

PROCLAMATION.

BY

HIS EXCELLENCY THE HIGH COMMISSIONER.

No. 37, 1912.—DATED 16th JULY, 1912.

Preamble.

WHEREAS it is expedient to prevent the sale or exhibition in the Bechuanaland Protectorate of indecent or obscene books, pictures, prints, and other articles;

¹See Proclamation Nos. 16 and 17 of 1914.

²The Imperial Act is not printed.

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

“Publication” defined.

1. For the purpose of this Proclamation the word “publication” shall include any book, newspaper, pamphlet, magazine, periodical, letterpress, writing, print, picture, engraving, lithograph, photograph, drawing or other similar representation.

Penalty for importing or producing indecent publications.

2. Any person who imports into the Bechuanaland Protectorate or who, within the Bechuanaland Protectorate, makes, manufactures or produces any indecent or obscene publication shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to both such fine and such imprisonment.

Penalty for selling or exposing indecent publications.

3. Any person who sells, or distributes, or offers for sale or distribution, or who wilfully exposes or causes to be exposed to public view, any indecent or obscene publication shall be guilty of an offence and shall be liable on 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 one year or to both such fine and imprisonment, and if such person be a male he shall further be liable to whipping not exceeding twenty-four strokes in addition to any other punishment imposed upon him under this section.¹

Assistant Commissioner or Magistrate may under certain circumstances issue warrant to search premises.

4. It shall be lawful for any Assistant Commissioner or Resident Magistrate if

- (a) a complaint has been made before him upon oath that the complainant has reason to believe, and does believe, that any indecent or obscene publication is kept in any house, shop, room, or other place within the limits of his jurisdiction for purposes of sale or distribution or for exhibition, leasing upon hire or publication in any other manner; and
- (b) the complainant also states upon oath that one or more publications of the like character have been sold, or distributed, exhibited, lent, or otherwise published as aforesaid at or in connection with such place; and
- (c) the Assistant Commissioner or Resident Magistrate is satisfied that the belief of the complainant is well founded and that any of the publications so kept for any of the purposes aforesaid are of such a character and description that the sale, distribution, or exposure of them would be an offence against this Proclamation and proper to be prosecuted as such;

If indecent publications are found owner of premises shall be summoned. Indecent publication seized to be destroyed.

to give authority by special warrant to any European members of the police force to enter in the day time any such house, shop, room, or other place with such assistance as may be necessary and, if necessary, to use force by breaking open doors or otherwise, and to search for and seize all such indecent and obscene publications as aforesaid found in any such house, shop, room, or other place and to carry all the articles so seized before the Assistant Commissioner or Resident Magistrate issuing the said warrant

¹For other offences see Proclamation No. 19 of 1927.

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or some other Assistant Commissioner or Resident Magistrate exercising the same jurisdiction and such Assistant Commissioner or Resident Magistrate shall thereupon cause a summons to issue calling upon the occupier of the house or other place which may have been so entered by virtue of the warrant to appear within seven days before any Assistant Commissioner or Resident Magistrate to show cause why the articles so seized should not be destroyed. If such occupier or some other person claiming to be the owner or the said articles do not appear within the time aforesaid, or if such person does appear and the Assistant Commissioner or Resident Magistrate be satisfied that such articles or any of them are of the character stated in the warrant and that such articles or any of them have been kept for any of the purposes aforesaid, it shall be lawful for such Assistant Commissioner or Resident Magistrate and he is hereby required to order the articles so seized or any of them to be destroyed at the expiration of the time allowed by law for lodging an appeal against the decision of such Assistant Commissioner or Resident Magistrate unless notice of appeal be given within such time. In that event all such articles shall be impounded pending the result of such appeal. If such Assistant Commissioner or Resident Magistrate be satisfied that the articles seized are not of the character stated in the warrant or have not been kept for any of the purposes aforesaid he shall forthwith direct them to be restored to the occupier of the house or other place in which they were seized.

Owner of indecent publications liable to prosecution.

5. The owner of any indecent or obscene publications ordered to be destroyed under the last preceding section shall be liable, in addition to the forfeiture of the said publications, to be prosecuted, and to be convicted of any offence against this Proclamation which may be proved against him.

Legal proceedings in connection with anything done under authority of Proclamation not to be instituted unless one month's notice is given.

6. No legal proceeding of any nature shall be instituted against any person for anything done or omitted to be done under the authority or in pursuance of this Proclamation unless notice in writing has been given by the party intending to institute such proceeding or to the intended defendant one calendar month at least before the institution thereof nor unless such proceeding has been instituted within three calendar months next after the act or omission complained of, or if damage caused by the said act or omission be continuing them within three calendar months next after such damage has ceased.

Penalty for sending indecent publications by post.

7. Any person who sends by post any indecent or obscene publication or post card or any other indecent or obscene article or any letter, publication, packet, or post card having thereon or on any cover thereof any word, mark, or design of an indecent or obscene character shall be liable on 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 one year or to both such fine and imprisonment.

Short title.

Commencement of Proclamation.

8. This Proclamation may be cited for all purposes as The Obscene Publications (Bechuanaland Protectorate) Proclamation, 1912, and shall have force and take effect from the date of its publication in the *Gazette*: