

BECHUANALAND PROTECTORATE.

No. 53 of 1938.

(Promulgated 9th December, 1938.)

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER
Entitled the Criminal Liability of Intoxicated Persons
(Bechuanaland Protectorate) Proclamation, 1938.

Whereas it is expedient to make further provision regarding the criminal liability of intoxicated persons 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:—

Intoxica-
tion as a
defence to a
criminal
charge. 1. (1) Save as provided in this section, intoxication shall not constitute a defence to any criminal charge.

(2) Intoxication shall be a defence to any criminal charge if by reason thereof the person charged at the time of the act or omission complained of did not know that such act or omission was wrong or did not know what he was doing and—

(a) the state of intoxication was caused without his consent by the malicious or negligent act of another person; or

(b) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.

(3) Where the defence under the preceding sub-section is established, then in a case falling under paragraph (a) thereof the accused person shall be discharged, and in a case falling under paragraph (b) the provisions of sub-section (2) of section *one hundred and sixty-seven* of the Bechuanaland Protectorate Criminal Procedure and Evidence Proclamation, 1938, shall apply.

(4) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the absence of which he would not be guilty of the particular offence charged.

(5) For the purpose of this section "intoxication" shall be deemed to include a state produced by narcotics or drugs.

Short title
and
commence-
ment. 2. This Proclamation may be cited as the
Criminal Liability of Intoxicated Persons
(Bechuanaland Protectorate) Proclamation,
1938, and shall have force and take effect as
from the first day of January, 1939.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this
Third day of December 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.