

PROCLAMATIONS:

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PROCLAMATION.

BY

HIS EXCELLENCY SIR HENRY BROUGHAM LOCH, &c., &c.

DATED 10th JUNE, 1891.

Preamble.

WHEREAS by Her Majesty's Order in Council, dated the 9th day of May, 1891, and published on the 4th day of June, 1891, in the *Government Gazette* of the Colony of the Cape of Good Hope, Her Majesty by and with the advice of Her Majesty's Privy Council has been pleased to confer upon and to commit to Her Majesty's High Commissioner for South Africa the exercise of certain powers, authorities and jurisdictions within the limits of the said Order in Council, that is to say, within the parts of South Africa bounded by British Bechuanaland, the German Protectorate, the Rivers Chobe and Zambesi, the Portuguese Possessions, and the South African Republic:

And whereas among the said powers so conferred and committed to the High Commissioner is the power of appointing and removing Resident Commissioners, Assistant Commissioners, Judges, Magistrates, and other officers, with such powers and authorities as the High Commissioner may assign, subject to the provisions of the said Order;

And whereas, moreover, the High Commissioner is by the said Order empowered, with due respect for native laws and customs, to provide by Proclamation, from time to time, for the administration of justice, the raising of revenue, and, generally, for the peace, order, and good government of all persons within the limits of the said Order, including the prohibition and punishment of acts tending to disturb the public peace;

And whereas it is now expedient to make such appointments, establish such administration, and make such provision by Proclamation as for the time being appear to be necessary, and to be urgently required in the interests of peace, order, and good government by reason of the influx of a European population into the aforesaid parts of South Africa;

And whereas it is specially expedient for the peace, order, and good government of the said parts of South Africa to include in such Proclamation provisions with respect to the occupation or ownership of land, to the making or levying of rates, taxes, licences, or duties, and to the regulation of trading within the limits of the said Order;

Now, therefore, under and by virtue of the powers, authorities, and jurisdictions conferred upon and committed to me by Her Majesty, I do hereby proclaim, declare, and make known as follows:—

Resident Commissioners to be appointed. Powers of.

1. There shall be one or more Resident Commissioners, who shall be appointed by commission under the hand and seal of the High Commissioner, each of whom shall, within such parts of the territories comprised within the limits of the said Order in Council as shall be assigned to him, exercise such administration and control, and shall be invested with all such powers, authorities, and jurisdiction as may be by law, including this Proclamation, and by the terms of his commission conferred upon or committed to him, subject always to the directions and instructions of the High Commissioner.

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Resident Commissioner to be Treasurer.

2. Every Resident Commissioner shall be the Treasurer of the territories assigned to him, and shall be accountable to the High Commissioner for all revenue in such manner and subject to such instructions or rules as may be from time to time given or prescribed by the High Commissioner.

3. [*Repealed by Proclamation No. 23 of 1914.*]

Assistant Commissioners and Magistrates may be appointed.

4. The High Commissioner may appoint such Assistant Commissioners or Magistrates as he may think necessary, and it shall be lawful for any Assistant Commissioner or Magistrate duly appointed for the said territory to hold a Court at such place or places as shall be fixed, and to exercise such jurisdiction as shall be conferred by law or defined in and by his commission.

Appointment and jurisdiction of Inspectors of Police.

5. The High Commissioner may appoint such Inspectors of Police as he may think necessary, and every Inspector of Police shall have jurisdiction in, and authority to adjudicate upon, such cases and matters as may be defined by any rules and regulations issued by the Resident Commissioner, with the approval of the High Commissioner, for the government and guidance of Police Forces within the territory assigned to such Resident Commissioner, in accordance with the provisions contained in such rules or regulations, and every Resident Commissioner is hereby empowered to make all such rules and regulations as aforesaid as may to him appear necessary or expedient, and to alter, amend, or repeal the same as he may think fit, subject to the approval of the High Commissioner.

High Commissioner may appoint other officers.

6. The High Commissioner may from time to time appoint and remove such other officers as he may think necessary, with instructions for the performance of such functions as may be assigned to them, and subject to such Resident Commissioners or Assistant Commissioners or Magistrates in such manner and to such an extent as the High Commissioner may direct.

Resident Commissioners and other officers to hold their offices during pleasure.

7. Every Resident Commissioner, Assistant Commissioner, Magistrate, Inspector of Police, or other officer shall hold office during the pleasure of the High Commissioner, and their several appointments shall be deemed to commence from the date of notice of such appointment given by the High Commissioner in the *Government Gazette* of the Colony of the Cape of Good Hope, or in such other official *Gazette* as may be hereafter established for the territories comprised within the limits of the said Order.¹

Jurisdiction of Courts not to extend to matters concerning natives only.

8. The jurisdiction of the Courts holden by Resident Commissioners, Assistant Commissioners, or Magistrates under this Proclamation shall not extend to any matter in which natives only are concerned, unless in the opinion of such Court the exercise of such jurisdiction is necessary in the interests of peace, or for the prevention or punishment of acts of violence to person or property.²

¹ For appointment of Acting Magistrates see Proclamation No. 16 of 1925.

