

# BECHUANALAND PROTECTORATE.

No. 29 of 1923.

[Promulgated 29th June, 1923.]

## PROCLAMATION

By HIS ROYAL HIGHNESS THE HIGH COMMISSIONER

Entitled "The Bechuanaland Protectorate Punishment of Offenders Proclamation, 1923."

Whereas it is expedient to make further provision for the punishment of offenders 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. Whenever a person is convicted before any court in the Bechuanaland Protectorate of any offence (except an offence specified in the First Schedule to this Proclamation) the court may in its discretion,

- (a) postpone for a period not exceeding six months the passing of sentence and release the offender on one or more conditions (whether as to compensation to be made by the offender for damage or pecuniary loss, good conduct or otherwise) as the court may order to be inserted in recognizances to appear at the expiration of that period; or
- (b) pass sentence but order the operation of the sentence to be suspended for a period not exceeding three years on such conditions (whether as to compensation to be made by the offender for damage or pecuniary loss, good conduct or otherwise) as the Court may specify in the order; or
- (c) pass sentence of a fine, or in default of payment, imprisonment, but suspend the issue of a warrant for committing the offender to a gaol in default of payment until the expiry of such period not exceeding twelve months as the court may fix for payment, in instalments or otherwise, of the amount of the fine or until default has been made by the offender in the payment of the fine or any such instalments, the amounts of any instalments and the dates of payment thereof being fixed by order of the court; or
- (d) discharge the offender with a caution or reprimand.

If at the end of the period for which the passing of sentence has been postponed under paragraph (a) the offender has observed all the conditions of the recognizances, the court may discharge the offender without passing any sentence.

If the operation of a sentence has been suspended under paragraph (b) and the offender has during the period of the suspension, observed all the conditions specified in the order, the sentence shall not be enforced.

If the conditions of any order made or recognizance entered into under this section be not fulfilled, the offender may, upon the order of an assistant commissioner or resident magistrate, be arrested without warning and shall be committed to undergo the sentence of imprisonment which has been or may then be lawfully imposed.

If an offender has been discharged with a caution or reprimand under paragraph (d), he shall be deemed to have been discharged without a verdict being given, and the discharge shall have all the effects of an acquittal.

2. (1) Any person who, having been convicted on two or more separate occasions (either in the Bechuanaland Protectorate or elsewhere, and whether before or after the coming into operation of this Proclamation) of any such offence as is mentioned in the Second Schedule to this Proclamation shall if he be thereafter convicted before the Special Court of the Bechuanaland Protectorate or before any court of an assistant commissioner or resident magistrate of any of these offences whether committed before or after the coming into operation of this Proclamation be liable

to be declared by the court before which he is then convicted an habitual criminal, provided that such declaration shall be subject to confirmation by the High Commissioner, and where the same is not confirmed the High Commissioner may substitute therefor such sentence of imprisonment with or without hard labour as he may think fit.

(2) An habitual criminal shall be detained with hard labour in a prison during the High Commissioner's pleasure and shall not be released unless and until the High Commissioner upon a report from the Resident Commissioner or after communicating with the Resident Commissioner considers that there is reasonable probability that the habitual criminal will in future abstain from crime and lead a useful and industrious life or that he is no longer capable of engaging in crime or that for any other reason it is desirable to release him.

(3) The High Commissioner may subject to the provisions of the preceding sub-section order the release on probation of the habitual criminal for any period, and on any conditions as to supervision or otherwise, which the High Commissioner may determine or may order the unconditional release of that criminal.

(4) Any person so released on probation who shall fail to observe any condition of his release may be arrested and recommitted to prison by warrant under the hand of the Resident Commissioner and shall be detained in prison as if he had not been so released.

(5) If a person so released on probation complete the period thereof without breaking any condition of his release he shall no longer be deemed an habitual criminal.

(6) The Resident Commissioner shall furnish to the High Commissioner at least once in every year a report in writing containing detailed particulars relative to the history, conduct, and industry of each habitual criminal detained in prison in the Bechuanaland Protectorate.

3. This Proclamation may be cited as the Bechuanaland Protectorate Punishment of Offenders Proclamation 1923 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-second day of June One thousand Nine hundred and Twenty-three.

ARTHUR FREDERICK,  
High Commissioner.

By Command of His Royal Highness  
the High Commissioner.

H. J. STANLEY,  
Imperial Secretary.

#### FIRST SCHEDULE.

Public violence.  
Murder.  
Culpable homicide.  
Rape.  
Assault with intent to do grievous bodily harm.  
Indecent assault.  
Robbery.  
Forgery or uttering a forged document knowing it to be forged.  
Fraudulent insolvency.  
Offences relating to the coinage.  
Any offence in respect of which a minimum punishment is by law imposed.  
Any conspiracy, incitement or attempt to commit any of the above-mentioned offences.

## SECOND SCHEDULE.

Rape or any statutory offence of a sexual nature against a girl of or under a prescribed age.

Robbery.

Assault with intent to commit murder, rape or robbery, or to do grievous bodily harm, or indecent assault.

Arson.

Fraud.

Forgery or uttering a forged document knowing it to be forged.

Offences relating to the coinage.

Breaking or entering any premises (whether at common law or in contravention of any statute) with intent to commit an offence.

Theft either at common law or as defined by any statute.

Receiving stolen property well knowing the same to have been stolen.

Extortion or threats by letter or otherwise with intent to extort.

Offences described in any law for the suppression of brothels and the punishment of immorality.

Offences against the laws for the prevention of illicit dealing in or possession of precious metals or precious stones or against any law relating to intoxicating liquor or any law regulating the possession or disposal of arms or ammunition.

Any conspiracy, incitement, or attempt to commit any of the above-mentioned offences.