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No. 73 of 1934.]

PROCLAMATION

By HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas by Proclamation No. 45 of 1933, dated the twenty-fifth day of July, 1933, certain two strips of land in the Tuli Block were vested in the High Commissioner in trust for the Chief of the Bamangwato Tribe and the Bamangwato Tribe, subject to the reservation in favour of the British South Africa Company (hereinafter referred to as the Company) of any existing mineral rights and subject further to the proviso contained in an Agreement dated the twenty-first day of March, 1932, between the Company and the Acting Chief of the Bamangwato, namely, that should mining in terms of the said Agreement cease to take place in the Bamangwato Reserve within a period of twenty years from the twelfth day of August, 1932, being the date on which the Bechuanaland Protectorate Mines and Minerals Proclamation, 1932 (No. 33 of 1932) was applied to the Bamangwato Reserve, otherwise than by default of the Company, the said two strips of land shall be revested in the Company;

And whereas it appears that mining in terms of the afore-said Agreement has ceased to take place in the Bamangwato Reserve in circumstances which do not amount to default by the Company;

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 shall be and is hereby divested of the two strips of land described in the Schedule to the said Proclamation No. 45 of 1933 which are hereby revested in the Company.

2. The Registrar of Deeds for the Bechuanaland Protectorate is hereby authorized to give effect to the provisions of this Proclamation by the insertion of the necessary entries in his registers and endorsement on the title deed of the land affected.

3. This Proclamation shall be deemed to have had force and to have taken effect as from the tenth day of November, 1934.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Twenty-second day of December One thousand Nine hundred and Thirty-four.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency
the High Commissioner.

E. COHEN,
for Administrative Secretary.

(Printed by the Government Printer, Pretoria.)

No. 74 of 1934.]

PROCLAMATION

By HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas under and by virtue of Article two of the Order-in-Council dated the ninth day of May 1891, the High Commissioner is empowered on His Majesty's behalf to exercise all powers and jurisdiction which Her late Majesty Queen

Victoria at any time before or after the date of that Order had or might have within the territory of the Bechuanaland Protectorate, and to that end to take or cause to be taken all such measures and to do or cause to be done all such matters and things within the territory as are lawful and as in the interest of His Majesty's service he may think expedient.

And whereas under and by virtue of Article four of the aforesaid Order-in-Council the High Commissioner may from time to time provide by Proclamation for the administration of justice, the raising of revenue, and generally for the peace order and good government of all persons within the territory, and in the said Article it is directed that the High Commissioner in issuing such Proclamations shall respect any native laws or customs by which the civil relations of any Native Chiefs, tribes or populations under His Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction.

And whereas it is desirable to make better provision for the appointment, powers and functions of Native Chiefs, Sub-Chiefs and Headmen in the Bechuanaland Protectorate, hereinafter referred to as "the territory":

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

DEFINITIONS.

1. In this Proclamation and in any rules or regulations made thereunder, unless inconsistent with the context—

"Chief" shall mean the Chief over any tribal area who has been recognized in that capacity by the High Commissioner and confirmed therein by the Secretary of State and shall include an Acting Chief;

"district" shall mean any Magisterial District established as such by the High Commissioner by notice in the *Gazette*;

"Headman" shall mean any person appointed as such by the chief or sub-chief of the tribe or area affected;

"intoxicating liquor" or "liquor" shall mean any spirit, wine, ale, beer, porter, cider, perry, hopbeer, kgadi, or any liquor containing more than two per cent. by volume of alcohol, and any liquor which the High Commissioner may from time to time declare by notice in the *Gazette* to be included in this definition, but shall not include native or kaffir beer;

"Kgadi" shall mean any fermented liquor made from water to which the powder commonly known as "Seretse" has been added and golden syrup, or treacle, or molasses, or sugar, or honey, or moretwa berries or mogwana berries;

"Kgotla" shall mean the customary meeting of a tribe or portion thereof in some duly recognized place for the discussion of matters of tribal concern in accordance with native custom;

"Magistrate" shall mean any Magistrate or Assistant Magistrate and shall include any officer duly appointed to act in either of these capacities;

"native" shall mean any aboriginal native belonging to any tribe of Africa, and shall include persons of mixed race living as members of any native community, tribe, kraal or location in the territory;

"Native law and custom" shall mean in relation to a particular tribe or in relation to any native community outside any tribal area the general law and custom of such tribe or community except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction or repugnant to morality, humanity or natural justice or injurious to the welfare of the natives;

"Sub-Chief" shall mean any native who has been appointed as such by the Resident Commissioner under the provisions of section eleven;

"Tribal area" shall mean any reserve defined in Proclamations No. 9 of 1899, No. 55 of 1908, No. 28 of 1909, No. 2 of 1911, No. 31 of 1933, No. 44 of 1933, or any other area which has been or may hereafter be defined by law as such reserve.

2. (1) Upon the occurrence of a vacancy in the Chieftainship of a tribe it shall be the duty of the tribe assembled in Kgotla to designate the former Chief's successor according to native custom and to cause his name to be submitted to the Resident Commissioner with a view to seeking the High Commissioner's recognition and the Secretary of State's confirmation of his appointment. Provided that, where any doubt arises whether the person so designated is under native custom the rightful successor to the Chieftainship or is a fit and proper person to discharge the functions of a Chief the Resident Commissioner shall hold a public inquiry for the investigation of the matter in doubt and shall report thereon to the High Commissioner.

(2) In the event of a vacancy in the Chieftainship of a tribe and pending the recognition of any Chief in terms of section four or the approval of any acting Chief in terms of section six the person who under native law and custom is charged with the duty of summoning the tribe to assemble in Kgotla in order to designate the successor to the Chieftainship in terms of this section, or to designate an acting Chief in terms of section six, shall act as Chief of the tribe.

3. Every Chief who at the date of the taking effect of this Proclamation is lawfully holding the office of Chief shall be deemed to have been recognized by the High Commissioner and confirmed by the Secretary of State.

4. Every Chief may exercise the functions of his office so soon as he shall have been recognized by the High Commissioner.

5. (1) The Chief and tribe having assembled in Kgotla, the Chief shall proceed to designate the persons who under native custom are entitled to advise him as his Councillors, and may with the approval of the tribe in Kgotla designate other persons also to be Councillors. The Chief shall notify the names of all his Councillors to the Resident Magistrate. Such designation shall be made immediately after the coming into force of this Proclamation and in the case of a Chief who is recognized after such coming into force within one week of his assumption of the Chieftainship: Provided always that a Chief may from time to time designate as a Councillor any person who may thereafter become entitled under native custom to advise him as one of his Councillors, or designate with the approval of the tribe in Kgotla any other person to be one of his Councillors; whereupon any such additional designation shall be notified forthwith to the Resident Magistrate. It shall be the duty of the Chief in the exercise of his functions to consult with these Councillors who, with the Chief, shall be styled the Tribal Council.

(2) The Chief with the approval of the Resident Commissioner may at any time terminate any Councillor's tenure of office and shall do so if the Resident Commissioner after consultation with the Chief shall so direct.

6. (1) If the person designated by the tribe as Chief under section two is a minor the functions of the Chief shall be discharged during such minority by an acting Chief to be designated by the tribe in Kgotla subject to the approval of the High Commissioner, and, in the event of failure by the tribe to designate such Acting Chief within such time as the Resident Commissioner may fix, the High Commissioner may appoint an Acting Chief or Council.

(2) For the purpose of sub-section (1) the minority of a Chief shall terminate and the appointment of an Acting Chief or Council shall cease to have effect on such date as may be fixed by the tribe in Kgotla subject to the approval of the High Commissioner. In the event of the tribe in Kgotla failing to fix such date when called upon to do so by the Resident Commissioner, the date shall be fixed by the High Commissioner.

7. If the High Commissioner is satisfied that by reason of old age or mental or physical infirmity or other incapacity a Chief has become incapable of performing adequately or for any reason has neglected or failed to perform adequately the duties of his office he may instruct the Resident Commissioner to call upon the Chief to assemble his tribe in Kgotla to designate subject to the approval of the High Commissioner an Acting Chief or Council. In the event of failure by the Chief so to assemble his tribe in Kgotla or by the tribe to designate such Acting Chief or Council within such time as the Resident Commissioner may fix, the High Commissioner may appoint an Acting Chief or Council to act with or on behalf of the Chief in administering the affairs of the tribe, provided that if in any such matter the Chief shall fail to seek the advice of such Acting Chief or Council or having sought such advice shall fail to act in conformity with it,

such Acting Chief or Council may act in such matter in the place of the Chief and any such act of the Acting Chief or Council shall be for all purposes as valid as if it had been performed by the Chief.

8. If the High Commissioner declines to recognize the appointment of any Chief or withdraw his recognition of such appointment or if the Secretary of State declines to confirm or cancels his confirmation of such appointment such Chief shall thereupon be suspended from the exercise of the powers and functions of the Chieftainship, provided that such recognition or confirmation shall not be withheld withdrawn or cancelled until the Chief has been afforded an opportunity to show cause to the High Commissioner or to the Resident Commissioner if deputed thereto by the High Commissioner against such withholding withdrawal or cancellation. During the period of suspension of any Chief from the exercise of the powers and functions of the Chieftainship, the powers and functions of the Chieftainship shall be exercised by an Acting Chief to be designated by the tribe in Kgotla subject to the approval of the High Commissioner, and in the event of failure by the tribe to designate such Acting Chief within such time as the Resident Commissioner may fix the High Commissioner may appoint an Acting Chief or Council.

9. In the event of a tribe desiring to depose a Chief such desire shall be forthwith reported to the Resident Commissioner, and an opportunity shall be afforded to the Chief of making to the High Commissioner such representations as he may wish to make. The High Commissioner if it appears to him that the desire reported represents the wishes of a reasonably large portion of the tribe, may refer such representations to the Special Court acting as a Commission of Enquiry with all the powers and authority of a Commission appointed under the provisions of Proclamation No. 30 of 1933 for investigation and report and upon receipt of the report of the Special Court may authorize or decline to authorize such deposition: Pending the decision of the High Commissioner the Chief shall as from a date to be fixed by the Resident Commissioner be suspended from exercising the powers and functions of his office. If the High Commissioner shall authorize the deposition the office of Chief shall forthwith become vacant and the necessary proceedings as provided by this Proclamation shall be taken for designating another person as Chief. If the High Commissioner shall decline to authorize the deposition the Chief shall be restored to the exercise of the powers and functions of his office. The High Commissioner shall not authorize such deposition without prior reference to the Special Court of any representations which may have been made by the Chief concerned but may decline to authorize such deposition without prior reference to the Special Court.

10. (1) When a Chief has been suspended from the exercise of the powers and functions of his office in accordance with section eight or has been deposed in accordance with section nine the High Commissioner may, if he is satisfied that it is necessary for the re-establishment or maintenance of peace order and good government in the tribal area over which such Chief has exercised authority, by an order under his hand instruct the Resident Commissioner to issue an order directing such Chief to leave such tribal area within such time as may be specified in the order or to leave the tribal area within the said time and not to enter or be found therein or within any other portion of the territory specified in the order. Provided that where the High Commissioner is satisfied that there is reasonable ground for apprehending that grave disturbance of the peace may ensue unless the Chief is forthwith removed from the tribal area he may by an order in writing under his hand authorize the Resident Commissioner to cause the Chief to be arrested forthwith and removed in custody outside the tribal area or to any place named in the order. Before an order is made under this section the High Commissioner shall afford to the Chief an opportunity of making any representations against such order unless in the opinion of the High Commissioner the circumstances are such that any delay in making the order would endanger the maintenance of peace, order and good government, and in such case any Chief who has complied with the order may make representations to the High Commissioner showing cause why such order should be modified or withdrawn.

(2) Any Chief upon whom an order has been served under sub-section (1) who shall refuse or neglect to comply therewith, or who, having left such area, shall return thereto or shall be found in any portion of the territory specified in the order without the consent of the High Commissioner, shall be guilty of an offence and shall on conviction be liable to imprisonment, with or without hard labour, for a period not exceeding six months, and the High Commissioner may, by an order in writing under his hand, order him to be removed either forthwith or on the expiration of any term of imprisonment to which he may have been sentenced as aforesaid, to such part of the territory as the High Commissioner may by such order direct, and such order shall be sufficient warrant for his removal in custody to that part of the territory.

(3) Nothing in this section or in any order issued thereunder contained shall be interpreted or applied so as to prohibit or prevent any Chief who has been suspended from the exercise of the powers and functions of his office in accordance with section eight or who has been deposed in accordance with section nine from leaving the territory.

11. The Resident Commissioner after consultation with the natives concerned may appoint a Sub-Chief over any community of natives occupying an area which is not a tribal area, and may, after like consultation, revoke such appointment.

12. In any area other than a tribal area the Sub-Chief shall exercise over the natives placed under his charge such authority and such of the functions of a Chief as the Magistrate with the approval of the Resident Commissioner may confer on him.

13. Subject to the provisions of this Proclamation every Chief, Sub-Chief and Headman shall exercise his authority in consultation with his Council or Kgotla in accordance with native law and custom.

14. Any person who shall conspire against or subvert or attempt to subvert the authority of any Chief or Sub-Chief shall be guilty of an offence and on conviction shall be liable to such punishment as may lawfully be inflicted for the crime of sedition: Provided that no one shall be deemed to have conspired against or subverted or attempted to subvert the authority of any Chief or Sub-Chief if he is able to prove to the satisfaction of the Court that he intends or intended in good faith only—

- (a) to show that any Chief or Sub-Chief has been misled or mistaken in his measures; or
- (b) to point out errors or defects in the administration of the tribe or community or in the administration of justice with a view to the reformation of such alleged errors or defects or to urge the members of the tribe or community to attempt to procure by lawful means the alteration of any matter connected with such administration.

15. (1) Every Chief or Sub-Chief shall be responsible to the Government for the maintenance of law and order and the prevention of crime among the natives residing in the area over which his authority extends, and for the fulfilment of his duty such Chief or Sub-Chief shall, in addition to the powers conferred upon him by this Proclamation and subject to the provisions thereof, exercise such powers as may be vested in him by virtue of native law and custom as defined by this Proclamation and it shall be the duty of any Chief or Sub-Chief immediately to bring to the notice of the Magistrate of his district any conditions of unrest or dissatisfaction or any other matter of serious import or concern to the Government.

(2) Whenever a Chief or Sub-Chief has occasion to absent himself from the area in which he exercises authority he shall inform the Magistrate of the district and shall designate to such Magistrate the person who will take charge of the area during his absence and on his behalf. A Headman intending to be absent from the sphere of his duties shall report such absence to his Chief.

16. Every Headman shall, in respect of the area under his charge, be responsible to his Chief or Sub-Chief for the preservation of peace and good order and the prevention of crime among the natives living therein and shall carry out any lawful order given to him by such Chief or Sub-Chief.

17. (1) It shall be the duty of every Chief or Sub-Chief to comply with all laws and to carry out such lawful orders and instructions as may from time to time be given to him by the Resident Commissioner personally or through the Magistrate of the district. It shall also be his duty to render within the area under his authority such assistance as may be required of him by responsible officers of the Government in connection with the following matters, and a Chief or Sub-Chief if required to do so shall issue orders to be obeyed by the natives within the area under his authority in respect of the same:—

- (a) Restricting or prohibiting the manufacture of any intoxicating liquor and the sale or supply of such liquor to natives;
- (b) prohibiting or restricting the sale, supply or cultivation of poisonous or noxious plants and the manufacture of noxious drugs or poisons;
- (c) prohibiting any act or conduct which in the opinion of the Magistrate or Chief might cause a riot or a disturbance or breach of the peace;
- (d) preventing the pollution of the water in or injury to any dam, stream, watercourse, water-holes, well, borehole or other water supplies and preventing the obstruction of any stream or watercourse;
- (e) regulating the cutting of timber and prohibiting the wasteful destruction of trees;
- (f) requiring natives to report the deaths of persons suspected to have been caused by violence or by other than natural causes;
- (g) requiring natives to report cases of infectious or contagious diseases whether of human beings or animals and generally for the prevention of the spread of such diseases;
- (h) for the collection of such statistics, including vital statistics, as may be called for by the Government;
- (i) requiring natives to report the presence within the tribal area of any stolen property;
- (j) for the protection of roads;
- (k) for the protection and preservation of game;

- (l) requiring the natives of the tribal area to co-operate in any measures taken for the purpose of exterminating or preventing the spread of the Tsetse fly, locusts, mosquitoes, or pests of a like nature;
- (m) for the prevention and extinction of grass and bush fires;
- (n) reporting the presence of any fugitive offender in the area;
- (o) reporting the illicit introduction into the area of arms, ammunition and intoxicating liquor;
- (p) reporting the presence in the area of strange stock without lawful permit;
- (q) reporting the commission or suspected commission of crime and offences;
- (r) for any other purpose prescribed by the Resident Commissioner with the approval of the High Commissioner.

(2) Every order given by the Chief or Sub-Chief under this section and every public order, direction or notice that may be notified to the Chief by the Magistrate shall be made known by the Chief or Sub-Chief to the native or natives concerned in accordance with native law and custom and shall thereupon be binding on the native or natives to whom it shall apply.

(3) Any native who shall disobey any order given under this section shall be guilty of an offence and on conviction by the court or native tribunal having jurisdiction shall be liable to a fine not exceeding five pounds or in default of payment to imprisonment for a period not exceeding one month.

18. (1) Whenever a Magistrate shall consider that any order issued by a Chief, Sub-Chief or Headman in his district should not have been issued or should not be enforced, he may, after discussion with such Chief, Sub-Chief or Headman direct such Chief, Sub-Chief or Headman to suspend the carrying out of such order and shall forthwith report the matter to the Resident Commissioner who may uphold revoke or modify such order.

(2) As from the date of the suspension of any such order no proceedings shall be taken or continued for the enforcement thereof and no penalty incurred thereunder shall be enforced unless and until the order has been confirmed by the Resident Commissioner.

(3) Where the Resident Commissioner has revoked any such order any conviction for a contravention of the order before the date of such revocation shall be set aside and any fine imposed under any such conviction, which has been paid by the person convicted, shall be refunded to him.

19. No levy of money or in kind shall be imposed upon or exacted from any native save under authority of a law of the territory except with the written approval of the Resident Commissioner and subject to such conditions as he may prescribe. The Resident Commissioner shall not give such approval unless the tribe or native community concerned duly assembled in Kgotla for the purpose shall have previously consented to the levy, and if satisfied that such consent has been given he shall not withhold his approval without having afforded the Chief an opportunity of representing to him the reasons why the proposed levy is considered by the Chief and the tribe necessary or desirable in the interests of the tribe. Every decision by the Resident Commissioner under this section shall forthwith be reported by him to the High Commissioner.

20. No contract entered into or obligation undertaken by a Chief, Sub-Chief or Headman in the territory (whether with or without the consent of his advisers according to native law and custom) shall be binding upon the tribe or upon any community of natives under such Chief, Sub-Chief or Headman unless the approval of the High Commissioner shall have been given thereto in writing or unless the subject matter thereof is of a value in all under two hundred and fifty pounds.

21. No tribe or community of natives or portion of a tribe or community of natives shall be held responsible for the personal obligations of any Chief, Sub-Chief or Headman.

22. (1) A Chief or Sub-Chief may, in accordance with native law and custom, call upon the natives in his area to perform any of the following services without payment or remuneration in cash or in kind:—

- (a) Services necessary in times of national emergency in order to avert a calamity or threatened calamity such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases whether human or animal, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population.
- (b) Minor communal services of a kind which, being performed by the members of a tribe or community in the direct interest of the said tribe or community, can therefore be considered a part of the normal civic obligations incumbent upon the members of the tribe or community, provided that the tribe or community in Kgotla shall have the right to be consulted in regard to the need for such services.
- (c) Personal services to a Chief or Sub-Chief which are recognized by native law and custom (such as the ploughing of the Chief's tribal lands) and are undertaken in order to enable such Chief or Sub-Chief to maintain his position as head of the tribe and discharge the duties of his office.

(2) Save as in sub-section (1) provided, a Chief, Sub-Chief or Headman shall not exact any work or service from any native in his area under the menace of any penalty for its non-performance, and shall not employ any native on personal or tribal work or service who has not offered himself voluntarily for such work or service.

23. Any person contravening or failing to comply with or being guilty of an offence against any of the provisions of this Proclamation or of any regulations made thereunder for which no penalty is specially provided shall be liable on conviction by a Court of Resident Magistrate to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

24. The High Commissioner may make, alter and repeal regulations to facilitate the carrying into effect of this Proclamation and in particular but without prejudice to the generality of the foregoing for prescribing and defining the conditions under which services may be required to be rendered under section *twenty-two*. Such regulations may prescribe penalties for any contravention thereof.

25. This Proclamation may be cited as the Bechuanaland Protectorate Native Administration Proclamation, 1934, 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 Capetown this Twenty-eighth day of December One thousand Nine hundred and Thirty-four.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency
the High Commissioner.

E. COHEN,
for Administrative Secretary.

(Printed by the Government Printer, Pretoria.)

EXPLANATORY STATEMENT BY THE HIGH COMMISSIONER.

In order to remove any misapprehensions which may have existed among the Bechuana in regard to the purpose and effect of the Native Administration and the Native Tribunals Proclamations of 1934, I think it desirable, as the representative of His Majesty the King in the Bechuanaland Protectorate, and with the concurrence of the Secretary of State, to issue the following explanatory statement.

The constitutional position in the Bechuanaland Protectorate is governed, in law, by various Orders-in-Council and Proclamations, of which the most important is the Order-in-Council of Her late Majesty Queen Victoria dated the 9th May, 1891. That Order-in-Council empowered the High Commissioner to exercise on Her Majesty's behalf all powers and jurisdiction which Her Majesty at any time before or after the date of the Order had or might have within the Protectorate, and to that end empowered him further to take or cause to be taken all such measures, and to do or cause to be done all such matters and things, within the Protectorate as are lawful and as in the interest of Her Majesty's service he might think expedient, subject to such instructions as he might from time to time receive from Her Majesty or through a Secretary of State.

Other provisions of the Order-in-Council empowered the High Commissioner—

- (1) to appoint administrative and judicial officers and to assign their functions to them, subject to the preservation of his own powers and authorities in their entirety; and
- (2) to provide by Proclamation, from time to time, for the administration of justice, the raising of revenue and generally for the peace order and good government of all persons within the Protectorate, including the prohibition and punishment of acts tending to disturb the public peace.

In issuing such Proclamations the High Commissioner was instructed by the Order-in-Council to respect any native laws and customs by which the civil relations of any native chiefs, tribes or populations under Her Majesty's protection were at that time (viz., in May, 1891) regulated, except in so far as the same might be incompatible with the due exercise of Her Majesty's power and jurisdiction.

The Order-in-Council required the High Commissioner to publish his Proclamations in the *Gazette*, and reserved to Her Majesty the right to disallow any such Proclamation.

The Order-in-Council provided also that, subject to any Proclamation lawfully issued by the High Commissioner, any jurisdiction exercisable otherwise than under this Order-in-Council of 1891, whether by virtue of any Statute or Order-in-Council, or of any treaty, or otherwise, should remain in full force.

Her Majesty reserved the power to revoke, alter, add to or amend this Order-in-Council at any time.

All references to Her Majesty in the Order-in-Council were declared by it to include Her Majesty's heirs and successors.

Four years after the issue of this Order-in-Council, the then Chiefs of the Bangwaketsi, the Bakwena, and the Bamangwato went to London and had interviews at the Colonial Office with the Secretary of State, Mr. Chamberlain. Some correspondence passed, from which I will quote one passage, as it defines the general principle which has guided successive High Commissioners and the officers serving under them in the administration of the Territory. The passage occurs in a Colonial Office letter written by direction of Mr. Chamberlain on the 7th November, 1895, to the Reverend W. C. Willoughby, (who had accompanied the Chiefs to England), and it is in the following terms:—

"Each of the Chiefs Khama, Sebele and Bathoen shall have a country within which they shall live, as hitherto, under the protection of the Queen. The Queen will appoint an officer to reside with them. This officer will get his orders from the Queen through the Secretary of State and the High Commissioner. The Chiefs will rule their own people much as at present. The Queen's officer will decide all cases in which white men, or black men who do not belong to the tribe of one of the three Chiefs are concerned, or in which the punishment is death. He will also have a right to hear an appeal in any very serious case, even if the punishment is short of death.

"The people under the Chiefs shall pay a hut tax, or tax of a similar nature, but as the Chiefs wish it, they may collect—at all events for the present—themselves and pay it over to the Queen's officer, but this is not to be made a reason for paying over too little."

The general principle expounded in this passage has been applied, not only to the three Chiefs and tribes mentioned in the letter, but also to the other chiefs and tribes in the Protectorate.

The application of this general principle, in its combination with the provisions of the above-mentioned Order-in-Council of 1891, has resulted in the establishment of a method of administration which is described nowadays by the term "indirect rule"; or, in other words, a method of administration which preserves,—subject to the due exercise of the power and jurisdiction of the Crown, and subject to the requirements of peace, order and good government,—the tribal authority of the Chiefs and the native laws and customs, without however derogating from the duty of supervision and supreme control entrusted to the High Commissioner and carried out by him through the officers serving under him. The High Commissioner is responsible to the King, not only for the maintenance of law and order, but also for the welfare of the Chiefs and the people of all classes in the Territory, since all of them equally are living under His Majesty's protection.

The object of the Native Administration and the Native Tribunals Proclamations of 1934 is not to abolish the principle of this method of administration, but rather to provide for its continuance and its further development.

In the affairs of men nothing can remain stationary. As the years pass, conditions change, and institutions and forms of government which do not adapt themselves to changing conditions, and progress with them, lose their vitality and sink into decay. The Bechuana are no longer the very primitive people that they were some forty years ago. Contact with European civilisation, and the gradual spread of education have affected appreciably, though in varying degrees, many of their thoughts and ways of life, and systems and methods which may have sufficed forty years ago must, if they are to survive at all, be brought into line with changed conditions and must be rendered capable of further development in conformity with such further changes as the future may bring forth.

The two Proclamations have been framed with the intention of preserving the hereditary Chieftainship, preserving the exercise of tribal authority by the Chiefs, preserving native law and custom, and preserving the administration of justice by the native courts or Kgotlas, through making it possible for them to function satisfactorily under changed and changing conditions. The intention is to build up, not to destroy, native institutions, to develop and strengthen all that is good in them, and at the same time to enable the High Commissioner and the officers serving under him to discharge, in a manner duly defined so as to be understood by all, their duty of supervision helpfulness and guidance. It is not the intention that the King's Government should interfere unnecessarily with the Chiefs and tribes, but it is the intention that, if and when the necessity should arise, there should be no doubt or dispute as to the right of the Government to take such action as might be requisite for the promotion of the welfare and progress of the people, or for the prevention of any maladministration, oppression, or injustice.

If the two Proclamations are rightly understood, they will be welcomed by the Chiefs and people, as a charter of their liberties, an opportunity to maintain their institutions and customs by using and developing them in such a way as to let them become a help, rather than a hindrance, to further progress.

With this purpose in view the two Proclamations establish on a sound basis the principle of the administration of tribal affairs by and through the Chiefs, they provide for the necessary assistance in the practical development of that principle, and they pave the way for the eventual assignment of such further functions and duties as the natives may show themselves fit to undertake.

The two Proclamations have already been translated into Sechuana and circulated in that language in draft form so that the people might more easily understand them. They will now be recirculated in Sechuana in their final form, which embodies the various amendments made in them since the original versions were discussed with the Chiefs and in the Kgotlas. To assist people in studying them, I wish to call attention to a few points which might otherwise not be clear to them.

NATIVE ADMINISTRATION PROCLAMATION, 1934.

This Proclamation recognizes and gives legal sanction to the native customary law of succession to the Chieftainship. It does not empower the Government to appoint and dismiss Chiefs, as is done in some of the African Territories to which the principle of indirect rule has been applied. It confirms in the Chieftainship all Chiefs who are now lawfully holding office as Chiefs. When a vacancy occurs in the Chieftainship of a tribe, the High Commissioner does not select the new Chief, but it falls to the tribe in Kgotla to tell the Government who is the rightful successor to the Chieftainship according to native custom. As has always been the practice hitherto, his name is then submitted to the High Commissioner for recognition and to the Secretary of State for confirmation. Although he may be the rightful successor to the Chieftainship according to native custom, he cannot exercise the functions of the Chieftainship until he has been recognized by the High Commissioner, and in the meantime the person whose duty under native custom it is to summon the tribe to assemble in Kgotla when the Chieftainship is vacant will act as Chief. If the rightful successor to the Chieftainship appears, after public enquiry, not to be a fit and proper person to exercise the functions of the Chieftainship, the High Commissioner can decline to recognize him, or the Secretary of State can decline to confirm him in his office. Or again, if at any time he neglects or fails to discharge properly his duties as Chief, or becomes physically or mentally incapable of carrying them out properly, or abuses his authority and oppresses his people, or otherwise proves to be a bad Chief, the High Commissioner can cancel his recognition, or the Secretary of State can cancel his confirmation, or the High Commissioner can suspend him from the exercise of his functions as Chief, but he will in every case first be given an opportunity to submit for consideration anything that he may wish to say in his defence. If his recognition or his confirmation is thus cancelled, or if he is thus suspended by the High Commissioner, the Chieftainship will not become vacant, but the Chief will not be allowed to exercise the functions of the Chieftainship until he has again been recognized and confirmed or until his suspension has been withdrawn, and in the meantime someone else will be appointed by the tribe (or, if the tribe fails to make such appointment, by the High Commissioner) to act in his place in the exercise of the functions of the Chieftainship. The deposition of a Chief (which means that the person deposed ceases to be Chief of the tribe for ever and the Chieftainship of the tribe thereby becomes vacant, just as if the deposed Chief had died instead of being deposed) can be effected only by the tribe itself, and then only if the High Commissioner, after referring to the Special Court for investigation and report any representations which the Chief concerned may have submitted to him, authorises the deposition. Methods are thus provided for the protection of a tribe against maladministration of its affairs, or against oppression, without recourse to violence or disorder. Whatever may be necessary for such protection can now be done peaceably and lawfully and with every reasonable precaution against the infliction of injustice on the Chief concerned. On the other hand, a Chief who conducts himself properly will be supported by the Government, and persons who conspire against him will be liable to severe punishment by the European Courts.