² See Proclamation No. 2 of 1896 and Proclamation No. 11 of 1928, and as regards jurisdiction in native divorce cases see Proclamation Nos. 19 of 1926 and 6 of 1928.

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Traders must take out Licence.

Period for which licences are issued.

24. Every such licence shall remain in force for the term stated therein, not exceeding in any case the term of twelve months from the date thereof.

What such licences authorize.

25. Such licence may authorize the holder either to move from place to place for the purpose of his trade, or to establish some fixed trading station at a place to be approved by such Resident Commissioner, Assistant Commissioner or Magistrate as aforesaid.⁴

Licences may be refused.

26. Every Resident Commissioner, Assistant Commissioner or Magistrate shall be at liberty, if he shall consider it necessary and just so to do, to refuse to issue any such licence on the original application, or to refuse to issue a fresh licence on the expiration of any preceding licence.

Trader may remove his store when his licence has been refused or become forfeited.

27. In any case in which the renewal of the licence shall be refused as aforesaid, and in any case in which a licence shall be forfeited, as hereinafter provided, the holder of such previous or forfeited licences shall be permitted at any time within three months (unless the same shall have become liable to seizure) to remove the materials of any building which he may have erected at his trading station together with any movable property belonging to him, and failing such removal within the time appointed, such materials

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Penalty for trading without a licence.

Police Officer or other authorised person may demand production of licence.

31. It shall be lawful for any police officer, or other person authorized thereto by any Resident Commissioner, Assistant Commissioner, or Magistrate within the limits of his jurisdiction, at any time to demand the production by any person trading of his licence, and any such person refusing or failing to produce the same will be liable on conviction to a penalty not exceeding ten pounds sterling, or in default of payment to imprisonment with or without hard labour for any period not exceeding six months.^{2, 3.}

Trading stations and wagons liable to be examined.

32. Any trading station, or premises, or wagon, or other vehicle used or suspected of being used for the purposes of trade shall at all times be liable to the examination of any person thereto authorized in writing by any Resident Commissioner, Assistant Commissioner or Magistrate, and the owner or person in charge of any such station, premises, wagon, or vehicle who shall obstruct such examination shall be liable, on conviction, to a penalty not exceeding ten pounds sterling, or in default of payment to imprisonment with or without hard labour for any period not exceeding six months.^{2, 3.}

33. [*Repealed, Proclamation No. 1 of 1922.*]

Amount payable for hawker's licence.

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Delivery of arms and ammunition to be with consent of Resident Commissioners, &c.

37. No person shall deliver to any other person any gun or pistol, or any lock, stock, barrel, or other part of a gun or pistol, or any percussion caps, or any gunpowder or cartridges, or any lead, without the written sanction of a Resident Commissioner, Assistant Commissioner or Magistrate, under a penalty not exceeding five hundred pounds sterling, or under pain of imprisonment with or without hard labour for any period not exceeding seven years. No Resident Commissioner, Assistant Commissioner or Magistrate shall be bound to assign any reason for refusing to sanction any such delivery.¹

Arms and ammunition not to be brought into territory without permit.

38. No gunpowder or cartridges, gun or pistol, or lock, stock, barrel, or any other part of any gun or pistol, and no percussion cap shall be brought within the limits of the said Order, without the permission in writing of the Resident Commissioner or an Assistant Commissioner or Magistrate, duly authorised by the Resident Commissioner to grant permission for the importation of arms and ammunition, first had and obtained, and if any person shall bring any of the said articles within the said limits, without having previously obtained the permission in writing above mentioned, such article or articles shall be forfeited, and such person shall for every such offence be liable to a penalty not exceeding one hundred pounds sterling, or to imprisonment with or without hard labour for any period not exceeding two years. The Resident Commissioner or an Assistant Commissioner or Magistrate shall not be bound to assign any reason for refusing to give such permission.¹

39. [*Repealed by Proclamation No. 8 of 1911.*]

Provisions of the General Act of the Brussels Conference to be observed.

40. Within so much of the limits of the said Order as is comprised within Article VIII. of the General Act of the Brussels Conference of 1889-90, the provisions of that Article and of Article IX. of the said General Act, shall moreover be observed, in accordance with regulations which may from time to time be framed and published by the High Commissioner by notice in the aforesaid *Government Gazette*. The aforesaid Articles are set forth in the Schedule to this Proclamation.

Standard of coinage, weights, measures, &c.

41. The standard coinage, weights and measures from time to time in use in the Colony of the Cape of Good Hope shall be the standard coinage, weights and measures to be used within the said limits.

Recovery of Penalties.

Payments to informers.

Imprisonment in default of payment of fines.

42. Any penalties imposed by this Proclamation may be sued for before any Resident Commissioner, Assistant Commissioner or Magistrate having jurisdiction, and all such penalties may be recovered by the seizure and sale of any property belonging to the person convicted, and one-half of all the penalties recovered under this Proclamation shall in each case be paid to the person on whose information the conviction shall have been obtained, and the balance shall be paid into the revenue. Upon non-payment of any such fine or penalty, the person liable to make payment thereof shall (where no other term of imprisonment is by law prescribed) be subject to be imprisoned with or without hard labour for any period not exceeding six months.

