emancipation. Had there been a steady local demand for free native labour it is inconceivable that the Bamangwato could have maintained the present system, and until greater opportunity for independent employment presents itself, it is difficult to see how the Masarwa can be helped to emerge from the condition of apathy and dependence into which they have lapsed.

However, there are enterprising individuals among them who, with or without the permission of their masters, do find paid employment with Europeans or natives, despite the endeavours of their Bamangwato masters to restrict their liberty.

Quite how strong tribal feeling is on this point it is difficult to gauge. It would undoubtedly be a blow to the prestige of the Chief if his Masarwa left him of their own accord, or were taken from him: and though he and other masters may profess indifference to their Masarwa going to work elsewhere there is ample evidence of a definite native policy upholding the right of the master to get back, by force, if necessary, any Masarwa who have deserted.

The senior member of the Serowe Kgotla, who acted for Chief Tshakedi during the latter's recent visit to England, actually gave written authority to take Masarwa, who had engaged for work with Europeans near Francistown, back to their Bamangwato masters, and his action received the approval of Tshakedi on his return.

At the same time it is to be remembered that comparatively few Bamangwato own Masarwa. Motsete suggested that only about a tenth of the people were in this position, and that the remainder would be glad of the opportunity of employing Masarwa as servants and paying them wages. If he is correct, the commoners among the Bamangwato must be better off than is generally supposed.

SECTION 6.

THE STATUS OF THE MASARWA IN REGARD TO RIGHTS OF PERSON AND PROPERTY.

The Masarwa have been variously described as "slaves", "serfs", "vassals", and even "chattels". They certainly are not slaves, if the definition of that status given in the latest edition of Murray's dictionary may be accepted. It is as follows: "One who is the property of and entirely subject to another person whether by capture, purchase, or birth: a servant completely divested of freedom". The same authority defines "serf" as "a person in a condition of servitude or modified slavery, distinguished from what is properly called slavery in that the service due to the master and his power of disposal of his serf are more or less limited by law and custom". The latter definition is more appropriate than the former for a Masarwa, since the services due to his Mongwato master are limited to hunting, cattle herding, and agricultural and domestic work, and the master may not dispose of him save to another member of the family, or by way of surrender to the Chief, in whom the ultimate ownership of all Masarwa is in theory vested.

Again, those who speak of the Masarwa as mere "chattels" attached to their masters' cattle may be reminded that when the Mongwato sells his cattle outright the Masarwa herds do not and never have passed with them. It is only in certain special circumstances prescribed by custom that this occurs. Thus, when the Chief confers a portion of the tribal cattle upon a deserving subject, some Masarwa herds go with them. Again, if the head of a family dies, his cattle and their herds are apportioned among the heirs, or may be so distributed during his lifetime on the marriage of a descendant, by way of dowry.

The right of a Masarwa to marry whom he will appears to be recognized by the Bamangwato, or at any rate not interfered with. The custom is for the bridegroom to work out his bride price for the parents of the woman, and it may be—evidence was not entirely satisfactory on this point—for the woman's master.

One witness said: "The marital rights of the Masarwa are respected by the Bamangwato. A Masarwa wishing to marry would ask the parents of the girl for their daughter, and be expected to do some service for the prospective parents-in-law—give them the meat or skins of animals he had killed, for example".

Another said: "The master of the woman concerned has a say in the matter, as he considers the woman as his child. The offspring of such marriage would in turn become the 'children' of the Masarwa man's master, but the Masarwa father would still exercise paternal rights over them".

Another said: "... I believe the contracting parties are expected to get the permission of their respective masters".

On the whole I think it may be accepted that in practice the Masarwa exercise a very large measure of freedom in this matter, and the Mongwato master takes little interest in it one way or another.

A far more serious matter is the recognized right of the Mongwato master to separate a child from its parents when it suits him to bring a young girl or boy in from his cattle post to work as a domestic servant at Serowe. The lot of the child is not said to be bad in such cases. Indeed it may be better off enjoying the amenities of such native civilization as exists at the "capital" than when leading the harder life at the cattle posts. But if there is one human sentiment which the native has pre-eminently in common with more civilized human beings it is the bond subsisting between parent and offspring, and a custom which ignores this must clearly be regarded as repugnant to our ideas of natural justice.

In regard to ownership of property, the position of the Masarwa has undoubtedly improved, and his right to individual ownership of anything lawfully acquired by him is now recognized.

Tshakedi's evidence may be accepted as conclusive on this point. He says: "As regards ownership of property by Masarwa, the cattle which have come into their possession,

in the manner already described (i.e., given them by their masters), are their absolute property, of which they have a perfect right to dispose as they will. Apart from cattle some have sheep and ploughing gear"; and again, referring to wages earned in employment undertaken by permission of the master, "his wages in such case become the absolute property of the Masarwa. His master has no claim upon them whatever".

Several illustrations of this right to the ownership of property were encountered in our travels round the cattle posts to the north of Serowe. There was, for example, the case of the Masarwa who complained that his master had taken away some oxen belonging to him. On inquiry it transpired that the complainant had had his case heard in Kgotla and been awarded a portion of the cattle claimed by him. Masarwa were found in possession of small herds of goats, and others sold skins to us for cash.

One Mongwato master, Molepe, even claimed that his Masarwa were better off in this world's goods than he was himself; and there are plenty of instances where, with or without their masters' permission, Masarwa do go and work for others and enjoy the fruits of their labour in cash or in kind.

There can, however, be little doubt that the Bamangwato masters continue to regard the acquisition of any considerable quantity of property by a Masarwa with jealous eyes, and are quick to seize on any plausible pretext, as for example the ownership of a gun with which an animal was killed, for depriving the Masarwa servant of his gains.

It is to be remembered, in this connection, that individual ownership of property is a newer idea to the Masarwa than to the Mongwato, and the latter would be more than human if he did not on occasion exploit this to his own advantage.

SECTION 7.

SUMMARY OF FINDINGS.

At this point it will be convenient to summarize very briefly and in conformity with the terms of reference, the conclusions arrived at regarding the condition of the Masarwa from personal observation and from the evidence of witnesses examined.

The conditions under which the Masarwa are employed by the Bamangwato tribe, while not as a rule involving excessive hardship, are sufficiently unsatisfactory to call for further investigation and action with a view to improvement.

The remuneration received for their services by the Masarwa depends solely on the whim of their masters and is irregular and inadequate.

The Masarwa cannot in accordance with native custom, a custom upheld by the Chief and his Councillors, engage in any occupation or transfer his services from one employer to another save by permission of his master, nor can he move from the area of his master's authority without such permission.

Their general conditions of life are primitive, easy, care-free, and unprogressive.

Their personal rights are not equal to those of the Bamangwato: they enjoy no share in the government of the tribe, and their marital and paternal rights are liable, though in practice not often subject, to interference from their master.

Theoretically the Masarwa enjoy the usual rights of acquiring and holding personal property, but they have no interest in land, and their rights over personal property are largely illusory owing to their limited opportunities of acquiring any.

The circumstances which have led to their present position are the invasion by a superior tribe of the area formerly occupied by them and their consequent subjugation by that tribe, coupled with the lack of any tribal organization of their own.