A Chief has duties, not only towards his tribe, but also towards the Government. Under the system of indirect rule he discharges functions in the administration of tribal affairs which under a system of direct rule would be discharged by the Government through its own officers. As the High Commissioner is responsible to the King for the welfare of all the people, so also must the Chief of a tribe be held responsible to the High Commissioner for the welfare of the tribe over which he exercises his functions. The duties of a Chief towards his tribe are based upon native law and custom. The duties of a Chief towards the Government are set forth in this Proclamation. It deals also with the duties of Headmen.

For the protection of the people against the imposition of unreasonable or excessive burdens on them, provision is made in the Proclamation that, before a levy can be imposed by a Chief on his tribe, the consent of the tribe in Kgotla and the written approval of the Resident Commissioner shall be necessary.

Also with a view to the protection of the people, the Proclamation limits by certain conditions the right of a Chief to exact compulsory labour.

The Proclamation prescribes that a Chief must follow the old-established custom of the Bechuana which requires him to exercise the functions of his office in consultation with his Councillors. In England the King acts in consultation with his advisers, who are chosen from among the members of his

Privy Council, and persons are appointed as members of the Privy Council, not by virtue of birth, but by virtue of their services to the State, or of their ability and experience. Among the Bechuana the custom is said to have been hitherto that the Chief's Councillors are not persons specially appointed by the Chief, but only persons who are entitled by right of birth to advise him as his Councillors. The Proclamation does not interfere with that custom, but it requires the Chief to tell the Government who his Councillors are, so that the Government may know their names. I feel, however, that the time must be coming very soon, if indeed it has not come already, when a Chief will not wish to look for advice only to those who are his Councillors by right of birth according to native custom, but will wish to include among his Councillors other natives whose wisdom, or character, or education, or experience would make their advice valuable in the interests of the Chief himself and of the tribe as a whole. It would seem unfortunate that the Chief and the tribe should be deprived of the benefits resulting from such advice, merely because the persons who are able to give it do not happen to be Councillors by right of birth, and the Proclamation therefore empowers the Chief, if he so desires and if the tribe in Kgotla approve, to nominate any such persons as Councillors in addition to those who are entitled to be his Councillors by right of birth. The Proclamation does not compel him to exercise this power, but merely enables him to exercise it. It is my firm belief that, before very long, even if not at once, the Chiefs and tribes will recognize the value of this power, that they will be glad to take advantage of it, and that they will be grateful for the inclusion of it among the provisions of the Proclamation.

The Proclamation does not affect in any way the right of the tribe to meet in Kgotla and the duty of the Chief to consult with the tribe assembled in Kgotla.

NATIVE TRIBUNALS PROCLAMATION, 1934.

As has been mentioned above, the Order-in-Council of the 9th May, 1891, empowered the High Commissioner to provide from time to time by Proclamation for various matters, of which one was the administration of justice, and instructed him in issuing such Proclamations to respect any native laws or customs by which the civil relations of any native Chiefs, tribes or populations under Queen Victoria's protection were then regulated, except so far as the same might be incompatible with the due exercise of Her Majesty's power and jurisdiction.

It is obviously desirable that the constitution and functions of Native Courts should be clearly defined, so that there may be no doubt as to their powers and jurisdiction.

That this is not merely a personal opinion of my own will be seen from the following words which were addressed to Acting Chief Tshakedi of the Bamangwato by the Secretary of State, Lord Passfield, when Tshakedi was received by him in London on the 1st April, 1930:—

"With regard to the powers of the Chiefs, I had in any case intended to take the opportunity afforded by your presence in England to refer to the question of making statutory provision in order to establish on a proper legal footing the jurisdiction and powers of the Courts of the Chiefs in the Protectorate when trying cases in accordance with native law and custom, and I am glad that you have mentioned this matter. It is not the fact, as implied in your speech to me, that this question has arisen out of the appeal which you made in a certain matter to the Judicial Committee of the Privy Council, though, as you are aware, the absence of statutory authority for the exercise of jurisdiction by the Courts of the Chiefs was mentioned in the Judgment of the Special Court of the Protectorate when the matter referred to was before it. The question of the authority and powers of the Chiefs' Courts is a matter of serious concern to the Government and the Chiefs, as well as to the people over whom the Chiefs exercise jurisdiction, and it is, of course, important, in the case of the Native Courts as in the case of the European Courts, that adequate safeguards should exist to ensure the due and proper administration of justice, and that subject to such safeguards the authority of the Native Courts should not be open to question on legal grounds. I am advised that provision to enable the requisite legal powers to be conferred on Courts of Chiefs is contained in the High Commissioner's Proclamation of the 10th June, 1891, and I contemplate that the Resident Commissioner should be asked to examine the whole question, and after consultation with the Chiefs and the Native Advisory Council, to frame proposals which could receive the consideration of the High Commissioner and the Secretary of State with a view to regularizing the position and giving the requisite legal sanctions to the Chiefs' Courts in the exercise of jurisdiction according to native law and custom. That question will require careful consideration, and I expect you, as acting Chief of the Bamangwato, to co-operate with the Government in the consideration of this important matter of regularizing the position and defining the powers of the native Courts."

These are not words which either the High Commissioner or the natives of the Territory can disregard. The Proclamation which has now been issued, like the other (Native Administration) Proclamation, does not abolish the native institutions with which it deals, but is intended to place them on a proper legal basis and to give them a new lease of life under conditions which will make them suitable for adaptation to the present and future requirements of the Bechuana.

Under this Native Tribunals Proclamation the system of the trial of native cases by the Chief or Headman in the Kgotla is preserved, but the methods of trial are to be improved with the object of reducing the risk of confusion, or of miscarriage of justice, or of the infliction of punishments inconsistent with the state of civilization which is superseding the primitive conditions of bygone years. If trial in Kgotla is not to become so utterly out of harmony with modern development as to be doomed to early disappearance, it must be brought up to date in such a way that it can be recognized as a proper system of administering justice.

The purpose of this Proclamation is not to introduce European law or European procedure. The Proclamation provides that every Native Court shall exercise its jurisdiction in accordance with native law and custom. The cases will still be tried in Kgotla, but the Kgotla, when a case is being tried in it, will be called a native Tribunal, so as to distinguish its functions as a Court from its functions when it is dealing with matters other than the trial of cases. In order that native tribunals may be lawfully constituted, the Chief will be appointed by the Resident Commissioner to adjudicate upon and try cases, and the Chief will not be entitled to administer justice unless and until he has been so appointed by the Resident Commissioner. The High Commissioner is empowered to withdraw any such appointment, if he is satisfied that it is necessary in the interests of justice that the person so appointed shall not continue to act in that capacity.

There will be Senior Tribunals and Junior Tribunals. The Senior Tribunals will be those over which a duly appointed Chief, or some one appointed by the Chief to act as his deputy, will preside. The Tribunal presided over by the Chief in person will be called the Chief's Tribunal.

Junior Tribunals will be appointed where necessary. A Junior Tribunal will be presided over by a Headman whom the Senior Tribunal will appoint to preside over the Junior Tribunal. There will be a right of appeal from the decision of a Junior Tribunal to a Senior Tribunal, and from the decision of a Senior Tribunal to the Magistrate's Court, and in certain cases from the Magistrate's Court to the Special Court.

The Chief is required by the Proclamation to nominate some of his Councillors to sit with and help him, or his deputy, in the trial of cases in any Senior Tribunal. These Councillors will be called members of the Tribunal, and the names of any of them who sit with the Chief or his deputy in the trial of any case must be recorded. It will be lawful to make some payment to them for their services if the Chief in Kgotla, with the approval of the Resident Commissioner, so decides. Their functions will resemble those of Assessors in a European Court. Their advice will be helpful to the Chief or his deputy in coming to a just decision, and it will be the duty of the Chief or his deputy to consult with them and consider their opinions before giving his decision. In a Junior Tribunal the Headman who has been appointed by the Senior Tribunal to preside over such Junior Tribunal will have to nominate some persons to sit with him and help him in the adjudication of cases. Their names also must be recorded, and their functions will be similar to those of members of Senior Tribunals.

A Junior Tribunal will exercise such jurisdiction as may be assigned to it by the Senior Tribunal. Senior Tribunals will have jurisdiction in all native cases except in those matters which under the provisions of the Proclamation are excluded from their jurisdiction. Such matters will be dealt with by the European Courts. A Native Tribunal may not try a case in which any of the parties is a person other than a native, and it will be an offence punishable by the European Courts for any person other than a native to take, or attempt to take, any case to a Native Tribunal.

The punishments which may be inflicted by a Native Tribunal will be in accordance with native law and custom, subject, however, to certain restrictions which are set forth in the Proclamation. For instance, corporal punishment may not be imposed on women, and the amount of corporal punishment which may be imposed on male persons may not exceed certain specified numbers of strokes and may be inflicted only under prescribed conditions. Indiscriminate or excessive flogging is not compatible with advancing civilization.

Every Native Tribunal, unless it has been specially exempted by the Resident Commissioner, is required to keep a proper written record of all cases tried by it. This is a very important and necessary provision for the avoidance of confusion or of disputes as to what took place. Exemptions will be given by the Resident Commissioner in the case only of Tribunals where there is nobody sufficiently educated to do the necessary writing. With the further spread of education the need for such exemptions will gradually disappear.

There are various other provisions which have been inserted with the object of supplying such safeguards as may be possible for the prevention of inefficiency, or unfairness, or dishonesty, or corruption, in the trial of cases by Native Tribunals.

Lawyers will not be allowed to appear or act for any party before a Native Tribunal. In cases tried in accordance with native law and custom before a Resident Magistrate, lawyers will be allowed to appear only with the special leave of the Resident Commissioner.

These are some of the principal points in the two Proclamations. I have left unmentioned a number of other provisions, which persons who read the Proclamations will, I think, be able to understand without further explanation.

Although these Proclamations are based upon native law and custom, some of their provisions may at first seem strange and difficult. I feel sure, however, that when experience of their working has been gained, they will be found to have destroyed nothing that was of value in native law and custom, and to have added nothing which the Bechuana in their present state of development will be unable to use for their immediate benefit and their future progress.

This explanatory statement will, like the two Proclamations, be translated into Sechuana and circulated.

H. J. STANLEY,
High Commissioner.

Capetown, 28th December, 1934.

No. 75 of 1934.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas under and by virtue of Article *two* of the Order-in-Council dated the ninth day of May 1891, the High Commissioner is empowered on His Majesty's behalf to exercise all powers and jurisdiction which Her late Majesty Queen Victoria at any time before or after the date of that Order had or might have within the territory of the Bechuanaland Protectorate, and to that end to take or cause to be taken all such measures and to do or cause to be done all such matters and things within the territory as are lawful and as in the interest of His Majesty's service he may think expedient.

And whereas under and by virtue of Article *four* of the aforesaid Order-in-Council the High Commissioner may from time to time provide by Proclamation for the administration of justice, the raising of revenue, and generally for the peace order and good government of all persons within the territory, and in the said Article it is directed that the High Commissioner in issuing such Proclamations shall respect any native laws or customs by which the civil relations of any Native Chiefs, tribes or populations under His Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction.

And whereas by section *ten* of the Bechuanaland Protectorate Proclamation of the 10th June, 1891, provision was made for the appointment by the Resident Commissioner subject to the sanction and approval of the High Commissioner of Native Chiefs to exercise jurisdiction in matters concerning natives as defined by rules established by the Resident Commissioner with the approval of the High Commissioner.

And whereas it is expedient to define and regulate the powers and jurisdiction of Chiefs so appointed and to provide for the establishment, constitution, powers and jurisdiction of native tribunals and generally for the administration of justice within the Territory in cases in which natives only are concerned.

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

1. Section *eight* of the Proclamation of 10th June, 1891, and Proclamation No. 1 of 1919 are hereby repealed and, notwithstanding anything contained in section *ten* of the Proclamation of 10th June, 1891, any appointment therein authorized may be lawfully made with or without any prior request on the part of the Chief concerned.

2. In this Proclamation and in any regulations made thereunder unless inconsistent with the context

“Chief” shall mean the Chief over any tribal area who has been recognized in that capacity by the High Commissioner and who has been appointed under section *ten* of the Proclamation of 10th June, 1891, to exercise jurisdiction.

“district” shall mean any Magisterial District established as such by notice in the *Gazette*;

“Headman” shall mean any person who has been appointed as such by the Chief or Sub-chief of a tribe or area and who has been recognized by the Resident Commissioner as such for the purposes of this Proclamation.

“Kgotla” shall mean the customary meeting of a tribe or portion thereof in some duly recognized place for the discussion of matters of tribal concern in accordance with native custom;

“Law of the territory” shall mean the common law and statute law from time to time in force in the territory other than native law and custom.

“native” shall mean any aboriginal native belonging to any tribe of Africa, and shall include persons of mixed race living as members of any native community, tribe, kraal or location in the territory;

"Native law and custom" shall mean in relation to a particular tribe or in relation to any native community outside any tribal area the general law and custom of such tribe or community except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction or repugnant to morality, humanity or natural justice or injurious to the welfare of the natives;

"Native tribunal" or "tribal tribunal" shall mean a Native Court constituted under this Proclamation;

"Tribal area" shall mean any reserve defined in Proclamations No. 9 of 1899, No. 55 of 1908, No. 28 of 1909, No. 2 of 1911, No. 31 of 1933, No. 44 of 1933, or any other area which has been or may hereafter be defined by law as such reserve.

3. Any appointment made under section *ten* of the Proclamation of 10th June, 1891, may be withdrawn by the High Commissioner if he is satisfied that it is necessary in the interests of justice that the person so appointed should no longer continue to act in that capacity. When the appointment is vacant by reason of such withdrawal or during any time which may elapse between the occurrence of a vacancy in the Chieftainship of a tribe and the recognition by the High Commissioner of the successor of the former Chief, the Resident Commissioner may appoint some person other than a Chief to exercise, during such vacancy, jurisdiction in terms of section *ten* of the Proclamation of the 10th June, 1891.

4. A Sub-chief appointed under the provisions of section *eleven* of the Bechuanaland Protectorate Native Administration Proclamation, 1934, shall within the area for which he is appointed and for so long as he holds such appointment exercise jurisdiction for the purposes of this Proclamation.

5. Every Chief or Sub-chief who is unable at any time to act as a member of a native tribunal shall report the fact of his inability to the Magistrate of the district and shall designate to such Magistrate a suitable person who subject to confirmation by the Magistrate will act in his place as such member during such inability. In the case of a headman in similar circumstances the report shall be made to his Chief or Sub-chief.

6. Any Chief, Sub-chief or Headman who is satisfied on information received by him that any native within the limits of his authority has committed a crime or offence shall cause such native to be arrested and to be taken forthwith before the native tribunal having jurisdiction or before the Magistrate of the district as the case may be.

7. (1) In each tribal area there shall be one or more tribunals which shall be known as Senior Tribal Tribunals, the members of which shall be nominated by the Chief from amongst the members of the Tribal Council constituted under section *five* of the Bechuanaland Protectorate Native Administration Proclamation, 1934. Every such Tribunal shall be presided over by the Chief or his deputy duly authorized to act as such, or in any part of the Tribal area where the Chief has appointed a representative by such representative if and when the Chief is not present in person.