¹ Amended by Proclamations Nos. 35 of 1909 and 8 of 1911.

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Claims to land only valid when approved by the High Commissioner.

43. No occupation or ownership, or claims of right to occupation or ownership by any person of European birth or descent in respect of any land within the limits of the said Order, and no concession or grant of any right, title or privilege to deal with or authorize the occupation or ownership of any such land, shall be recognised as valid or legal unless or until approved in such mode as the High Commissioner shall appoint.

Rates, Taxes, &c., only to be levied with the consent of the High Commissioner.

44. No rate, tax, licence, duty, or impost shall be lawful or can be levied or recovered within the limits of the said Order save with the approval and sanction of the High Commissioner, and unless imposed, levied, or recovered in such mode as the High Commissioner shall determine or approve.¹

Concessions from native chiefs only valid when sanctioned by the Secretary of State.

45. No concession or grant heretofore or hereafter made by any Native Chief, whether or not accompanied or supported by any power of attorney or instrument or document of procuracy, and no power of attorney or instrument or document of procuracy heretofore or hereafter granted by any such chief coupled with an interest in favour of some other person, whether such interest be apparent or not in the face of such power, instrument, or document, shall be recognised by any Court of Law unless and until sanctioned and approved by Her Majesty's Secretary of State.

Proclamation not to abridge powers of the High Commissioner or of the Chartered Company.

46. Nothing in this Proclamation contained shall be deemed in any wise to abridge or impair the powers, privileges, authorities, or jurisdiction of the High Commissioner, or of the British South Africa Company holding Her Majesty's Royal Charter of date the 29th day of October, 1889.

Powers vested in the Resident Commissioners, &c., to be exercised by persons appointed by the High Commissioner.

47. The powers vested in Resident Commissioners, Assistant Commissioners, Magistrates or other Officers may be exercised by any person appointed by the High Commissioner to act in any one of those capacities.

SCHEDULE.

ARTICLE VIII.

The experience of all nations who have intercourse with Africa having shown the pernicious and preponderating part played by firearms in Slave Trade operations as well as in internal war between the native tribes, and this same experience having clearly proved that the preservation of the African populations whose existence it is the express wish of the Powers to safeguard is a radical impossibility if restrictive measures against the trade in firearms and ammunition are not established, the Powers decide, in so far as the present state of their frontiers permits, that the importation of firearms, and especially of rifles and improved weapons, as well as of powder, balls and cartridges, is, except in the cases and under the conditions provided for in the following Article, prohibited in the territories comprised between the 20th parallel of north latitude and the 22nd parallel of south latitude, and extending westward to the Atlantic Ocean and eastward to the Indian Ocean, and its dependencies, comprising the islands adjacent to the coast as far as 100 nautical miles from the shore.

¹ See Proclamation No. 14 of 1897.

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ARTICLE IX.

The introduction of fire-arms and ammunition, when there shall be occasion to authorise it in the possessions of the Signatory Powers which exercise the rights of sovereignty or of protectorate in Africa, shall be regulated, unless identical or more rigorous Regulations have been already applied, in the following manner in the zone laid down in Article VIII. :—

All imported fire-arms shall be deposited, at the cost, risk, and peril of the importers, in a public warehouse placed under the supervision of the Administration of the State. No withdrawal of firearms or imported ammunition shall take place from such depots without the previous authorization of the Administration. This authorization shall be, except in cases hereinafter specified, refused for the withdrawal of all arms of precision, such as rifles, magazine guns or breech-loaders, whether whole or in detached pieces, their cartridges, caps, or other ammunition intended for them.

At the seaports and under conditions affording the needful guarantees the respective Governments may permit private depots, but only for ordinary powder and flint-lock muskets, and to the exclusion of improved arms and their ammunition.

Independently of the measures directly taken by Governments for the arming of the public force and the organization of their defence, individual exceptions shall be admitted for persons affording sufficient guarantees that the arm and ammunition delivered to them will not be given, assigned, or sold to third persons, and for travellers provided with a declaration of their Government stating that the weapon and ammunition are destined exclusively for their personal defence.

All arms in the cases provided for in the preceding paragraph shall be registered and marked by the authorities appointed for the supervision, who shall deliver to the persons in question licences to bear arms, indicating the name of the bearer and showing the stamp with which the arm is marked. These licences are revokable in case of proved improper use, and will be issued for five years only, but may be renewed.

The rule above set forth as to placing in depot shall also apply to gunpowder.

From the depots can be withdrawn for sale only flint-lock guns, with unrifled barrels, and common gunpowders, called trade powders ("poudres de traite"). At each withdrawal of arms and ammunition of this kind for sale, the local authorities shall determine the regions in which these arms and ammunition may be sold. The regions infected by the Slave Trade shall always be excluded. Persons authorised to take arms or powder out of the public depots (warehouses) shall present to the Administration every six months detailed lists indicating the destination of the arms and powder sold, as well as the quantities still remaining in the storehouses.