SECTION 8.

DESIRABILITY OF GOVERNMENT ACTION.

The answers to the question whether action on the part of Government directed towards improving the lot of the Masarwa was called for, and, if so, the form which it should take, disclosed considerable divergence of opinion among the witnesses examined.

The Chief and his followers were inclined to adopt the well-known apologia of Aristotle for the institution of slavery, contending that the Masarwa belonged to an exceptionally low species of humanity, and were in their present condition better off than they had ever been before, and as well off as they could expect to be; any attempt at emancipating them and giving them greater opportunity for advancement would be likely to produce an opposite result, and the Masarwa themselves would be opposed to it: separated from the cattle entrusted to their care, and released from the supervision of their masters, they would, it was feared, revert to their miserable nomadic existence in the desert and not improbably become robbers and raiders preying upon the stock which they had formerly tended.

In short a continuation of the policy of repression was advocated, a denial of opportunity for an inferior to compete with a superior race. Such a system has been and is still being carried out elsewhere and has a number of supporters, but the results are sufficiently disquieting to justify its exclusion at any rate from the practical politics of a

protecting power committed to the doctrine of trusteeship for backward peoples. For the Masarwa must be admittedly regarded as a race more backward than the Bamangwato. They are only now emerging from the "collecting" stage, have so far shown little aptitude for cultivation, speak a barbarous language, and can boast no tribal organization. But they happen to be human beings and as such may be presumed to possess potentialities for progress non-existent in the lower animals. The difference between them and the Bamangwato is a difference in degree, and not in kind, as the Bamangwato would have us suppose. The more civilized European may even be excused for regarding the gap between himself and the Mongwato as wider than that between Mongwato and Masarwa.

It is unnecessary to labour this point. The far-seeing Khama deliberately adopted a policy of progress and not of repression in regard to the Masarwa. How far he might have been prepared to go we cannot tell, but inasmuch as the system inaugurated by him is in consonance with our own ideas of the best method of governing backward peoples, we should, it is submitted, view with distrust the present tendency of Tshekedi and his party to call a halt—so far and no farther, and insist on a return to the principles of his respected father. How, under the changing conditions of to-day, those principles may be implemented to the greatest advantage is the problem before us. Before seeking its solution it will be as well to consider shortly the views of three other groups of witnesses.

Some of the older settlers appeared to subscribe to the opinions expressed by Chief Tshekedi and his party, and one of the missionaries, though forced to admit the iniquity of a system which involved the arbitrary separation of children from their parents, seemed on the whole content with a policy of non-interference.

A group of native witnesses expressed themselves as very definitely of the opinion that the Masarwa lived in a condition of great hardship under the tyranny of their Bamangwato masters and that drastic reform was called for. They scouted the idea that the Masarwa were incapable of improvement, and favoured definite intervention by Government on their behalf. These people however, were, without exception, known to be political opponents of the acting Chief and this fact had to be taken into account in assessing the value of their evidence.

The remainder of the witnesses, including all officials examined, while deprecating any precipitate action on the part of Government, recognized that something more than leaving the Masarwa to work out their own salvation should be attempted.

As the Rev. Haydon Lewis put it: "The claim of the Masarwa is exactly the same as the claim of any other human being upon its superiors . . . The betterment of the Masarwa should be considered as an end in itself apart from any economic or political considerations."

Constructive suggestions as to the steps which should be taken to achieve this end were generally tentative and not easy to elicit. There was, however, something like general agreement in the following points:—

- (i) that the right of a Mongwato master to exact compulsory service from his Masarwa servant should not be recognized;
- (ii) that voluntary service by the Masarwa should receive regular remuneration;
- (iii) that the right of a Masarwa to engage for service without reference to his Mongwato master should be recognized;
- (iv) that the able-bodied Masarwa should contribute his share of taxation, however small, towards the revenues of the State;
- (v) that land should be made available for occupation by such Masarwa as wished to settle independently.

In effect, the declaration which the High Commissioner thought it necessary to make to the Kgotla at Serowe in 1926 was endorsed. That declaration was as follows:—

"The Government will not allow any tribe to demand compulsory service from another, and wants to encourage the Masarwa to support themselves. Any Masarwa who wish to leave their masters and live independently of them should understand that they are at liberty to do so, and that if the Mongwato attempt to retain them against their will, the Government will not allow it.

"It is the duty of Chiefs and Headmen to help these people to stand on their own feet, and I expect the Missionaries, and the Chief and his Councillors to join the Government in preventing anything in the way of compulsory service in Bechuanaland."

Such a statement of policy was, one would have thought, simple and clear enough, yet Chief Tshekedi says: "The statement made by Lord Athlone in 1926 was not understood, and I cannot say that it has made any difference in the condition of Masarwa one way or another". The latter part of the chief's remark is corroborated from other sources, but that the plain words used were not understood must, I think, be regarded as a euphemism for something else. The evidence of one official who advocates closer contact between Europeans in authority and Masarwa is instructive in this connection. He says: "At present there is no such contact either in the case of Missionaries or Officials. The Mongwato stands between, and without some definite step to eliminate his influence, which is all directed to keep the Masarwa under subjection, little progress is likely to be made". In fact the Bamangwato still demand compulsory service from the Masarwa; the Government have not encouraged the Masarwa

to support themselves; the Masarwa do not understand that they are at liberty to leave their masters and live independently, nor that if the Bamangwato attempt to retain them against their will the Government will not allow it; the Chiefs and Headmen have not helped the Masarwa to stand on their own feet; nor has there been anything in the nature of co-operation between Missionaries, Government, Chief and Councillors in preventing compulsory service in Bechuanaland.

It has been already stated that further investigation with a view to the improvement of the conditions under which the Masarwa live and work is desirable. The conclusion is fortified by the knowledge that this course would be in accordance with a policy declared by the Government five years ago, and still adhered to, but never carried out.

It now remains to submit recommendations as to how the desired improvement in the condition of the Masarwa may best be achieved.

SECTION 9.

THE RECOMMENDATIONS.

The present inquiry was instituted with a view to clearing up any misunderstanding which might exist with regard to the conditions under which the Masarwa live in the Bamangwato Reserve. Those conditions are found to be unsatisfactory, and inconsistent with the declared policy of His Majesty's Government. It is claimed that that policy as stated by the High Commissioner in 1926 was not understood by the Chief and people of the Bamangwato tribe, and inasmuch as it is desirable that the co-operation of the Chief and tribe should be secured, in order to effect the desired improvement in the condition of the Masarwa, the first step towards this end should be a re-affirmation of the Government's policy formulated in a manner clear beyond the possibility of misunderstanding. Further, it is of the utmost importance that the terms of any declaration, which it may be thought fit to make in this connection, should be communicated as widely as possible through Government Officers, not only to the Chief of the tribe and the Kgotla at Serowe, but to all subordinate Kgotlas, and to the Masarwa themselves. This should give the opportunity not for discussing a policy which has already been decided upon, but for explaining anything in it which still remains ambiguous.

The declaration having been made, the next step should be for a representative of the Government to consult with the proper Native Authority, and, if thought desirable, with the representative of the Missionary Society working in the Reserve, as to the best means of carrying out the policy.