The Tribunal presided over by the Chief shall be styled the Chief's Tribunal.

The names of the persons constituting the Tribunal in each case dealt with by it shall be duly recorded.

(2) Junior Native tribunals shall be constituted wherever in the opinion of the Chief or of the Resident Magistrate after consultation with the Chief such tribunals are necessary and for this purpose the Senior tribal tribunal of the area concerned shall appoint a headman to preside over each such Junior Native Tribunal and such Headman shall be responsible for nominating persons to act with him on such tribunal for the trial of cases. The names of the persons constituting the tribunal in each case dealt with by it shall be duly recorded.

(3) In the case of natives living outside tribal area junior native tribunals shall be appointed by the Magistrate where such appointment may seem to him to be required in the interests of justice after consultation as far as may be possible with the natives concerned. The Sub-Chief or Headman shall preside over each such tribunal.

(4) In the absence of a Chief, Sub-Chief, or Headman or of the person appointed under section *five* to act in his place, the member of the tribunal who is next senior in accordance with native law and custom shall preside.

(5) It shall be lawful for members of a tribunal to be paid out of any tribal fund which may have been or may hereafter be constituted by their tribe a fixed annual salary at such rates and under such conditions as may be determined by the Chief in Kgotla with the approval of the Resident Commissioner.

8. (1) Subject to the provisions of this Proclamation every senior tribal tribunal shall have and may exercise jurisdiction both of a civil and criminal nature over natives residing within its tribal area in all matters where such natives only are concerned, but the jurisdiction of any native tribunal shall not extend to the trial of natives accused of—

(a) treason; (b) sedition; (c) murder or attempted murder; (d) culpable homicide; (e) rape or attempted rape; (f) assault with intent to do grievous bodily harm; (g) offences relating to the currency; (h) perjury; (i) conspiring against or subverting or attempting to subvert the authority of any Chief or Sub-Chief; (j) offences constituted by any statute in force in the territory, unless in such statute it is otherwise provided.

The High Commissioner may from time to time by notice in the *Gazette* add to or withdraw from this sub-section any crime or offence to which the jurisdiction of any native tribunal shall not extend.

(2) The jurisdiction of native tribunals shall not extend to the hearing or determining of (a) any cause or proceeding whereby in the case of persons married under the law of the territory divorce is sought or a declaration of nullity of marriage or an order for judicial separation; or (b) any cause or proceeding arising in connection with a testamentary disposition of property or the distribution of the estate of a deceased person to which the law of the territory applies or arising under the law relating to insolvency or involving matters or relationships between the parties to which native law and custom are inapplicable.

(3) Every junior native tribunal shall have such jurisdiction over such portion of the tribal area as shall be indicated to it by the senior tribal tribunal for that tribal area or in the case of a junior native tribunal outside a tribal area by the Magistrate of the district.

(4) Every native tribunal shall exercise its jurisdiction in accordance with native law and custom.

(5) It shall be an offence for any person other than a native as defined by this Proclamation to take or attempt to take any case to a native tribunal.

9. Any member of a native tribunal who is certified by the Magistrate as being in his opinion unfit to act as a member of the tribunal by reason of his having been convicted of any crime or offence or for other reasons shall cease to be a member of the tribunal provided that such certificate shall only be given by the Magistrate after consultation with the Chief and tribe in Kgotla and after an opportunity has been afforded to the person concerned to show cause why it should not be given, and provided further that it shall be competent for the Resident Commissioner at any time to specify a period upon the termination of which the person concerned shall again be eligible to serve as a member of a native tribunal.

10. Every native tribunal which shall be satisfied on information received that any stolen property is within the area of its jurisdiction, such property having been introduced into such area from without or being the property of a person other than a native shall cause such property to be seized and detained pending the order of a Magistrate or of any native tribunal having jurisdiction in the matter and shall forthwith report such seizure to the Magistrate of the district.

11. (1) A native tribunal may summon before it for the purpose of giving evidence in any case any native within its jurisdiction. If such native be in employment, due notice of such summons shall be given to the employer. Should any such employer without just cause prevent or refuse to allow such native to obey such summons he shall be guilty of an offence.

(2) If any native who is required to attend before a native tribunal as a witness in any case be resident outside the jurisdiction of the tribunal or be in the employment of the Government the tribunal shall apply to the Magistrate of the district who may thereupon issue an order upon such native to attend before the tribunal. The Magistrate may, in his discretion, impose as a condition to the order, that the tribunal shall deposit such sum with the Magistrate for the witnesses' expenses as he may think just and reasonable.

In regard to the service of such order and in the case of any native who fails or refuses to comply therewith the same proceedings may be taken as would be applicable if the case in question were being heard before a Court of Resident Magistrate.

12. (1) A native tribunal hearing any case of an offence against native law and custom may if the person is adjudged to be guilty of the offence impose such punishment as may be allowed by native law and custom subject to the conditions and exceptions contained in this section.

(2) No punishment shall be imposed involving—

(a) death; (b) serious physical injury; (c) corporal punishment of women; (d) corporal punishment of any male person otherwise than under the conditions herein prescribed; (e) damage to or destruction of property; (f) banishment of a member of the tribe from the tribal area except with the approval of the High Commissioner; (g) forcible removal from any lands or residence of a person in lawful occupation thereof except with the approval of the Resident Commissioner; (h) deprivation of property otherwise than by fine lawfully imposed.

(3) Where a sentence of corporal punishment is imposed by a junior native tribunal it shall be reported before being carried into effect to the senior tribal tribunal for the area which may confirm, reduce, or vary the sentence.

(4) Any sentence of corporal punishment imposed, confirmed, reduced or varied by a senior tribal tribunal shall before being carried into effect be reported to the Magistrate of the district in accordance with the provisions of sub-section (2) of section *thirteen* of this Proclamation and shall only be carried out subject to such conditions and under such supervision as are prescribed in the case of a similar sentence imposed under the law of the Territory, or may be prescribed by regulation made by the High Commissioner. No person shall be sentenced by a junior native tribunal to corporal punishment exceeding four strokes or by a senior tribal tribunal to corporal punishment exceeding ten strokes in number.

13. (1) A native tribunal in the case of any person who may be adjudged by it to have committed any wrongful act may, in addition to or in place of any other punishment, direct that there shall be paid by such person to any person who has suffered injury or loss by reason of such wrongful act such amount whether in money or kind by way of compensation as may appear to it to be just.

(2) Where any native shall be sentenced to imprisonment with or without hard labour for a period exceeding two months, or where a fine is imposed or payment of compensation is ordered the combined amount or value of which is in excess of the amount or value of ten pounds, or where a native is sentenced to receive corporal punishment, the case with any remarks the tribunal may desire to append shall be reported to the Magistrate of the district who may confirm alter or reverse the conviction or confirm reduce or vary the sentence and whose decision shall be final. The Magistrate shall have the right to call for evidence.

Provided that nothing in this sub-section shall be construed as limiting any right of appeal conferred by section *twenty-one*.

14. Where any fine is imposed under this Proclamation by a native tribunal it shall be paid and dealt with in accordance with native law and custom; provided, however, that it shall be lawful for the tribunal to pay into any tribal fund which may have been or may hereafter be constituted such portion of any fine as may not be required for the satisfaction of any reasonable claims under native law and custom, and provided further that the records of each case shall include a detailed statement as to the disposal of the fine.

15. (1) Where under any sentence imposed by a native tribunal a native has become liable to serve a term of imprisonment the tribunal shall cause him to be brought before the Magistrate of the district who shall, if he is satisfied as to such liability, issue a warrant for the detention of the native in any gaol of the territory or for his detention for compulsory labour upon any work for the benefit of the tribe under the supervision and control of the Chief or Sub-Chief and on such conditions as the Magistrate may prescribe or as may be prescribed generally by regulation by the Resident Commissioner. The period of detention shall in each case be specified in the warrant.

(2) The Magistrate of the district shall by periodical inspection in the case of all persons committed for compulsory labour under the supervision of a Chief or Sub-Chief satisfy himself that the conditions of such a committal are being complied with and that the period of detention in every case does not exceed that specified in the warrant.

16. Every native tribunal shall, unless specially exempted by the Resident Commissioner, cause to be recorded in a form prescribed by the Resident Commissioner particulars of every case heard before it including the names of the parties to every such case or of the person accused in the case of any crime or offence, the nature of the dispute or of the crime or offence; the judgment of the tribunal and the amount of compensation, if any, in money or in kind, to be paid to any party and the amount of the fine or punishment imposed on any person adjudged guilty of an offence. Such records of senior tribunals shall be inspected by the Magistrate of the district at least once in every three months and such records of junior tribunals shall be inspected in such manner and so often as the Resident Commissioner may prescribe.

17. If it shall appear to a senior tribal tribunal than any case coming before it would from its nature or magnitude be more appropriately heard or tried by a Magistrate, the tribunal shall apply to the Magistrate of the district for leave to remove the case to his Court. The Magistrate shall thereupon, if the case is of a civil nature, proceed to hear and determine it, and if it appear that any crime or offence has been committed he shall take such steps as may appear to him to be necessary for the due prosecution thereof. Any case in which a person other than a native is a necessary witness shall be dealt with under this section.

18. (1) Notwithstanding anything contained in this Proclamation any native who is a party to a dispute which would in accordance with this Proclamation be heard and determined by a native tribunal who has reason to believe that the matter cannot be equitably adjudicated upon by the tribunal by which it would ordinarily be heard or that by reason of neglect or want of due diligence the adjudication of such tribunal is being unreasonably delayed or that the tribunal has unreasonably refused to hear and adjudicate upon such matter may in the case of a junior native tribunal report the matter to the senior tribal tribunal having jurisdiction and make application to that tribunal to hear and determine the matter.

(2) Where the tribunal concerned is a senior tribal tribunal or where in a case to which sub-section (1) applies the native concerned has reason to believe that the circumstances mentioned in sub-section (1) exist in the case of the senior tribal tribunal concerned he may make application to the Magistrate of the district to hear and determine the matter.

(3) The Magistrate to whom an application is made under sub-section (2) shall inform the senior tribal tribunal concerned that such application has been made and afford it an opportunity of showing cause why he should not grant the application. If the Magistrate is satisfied that the application should be granted he shall proceed to hear and determine the matter or otherwise deal with it as the interests of justice may require.

19. (1) Notwithstanding anything contained in this Proclamation a Court of Resident Magistrate shall have jurisdiction to hear and determine any case whether of a civil or a criminal nature where natives only are concerned if the Magistrate shall be of opinion, and shall certify accordingly, that it is necessary in the interests of peace, or for the due prevention or punishment of violence in respect of persons or property that the Court should assume such jurisdiction. Any judgment pronounced in any such case or in any case heard by the Magistrate under section *eighteen* shall be subject to the same provisions in respect of review or appeal as if it had been pronounced in the exercise of the ordinary jurisdiction of the Court.

(2) A certificate in terms of sub-section (1) signed by the Magistrate and included in the record of the case shall be sufficient ground for the assumption by the Court of jurisdiction under this section.

20. In the hearing and determination of any case by a Court of Resident Magistrate under section *eighteen* or *nineteen* the decision shall be in accordance with native law and custom but if such law or custom is not clearly proved or would, in the opinion of the Court, be incompatible with peace, order and good government or inapplicable to the matter before the Court the Court may determine the matter in accordance with the law of the Territory.

21. (1) Any native who is aggrieved by the decision of any native tribunal may, on giving such notice as is hereinafter prescribed, appeal from the decision of a junior native tribunal to the senior tribal tribunal having jurisdiction and from a decision of the senior tribal tribunal to the Court of Resident Magistrate, who shall have the right to call for evidence. The native tribunal against whose judgment the appeal is lodged shall have the right and may be required by the Magistrate to furnish reasons for its judgment. An appeal shall lie from the Court of Resident Magistrate to the Special Court only in cases where the amount of the judgment exceeds One hundred pounds or where the combined value of the fine and compensation exceeds Fifty pounds or where sentence of imprisonment for a period exceeding six months or of corporal punishment exceeding five strokes has been imposed.

Provided that the Special Court when in Session, and the President of the Special Court sitting in Chambers when the Court is not in Session, shall have power and jurisdiction to grant special leave to appeal against any judgment or order given by any Court of Resident Magistrate under this Proclamation, and if special leave be so granted the Special Court shall have power and jurisdiction to affirm set aside or vary any such judgment or order or to give such other directions as it may deem fit and proper. Each application for the grant of special leave to appeal shall be made through a Resident Magistrate who, in transmitting the application to the Registrar of the Special Court, shall state in writing whether or not there are in his opinion reasonable grounds for the application, and shall annex a copy of the record of the proceedings, and of his judgment with his reasons therefor. Each application shall be accompanied by a deposit of such sum not exceeding five pounds as the Resident Magistrate shall in his discretion determine, unless the Resident Magistrate upon application made to him shall have certified in writing that the applicant is unable to pay such deposit and that in his opinion there are reasonable grounds for an application for special leave to appeal. If any application for such special leave to appeal shall be refused, and if in the opinion of the Court or President such application was unreasonable and of a frivolous nature, the Court or President may order the forfeiture of the deposit; in the absence of such order the sum deposited shall be returned to the applicant.

(2) In the case of a sentence of corporal punishment notice of appeal shall be given within forty-eight hours after the sentence has been pronounced and the person sentenced to corporal punishment shall be informed at the time of the pronouncing of the sentence that he has forty-eight hours within which to give such notice of appeal. In the case of any other appeal notice shall be given within fourteen days after the judgment or sentence has been pronounced or within such longer period not exceeding two months as the Court to which the appeal is to be made shall allow.

(3) In the trial of any particular case or the hearing of any appeal under this Proclamation any Court of Resident Magistrate or the Special Court, as the case may be, may call to its assistance any number of assessors who shall be chosen by the Resident Commissioner from councillors or headmen or other natives suitably qualified to aid the Court. The assessors shall give their opinions and such opinions shall be considered by the Court and may be recorded in writing and form part of the proceedings but shall not be binding upon the Court. It shall be competent for any Chief or Sub-Chief to furnish to the Resident Commissioner from time to time a list of the names of any councillors or headmen or other natives who in his opinion are qualified by reason of their knowledge of native law and custom to act as assessors.

22. No member of any native tribunal shall adjudicate upon any matter, case or thing in which he has a pecuniary or personal interest.

23. Any member of a native tribunal who accepts or attempts to obtain from any person for himself or for any other person any reward other than by way of recognised remuneration or any bribe for doing or for forbearing from doing any act which as a member of such tribunal it was his duty to do, shall be guilty of an offence and on conviction before a Court of Resident Magistrate shall be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding twelve months and shall be ineligible to serve on any native tribunal for such period as may be prescribed by the Resident Commissioner.

24. Any person who shall without lawful authority exercise or attempt to exercise judicial powers under this Proclamation or who without lawful authority shall sit as a member of a native tribunal shall be guilty of an offence and on conviction by a Court of Resident Magistrate shall be liable to a fine not exceeding twenty-five pounds or in default of imprisonment with or without hard labour for a period not exceeding six months; provided that nothing contained in this section shall apply to members of a tribe or sub-tribe who in accordance with native law and custom shall attend the proceedings before a native tribunal and assist such tribunal in any civil or criminal case.

