

## BECHUANALAND PROTECTORATE.

No. 45 of 1938.

(Promulgated 30th September, 1938.)

### PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER  
Entitled the Bechuanaland Protectorate Seditious  
Proclamation, 1938.

Whereas it is deemed expedient to make provision for the suppression of sedition and seditious publications and for the punishment of seditious offences 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:—

1. In this Proclamation:—

Defini-  
tions.

"Publication" includes all written or printed matter and everything, whether of a nature similar to written or printed matter or not, containing any visible representation or by its form, shape, or in any manner capable of suggesting words or ideas, and every copy and reproduction of any publication;

"Seditious publication" means a publication having a seditious intention;

"Seditious words" means words having a seditious intention.

2. (1) A "seditious intention" is an <sup>Seditious</sup> intention—

- (i) to bring into hatred or contempt or to excite disaffection against the person of His Majesty, His heirs or successors, or the Government of the Territory as by law established; or
- (ii) to excite His Majesty's subjects or inhabitants of the Territory to attempt to procure the alteration, otherwise than by lawful means, of any matter in the Territory as by law established; or
- (iii) to bring into hatred or contempt or to excite disaffection against the administration of justice in the Territory; or
- (iv) to raise discontent or disaffection amongst His Majesty's subjects or inhabitants of the Territory; or

(v) to promote feelings of ill-will and hostility between different classes of the population of the Territory.

But it is not a seditious intention—

- (a) to show that His Majesty has been misled or mistaken in any of his measures; or
- (b) to point out errors or defects in the government or constitution of the Territory as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or
- (c) to persuade His Majesty's subjects or inhabitants of the Territory to attempt to procure by lawful means the alteration of any matter in the Territory as by law established; or
- (d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different classes of the population of the Territory.

Provided that none of the acts or things mentioned in provisos (a), (b), (c) and (d) shall be deemed to be lawful if they are done in such a manner as to effect or be likely to effect any of the purposes (i) to (v) which are declared in this section to be a seditious intention.

(2) In determining whether the intention with which any act was done, any words were spoken, or any document was published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and under the circumstances in which he so conducted himself.

Offences.

3. (1) Any person who—

- (a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention;
- (b) utters any seditious words;
- (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;
- (d) imports any seditious publication, unless he has no reason to believe that it is seditious,

shall be guilty of an offence and liable on conviction for a first offence to imprisonment for two years or to a fine not exceeding one

hundred pounds or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years; and any seditious publication shall be forfeited to His Majesty.

(2) Any person who without lawful excuse has in his possession any seditious publication shall be guilty of an offence and liable on conviction for a first offence to imprisonment for one year or to a fine not exceeding fifty pounds or to both such imprisonment and fine, and for a subsequent offence to imprisonment for two years; and such publication shall be forfeited to His Majesty.

4. (1) No prosecution for an offence under section *three* shall be begun except within two years after the offence is committed. Legal proceedings.

(2) A person shall not be prosecuted for an offence under section *three* without the written consent of the Attorney-General.

5. No person shall be convicted of an offence under section *three* on the uncorroborated testimony of one witness. Evidence.

6. This Proclamation may be cited as the Bechuanaland Protectorate Seditious Proclamation, 1938, and shall have force and take effect from the date of its publication in the *Gazette*. Short title and commencement.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Twenty-fourth day of September, One thousand Nine hundred and Thirty-eight.

W. H. CLARK,  
High Commissioner.

By Command of His Excellency  
the High Commissioner.

H. E. PRIESTMAN,  
Administrative Secretary.