Precisely what this means should be, the limited experience of local affairs acquired by this Commission hardly justifies it in laying down in any detail. The following suggestions, however, may be considered worthy of consideration:—

1. A definite instruction should be given to the Administrative Officers and to the Native Authorities in the Reserve that the policy is not, as has been the case in the past, to remain a dead letter, but is to be carried into effect.
2. Beginning with the town of Serowe a census should be made of all Masarwa in the Reserve, and the names of their Mongwato masters, if any, recorded.
3. A European Officer should be seconded to supervise the census and to devote himself to the task of furthering the interests of the Masarwa generally, and in particular of putting opportunities for employment in their way.
4. The practice of assuming that Masarwa are exempt from payment of hut tax should cease, and power be taken under the Hut Tax Proclamation to exempt from payment of the whole or a portion of tax any person or group of persons who may be shown to the satisfaction of the proper authority to be indigent and unable through no fault of their own to pay the tax or a portion thereof.
5. The Chief should be asked to allot sufficient and suitable land for occupation by Masarwa, and if the Chief is unwilling to do this then Government should set apart an area of Crown Land for such occupation.
6. Consideration should be given to the possibility of appointing native demonstrators in agriculture to encourage and assist in the cultivation of crops any Masarwa who may elect to settle in village communities.
7. Legislation should be passed, if such does not already exist, making it an offence to employ or take to be employed any person save in accordance with the Master and Servant Proclamation.
8. A short Proclamation should be issued affirming that slavery in any form whatsoever is unlawful, and abolishing the legal status of slavery.

(A copy of the Northern Rhodesia Ordinance No. 17 of 1930, which may serve as a guide, is included as an Appendix* to this Report.)

The first suggestion, that definite instructions to carry out the policy laid down should be given to Administrative Officers and Native Authorities, may on the face of it seem superfluous. In view, however, of the admitted failure of the declaration of 1926 to effect any reform in a system which was then condemned, it does appear desirable to emphasize the necessity for doing something more than merely watching the situation and reporting thereon from time to time. The District Officer has never got in touch with his Masarwa.

* Not printed.

In fact he never appears to have regarded them as his business. Inquiries made among the Masarwa visited on our short journey in most cases elicited the fact that they had rarely or never been visited by a European. There was nothing on record in the Resident Magistrate's Office to tell us where the Masarwa were, and such information as we could get was obtained from the Bamangwato masters. The official only comes across the Masarwa by accident, or when some serious complaint, like the atrocity committed in the Rajaba case, forces their existence upon his notice. The Mongwato, as an official very truly said, "stands between". What is true of the official is equally true of the Missionary, who hopes to improve the condition of the Masarwa through the reform of the Mongwato master. "This vassalage . . . melts away before the teachings of Christianity", wrote John Mackenzie sixty years ago. If it does, the process has not been perceptible since Khama's death either in the town of Serowe, where a Mission has been established since its foundation, or elsewhere in the Bamangwato Reserve. There are said to be many Masarwa children in Serowe—no one knows how many—but the Missionary in charge of the school there, with 700 scholars on the roll, had thought that no Masarwa attended, but subsequently heard there had been one in the previous year.

Travelling about among the scattered communities of Masarwa will certainly prove an arduous business, but surely the attempt should be made to get into direct contact with them by this means. That is how Khama initiated his policy of improving their lot and incorporating them in the Bamangwato tribe, and that, it is submitted, is the only way in which the administration of any native people can be carried out effectively, by personal contact between the Administrative Officer and his people.

The Masarwa have for too long been regarded simply as the people of the Bamangwato, and as such no more to be interfered with than their cattle.

It may be thought that there is undue insistence upon this detail of administrative work, but in my opinion it goes to the very root of the matter, and I would add that, unless such travelling is undertaken as part of the regular routine of the District Officer and the results of every journey recorded, little progress can be expected from any scheme which it may be seen fit to adopt with a view to the advancement of these people.

The suggestion that a census of the Masarwa and their Bamangwato masters should be made hardly calls for comment. There is a census, or rather a Tax Register of a kind, compiled and amended from time to time, I understand, by the Chief's tax-collectors, and there were said to be some names of Masarwa included, but when a copy was handed to the late head tax-collector, Mathiba, he said he was unable to indicate the names of any Masarwa recorded there. It would clearly be desirable to know the approximate number of Masarwa in Serowe, and elsewhere in the Reserve, if only to judge whether they are increasing or decreasing, and the number of Bamangwato who own them. Khama, it may be noted, expressed anxiety on one occasion as to whether the cattle of the Bamangwato would in the years to come suffice for the support of the Masarwa, who were, in his opinion, increasing. If this anxiety proves to be justified, a serious situation for which Masarwa and Bamangwato alike will be unprepared may arise in the near future, and should disease appear and materially diminish the Bamangwato herds the trouble would be accelerated and intensified.

That a European Officer should be seconded to supervise the taking of census is essential. With the best will in the world the Native Authorities could hardly be expected to carry out the work efficiently without such supervision, and if one may judge from the attitude of native witnesses on this subject, such goodwill cannot be counted upon with any confidence.

The Officer seconded would, in the course of his work, have an exceptional opportunity for acquiring first-hand information about the condition of the people, and becoming well equipped to advise both them and Government regarding future measures which might usefully be taken for their advancement.

The tacit understanding—no instructions on the matter could be traced—that Masarwa should be exempt from taxation seems to have originated, not unnaturally, from the presumption that they could not become possessed of sufficient means to pay. "The Chiefs do not demand it (i.e., the tax) from them as they are more backward than others. We are waiting for the time when the tax could be exacted from all in general", said Chief Tshekedi. That time is, it is to be feared, very far distant, if the existing system is not altered.

Exemption of Masarwa from taxation does not appear to be universal in the Protectorate; at any rate, the Bamangwato Reserve seems to be the only part where exemption is granted as a matter of course. On the question of taxation generally, reference may be made to the evidence of Colonel Rey, and I should like to associate myself with the opinion which he expresses on the subject. The incident, which he cites, of the bushman who begged to be allowed to pay tax in order that he might be regarded as a man and not as the dog of the Bakgalagadi, is illuminating and illustrates very well the attitude of mind which the average decent native citizen has towards the payment of tax or tribute to a central authority. The evidence of Mr. MacFarlane regarding his Masarwa employees is also instructive: "Those employed by me professed to be quite willing to pay, provided their independence was thereby guaranteed".

One of the most intelligent native witnesses examined on this point stated: "I think it would be desirable to impose some taxation on the Masarwa after fair warning had been given. I feel rather doubtful whether the administration of such taxation should be left to the Bamangwato, as all native taxation in the Reserve is at present, but it might be tried. Any money derived from such taxation should be allocated to a fund to provide for further development of the Masarwa."

One of the missionaries who has special knowledge of local conditions regarded it as inevitable, if the policy for the betterment of the Masarwa, which he advocated, were to be carried out effectively, that supervision of the collection and payment of tax must pass from the Chief and his agents to the European Official.