25. Any person who with intent to defeat, obstruct, or pervert the course of justice in any case before a native tribunal shall cause counsel or procure any native to delay or give or refrain from giving evidence before such tribunal shall be guilty of an offence and on conviction by a Court of Resident Magistrate shall be liable to a fine not exceeding twenty-five pounds or its equivalent in kind or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

26. Any native who after having received a summons lawfully issued by a native tribunal having jurisdiction over him fails without reasonable excuse to obey such summons may be arrested by the order of such tribunal and be brought before it and on conviction shall be liable to a fine not exceeding five pounds or its equivalent in kind or in default of payment to such other punishment as may be lawfully imposed under native law and custom.

27. Any native subject to the jurisdiction of a native tribunal who shall disobey any lawful order of such tribunal, or who when such tribunal is administering justice shall (a) refuse to answer any question lawfully asked by such tribunal, (b) refuse to sign or attest any statement lawfully required by such tribunal, (c) intentionally insult the tribunal or any member thereof, (d) intentionally obstruct the proceedings of such tribunal at any stage, shall be guilty of an offence and may be summarily sentenced to a fine not exceeding five pounds or its equivalent in kind or in default of payment to such other punishment as may be lawfully imposed under native law and custom.

28. Any person contravening or failing to comply with or being guilty of an offence against any of the provisions of this Proclamation or of any regulations made thereunder for which no penalty is specially provided shall be liable on conviction by a Court of Resident Magistrate to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

29. Notwithstanding anything contained in any other law no legal practitioner shall appear or act for any party before a native tribunal or without the special leave of the Resident Commissioner in any case tried in accordance with native law and custom before a Court of Resident Magistrate.

30. The provisions of Proclamation No. 2 of 1896 and the Bechuanaland Protectorate Criminal Procedure and Evidence Proclamation 1933 (No. 20 of 1933) shall not have any application to the proceedings of any native tribunal or to appeals therefrom or review of the proceedings thereof to or by a Magistrate.

31. The Resident Commissioner with the approval of the High Commissioner may by Notice in the *Gazette* make, amend or cancel any rules for regulating the conduct and procedure in native tribunals and generally for effecting the purposes of this Proclamation.

32. This Proclamation may be cited as the Bechuanaland Protectorate Native Tribunals Proclamation, 1934, 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 Capetown this Twenty-eighth day of December, One thousand Nine hundred and Thirty-four.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency
the High Commissioner.

E. COHEN,
for Administrative Secretary.

(Printed by the Government Printer, Pretoria.)

EXPLANATORY STATEMENT BY THE HIGH COMMISSIONER.

In order to remove any misapprehensions which may have existed among the Bechuana in regard to the purpose and effect of the Native Administration and the Native Tribunals Proclamations of 1934, I think it desirable, as the representative of His Majesty the King in the Bechuanaland Protectorate, and with the concurrence of the Secretary of State, to issue the following explanatory statement.

The constitutional position in the Bechuanaland Protectorate is governed, in law, by various Orders-in-Council and Proclamations, of which the most important is the Order-in-Council of Her late Majesty Queen Victoria dated the 9th May, 1891. That Order-in-Council empowered the High Commissioner to exercise on Her Majesty's behalf all powers and jurisdiction which Her Majesty at any time before or after the date of the Order had or might have within the Protectorate, and to that end empowered him further to take or cause to be taken all such measures, and to do or cause to be done all such matters and things, within the Protectorate as are lawful and as in the interest of Her Majesty's service he might think expedient, subject to such instructions as he might from time to time receive from Her Majesty or through a Secretary of State.

Other provisions of the Order-in-Council empowered the High Commissioner—

- (1) to appoint administrative and judicial officers and to assign their functions to them, subject to the preservation of his own powers and authorities in their entirety; and
- (2) to provide by Proclamation, from time to time, for the administration of justice, the raising of revenue and generally for the peace order and good government of all persons within the Protectorate, including the prohibition and punishment of acts tending to disturb the public peace.

In issuing such Proclamations the High Commissioner was instructed by the Order-in-Council to respect any native laws and customs by which the civil relations of any native chiefs, tribes or populations under Her Majesty's protection were at that time (viz., in May, 1891) regulated, except in so far as the same might be incompatible with the due exercise of Her Majesty's power and jurisdiction.

The Order-in-Council required the High Commissioner to publish his Proclamations in the *Gazette*, and reserved to Her Majesty the right to disallow any such Proclamation.

The Order-in-Council provided also that, subject to any Proclamation lawfully issued by the High Commissioner, any jurisdiction exercisable otherwise than under this Order-in-Council of 1891, whether by virtue of any Statute or Order-in-Council, or of any treaty, or otherwise, should remain in full force.

Her Majesty reserved the power to revoke, alter, add to or amend this Order-in-Council at any time.

All references to Her Majesty in the Order-in-Council were declared by it to include Her Majesty's heirs and successors.

Four years after the issue of this Order-in-Council, the then Chiefs of the Bangwaketsi, the Bakwena, and the Bamangwato went to London and had interviews at the Colonial Office with the Secretary of State, Mr. Chamberlain. Some correspondence passed, from which I will quote one passage, as it defines the general principle which has guided successive High Commissioners and the officers serving under them in the administration of the Territory. The passage occurs in a Colonial Office letter written by direction of Mr. Chamberlain on the 7th November, 1895, to the Reverend W. C. Willoughby, (who had accompanied the Chiefs to England), and it is in the following terms:—

"Each of the Chiefs Khama, Sebele and Bathoen shall have a country within which they shall live, as hitherto, under the protection of the Queen. The Queen will appoint an officer to reside with them. This officer will get his orders from the Queen through the Secretary of State and the High Commissioner. The Chiefs will rule their own people much as at present. The Queen's officer will decide all cases in which white men, or black men who do not belong to the tribe of one of the three Chiefs are concerned, or in which the punishment is death. He will also have a right to hear an appeal in any very serious case, even if the punishment is short of death.

"The people under the Chiefs shall pay a hut tax, or tax of a similar nature, but as the Chiefs wish it, they may collect—at all events for the present—themselves and pay it over to the Queen's officer, but this is not to be made a reason for paying over too little."

The general principle expounded in this passage has been applied, not only to the three Chiefs and tribes mentioned in the letter, but also to the other chiefs and tribes in the Protectorate.

The application of this general principle, in its combination with the provisions of the above-mentioned Order-in-Council of 1891, has resulted in the establishment of a method of administration which is described nowadays by the term "indirect rule"; or, in other words, a method of administration which preserves,—subject to the due exercise of the power and jurisdiction of the Crown, and subject to the requirements of peace, order and good government,—the tribal authority of the Chiefs and the native

laws and customs, without however derogating from the duty of supervision and supreme control entrusted to the High Commissioner and carried out by him through the officers serving under him. The High Commissioner is responsible to the King, not only for the maintenance of law and order, but also for the welfare of the Chiefs and the people of all classes in the Territory, since all of them equally are living under His Majesty's protection.

The object of the Native Administration and the Native Tribunals Proclamations of 1934 is not to abolish the principle of this method of administration, but rather to provide for its continuance and its further development.

In the affairs of men nothing can remain stationary. As the years pass, conditions change, and institutions and forms of government which do not adapt themselves to changing conditions, and progress with them, lose their vitality and sink into decay. The Bechuana are no longer the very primitive people that they were some forty years ago. Contact with European civilisation, and the gradual spread of education have affected appreciably, though in varying degrees, many of their thoughts and ways of life, and systems and methods which may have sufficed forty years ago must, if they are to survive at all, be brought into line with changed conditions and must be rendered capable of further development in conformity with such further changes as the future may bring forth.

The two Proclamations have been framed with the intention of preserving the hereditary Chieftainship, preserving the exercise of tribal authority by the Chiefs, preserving native law and custom, and preserving the administration of justice by the native courts or Kgotlas, through making it possible for them to function satisfactorily under changed and changing conditions. The intention is to build up, not to destroy, native institutions, to develop and strengthen all that is good in them, and at the same time to enable the High Commissioner and the officers serving under him to discharge, in a manner duly defined so as to be understood by all, their duty of supervision helpfulness and guidance. It is not the intention that the King's Government should interfere unnecessarily with the Chiefs and tribes, but it is the intention that, if and when the necessity should arise, there should be no doubt or dispute as to the right of the Government to take such action as might be requisite for the promotion of the welfare and progress of the people, or for the prevention of any maladministration, oppression, or injustice.

If the two Proclamations are rightly understood, they will be welcomed by the Chiefs and people, as a charter of their liberties, an opportunity to maintain their institutions and customs by using and developing them in such a way as to let them become a help, rather than a hindrance, to further progress.

With this purpose in view the two Proclamations establish on a sound basis the principle of the administration of tribal affairs by and through the Chiefs, they provide for the necessary assistance in the practical development of that principle, and they pave the way for the eventual assignment of such further functions and duties as the natives may show themselves fit to undertake.

The two Proclamations have already been translated into Sechuana and circulated in that language in draft form so that the people might more easily understand them. They will now be recirculated in Sechuana in their final form, which embodies the various amendments made in them since the original versions were discussed with the Chiefs and in the Kgotlas. To assist people in studying them, I wish to call attention to a few points which might otherwise not be clear to them.

NATIVE ADMINISTRATION PROCLAMATION, 1934.

This Proclamation recognizes and gives legal sanction to the native customary law of succession to the Chieftainship. It does not empower the Government to appoint and dismiss Chiefs, as is done in some of the African Territories to which the principle of indirect rule has been applied. It confirms in the Chieftainship all Chiefs who are now lawfully holding office as Chiefs. When a vacancy occurs in the Chieftainship of a tribe, the High Commissioner does not select the new Chief, but it falls to the tribe in Kgotla to tell the Government who is the rightful successor to the Chieftainship according to native custom. As has always been the practice hitherto, his name is then submitted to the High Commissioner for recognition and to the Secretary of State for confirmation. Although he may be the rightful successor to the Chieftainship according to native custom, he cannot exercise the functions of the Chieftainship until he has been recognized by the High Commissioner, and in the meantime the person whose duty under native custom it is to summon the tribe to assemble in Kgotla when the Chieftainship is vacant will act as Chief. If the rightful successor to the Chieftainship appears, after public enquiry, not to be a fit and proper person to exercise the functions of the Chieftainship, the High Commissioner can decline to recognize him, or the Secretary of State can decline to confirm him in his office. Or again, if at any time he neglects or fails to discharge properly his duties as Chief, or becomes physically or mentally incapable of carrying them out properly, or abuses his authority and oppresses his people, or otherwise proves to be a bad Chief, the High Commissioner can cancel his recognition, or the Secretary of State can cancel his confirmation, or

the High Commissioner can suspend him from the exercise of his functions as Chief, but he will in every case first be given an opportunity to submit for consideration anything that he may wish to say in his defence. If his recognition or his confirmation is thus cancelled, or if he is thus suspended by the High Commissioner, the Chieftainship will not become vacant, but the Chief will not be allowed to exercise the functions of the Chieftainship until he has again been recognized and confirmed or until his suspension has been withdrawn, and in the meantime someone else will be appointed by the tribe (or, if the tribe fails to make such appointment, by the High Commissioner) to act in his place in the exercise of the functions of the Chieftainship. The deposition of a Chief (which means that the person deposed ceases to be Chief of the tribe for ever and the Chieftainship of the tribe thereby becomes vacant, just as if the deposed Chief had died instead of being deposed) can be effected only by the tribe itself, and then only if the High Commissioner, after referring to the Special Court for investigation and report any representations which the Chief concerned may have submitted to him, authorises the deposition. Methods are thus provided for the protection of a tribe against maladministration of its affairs, or against oppression, without recourse to violence or disorder. Whatever may be necessary for such protection can now be done peaceably and lawfully and with every reasonable precaution against the infliction of injustice on the Chief concerned. On the other hand, a Chief who conducts himself properly will be supported by the Government, and persons who conspire against him will be liable to severe punishment by the European Courts.

A Chief has duties, not only towards his tribe, but also towards the Government. Under the system of indirect rule he discharges functions in the administration of tribal affairs which under a system of direct rule would be discharged by the Government through its own officers. As the High Commissioner is responsible to the King for the welfare of all the people, so also must the Chief of a tribe be held responsible to the High Commissioner for the welfare of the tribe over which he exercises his functions. The duties of a Chief towards his tribe are based upon native law and custom. The duties of a Chief towards the Government are set forth in this Proclamation. It deals also with the duties of Headmen.

For the protection of the people against the imposition of unreasonable or excessive burdens on them, provision is made in the Proclamation that, before a levy can be imposed by a Chief on his tribe, the consent of the tribe in Kgotla and the written approval of the Resident Commissioner shall be necessary.

Also with a view to the protection of the people, the Proclamation limits by certain conditions the right of a Chief to exact compulsory labour.

The Proclamation prescribes that a Chief must follow the old-established custom of the Bechuana which requires him to exercise the functions of his office in consultation with his Councillors. In England the King acts in consultation with his advisers, who are chosen from among the members of his Privy Council, and persons are appointed as members of the Privy Council, not by virtue of birth, but by virtue of their services to the State, or of their ability and experience. Among the Bechuana the custom is said to have been hitherto that the Chief's Councillors are not persons specially appointed by the Chief, but only persons who are entitled by right of birth to advise him as his Councillors. The Proclamation does not interfere with that custom, but it requires the Chief to tell the Government who his Councillors are, so that the Government may know their names. I feel, however, that the time must be coming very soon, if indeed it has not come already, when a Chief will not wish to look for advice only to those who are his Councillors by right of birth according to native custom, but will wish to include among his Councillors other natives whose wisdom, or character, or education, or experience would make their advice valuable in the interests of the Chief himself and of the tribe as a whole. It would seem unfortunate that the Chief and the tribe should be deprived of the benefits resulting from such advice, merely because the persons who are able to give it do not happen to be Councillors by right of birth, and the Proclamation therefore empowers the Chief, if he so desires and if the tribe in Kgotla approve, to nominate any such persons as Councillors in addition to those who are entitled to be his Councillors by right of birth. The Proclamation does not compel him to exercise this power, but merely enables him to exercise it. It is my firm belief that, before very long, even if not at once, the Chiefs and tribes will recognize the value of this power, that they will be glad to take advantage of it, and that they will be grateful for the inclusion of it among the provisions of the Proclamation.

The Proclamation does not affect in any way the right of the tribe to meet in Kgotla and the duty of the Chief to consult with the tribe assembled in Kgotla.

NATIVE TRIBUNALS PROCLAMATION, 1934.

As has been mentioned above, the Order-in-Council of the 9th May, 1891, empowered the High Commissioner to provide from time to time by Proclamation for various matters, of which one was the administration of justice, and instructed him in issuing such Proclamations to respect any native laws or customs by which the civil relations of any native Chiefs, tribes or populations under Queen Victoria's protection were then regulated, except so far as the same might be incompatible with the due exercise of Her Majesty's power and jurisdiction.

It is obviously desirable that the constitution and functions of Native Courts should be clearly defined, so that there may be no doubt as to their powers and jurisdiction.

