

# BECHUANALAND PROTECTORATE

No. 57 of 1934.

(Promulgated 9th November, 1934.)

## PROCLAMATION

By His Excellency the High Commissioner

Amending sections *two hundred and eighty-six* and *two hundred and eighty-eight* of the Bechuanaland Protectorate Criminal Procedure and Evidence Proclamation, No. 20 of 1933.

Whereas it is expedient to amend sections *two hundred and eighty-six* and *two hundred and eighty-eight* of the Bechuanaland Protectorate Criminal Procedure and Evidence Proclamation No. 20 of 1933 hereinafter referred to as "the said Proclamation";

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

1. Sub-section (1) of section *two hundred and eighty-six* of the said Proclamation shall be and is hereby amended by deleting the first proviso and substituting therefor the following proviso:

"Provided that where a woman by any wilful act or omission causes the death of her newly-born child, but at the time of the act or omission she had not fully recovered from the effect of giving birth to such child, and by reason thereof the balance of her mind was then disturbed, she shall, notwithstanding that the circumstances were such that but for this proviso the offence would have amounted to murder, be guilty of culpable homicide, and may for such offence be dealt with and punished as if she had been guilty of the offence of culpable homicide of such child; and provided further that where a woman is convicted of the murder of her newly-born child, the Court may in its discretion impose a sentence other than that of sentence of death."

2. Sub-section (2) of section *two hundred and eighty-six* of the said Proclamation shall be and is hereby amended by inserting the following proviso at the end of the sub-section:

"Provided that no child under the age of fourteen years shall be sentenced to imprisonment."

3. Section *two hundred and eighty-eight* of the said Proclamation shall be and is hereby repealed and the following substituted in lieu thereof:—

“ 288. (1) Where a woman convicted of an offence punishable with death is found in accordance with the provisions of this section to be pregnant, the sentence to be passed on her shall be sentence of imprisonment with hard labour instead of sentence of death.

(2) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before whom a woman is so convicted thinks fit to order, the question whether or not the woman is pregnant shall, before sentence is passed on her, be determined by the Court.

(3) The question whether the woman is pregnant or not shall be determined on such evidence as may be led before the Court either on the part of the woman or on the part of the Crown, and the Court shall find that the woman is not pregnant unless it is proved affirmatively to its satisfaction that she is pregnant.

(4) The rights conferred by this section on a woman convicted of an offence punishable with death shall be in substitution for the right of such a woman to allege in stay of execution that she is quick with child.”

4. This Proclamation may be cited as the Bechuanaland Protectorate Criminal Procedure and Evidence (Amendment) 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 Pretoria this Thirty-first day of October, 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.