The obligation to pay tax is in full accord with native ideas and native customary law, and is undoubtedly one of the strongest bonds between the governing authority and the subject. Chiefs, under European rule, relinquish their right to tribute from their subjects with the greatest reluctance, but it would be relinquished in favour of the higher authority responsible for the expenses of maintaining order and good government in a native territory, and a subsidy commensurate with the loss to his privy purse paid to the Chief. In the Bamangwato Reserve the Chief, who is far the largest owner of Masarwa, gets their services without payment of wages, and from his other subjects an eighteen-penny poll tax as well as the proceeds of levies made from time to time for special purposes. If the Masarwa are to be taxed by Government and paid for their services to the Chief by him, should they pay him in addition the customary poll tax? I trust it may be considered that they should not. But it is clear that so drastic an innovation as payment of tax by able-bodied male Masarwa will involve some revision of the present system of tax collection and the incidence of payment, and it therefore seems necessary to record my considered opinion that very much closer supervision by European Officers of the methods of tax collection in the Bamangwato Reserve is urgently needed.

Before tax is demanded from the Masarwa, every possible effort should be made to find opportunity for them to earn money, and the amount which they should be called upon to pay must be governed by the opportunity open to them to find the wherewithal, but for the reasons indicated above, it appears to me to be of the first importance that they should be called upon to pay something, even if it be but a shilling a head in the first instance.

Opinions vary very much regarding the possibility of inducing the Masarwa to settle down and cultivate in permanent communities. Captain Stigand, an Officer of long and wide experience, says: "I think it might be feasible and would be desirable to encourage the Masarwa to form small village communities of their own." Captain Nettelton, equally experienced, says: "I do not think any attempt to establish the Masarwa in their own villages or in a reserve of their own would be likely to be successful. They would have no means of subsistence and they are not sufficiently advanced to take care of any stock, which they might acquire, without supervision."

"It would be hopeless to establish Masarwa in villages of their own to-day. They would never stay in them", says Mr. George Smith, a trader and farmer of 20 years' residence in the Reserve.

Mr. Johnston, who has lived in the Reserve since 1895, says: "I have seen instances in the Macloutsie District of the better-class Masarwa who talk a different language (i.e., different from the desert Masarwa), where they do go in for ploughing and live on a higher standard." Captain Potts, the present Resident Magistrate of the Bamangwato Reserve, says: "It might be worth while experimenting with the establishment of a small Masarwa Reserve on Crown Land, starting, say, with one village of Masarwa, with the idea of making themselves self-supporting. This would involve the appointment of a Native Agricultural Demonstrator, the provision of seed, agricultural implements and oxen, and there should also be a school. It would of course also necessitate regular supervision by a European Officer."

A native says: "The best thing would be if some kind of work for wages could be made available for them within the Reserve, and some land found for them where they could cultivate for themselves in settled communities. . . . It would be necessary to find some leaders or overseers to settle the Masarwa in villages. These might be found among some of the superior tribes, not necessarily the Bamangwato, possibly the Makalaka or the Bakhurutsi, but Government assistance in some form would be necessary. The Masarwa have not sufficient initiative to start this on their own."

Another native witness says: "The first step towards improvement of the position of the Masarwa to-day would be to give them ploughs and allot land to them for cultivation in the vicinity of places where they now live. They would be averse to moving any distance and settling elsewhere. Cattle should be supplied to them by their present owners for whom they have worked for a long period without pay."

Perhaps the most encouraging statement comes from Chief Tshekedi, who says: "To-day small villages of Masarwa are to be found in the Reserve, villages of even as many as thirty huts containing only Masarwa inhabitants, and with permanent muddled huts, cultivated fields, and grain stores."

The Chief, I think, alluded to some of his own Masarwa, who are in rather an exceptional position, due in a large measure no doubt to his control over very large herds of cattle, and to his personal wealth.

On the whole, despite the adverse opinion expressed by some witnesses of great experience, the necessity for providing such Masarwa as may elect to leave their master with land to settle on appears to be paramount. The experiment must be tried, but I would not advocate the setting up of the Masarwa with cattle and ploughs even if Government, or some wealthy Mongwato philanthropist, were prepared to do this. Those Masarwa who have already acquired some stock, or show sufficient initiative to earn money with which to purchase stock are the most likely to be the successful pioneers of the movement, and should be given the first opportunity.

The Officer seconded to supervise the census in the first instance would clearly be the person to assist in the selection of a suitable site for settlement and to encourage the first settlers.

The employment of native demonstrators in agriculture to assist the Masarwa is important. I understand that this has been done for the natives in Basutoland and proved a success, and if there was need for it there, the need is vastly greater here.

It is on the assumption that no offence punishable at law is committed by those Bamangwato who claim and exercise the right to the services of Masarwa inherited by them or acquired from the Chief that legislation in this connection is suggested. That there are good masters among the Bamangwato, and that the Masarwa are reasonably well off in their service is not denied. The objectionable feature in the present arrangement is that the Masarwa has no opportunity of emerging from his servile state into a condition of permanent independence, unless he runs away. The Rev. W. C. Willoughby, formerly Principal of Tiger Kloof and author of *Race Problems in New Africa*, writing on the general subject of "Forced Labour as an Ancient Tribal Custom", and of the Regimental System of Compulsory Labour in particular, says: "It is not too much to say that the forced labour which tribes have exacted from tribesmen has done more than any single influence to promote shirking and malingering. What the Bantu need for their advancement is not mere labour, but ingrained habits of industry; and compulsory labour makes work distasteful and popularizes safe and ingenious methods of evasion." For this and other extracts from the same author see Appendix III, p. 144.* It is submitted that his remarks apply with equal force to the servile labour of the Masarwa for, whatever benefits they may derive from it, it is compulsory labour, it is universally agreed to be labour of very inferior quality, and the general effect of it is detrimental alike to the interests of employer and employed.

The idea of a contractual relation between master and servant is, of course, quite foreign to native custom and usage. The native did not work for another unless as a member of the family or the tribe for the common good, or as a destitute creature for his mere sustenance, or as a slave. But with his usual adaptability he has very readily taken to the more civilized procedure of labouring for pay without losing his self respect but rather gaining in independence. "Master and Servant" laws to regulate the operation of such contracts are a natural outcome of the relationship created, and though all are probably capable of improvement, it is at least not unreasonable and will certainly prove educative to enforce the application of such as exist upon a community which still adheres to an obsolete and objectionable system of servile labour.

If it is thought desirable to make the application of the law compulsory, it will be equally necessary to ensure that it is enforced with due discretion, and a warning in this sense to Administrative and Police Officers, who may at first be inclined to look upon the new provision as a panacea for all the evils of servile labour, will probably be thought advisable.

Lastly, the promulgation of something in the nature of an Abolition of Slavery Proclamation is recommended, not merely as a gesture signifying disapproval of an institution already illegal, but as a definite legal negation of the right to invoke in any Court, whether native or European, a native custom tainted with slavery in any shape or form.

"If the legal status of slavery is abolished, no Court of law can recognize any rights based on the claim of any person to property in the person of another. Every slave can assert his freedom without any ransom or formality and an owner is as liable to process of law for attempting to detain a slave against his will, or to capture a runaway as though he were free-born. On the other hand, it is not a crime for a master to retain a slave if both desire to remain in that relationship. It is permissive as contrasted with compulsory emancipation." (Extract from the article on slavery in the 14th Edition of the *Encyclopaedia Britannica*.)

This concludes the recommendations of the Commission on the Masarwa problem. It only remains to add, if this point has not been sufficiently emphasized, a word of warning against endeavouring to proceed too fast with any reforms which may be undertaken.

For one reason or another the Masarwa question has not been tackled or even studied with any attempt at system since we assumed the government of the Bechuanaland Protectorate. It could hardly be hoped, then, in the short

period at the disposal of the Commission, to do more than formulate tentative proposals, and of these the most important is the recommendation for further exploration of the problem and closer personal contact between the European Officer and a section of the native people hitherto neglected.

(B) CORPORAL PUNISHMENT BY NATIVE AUTHORITIES.

SECTION 10.

THE SYSTEM UNDER WHICH CORPORAL PUNISHMENT IS ADMINISTERED.

Flogging as a judicial punishment is an ancient institution among several of the tribes in the Bechuanaland Protectorate, including the Bamangwato, and by comparison with sundry other methods of punishment practised among Bantu peoples can fairly be described as humane.

The procedure in carrying out the punishment in the Kgotlas of the Bamangwato Reserve is as follows:—Immediately on sentence being pronounced, the offender, if he is a male, is ordered to strip and lie down on his face; some member of the Kgotla, generally "the policeman", is then told by the presiding Chief to beat him, and the strokes are laid across the bare back until the executioner is told by the Chief to stop. The instrument used was formerly a switch of the moretwa bush, something like a cane of pliant wood tapering at the end to the thinness of the smallest pencil. In recent years the sjambok has been introduced, and is frequently used in place of the moretwa, invariably, some witnesses say, in the Serowe Kgotla, but evidence on this point is not conclusive. No number of strokes is, as a rule, specified when sentence is pronounced. It is simply left in the discretion of the Chief to say when he thinks that punishment has been sufficient, but it is open to any Headman present to protest at any stage of the flogging, and if this is done the flogging is stopped—provided, it may be assumed, that the protestor has the assembly with him.

The floggings inflicted in the Serowe Kgotla are said, as a rule, to be comparatively mild, generally amounting to no more than four strokes and seldom exceeding ten.

The punishment is not restricted to any specific class of offence. Fining is generally preferred, but where the convicted person cannot pay the fine imposed, flogging is commonly resorted to as the only alternative penalty.

Any offender may be flogged, regardless of age, sex, or position, but it is unusual to flog the very old or the very young, and where the sentence is carried out on a female she is not required to strip.

As the law stands at present, there is no appeal to a higher tribunal from a sentence of flogging by a Kgotla, but "before the sentence is carried out it is open to any member of the Kgotla to pray for pardon of the offender. In such case, sentence is postponed until the prayer has been heard, and may or may not be carried out". (Tshekedi's evidence, Appendix I, p. 29.)*

Apart from judicial flogging in Kgotla, the power to inflict this punishment is vested in the head of a "regiment" on the members of his regiment, and in the head of a family on the members of his household.

The regimental system is too well known to require any elaborate description here. It may, however, be as well to state that a tribal regiment consists of age-groups of males who have attained adolescence and been through the usual puberty ceremonies at about the same time. One of the number, who is thought to be best fitted to assume authority over the group, is appointed head, and it is his business to call up members of his regiment for tribal service when required, and to maintain discipline among them. To assist him in these duties he is given the power to flog recalcitrant members, but is only supposed to exercise it after consultation and on agreement with the others. The commonest occasion on which the punishment is inflicted appears to be when a member of the regiment refuses to turn out for, or otherwise seeks to evade, tribal labour. As in the case of the Kgotla, no limitation is placed on the number of strokes, or the kind of offence for which the punishment may be given.

The right of the head of a family to chastise members of his household is exactly the same as the old English common law right in this regard. It may be exercised over wives, children, servants, and dependants, indiscriminately, and while evidence goes to show that it is not ordinarily abused, the right to chastise servants of the household, who belong to a subject tribe like the Masarwa, was generally regarded with considerable disfavour.

An official witness expresses this in the following words: "I know too well from personal experience the length to which natives will go if they are allowed to flog their fellows, and *a fortiori* if they are allowed to flog natives whom they regard as little better than animals, as the average Mongwato regards the Masarwa. Such cases may not be frequent, but that they do occur is undeniable, and control can only be exercised where the circumstances are peculiarly favourable—in the immediate neighbourhood of a Government Station".

* Not printed.

* Not printed.

SECTION 11.

THE EXTENT TO WHICH THE SYSTEM SHOULD BE ALLOWED TO CONTINUE AND THE SAFEGUARDS RECOMMENDED TO PREVENT ITS ABUSE.

The most cogent argument advanced in favour of a continuation of the system of corporal punishment by native authorities is that it is the only alternative possible for them to punishment by flogging, and if you abolish it there is nothing to put in its place. Moreover, in the opinion of several witnesses it is not generally abused, and is not objected to by the people as a whole.

In view, however, of the fact that the power which European Judicial Officers have to impose sentences of flogging is carefully regulated and restricted by law, it is difficult to maintain the position that Native Authorities should exercise such power indiscriminately and without any of the safeguards which it has been thought necessary to provide against its abuse by more civilized Judicial Tribunals. The argument that there is no alternative to flogging save fining loses much of its force if a system, tried successfully in other native territories, under which a Native Tribunal may impose sentences of imprisonment to be carried out in gaols under European control, be considered possible of application in the Bechuanaland Protectorate. True the gaol accommodation there is at present very meagre and the few gaols which exist are situated at considerable distances from many of the Kgotlas having jurisdiction, but this difficulty might, it is submitted, be got over, particularly in a community where compulsory labour without pay is already a recognized institution.

Why should not the Kgotla at an inconvenient distance from a gaol order the offender, sentenced to pay a fine and unable to produce the money, on so many days' labour on tribal work under the supervision of one of its officers, while the Kgotla sitting within reasonable distance of the local gaol might on the warrant of the Chief or presiding Councillor commit an offender to undergo imprisonment there?

At least this would be an improvement on a system under which the poor man must undergo the indignity of corporal punishment for an offence which the well-to-do can compound by payment.

With regard to the contention that the power to flog is not generally abused by the Kgotlas or objected to by the people, no one who knows the lengths to which the native will go in inflicting summary punishment, when once his passions are aroused, can fail to feel some uneasiness over this comfortable generalization. It is to be remembered that the Kgotla exercises all the ordinary functions of government, and so is at once an executive, legislative, and judicial body, and is moreover of a political character in the sense that it is, in theory at any rate, representative not only of the aristocratic, but also of the popular parties in the State, though at the moment the aristocracy of the tribe is undoubtedly in the ascendant at Serowe. But in whatever capacity the Assembly is functioning, it is composed of the same members with the same political bias. This being so, it is not to be wondered at if judicial powers are sometimes used for political ends.