That this is not merely a personal opinion of my own will be seen from the following words which were addressed to Acting Chief Tshekedi of the Bamangwato by the Secretary of State, Lord Passfield, when Tshekedi was received by him in London on the 1st April, 1930:—

"With regard to the powers of the Chiefs, I had in any case intended to take the opportunity afforded by your presence in England to refer to the question of making statutory provision in order to establish on a proper legal footing the jurisdiction and powers of the Courts of the Chiefs in the Protectorate when trying cases in accordance with native law and custom, and I am glad that you have mentioned this matter. It is not the fact, as implied in your speech to me, that this question has arisen out of the appeal which you made in a certain matter to the Judicial Committee of the Privy Council, though, as you are aware, the absence of statutory authority for the exercise of jurisdiction by the Courts of the Chiefs was mentioned in the Judgment of the Special Court of the Protectorate when the matter referred to was before it. The question of the authority and powers of the Chiefs' Courts is a matter of serious concern to the Government and the Chiefs, as well as to the people over whom the Chiefs exercise jurisdiction, and it is, of course, important, in the case of the Native Courts as in the case of the European Courts, that adequate safeguards should exist to ensure the due and proper administration of justice, and that subject to such safeguards the authority of the Native Courts should not be open to question on legal grounds. I am advised that provision to enable the requisite legal powers to be conferred on Courts of Chiefs is contained in the High Commissioner's Proclamation of the 10th June, 1891, and I contemplate that the Resident Commissioner should be asked to examine the whole question, and after consultation with the Chiefs and the Native Advisory Council, to frame proposals which could receive the consideration of the High Commissioner and the Secretary of State with a view to regularizing the position and giving the requisite legal sanctions to the Chiefs' Courts in the exercise of jurisdiction according to native law and custom. That question will require careful consideration, and I expect you, as acting Chief of the Bamangwato, to co-operate with the Government in the consideration of this important matter of regularizing the position and defining the powers of the native Courts."

These are not words which either the High Commissioner or the natives of the Territory can disregard. The Proclamation which has now been issued, like the other (Native Administration) Proclamation, does not abolish the native institutions with which it deals, but is intended to place them on a proper legal basis and to give them a new lease of life under conditions which will make them suitable for adaptation to the present and future requirements of the Bechuana.

Under this Native Tribunals Proclamation the system of the trial of native cases by the Chief or Headman in the Kgotla is preserved, but the methods of trial are to be improved with the object of reducing the risk of confusion, or of miscarriage of justice, or of the infliction of punishments inconsistent with the state of civilization which is superseding the primitive conditions of bygone years. If trial in Kgotla is not to become so utterly out of harmony with modern development as to be doomed to early disappearance, it must be brought up to date in such a way that it can be recognized as a proper system of administering justice.

The purpose of this Proclamation is not to introduce European law or European procedure. The Proclamation provides that every Native Court shall exercise its jurisdiction in accordance with native law and custom. The cases will still be tried in Kgotla, but the Kgotla, when a case is being tried in it, will be called a native Tribunal, so as to distinguish its functions as a Court from its functions when it is dealing with matters other than the trial of cases. In order that native tribunals may be lawfully constituted, the Chief will be appointed by the Resident Commissioner to adjudicate upon and try cases, and the Chief will not be entitled to administer justice unless and until he has been so appointed by the Resident Commissioner. The High Commissioner is empowered to withdraw any such appointment, if he is satisfied that it is necessary in the interests of justice that the person so appointed shall not continue to act in that capacity.

There will be Senior Tribunals and Junior Tribunals. The Senior Tribunals will be those over which a duly appointed Chief, or some one appointed by the Chief to act as his deputy, will preside. The Tribunal presided over by the Chief in person will be called the Chief's Tribunal.

Junior Tribunals will be appointed where necessary. A Junior Tribunal will be presided over by a Headman whom the Senior Tribunal will appoint to preside over the Junior Tribunal. There will be a right of appeal from the decision of a Junior Tribunal to a Senior Tribunal, and from the decision of a Senior Tribunal to the Magistrate's Court, and in certain cases from the Magistrate's Court to the Special Court.

The Chief is required by the Proclamation to nominate some of his Councillors to sit with and help him, or his deputy, in the trial of cases in any Senior Tribunal. These Councillors will be called members of the Tribunal, and the names of any of them who sit with the Chief or his deputy in the trial of any case must be recorded. It will be lawful to make some payment to them for their services if the Chief in Kgotla, with the approval of the Resident Commissioner, so decides. Their functions will resemble those of Assessors in a European Court. Their advice will be helpful to the Chief or his deputy in coming to a just decision, and it will be the duty of the Chief or his deputy to consult with them and consider their opinions before giving his decision. In a Junior Tribunal the Headman who has been appointed by the Senior Tribunal to preside over such Junior Tribunal will have to nominate some persons to sit with him and help him in the adjudication of cases. Their names also must be recorded, and their functions will be similar to those of members of Senior Tribunals.

A Junior Tribunal will exercise such jurisdiction as may be assigned to it by the Senior Tribunal. Senior Tribunals will have jurisdiction in all native cases except in those matters which under the provisions of the Proclamation are excluded from their jurisdiction. Such matters will be dealt with by the European Courts. A Native Tribunal may not try a case in which any of the parties is a person other than a native, and it will be an offence punishable by the European Courts for any person other than a native to take, or attempt to take, any case to a Native Tribunal.

The punishments which may be inflicted by a Native Tribunal will be in accordance with native law and custom, subject, however, to certain restrictions which are set forth in the Proclamation. For instance, corporal punishment may not be imposed on women, and the amount of corporal punishment which may be imposed on male persons may not exceed certain specified numbers of strokes and may be inflicted only under prescribed conditions. Indiscriminate or excessive flogging is not compatible with advancing civilization.

Every Native Tribunal, unless it has been specially exempted by the Resident Commissioner, is required to keep a proper written record of all cases tried by it. This is a very important and necessary provision for the avoidance of confusion or of disputes as to what took place. Exemptions will be given by the Resident Commissioner in the case only of Tribunals where there is nobody sufficiently educated to do the necessary writing. With the further spread of education the need for such exemptions will gradually disappear.

There are various other provisions which have been inserted with the object of supplying such safeguards as may be possible for the prevention of inefficiency, or unfairness, or dishonesty, or corruption, in the trial of cases by Native Tribunals.

Lawyers will not be allowed to appear or act for any party before a Native Tribunal. In cases tried in accordance with native law and custom before a Resident Magistrate, lawyers will be allowed to appear only with the special leave of the Resident Commissioner.

These are some of the principal points in the two Proclamations. I have left unmentioned a number of other provisions, which persons who read the Proclamations will, I think, be able to understand without further explanation.

Although these Proclamations are based upon native law and custom, some of their provisions may at first seem strange and difficult. I feel sure, however, that when experience of their working has been gained, they will be found to have destroyed nothing that was of value in native law and custom, and to have added nothing which the Bechuana in their present state of development will be unable to use for their immediate benefit and their future progress.

This explanatory statement will, like the two Proclamations, be translated into Sechuana and circulated.

H. J. STANLEY,
High Commissioner.

Capetown, 28th December, 1934.

No. 76 of 1934.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas it is expedient to make provision for injuries suffered by workmen employed in the Bechuanaland Protectorate (hereinafter referred to as "the territory") in the course of their employment or for death resulting from such injuries, and to provide for compensation in cases of industrial diseases.

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

1. In this Proclamation unless inconsistent with the context—

"dependants" shall mean such members of the workman's family specified in the *First Schedule* to this Proclamation as are wholly or in part dependent upon the workman at the time of the injury which caused his death;
"district" shall mean a magisterial district of the territory;

"employer" shall mean any person or any body of persons, corporate or incorporate, hiring or contracting before or after the taking effect of this Proclamation with any workman for the performance of any work and the term "employer" shall include his representative;

"Resident Magistrate" shall mean a Resident Magistrate having jurisdiction in the district in which the injury to the workman occurred;

"medical practitioner" shall mean any person duly registered as such under any law of the Territory relating to the registration of medical practitioners;

"mine" shall mean any working made for the purpose of prospecting for or mining minerals;

"principal" shall mean any person whose trade, business or public function it is or has entered into a contract wholly or in part to do, perform or undertake work and who employs a contractor to do it for him wholly or in part, and whether such contractor employs a sub-contractor or not, and the term "principal" shall include his representative;

"representative" shall mean in the case of a deceased principal, employer or workman, his executor, or failing the appointment of an executor any *curator bonis* lawfully appointed for the taking charge of the deceased's estate; in the case of insolvency of a principal or employer, shall mean the trustee of his insolvent estate, and if the principal or employer is a limited liability company placed in liquidation, shall mean the liquidator of such company; in the case of a minor, shall mean the guardian of such minor; and in the case of a lunatic, shall mean any person lawfully appointed *curator bonis* of such lunatic;

"serious and wilful misconduct" shall include—

- (a) drunkenness;
- (b) a wilful contravention of any law or statutory regulation made for the purpose of ensuring the safety of or preventing accidents to workmen;
- (c) any other act or omission which a court of law, having regard to all the circumstances of an accident, may declare to be serious and wilful misconduct;

"wages" shall mean the average weekly earnings of the workman with the employer at the time of the accident causing incapacity or death whether such wages be paid at a rate per hour, per day, or per month; wages shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated but shall not include remuneration for overtime not habitually performed or remunerated at a special rate or any sums paid by the employer to the workman to cover any special expense entailed on the workman by the nature of his work;

when the workman's wages are fixed at a rate calculated on work done, then, for the purposes of this Proclamation, his wages shall be the average of his weekly earnings at similar employment on the same terms of remuneration for as long a period as possible prior to the accident but not exceeding twelve months; where by reason of the shortness of the time during which the workman has been in the employment of the employer it is impracticable to compute the average weekly earnings of the workman, then the average weekly earnings shall be computed if possible by having regard to the amount that the workman earned at similar work at the same terms of remuneration with another employer during the twelve months immediately preceding the accident, or by having regard to the amount which during the twelve months immediately preceding the accident has been earned by other workmen with the employer at similar employment on the same terms of remuneration, or would have been earned by the workman during such preceding twelve months had he been so employed;

where the workman has entered into concurrent contracts of service with two or more employers, and worked under those contracts at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident;

"Work" shall mean—

- (a) employment at or about a "mine" as herein defined;
- (b) employment at or about such trade, industry, business or public undertaking (other than domestic service) as the High Commissioner may from time to time specify by Notice in the *Gazette*;

"workman" shall mean any person other than a native labourer as defined in the Native Labourers Compensation Proclamation 1934 engaged by an employer to perform work under agreement of service in the Territory whether such agreement be expressed or implied, be oral or in writing, and whether payment be made by time or calculated on work done; provided that the term "workman" shall not include—

- (a) a person whose wages in respect of his work exceeds four hundred pounds a year; or

- (b) a person, whose work is of a casual nature, and who is employed to do work for an employer other than in such employer's trade, business or industry; or

- (c) a person who contracts or sub-contracts for the carrying out of work and himself engages other persons independently of his employer to perform such work; or

- (d) an outworker—that is to say, a person to whom articles or materials are given out by an employer to be made up, cleaned, washed, altered, ornamented, finished or repaired or adapted for sale on premises not under the control and management of the employer; or

- (e) a person in the Police or Public Service of the Bechuanaland Protectorate, except those in respect of whom no provision exists in any law or regulation as to payment of a gratuity or pension in cases of injury or death.

Any reference to a workman who has been injured shall where the workman is dead or is a minor or has become a lunatic include a reference to his representative or to his dependents as the context may require.

2. No compensation shall be payable under this Proclamation in respect of any injury to a workman—

- (1) which did not arise out of and in the course of his work; or
- (2) which was due to the workman's own serious and wilful misconduct; or
- (3) if the accident which resulted in the injury would not have occurred, or if, or in so far as, the death or incapacity would not have been caused, but for a pre-existing diseased condition of the workman and such condition was unknown to the employer.

3. Save as in section two provided, if personal injury is caused by any accident to a workman necessitating his absence from work for a longer period than one week, the employer and every principal shall be liable to pay such workman compensation as provided in section eight.

4. (1) Any such workman who is desirous of obtaining compensation under this Proclamation shall give or cause to be given notice of such injury at his option either to his employer or to any principal. Such notice shall be given within fourteen days of the injury, and if not given within such period no compensation shall be payable under this Proclamation to a workman unless he shall have obtained from the Resident Magistrate a certificate that the time for giving notice should, having regard to all circumstances, have been extended. If he shall have obtained such certificate and given notice to the employer or such principal within a period of one week after the receipt of such certificate, the notice of injury shall be deemed to have been given within the time required by this sub-section.

(2) The employer or the principal to whom notice has been given may, on receiving such notice, require the workman to submit himself for examination by a medical practitioner named by the employer or such principal.

(3) If the employer or such principal shall not within one week after transmission to him of such notice agree with the workman for payment of compensation for the injury, the workman may transmit to the Clerk of the Court of the Resident Magistrate notice in writing of such injury and of the name of the employer or such principal, and with such notice shall transmit a certificate by a medical practitioner to the effect that in his opinion the injury necessitated the workman's absence from work for a longer period than one week. Such Clerk shall cause such information and certificate to be laid at once before the Resident Magistrate.

5. Such Resident Magistrate shall thereupon hold an enquiry into the circumstances of the accident, and shall record the evidence taken by him. Notice of the date and place at which such inquiry will be held shall be given by the Resident Magistrate to the employer or to such principal as the case may be.

6. A Resident Magistrate holding an inquiry or trying an action under this Proclamation shall be deemed to sit in a judicial capacity and shall have all the powers conferred on Magistrates by Proclamation of the 10th June, 1891, or any amendment thereof.

7. (1) Every party to an application may appear—

- (a) in person; or
- (b) by an attorney or law agent; or
- (c) by an advocate; or
- (d) by a member of his family; or
- (e) by a person in the permanent and exclusive employment of such party; or
- (f) in the case of a workman, by an officer of a trade union of which such workman is a member; or
- (g) in the case of a company, by any director, secretary, or other officer thereof, and in the case of a corporate body which is not a company by an officer thereof, or by leave of the Resident Magistrate, by any other person.

(2) No person, other than an advocate, attorney or law agent, shall be entitled for so appearing to recover any fee or reward except necessary out-of-pocket disbursements and expenses.

8. (1) If the Resident Magistrate shall satisfy himself from the evidence taken at the said inquiry that the injury is one in respect of which compensation is payable under this Proclamation, he shall make a provisional order for the payment to the workman by the employer or such principal of periodical amounts at the rate of fifty per centum of the wages which the workman was receiving at the time of the injury. The order shall be for the payment of such amounts from the date of the injury until the workman is sufficiently recovered therefrom to resume the work which he was employed to perform at the time of the accident or work similar thereto, but in no case shall the periodical payments be made for a period exceeding six months after the date of the accident. Any such order shall be subject to the provisions of section *twenty-five*. Payment of such amounts shall be made at such times or at such intervals as payment of wages was habitually made to the workman at the time of the injury.

Provided that when the Magistrate is satisfied that the workman was at the time of such accident earning wages at so small a rate that it would be impossible for him to maintain himself and those dependent upon him on a sum equal to fifty per centum of those wages, he may make an order for periodical payments exceeding fifty per centum of the wages which the workman was earning at the time of the accident, but not exceeding those wages.

(2) A memorandum of any agreement made between any workman and his employer or principal as to the payment of periodical amounts for the payment of which a workman might claim a provisional order under this section if proceedings were taken under sub-section (3) of section *four* may be registered by the Resident Magistrate in whose Court such proceedings might have been taken, subject to regulations made under section *twenty-nine* and upon such registration the terms of such agreement shall for all purposes of this Proclamation be deemed to have the force and effect of a provisional order granted under this section.