There is little doubt in the minds of those best qualified to judge, that this is what happened in the deplorable case of John Ratshosa. He was an elderly well-educated native, for years the trusted Secretary of Khama, but known to be a political opponent of the present acting Chief; indeed, the Judicial Committee of the Privy Council sitting years after the event, in London, found as a fact that he was at the head of a conspiracy against the Chief. However, he was not tried for this, but for failing to turn out for tribal work, and was then and there sentenced to be flogged. To judge from his condition described by the Medical Officer, who examined him immediately after he was supposed to have undergone his sentence, he was like "a man who had been in a general melee" with bruises and abrasions all over him. One can well imagine what happened. Political feeling ran high, an opponent of the Chief was to be made an example of, and there was a fight between the two political parties; finally firearms were used, and the affair very nearly ended in murder. No doubt things seldom come to such a crisis as this, when the Kgotla sits in judgment, but the incident shows that it is at least as necessary to impose safeguards on the infliction of corporal punishment by a Kgotla as it is in the case of a European Officer's Court.

A retired Magistrate of 24 years' service said in evidence: "I think the Kgotlas are inclined to overdo corporal punishment. I have known cases at Kanye, Bangwaketsi Reserve, where as many as 50 or 60 lashes have been given by a Kgotla". A Missionary who was not in favour of the abolition of corporal punishment but of its proper supervision said: "I have known cases in which men have been maimed for life as a result of such floggings".

A well-known cattle trader admitted that there were "undoubtedly examples in which corporal punishment was carried to excess", but thought "the Chief might be got to use his influence to mitigate excessive punishment".

A native headman thought corporal punishment was resorted to more often to-day than in former times because "people were more obedient in the olden days".

Captain Nettleton "would not say that it is often abused but such cases do occur"; he had not received any well-founded complaints about it.

Captain Stigand said: "Though hardly any cases in which official Kgotla floggings leading to death or severe injury to the victim have been proved, there is sufficient suspicion that such cases do occur to warrant, in my opinion, the promulgation of legislation regulating this form of punishment, and not merely recognizing it under Native Customary law".

In the face of such testimony it seems impossible to leave things as they are.

SECTION 12.

RECOMMENDATIONS.

In answer, then, to the question referred regarding the extent to which the system of corporal punishment prevailing among natives in the Bamangwato Reserve should be allowed to continue and the nature of the safeguards necessary to regulate and control such system, I submit the following recommendations:—

1. The power of Kgotlas to pass sentences of corporal punishment should be restricted to the Chief's Kgotla at Serowe, and since adequate safeguards against its abuse do not at present exist the following restrictions should be placed on the exercise of this power:—

- (a) The class of offence for which sentence of corporal punishment may be inflicted should be specified, and should be restricted to such offences as aggravated assault, indecency, stock theft, incorrigible roguery, arson, sedition, burglary, and such other offences as may, after consultation between the Chief and his advisers and the Resident Magistrate, be approved by the High Commissioner.
- (b) Sentences of corporal punishment should not be inflicted upon females.
- (c) Sentences of corporal punishment should not be carried out except under the supervision of a European Officer, and whenever possible under the same conditions as those laid down for the carrying out of such sentences imposed by Magistrates' Courts.
- (d) When sentence is passed the number of strokes, which should in no case exceed ten, should be specified.
- (e) Provision should be made for appeal to the Magistrate's Court against all sentences of corporal punishment passed by the Kgotla.
- (f) A record in writing should be kept by the Kgotla of all cases in which sentences of corporal punishment have been passed; such record should include the name of the person sentenced, the nature of his offence, the date on which sentence was passed, and the number of strokes ordered, and each case should be certified by the Chief or Councillor presiding when the sentence was passed; a copy of this record certified by the Chief or the Councillor acting on his behalf as President of the Kgotla should be furnished monthly to the Resident Magistrate not later than the third day of the month succeeding that in which the sentences were passed.

2. The power to flog exercised at present by the heads of regiments is defended on the ground that discipline must be maintained in the regiments and some flogging is therefore inevitable. Most European witnesses who spoke to this point were in favour of its abolition. The Chief and the majority, though not all, of the native witnesses favoured its retention.

The Chief, indeed it might almost be said the sole, use made of this power is to prevent shirking from tribal labour, but, whatever view be taken of that institution, I cannot agree that flogging people to make them perform compulsory unpaid work is in accordance with natural justice and good government, and my recommendation accordingly is that directions be given that the custom by which such flogging is carried out with immunity from legal penalty be no longer recognized.

3. With the power of corporal punishment by the head of a household over members of his family I would not interfere, provided that natives of subject tribes who may be employed by him are not for this purpose to be regarded as members of the family.

SECTION 13.

CONCLUDING REMARKS.

It is recognized that certain of the recommendations made may tend to derogate from the powers exercised by the Chief of the Bamangwato Tribe, and to this extent may be thought to conflict with the policy of indirect rule hitherto encouraged in the Bechuanaland Protectorate. To this I would reply that, whether rightly or wrongly, a strong impression was received that the manner in which this policy has been carried out in the Bamangwato Reserve has for one reason or another led to an autocratic system of government by the Chief and a small body of advisers, and is approaching, if it has not already reached, a stage inconsistent with the measure of liberty which is ordinarily enjoyed by subjects under the more constitutional methods obtaining in native States similarly governed—and, it may be added, in other Districts of this Protectorate. The condition of the Masarwa, and the

comparatively recent Ratshosa rebellion, if such it may be called, are, in my opinion, symptomatic, not perhaps of a serious disease in the body politic, but of a condition which calls for some modification in the treatment hitherto followed, in short, a somewhat stricter regime to which more attention should be paid.

The present method of giving the widest possible discretion to, and exercising the minimum of supervision over the government of his people by, the Chief of the Bamangwato Tribe originated, one is led to believe, in the well-merited confidence which the British authorities placed in the present acting Chief's great predecessor, Khama, who was acknowledged by all to have been a man of outstanding personality and character; perhaps the finest example of a benevolent autocratic ruler in the history of Africa. Unhappily it must be admitted that Khama was a notable exception to the average African potentate, and one cannot with safety base a system of rule on a presumption that exceptional personalities will normally be available to direct it. It was, then, only to be expected that with the loss of Khama some auxiliary mechanism would be required for the machinery of government. For the moment it is suggested that such auxiliary machinery should be sought for in closer control by the European over the Native Authority, and it is with this object in view that the foregoing recommendations have been made.

Before closing my report I desire to record my sincere thanks for the cordial assistance which I received at every stage of the inquiry from Colonel Rey, the Resident Commissioner, and from his Officers in the Protectorate.

My reception by Chief Tshekedi and his Kgotla was also most encouraging, and the information accorded me by the Chief and several of his Councillors of the greatest assistance.

Something more than the customary formal expression of appreciation is, I feel, due to Mr. Germond, the Officer seconded to act as my interpreter and secretary. He showed himself thoroughly well-equipped for the work, not only with an exceptional knowledge of the Sechuana language, but with an unusual degree of tact and sympathy in dealing with the Bamangwato and Masarwa alike, and it was largely, if not entirely, due to his assistance that so good an opportunity was afforded of judging at first hand of the conditions under which the Masarwa lived with their Bamangwato masters.