9. During the course of any proceedings under this Proclamation the Resident Magistrate may, if he thinks fit, at the request of any party to the proceedings, reserve any question of law arising therein for the decision of the Special Court, and such question shall be stated in the form of a special case, and may be argued before and shall be determined by that Court, which may give such directions in the matter, and may make such order as to costs, as to it may seem fit.

10. (1) A party aggrieved by any decision of the Resident Magistrate on the questions enumerated in sub-section (2) of this section may appeal from that decision to the Special Court.

(2) The questions upon which an appeal shall lie under this section are—

- (a) any question as to the interpretation of this Proclamation or any other law or of the common law;
- (b) whether there was or was not evidence to support the finding of the Resident Magistrate, or whether any evidence has been improperly admitted or rejected;
- (c) whether the accident causing the incapacity or death of the workman was attributable to his own serious and wilful misconduct;
- (d) whether the amount of any compensation awarded is in the circumstances so excessive or so inadequate that the award could not reasonably be made.

(3) The appellant shall in his notice of appeal state concisely the question upon which he is appealing and the grounds of the appeal.

(4) Upon the hearing of the appeal the Special Court aforesaid may remit the matter to the Resident Magistrate for further hearing, with such instructions as regards the taking of further evidence or otherwise as it may deem necessary, or may give such judgment or order as may appear just, including any order as to costs.

11. If the Resident Magistrate shall have refused to make a provisional order on the ground that the injury would not necessitate or has not necessitated the workman's absence from work for a period longer than one week, such workman may give or cause to be given notice to the employer or such principal aforesaid of such fact, and the provisions of sections *four* to *eight* inclusive shall apply *mutatis mutandis* as if notice of such fact were a notice of injury given under sub-section (1) of section *four* to the employer or such principal.

12. Every such provisional order shall (unless and until it is set aside or varied in the manner hereinafter provided, and if varied then to the extent of the order as varied) have for a period not exceeding six months from the date of the injury the full force and effect of an order made by a Court of a Resident Magistrate for periodical payments of money; provided that if such workman shall within such period resume work, or die, or leave the Territory without the written consent of the employer or such principal (as the case may be) or obtain judgment in his favour in any such action as is mentioned in section *eighteen* the provisional order shall lapse.

13. The employer or such principal aforesaid may set down with the Clerk of the Court of the Resident Magistrate who granted the provisional order an application to set aside or vary the same, and subject to the provisions of sub-section (2) of section *fourteen*, such application may be set

down at any time during the period that the order is in force; provided always that he shall give to the workman forty-eight hours' notice of his intention to make such application, stating the day for which it is set down and the ground or grounds upon which it is being made.

14. The grounds on which a provisional order may be set aside or varied shall be one or more of the following:—

- (1) That the workman has sufficiently recovered to resume work, or has wilfully done an act calculated to retard his recovery and has in consequence retarded his recovery, or that when the employer or such principal has desired to ascertain any such fact the workman has refused to allow himself to be examined by a medical practitioner nominated by the employer or such principal;
- (2) That the employer or such principal did not receive the notice of injury aforesaid in time to be present or represented at the said enquiry, and proves that the injury did not arise out of and in the course of the workman's work or that it was caused by the workman's own serious and wilful misconduct; provided always that an application to set aside or vary a provisional order on any ground in this sub-section mentioned shall not be entertained unless the same be set down within a week after the provisional order has been served upon the employer or such principal as the case may be.

15. At and upon the hearing of the application to set aside the provisional order the applicant or the workman or the Court may produce or call such further evidence or recall such witnesses at the original inquiry as may be deemed necessary, and such evidence shall be recorded by the Resident Magistrate with and in addition to the evidence taken at the original inquiry.

16. If on any such application the applicant shall rely upon the ground that the workman is sufficiently recovered to resume work, the Resident Magistrate may require the workman to be further examined by a medical practitioner appointed by the Resident Magistrate, and may further require any such medical practitioner to give evidence on such application, and the cost of such further examination and evidence shall be borne by the unsuccessful party on such application.

17. Upon hearing the parties on such application, the Resident Magistrate may confirm or set aside or vary the provisional order, and if he confirms or varies it he may do so for such period or from such date as to him may seem fit subject to the provisions of section *twelve*, and the confirmation or setting aside or variation of such order shall be deemed to be a final civil judgment of the Court of the Resident Magistrate.

18. If any workman became permanently incapacitated by reason of a personal injury arising out of and in the course of his work caused by any accident, he shall, in addition to the right to obtain a provisional order as aforesaid, and subject to the conditions of section *four* relative to notice to the employer or principal of the injury, have a right of action against the employer or such principal in the Court of the Resident Magistrate of the district in which he received such injury. The amount recoverable in such action shall be—

- (a) in case of permanent total incapacitation for work, a sum equal to three years' wages at the rate of wages earned by him at the time of the injury, less any sum received under such provisional order aforesaid, and *seven hundred and fifty* pounds, less any sums received, whichever amount shall be the less, and in addition the hospital and medical expenses not exceeding one hundred pounds necessarily incurred as a result of the injury;
- (b) in case of permanent partial incapacitation for work (which shall mean a permanent inability owing to the injury to resume work similar to that at which he was employed at the time of the accident or for which he was previous to the injury fitted by trade or apprenticeship) an amount equal to the probable deficiency in his wages for the next three years consequent on his diminished capacity to earn wages at the same rate as he was earning at the time of the injury, less any sum received under such provisional order aforesaid, and *three hundred and seventy-five* pounds, less any sum so received, whichever amount shall be the less.

Provided that in deducting sums in terms of sub-sections (a) and (b) hereof, granted under provisional orders, no account shall be taken of amounts so granted for a period of three months or under.

Any such action and the amounts recoverable shall be subject to the provisions of section *twenty-five*.

19. The Court hearing any such action may, if the employer's or the principal's liability to pay compensation under this Proclamation be proved, postpone giving judgment for a period or periods not exceeding six months in all, in order to obtain more certain evidence of the workman's permanent incapacity for work and whether the same be total or partial; provided that the Court may order, in anticipation of judgment, advances to be made to such workman by the employer or such principal not exceeding in all *three hundred and seventy-five* pounds.

20. (1) If any workman who has neither obtained judgment in an action under section *eighteen* nor otherwise received compensation in satisfaction of his right of action under the said section shall die from personal injury received, and the employer or principal would be liable under this Proclamation out for such death to pay him compensation for such injury, the dependants of the workman shall have a right of action in respect of such injury against the employer or such principal in the Court of the Resident Magistrate of the district in which the injury was received. The amount recoverable in such action shall be—

- (a) if the dependants are wholly dependent upon the workman, a sum not exceeding three years' wages at the time of his death;
- (b) if the dependants are only in part dependent upon the wages of the workman, a sum not exceeding three times the amount or value of the benefits received by such dependants from the workman during the twelve months immediately preceding the accident or which would, but for the death or incapacity caused by the accident, have been reasonably expected to be received by such dependants from the workman out of his wages during the twelve months immediately succeeding such accident, whichever can be best calculated to give the amount or value of the benefits;

and such sum shall be subject to the deduction of any advances made to the workman under the last preceding section, but shall not be subject to deduction of any payments made to such workman under any provisional order if such payments did not continue for a period longer than three months, and if such payments did so continue shall be subject to the deduction only of the amount of such payments made after the first three months during which such payments continued. Any such action and the amount recoverable hereon shall be subject to the provisions of section *twenty-five*.

Provided that the employer shall not be liable to pay in all compensation for the death of a workman more than *seven hundred and fifty* pounds, or three years' wages of the deceased workman, whichever shall be the less.

(2) In cases where by agreement the employer or principal is liable to pay compensation to dependants, but the workman has not been required to make any contribution, the employer or principal shall pay to the dependants the amount due under his said agreement or the amount due under this section, whichever sum shall be the greater.

21. No action for compensation under sections *eighteen* and *twenty* shall be maintained unless such action shall have been commenced within six months from the date of the injury; or in the case of death resulting therefrom within six months from the date of such death. If the employer or principal as the case may be shall in either case have admitted his liability to pay compensation, then such action shall be commenced within six months from the date of such admission.

Provided that the Court of a Magistrate may, on notice of motion, extend the time within which the action may be commenced, if satisfied that the failure to commence the action within the prescribed period was occasioned by mistake, absence from the Territory, or other reasonable cause.

22. The representative of the deceased workman shall be the person to sue in any action mentioned in section *twenty*. Such representative shall, after deducting an amount not exceeding *forty-five* pounds to pay the medical attendance upon such workman during his last illness and the expenses of his burial, forthwith either pay the remainder of any sum recovered from the employer or principal (whether by action or otherwise) into the Court of the Resident Magistrate of the district in which the injury was received or pay the remainder of such sum to any dependants who are entitled hereto in the order of preference set forth in the First Schedule to this Proclamation. Such remainder shall be divided amongst the dependants so entitled in such proportions as may by agreement amongst them be determined; provided that the said Court may in the absence of such agreement determine the amount payable to any such dependants, and may further determine whether a person claiming to be entitled under this Proclamation to any amount as a dependant is or is not so entitled; provided, further, that if one of such dependants is a minor, the said Court shall determine the amount payable to the minor, and the Resident Magistrate shall pay such amount into the hands of the father of the Resident Commissioner's Court.

23. No sum payable to any dependent under this Proclamation shall be liable to attachment for any debt due by the deceased workman, nor shall the amount of any compensation recovered or recoverable on behalf of a dependant form part of the deceased workman's estate for the purposes of any law or the time being relating to the administration of or the duty on estates of deceased persons; provided that the representative of the deceased workman shall transmit to the father of the Resident Commissioner's Court within a reasonable time a statement supported by vouchers and quittances showing—

- (a) the amount recovered under this Proclamation from the employer or principal;
- (b) the amount deducted and paid for medical attendance and the expenses of the burial;
- (c) the amount awarded to any dependant.

24. If the injured workman shall die from the injury and leave no dependant, the employer or any principal shall be liable to pay the reasonable expenses of the medical attendance upon such workman during his last illness and of his burial not exceeding the sum of *sixty* pounds in all.

25. Where it shall appear from a certificate granted by a medical practitioner that a workman is suffering from a disease mentioned in the Second Schedule to this Proclamation (hereinafter referred to as a scheduled disease) causing incapacity, or where the death of a workman was caused by any such disease and the disease is due to the nature of any work to which the Proclamation applies, and in which the workman was employed at any time within twelve months previous to the date of such certificate or of his death, as the case may be, the workman or his dependants shall be entitled to claim compensation under this Proclamation as if the contracting of such disease were a personal injury caused by accident arising out of and in the course of his work within the meaning of this Proclamation, and the provisions of this Proclamation shall *mutatis mutandis* apply.

26. (1) The compensation shall be recoverable from the employer who last employed the workman during the twelve months referred to in the preceding section in the work to the nature of which the disease was due, unless that employer shall be able to establish that the disease was not contracted while the workman was in his employment.

(2) The workman or his dependants, if so required shall furnish to the employer from whom compensation is claimed such information as he or they may possess as to the names and addresses of all other employers who, during the said twelve months, employed the workman in the work to the nature of which the disease is due.

(3) If the employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer and not whilst in his employment, he may cause such other employer to be joined as a party to the application, and if the allegation is proved, that other employer shall be the employer from whom the compensation is to be recoverable.

(4) If the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said twelve months employed the workman in the work to the nature of which the disease is due shall be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined by the Resident Magistrate on application.

(5) The provisions of section *two* of this Proclamation with regard to the pre-existing diseased condition of the workman shall not apply to a scheduled disease under this Proclamation.

27. (1) The date of the certificate referred to in section *twenty-five* or of the death of the workman, as the case may be, shall be treated for the purposes of scheduled diseases as the date of the happening of the accident.

(2) Notice as provided by section *four* shall be given to the employer who last employed the workman during the said twelve months in the work to the nature of which the disease is due.

(3) The wages of the workman shall be his average weekly earnings in the work to the nature of which the disease is due with the employer from whom compensation is recoverable, at the date of the certificate or at the date of his death (if there is no previous period of incapacity immediately preceding his death), and, if the workman is not then so employed, the wages shall be the average weekly earnings of the workman when he was last so employed with the employer from whom compensation is recoverable.

28. If the workman at or immediately before the date of the certificate or of his death, as the case may be, was employed in any work mentioned in the Second Schedule to this Proclamation and the disease contracted is the disease set opposite the description of the work in that Schedule, the disease, unless the certifying medical practitioner certifies that in his opinion it was not due to the nature of the work, shall be deemed to have been due to the nature of that work, unless the employer from whom compensation is claimed proves the contrary.

29. Nothing in this Proclamation contained shall be construed as preventing compensation being recovered from any employer who employed the workman during the twelve months referred to in section *twenty-five*, if the employer who last employed the workman during that period is able to establish that the disease was not contracted while the workman was in his employment, in which case the provisions of section *twenty-six* shall apply.

30. Nothing in this Proclamation contained shall affect the rights of a workman to recover compensation under the Proclamation in respect of a disease, other than a scheduled disease, if the disease is the result of an accident to such workman.

31. (1) Every employer employing five or more workmen shall cause to be exhibited in a prominent place where such workmen are employed a summary in the prescribed form of the requirements of this Proclamation as to the giving of notice of accidents, the making of claims, and the procedure to be followed in cases of industrial disease.

(2) Failure to comply with the requirements of sub-section (1) shall constitute an offence punishable by a fine not exceeding five pounds, or, in default of payment imprisonment with or without hard labour for a period not exceeding fourteen days.

32. (1) The High Commissioner may make arrangements with any other part of the British Empire whereby sums awarded under this Proclamation as amended from time to time to persons residing or about to reside in that other part may, at the request of the Court by which the award is made, be transferred to a competent authority in that other part, and sums awarded under any law relating to workmen's compensation in such other part may be transferred to and administered by the Master of the Resident Commissioner's Court for the benefit of persons residing or about to reside in the Territory.

(2) The High Commissioner may make regulations for the purpose of giving effect to any such arrangement, as is mentioned in the preceding sub-section.

(3) For the purposes of this section the term "Empire" includes any territory under His Majesty's protection and any territory in respect of which a mandate is being exercised by His Majesty or by any part of His Majesty's dominions.

33. If in any proceedings under this Proclamation for the recovery of compensation by or on behalf of a workman, or his dependants, it shall appear—

- (1) that the injured or deceased workman is, or was a member of a benefit society, sick fund, organization or club (hereinafter described as "the society"); and
- (2) that there has been or is to be paid by the society to the workman or his dependants an allowance or gratuity in respect of any illness, absence from work, incapacitation for work or death; and
- (3) that the employer or principal is a contributor to those funds of the society out of which such allowance or gratuity has been or is to be paid;

there shall be deducted from any amount which the employer or principal would have been adjudged liable under this Proclamation to pay to the workman or his dependants a sum which represents the share of the employer's or principal's contribution towards the sum paid or to be paid to the workman or his dependants from the society in the circumstances aforesaid.

34. Any provision in a contract existing at the date of the taking effect of this Proclamation or hereafter entered into whereby a workman relinquishes any right to compensation under this Proclamation or to damages at common law, whether for himself or for his dependants shall be null and void.