E. S. B. TAGART.

October, 1931.

MEMORANDUM BY THE BECHUANALAND PROTECTORATE ADMINISTRATION UPON THE FOREGOING REPORT BY MR. E. S. B. TAGART, C.B.E.

The Administration agrees with Mr. Tagart's recommendations, and the following action has been, or is being, taken to carry them into effect.

SECTION 9.

Recommendations 1 and 8.

Effect will be given to both these recommendations. The Proclamation, when issued, and a declaration on the lines of that made by Lord Athlone in 1926, will be read by the Magistrates of all districts at the Kgotlas and other gatherings of natives where tribal Kgotlas do not exist, and all other practicable steps will be taken to ensure that the terms of the Proclamation and declaration are made known to the natives who live in the more remote parts of the Territory. They will also be read at a meeting of the Native Advisory Council.

Recommendations 2, 3, and 5.

A census of the Masarwa, beginning with Serowe, will be undertaken and the names of their Bamangwato masters recorded. It is proposed to invite the Acting Chief of the Bamangwato to co-operate with the Government in the taking of the census and in devising and carrying out any measures designed to ameliorate the conditions under which the Masarwa live. The Report will be communicated to the Chief, and the whole matter, including the important question of the allocation of land for occupation by Masarwa, will be discussed with him with a view to securing his co-operation and help. In order to ensure reliable information, the taking of the census will be supervised by a European officer who, in addition to supervising the census, will be specially charged with the duty of furthering the interests of the Masarwa, and of assisting the Magistrate and the Chief in this particular work.

Recommendation 4.

There is no legal authority for such exemption of the Masarwa as a class, and there seems to be no reason why those Masarwa who have sufficient means to pay tax should not be allowed, and indeed required, to do so. Under section 19 of the Native Tax Proclamation, No. 1 of 1932, the High Commissioner has power not only to suspend, for any period in any portion of the Territory, the payment of tax, but also to reduce the amount thereof, either generally, or in respect of any class of persons. It is proposed, when giving effect to Mr. Tagart's recommendation that the Masarwa as a class should no longer be regarded as exempt from liability to pay tax, to reduce in their case the normal rate of tax to a merely nominal sum, which could be increased from time to time in proportion to their ability to pay and until the normal rate is reached.

from the point of view of the Masarwa, of employing native demonstrators to encourage and assist in the cultivation of the soil. Any Masarwa who may elect to settle in village communities is fully recognized by the Administration, and Mr. Tagart's recommendation in this behalf is in accord with the policy which has been introduced recently into the Bechuanaland Protectorate. Six natives are at present being trained in Southern Rhodesia as demonstrators with a view to their employment in the Protectorate, and as financial considerations permit, this system of teaching natives the advantages of sound methods of cultivation will be extended. The services of such demonstrators will be a factor of considerable importance in assisting those Masarwa who wish to settle on the land which will have to be made available for them. As indicated above, it is proposed that the question of allocating a suitable area of land for the use of Masarwa should receive consideration in consultation with the Chief.

Recommendation 7.

This recommendation will receive attention in connection with certain proposed changes in the law which are at present under consideration.

SECTION 12.

The inquiry into the system under which corporal punishment is administered among natives in the Bamangwato Reserve was included in the terms of reference to Mr. Tagart at the special request of the Acting Chief of the Bamangwato. The system under which native delinquents are flogged by order of the Native Authority has recently received very careful consideration in connection with certain draft legislation which has been framed with a view to defining and regulating the powers of Native Chiefs and Native Courts.

An expression of native opinion upon the provisions of this draft legislation is being invited through the Native Advisory Council and the Native Chiefs of the Protectorate. Generally speaking, the relevant provisions of the draft legislation are designed to give effect to the recommendations made in section 12 of Mr. Tagart's Report. It is proposed to prohibit the flogging of women entirely, and also the flogging of any male person otherwise than under conditions to be prescribed by law. It is contemplated that every sentence of flogging passed by a native tribunal should be reported to the Magistrate and should only be carried out under such supervision as is required in the case of a similar sentence imposed by a European Court; that no such sentence should exceed ten strokes in number; that there should be a right of appeal against any such sentence to a Court of Resident Magistrate; and that an appeal should also lie from the Magistrate's Court to the Special Court.

The Administration is in full agreement with the view expressed in section 9 of the Report that district officers should be encouraged and required to travel extensively in their districts, but their activities in this respect must necessarily be governed by the amount of money which can be made available. If, in the past, district officers have not travelled so frequently as might have been desirable, this was due not to lack of initiative on their part, but to financial circumstances which precluded the means of more frequent travelling, having regard to the difficulties of transport in a country where there is no properly developed system of roads. It may be observed that the system of administration obtaining in the Bechuanaland Protectorate, under which certain of the functions which in some other African native territories would fall upon district officers are performed by the native chiefs, also has a bearing on the amount of travelling carried out by District Officers as part of their ordinary duties.

In conclusion, the Administration desires to record its indebtedness to Mr. Tagart for the trouble which he has taken and the very valuable Report which he has presented.

March, 1933.

HIGH COMMISSIONER'S NOTICE No. 64 of 1933.

It is hereby notified for general information that His Excellency the High Commissioner has been pleased to appoint Sub-Inspector Sydney Vernon Lawrenson, Bechuanaland Protectorate Police, to act as Resident Magistrate for the Bechuanaland Protectorate with jurisdiction in the Kgalagadi District thereof, with effect from the 1st May, 1933.

By Command of His Excellency the High Commissioner.

SHIRLEY EALES,
Administrative Secretary.

High Commissioner's Office,
Pretoria, 12th May, 1933.

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Notice is hereby given that an application will be made to the Special Court of Swaziland at Mbabane on Tuesday, the 20th June, 1933, at 10 o'clock in the forenoon, or as soon thereafter as Counsel can be heard, for the rehabilitation of the Estate of RICHARD GERHARDUS FREDERIK ROBERTS, a farmer, of Rietvlei, District Hlatikulu, Swaziland.

Dated at Piet Retief, this 1st day of May, 1933.

OLMESDAHL & OLMESDAHL,
Applicant's Attorneys.

Box 88, Piet Retief.

5-12-19

NOTICE.

REGISTRATION OF MINERAL CONCESSION.

It is hereby notified for general information, in terms of section *thirty-six* (1) of the regulations under the Bechuanaland Protectorate Mines and Minerals Proclamation, 1932 (No. 33 of 1932), that the Mineral Concession Agreement relating to the area comprising the Bakgatla Reserve and more fully described hereunder was registered by me on the second day of May, 1933.

Date of Concession.—22nd July, 1898.

By whom granted.—Late Chief Linchwe.

Original Grantee.—Julius Weil.

Description of rights conferred.—The sole and exclusive right for a period of five years, reckoned from the 22nd July, 1898, to prospect for precious stones, gold and other minerals, together with the right within the period named to mark off a mining area not exceeding 100 square miles, which said rights were extended to the 22nd July, 1913. The selection of the said mining area of 100 square miles having been made in the year 1910, the Concession, in terms of section *twenty-nine* (1) of the above-mentioned Proclamation, endures in respect of that area for a period of twenty-five years, reckoned from the 13th January, 1933.