35. (1) Nothing in this Proclamation contained shall be deemed to deprive a workman of any right which he may have at common law to institute proceedings for damages against his employer or any other person in respect of a personal injury.

(2) The workman shall elect whether he will institute proceedings at common law for damages against his employer or a principal in respect of a personal injury or will institute proceedings for compensation under this Proclamation, and if he institute such proceedings at common law he shall be debarred from instituting proceedings under this Proclamation in respect of the same injury, or if he institute proceedings under this Proclamation he shall be debarred from instituting proceedings at common law against his employer or principal in respect of the same injury. Any notice of injury given to the Clerk of the Court of a Resident Magistrate under sub-section (3) of section four or the taking out of summons in such Court shall be deemed to be an institution of proceedings under this Proclamation.

(3) If the compensation under this Proclamation has been paid by the employer or a principal and the circumstances of the injury disclose a legal liability on the part of another person to pay damages at common law in respect thereof, such other person shall be liable to pay to the employer or principal (as the case may be) the amount of compensation so paid and the taxed costs of any proceedings on which such amount became payable.

(4) A workman shall not be entitled in any case to recover both damages in an action at common law and compensation under this Proclamation in respect of the same injury.

36. If any person threatens or compels or attempts to compel any workman to do or omit to do any act the doing or omission of which deprives or is calculated to deprive such workman of any claim to compensation which he would have under this Proclamation, such person shall be guilty of an offence, and shall be liable upon conviction to a fine not exceeding one hundred pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

37. The resident Commissioner may from time to time make, alter or rescind regulations not inconsistent with this Proclamation—

- (1) prescribing the manner in and the conditions upon which any such memorandum of agreement as is in sub-section (2) of section eight described shall be registered, and the procedure to be followed on any application for such registration and the grounds on which any such application may be refused;

(2) generally for the better carrying out of the objects and purposes of this Proclamation.

38. This Proclamation may be cited for all purposes as the "Workmen's Compensation Proclamation 1934" 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 Capetown this Twenty-eighth day of December One thousand Nine hundred and Thirty-four.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency the
High Commissioner.

E. COHEN,
for Administrative Secretary.

FIRST SCHEDULE.

The members of a deceased workman's family shall be as herein set out and those mentioned in paragraph (a) may in the discretion of the Resident Magistrate be awarded compensation in preference to those mentioned in paragraph (b) that is to say:

- (a) The widow and any legitimate son or daughter under the age of seventeen years of the deceased workman, including a posthumous child;
- (b) the husband, a son and daughter not included in paragraph (a) (whether such son or daughter be legitimate or illegitimate), a step-son, step-daughter, the father and the mother, a step-father, step-mother, father's sister, mother's sister, brother, sister, half-brother, half-sister, grandfather, grandmother, grandson, granddaughter, and an adopted child under seventeen years of age who has been adopted by, and was dependent on the deceased workman for at least one year prior to the accident which caused the workman's death.

SECOND SCHEDULE.

<i>Description of Disease.</i>	<i>Description of Work.</i>
Silicosis.....	In mining carried on underground.
Tuberculosis.....	In mining carried on underground.
Ankylostomiasis (hookworm).....	In mining carried on underground.
Cyanide rash.....	The handling of cyanide or any work involving the use of cyanide.
Lead poisoning or its sequelae....	The handling of lead or its preparations or compounds or any work involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelae.	Any work involving the use of mercury or its preparations or compounds.

(Printed by the Government Printer, Pretoria.)

No. 77 of 1934.]

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

Whereas it is desirable further to amend the Deeds Proclamation, 1902 (No. 10 of 1902), of the Transvaal, as in force in Swaziland (hereinafter referred to as the principal law);

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

1. Section eight of the principal law shall be and is hereby amended by the insertion of the words "and water rates" after the words "Government taxes".

2. This Proclamation shall be read as one with the principal law and shall have force and take effect from the first day of January, 1935.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Thirty-first day of December One thousand Nine hundred and Thirty-four.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency
the High Commissioner.

E. COHEN,
for Administrative Secretary.

(Printed by the Government Printer, Pretoria.)

No. 78 of 1934.]

PROCLAMATION

By His Excellency the High Commissioner.

Whereas it is expedient to regulate the trade in rough or uncut diamonds in 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 provisions of Act No. 14 of 1885 of the Colony of the Cape of Good Hope shall cease to be in force and to have effect within the limits of the Bechuanaland Protectorate.

2. It shall not be lawful for any person other than a duly licensed diamond dealer, or the holder of a Prospecting Permit or Crown Grant or other right to prospect for or win diamonds, granted in terms of Proclamation No. 33 of 1932, to have in his possession, or to sell, offer or expose for sale, barter or pledge, or in any way, either as principal or agent, to dispose of or deliver any rough or uncut diamonds, or to be an accessory to such selling, offering, exposing, disposing or delivering as aforesaid.

3. It shall not be lawful for any person other than a duly licensed diamond dealer to buy, deal in, or receive by way of barter, pledge or otherwise, either as principal or agent, any rough or uncut diamonds, or to be an accessory to such buying, dealing in or receiving.

4. No person shall deal in rough or uncut diamonds either as buyer, seller, exporter or importer, unless such person shall be duly licensed by the Resident Commissioner, who shall in his absolute discretion issue licences to such persons as he may deem fit and proper persons to hold such licences. An annual licence duty of thirty pounds shall be paid in respect of every licence, which said licence shall expire on the thirty-first day of December of the year in which it was granted. Every licensed diamond dealer in every case in which he concludes a contract of purchase or sale of diamonds shall issue a broker's note (of which he shall keep a carbon copy available for inspection by the Magistrate of the district at any time) setting out the description and weight of the parcel in question, the number of diamonds of the weight of ten carats and upwards and the price per carat and the amount for which such diamonds were sold, as well as the full names of the purchaser and seller.

Every licensed diamond dealer shall also keep a register which shall be available for inspection at all times by the Resident Magistrate of the District showing the following particulars:—

- The dates of purchases, sales, exports, imports or receipts.
- The names of the consignor, consignee, prospector, seller, buyer, or owner.
- Total weight of each parcel.
- Number of stones of ten carats and upwards in each parcel.
- The price received or paid.
- The weight of any single stone exceeding the value of one hundred pounds.

5. Any person contravening section two, three or four shall be liable on conviction to a penalty of a fine not exceeding one hundred pounds, or to imprisonment with or without hard labour for a period not exceeding two years, or to both such fine and imprisonment, and all diamonds the subject of any transaction in contravention of this Proclamation may be confiscated and forfeited to the Crown by the Court before which the proceedings relating thereto have been taken, or by any other competent Court.

6. This Proclamation may be cited as the Bechuanaland Protectorate Diamond Trade Proclamation, 1934, 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 Capetown this Thirty-first day of December, One thousand Nine hundred and Thirty-four.

H. J. STANLEY,
High Commissioner.

By Command of His Excellency the
High Commissioner.

E. COHEN,
for Administrative Secretary.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 180 of 1934.

It is hereby notified for general information that under the powers vested in him by section three of Ordinance No. 2 of 1904 (Transvaal) as of force in Swaziland, His Excellency the High Commissioner has been pleased to revoke regulations Nos. 167, 168, and 169 of the Gaol Regulations, published in Government Notice No. 379 of 1904 (Transvaal) and to substitute therefor the regulation contained in the subjoined Schedule.

By Command of His Excellency
the High Commissioner.

E. COHEN,
for Administrative Secretary.

High Commissioner's Office,
Capetown, 21st December, 1934.

SCHEDULE.

167. Every prisoner whose sentence is six months or more shall according to his conduct and industry and subject to regulation be allowed an ordinary or earned mitigation not exceeding one-fourth of his sentence; provided that every conviction for a breach of discipline or other irregularity while undergoing sentence in addition to such punishment as may be inflicted shall cause a loss of as many days towards mitigation as the Assistant Commissioner who deals with the offence may in his discretion determine. In cases where a special mitigation or remission is sought or recommended in respect of any sentence whatever, representation shall be made to the High Commissioner.

Provided further that the decision of the Assistant Commissioner shall be subject to review by the Resident Commissioner, who shall have power to confirm, increase or reduce the period of loss of earned mitigation ordered by the Assistant Commissioner.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 181 of 1934.

It is hereby notified for general information that His Excellency the High Commissioner has been pleased to appoint Sergeant Richard Fox, Bechuanaland Protectorate Police, to be a Special Justice of the Peace with jurisdiction in the N'gamiland District of the Bechuanaland Protectorate while stationed at Mohebo.

By Command of His Excellency the
High Commissioner.

E. COHEN,
High Commissioner's Office, for Administrative Secretary.
Capetown, 22nd December, 1934.

HIGH COMMISSIONER'S NOTICE No. 182 of 1934.

It is hereby notified for general information that, in terms of section two of Proclamation No. 1 of 1912 (as amended), His Excellency the High Commissioner has been pleased to confer upon Inspector Ernest Edward Strong jurisdiction to try minor offences while stationed at Qacha's Nek, Basutoland, with power to punish any offence by a fine not exceeding ten pounds (£10) or by imprisonment with or without hard labour for a period not exceeding six (6) months, or by both such fine and such imprisonment.

By Command of His Excellency the
High Commissioner.

E. COHEN,
High Commissioner's Office, for Administrative Secretary.
Capetown, 27th December, 1934.

HIGH COMMISSIONER'S NOTICE No. 183 of 1934.

It is hereby notified for general information that, under the provisions of Act No. 10 of 1911 of the Union of South Africa, as in force in Basutoland, the Bechuanaland Protectorate, and Swaziland, His Excellency the High Commissioner has been pleased to approve in respect of those territories of the undermentioned rates of postage (being the combined air fee and postage rates) in respect of articles to be conveyed to destinations within the Union of South Africa and South-West Africa, with effect from the 1st January, 1935.

High Commissioner's Notice No. 159 of 1933 is hereby cancelled.

By Command of His Excellency
the High Commissioner.

E. COHEN,
High Commissioner's Office, for Administrative Secretary.
Capetown, 28th December, 1934.

For the conveyance by Air Mail to destinations within the Union of South Africa and South-West Africa of—

Postal articles (exclusive of parcels and post cards)	1½d. per half ounce.
Parcels	9d. per half pound.
Post cards	1d. each.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 184 of 1934.

It is hereby notified for general information that His Excellency the High Commissioner has been pleased to appoint Eric Philip Perkins, Esquire, Accounting Clerk (Grade I) and Assistant Collector of Income Tax, Basutoland, to be Accountant and Assistant Collector of Income Tax in the Swaziland Service, with effect from the 7th day of January, 1935.

By Command of His Excellency the
High Commissioner.

E. COHEN,
for Administrative Secretary.
High Commissioner's Office,
Capetown, 31st December, 1934.

HIGH COMMISSIONER'S NOTICE No. 185 of 1934.

It is hereby notified for general information that, under and by virtue of the powers in him vested by section two of Proclamation No. 32 of 1933, His Excellency the High Commissioner has been pleased to appoint Denis Silburn, Esquire, to be a Second Grade Magistrate with jurisdiction within the Northern District and to hold a Court at Pigg's Peak, Swaziland, during the absence on duty of Henry Walter Boast, Esquire, and with effect from the 1st January, 1935.

By Command of His Excellency the
High Commissioner.

E. COHEN,
for Administrative Secretary.

High Commissioner's Office,
Capetown, 31st December, 1934.

HIGH COMMISSIONER'S NOTICE No. 186 of 1934.

It is hereby notified for general information that, under and by virtue of the powers in him vested by sub-section (5) of section four of the Purchase of Stock (Bechuanaland Protectorate) Proclamation, 1923 (No. 43 of 1923), His Excellency the High Commissioner has been pleased to order that licences under the said Proclamation shall be issued for the period ending on the 31st December, 1935, without payment of any fee therefor.

By Command of His Excellency the
High Commissioner.

E. COHEN,
for Administrative Secretary.

High Commissioner's Office,
Capetown, 28th December, 1934.

(Printed by the Government Printer, Pretoria.)

POUND SALE.

The following animals will be sold by public auction on Wednesday, 16th January, 1935, at the Court-house, Bremersdorp, at 1 p.m., unless previously claimed:—

Dark brown mule, branded J K on near hip.

Chestnut mule, aged, branded YR on near stifle, letters joined together.

Terms: Cash to the highest bidder.

C. J. WESTON,
Poundmaster.

Bremersdorp, 27th December, 1934.

POUND SALE.

The following animals will be sold by public auction on Wednesday, 16th January, 1935, at the Court-house, Stegi, at 1 p.m., if not previously claimed:—

1 Black Swazi cow and calf, age about 6 years, unbranded.

1 Red Swazi cow with white belly, age about 4 years, unbranded.

1 Swazi bull, red, age 3 years, unbranded.

F. P. VAN OUDTSHOORN,
Poundmaster.

Stegi, 28th December, 1934.

NOTICE.

Notice is hereby given that the general dealer's business carried on by E. W. J. IHLENFELDT at Johannesburg (Hilder's) portion has been sold and will be transferred to J. L. VAN REENEN at the expiration of this notice. The said J. L. VAN REENEN will carry on the said business at Johannesburg for his own account and benefit.

Piet Retief, this 15th December, 1934.

OLMESDAHL & OLMESDAHL,

Attorneys for J. L. van Reenen.

Box 88, Piet Retief.

21-28-4

NOTICE.

Notice is hereby given that the general dealer's business formerly carried on by J. P. HARRIS at Sterkfontein, District Mankana, Swaziland, and which has been sold and is to be transferred to E. W. J. IHLENFELDT, will be transferred from Sterkfontein to Johannesburg, District Mankana, Swaziland, at the expiration of this notice.

Piet Retief, this 15th December, 1934.

OLMESDAHL & OLMESDAHL,

Attorneys for E. W. J. Ihlenfeldt.

Box 88, Piet Retief.

21-28-4

NOTICE.

Notice is hereby given that the general dealer's business carried on by J. P. HARRIS at Sterkfontein, District Mankana, Swaziland, has been sold and will be transferred to E. W. J. IHLENFELDT at the expiration of this notice.

Piet Retief, this 15th December, 1934.

OLMESDAHL & OLMESDAHL,

Attorneys for J. P. Harris.

Box 88, Piet Retief.

21-28-4

SWAZILAND.

THE TRADE MARKS OFFICE.

APPLICATIONS FOR THE REGISTRATION OF TRADE MARKS.

Any person who has grounds of objection to the following Marks may, within one month after the last publication of this notice, lodge notice of opposition in the Form B—2nd Schedule of the Trade Marks Rules, 1902.

L. J. PUTTICK,

Assistant Registrar of Trade Marks.

Mbabane, 12th December, 1934.

No. 5/1934, in class 43, in respect of fermented liquor and spirits, in the name of Castle Wine and Brandy Company, Limited, of 51-55 Somerset Road, Capetown, who claim to be the proprietors thereof.

No. 5/1934.

GOLDEN GUINEA

No. 6/1934, in class 43, in respect of fermented liquor and spirits, in the name of Henry C. Collison, Limited, of 132 Sir Lowry Road, Capetown, who claim to be the proprietors thereof.

2nd Advt.

No. 6/1934.

COMMANDO