Present holder of the Concession.—Linchwe Concession Company, Limited.

A. H. BARRATT,
Acting Registrar of Deeds for the Bechuanaland Protectorate.

Mafeking, 3rd May, 1933.

THE SPECIAL COURT OF THE BECHUANALAND PROTECTORATE.

It is hereby notified for general information that, in terms of sub-section (1) of section *one* of the Bechuanaland Protectorate Special Court Proclamation, 1912 (No. 40 of 1912), a Session of the Special Court will be held at Lobatsi at 9.30 in the forenoon on Tuesday, the 6th day of June, 1933.

This notice cancels the notice dated the 29th April 1933.

C. F. REY,
Resident Commissioner.

Mafeking, 9th May, 1933.

GOVERNMENT GAZETTE

OF THE
Union of South Africa.

(Published on Fridays.)

SUBSCRIPTION RATES.

The subscription rates to the *Union Gazette* (including *Official Gazette of the High Commissioner, Gazettes Extraordinary, and Supplements, with Quarterly Index*) are as follows:—

- £1 for six months (post free).
- £2 for twelve months (post free).
- Price per single copy, 6d.

Subscriptions are payable in advance to the Government Printer, Pretoria, and may commence from the 1st of any month, but cannot be accepted for a shorter period than six months.

ADVERTISEMENTS.

Rates of advertising are as follows:—

- 5s. per inch single column; repeats 3s.
- 10s. per inch double column; repeats 6s.
- 15s. per inch treble column; repeats 9s.

In order to arrive at the approximate space which an advertisement will occupy, advertisers should count the words in the body of the advertisement, and reckon—

- For single column, 6 words to the line;
- For double column, 14 words to the line;
- For treble column, 21 words to the line; and 8 lines to the inch.

In each case an additional half-inch at top and bottom should be allowed for heading and signature respectively. Fractions of an inch to be reckoned an inch.

Notices to Creditors and Debtors in the Estates of Deceased Persons and Notices by Executors concerning Liquidation Accounts lying for inspection are published in schedule form at 8s. per Estate.

A fixed charge of 12s. per Estate is made for publishing notices in the schedule forms prescribed in the Regulations made under the Insolvency Act, 1916.

In the case of forms 3 and 4, advertisers should count the words in the advertisements and reckon: 12s. for the first 36 words (or portion thereof) and 2s. for every additional 12 words (or portion thereof).

Notices of acceptance of complete specifications in respect of Applications for Letters Patent are inserted in three consecutive issues for 10s.

Applications for Naturalization are inserted for 13s. (which includes a copy of the *Gazette*).

Only Legal Advertisements are accepted for publication in the *Gazette*, and are subject to the approval of the Government Printer, who can refuse to accept or decline further publication of any advertisement.

The Government Printer reserves to himself the right to edit "copy".

No responsibility can be accepted for losses arising from omissions or typographical or other errors.

Manuscript of advertisements should be written on one side of the paper only, and all proper names plainly inscribed; in the event of any name being incorrectly printed as a result of indistinct writing, the advertisement can be republished only on payment of the cost of another insertion.

No Advertisement can be inserted unless it is Prepaid.

All cheques, bank drafts, postal orders, or money orders must be made payable to the Government Printer, Pretoria, and crossed "South African Reserve Bank". Cheques will only be accepted when initialed by the Bank.

J. J. KRUGER,
Government Printer.

STAATS- KOERANT

VAN DIE

Unie van Suid-Afrika.

(Verskyn elke Vrydag.)

INTEKENGELD.

Die intekengeld vir die *Unie-Staatskoerant* (insluitende die *Offisiële Koerant van die Hoë Kommissaris, Buitengewone Staatskoerante en Supplemente, met Kwartaal-indeks*) is as volg:—

- £1 per ses maande (posvry).
- £2 per twaalf maande (posvry).
- Prys per los eksemplaar, 6d.

Intekengelde moet vooruitbetaal word aan die Staatsdrukker, Pretoria, en mag begin vanaf die 1ste van enige maand, maar kan nie aangeneem word vir 'n korter tydperk as ses maande nie.

ADVERTENSIES.

Die advertensietarief is as volg:—

- 5s. per duim, enkele kolom; herhalings 3s.
- 10s. per duim, dubbele kolom; herhalings 6s.
- 15s. per duim, driedubbele kolom; herhalings 9s.

Om die ruimte wat 'n advertensie sal beslaan, by benadering te bereken, moet adverteerders die woorde in die advertensie tel en reken:—

- Vir enkele kolom, 6 woorde per reël;
- Vir dubbele kolom, 14 woorde per reël;
- Vir driedubbele kolom, 21 woorde per reël; en 8 reëls per duim.

In elke geval moet 'n ekstra half-duim aan die bo- en onderkant bereken word vir die titel en ondertekening respektiewelik. Gedeeltes van 'n duim moet as een volle duim gereken word.

Kennisgewings aan Krediteure en Debiteure in die Boedels van Oorlede Persone en Kennisgewings van Eksekuteurs betreffende Likwidasierekenings wat ter insae lê, word gepubliseer in skedulevorm teen 8s. per Boedel.

'n Vaste bedrag van 12s. per Boedel word bereken vir die publikasie in skedulevorm van kennisgewings voorgeskrewe deur die Regulasies opgestel volgens die Insolvensiewet, 1916.

In die geval van vorms 3 en 4, moet adverteerders die woorde in die advertensies tel en reken: 12s. vir die eerste 36 woorde (of gedeelte daarvan) en 2s. vir elke addisionele 12 woorde (of gedeelte daarvan).

Kennisgewings van aanneming van volledige spesifikasies met betrekking tot aansoeke om Oktrooibriewe word vir 10s. in drie agtereenvolgende uitgawes geplaas.

Aansoeke om Naturalisasie word vir 13s. geplaas, watter bedrag 'n eksemplaar van die *Staatskoerant* insluit.

Alleen wettike advertensies word vir publikasie in die *Staatskoerant* aangeneem en is onderworpe aan die goedkeuring van die Staatsdrukker, wat kan weier om advertensies aan te neem of verder te publiseer.

Die Staatsdrukker behou hom die reg voor om kopie te redigeer.

Geen verantwoordelikheid kan aanvaar word vir verliese wat deur uitlatinge of tipografiese of ander foute ontstaan nie.

Die manuskrip van advertensies moet alleen op een sy van die papier geskrywe word, en alle eiename moet duidelik geskrywe word; ingeval enige naam verkeerd gedruk word ten gevolge van onduidelike skrif, kan die advertensie alleen weer gepubliseer word teen betaling van die koste van 'n tweede plasing.

Geen advertensie kan geplaas word nie tensy dit vooruitbetaal is.

Alle tjeks, bankwissels, posorders of poswissels moet uitgemaak word op naam van die Staatsdrukker, Pretoria, en gekruis wees „Suid-Afrikaanse Reserwebank". Alleen tjeks wat deur die Bank geparafeer is, sal aangeneem word.

J. J. KRUGER,
Staatsdrukker.

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