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OFFICIAL GAZETTE

OF THE
HIGH COMMISSIONER FOR SOUTH AFRICA.

PUBLISHED BY AUTHORITY OF HIS ROYAL HIGHNESS THE HIGH COMMISSIONER

VOL. LXXVII.]

PRETORIA, FRIDAY, 24TH MARCH, 1922.

[No. 1075.

No. 20 of 1922.]

PROCLAMATION

BY HIS ROYAL HIGHNESS THE HIGH COMMISSIONER.

Whereas it is desirable further to amend the Law of Evidence Proclamation 1902 of the Transvaal as in force as amended in Swaziland (herein after referred to as "the principal law");

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare proclaim and make known as follows:—

1. Section *seventeen* of the principal law as in force in Swaziland shall be and is hereby repealed and the following section shall be substituted therefor:—

"17. Any confession of the commission of any offence shall, if such confession is proved by competent evidence to have been made by any person accused of such offence (whether before or after his apprehension and whether on a judicial examination or after commitment, and whether reduced into writing or not) be admissible in evidence against such person:

Provided that such confession is proved to have been freely and voluntarily made by such person in his sound and sober senses and without having been unduly influenced thereto.

Provided further that if such confession is shown to have been made to a peace officer, other than an assistant commissioner or justice of the peace, it shall not be admissible in evidence under this section unless it was confirmed and reduced to writing in the presence of an assistant commissioner or justice of the peace. Provided also that when such confession has been made on a preparatory examination before any assistant commissioner, such person must previously, according to law, have been cautioned by the assistant commissioner that he is not obliged, in answer to the charge against him, to make any statement which may incriminate himself, and that what he then says may be used in evidence against him.

Provided also that no deposition made by any person on any judicial examination under the provisions of sections *one hundred and sixty* and *one hundred and sixty-three* of Law No. 13 of 1895 of the Transvaal as in force in Swaziland shall be admissible evidence in any prosecution of such person for any crime or offence other than perjury committed by him on such examination."

For the purposes of this Proclamation "peace officer" includes any assistant commissioner or justice of the peace, a sheriff or a deputy-sheriff, any officer, non-commissioned officer, constable or trooper of a police force established under any law, the gaoler or warder of any gaol and any pass officer.

2. Section *nineteen* of the principal law as in force in Swaziland shall be and is hereby amended by the addition of the words "and notwithstanding that the fact has been discovered and come to the knowledge of the witness against the wish or will of the accused" at the end thereof.

3. Section *fifty-three* of the principal law as in force in Swaziland shall be and is hereby repealed and the following section shall be substituted therefor:—

"53. (1) Whenever proof is required of the contents of any law, proclamation, statutory regulation or by-law, or Government notice, or of any other matter which has been published in the *Official Gazette* of the High Commissioner for South Africa, judicial notice shall be taken of such law, proclamation, regulation, by-law, notice or other matter.

(2) A copy of the *Gazette*, or a copy of such law, proclamation, statutory regulation, or by-law, notice or other matter purporting to be printed under the superintendence or authority of the Government Printer of Swaziland or of the Union of South Africa, shall, on its mere production, be evidence of the contents of such law, proclamation, statutory regulation or by-law, or notice or other matter, as the case may be."

4. This Proclamation may be cited for all purposes as "The Swaziland Law of Evidence Further Amendment Proclamation

1922" and shall be read as one with the principal law as amended 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 Sixteenth day of March One thousand Nine hundred and Twenty-two.

ARTHUR FREDERICK,
High Commissioner.

By Command of His Royal Highness
the High Commissioner.

H. J. STANLEY,
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

No. 21 of 1922.]

PROCLAMATION

BY HIS ROYAL HIGHNESS THE HIGH COMMISSIONER.

Whereas it is desirable to amend "The Criminal Procedure Code 1903" of the Transvaal as in force in Swaziland (herein after referred to as "the code");

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare proclaim and make known as follows:—

1. Section *seventy-three* of the code shall be and is hereby repealed and the following section shall be substituted therefor:—

"73. (1) As soon as the preparatory examination has been concluded, the prosecutor shall, if he has information or reasonable grounds for believing that the accused has previously been convicted of any offence, transmit direct to the Crown Prosecutor particulars of the alleged previous convictions.

(2) If, under the provisions of section *eighty-eight*, the Crown Prosecutor determines to indict the accused for trial before the Special Court of Swaziland for an offence disclosed by the evidence taken at the preparatory examination, the Crown Prosecutor may direct the assistant commissioner to reopen the preparatory examination for the purpose of ascertaining whether the accused admits that he has been so previously convicted.

(3) The assistant commissioner shall, in accordance with the Crown Prosecutor's directions, reopen the preparatory examination, shall inform the accused of the particulars of the alleged previous conviction and shall call upon him to admit or deny that he was so previously convicted. If the accused admits that he was so previously convicted, his admission shall be reduced to writing, and signed by him if he is willing to sign it, and shall in any case be signed also by the assistant commissioner. No person except the assistant commissioner, the public prosecutor, the accused, his legal adviser, the interpreter and the necessary escort of the accused shall be present at any proceedings taken by the assistant commissioner under this sub-section.

(4) The particulars of previous convictions shall not be attached to the record of the preparatory examination but shall be forwarded to the Crown Prosecutor, and shall not be produced against the accused until he has been convicted, or until evidence of previous convictions becomes admissible in accordance with the provisions of section *two hundred and twenty* of the code or section *eleven* of the Law of Evidence Proclamation 1902 of the Transvaal as in force as amended in Swaziland or any other law which specially provides that previous convictions are receivable in evidence against an accused person.

(5) Due care shall be taken by every officer that no information relative to any alleged previous conviction of the accused is disclosed to any person, save as provided by this section, until evidence of such previous conviction is lawfully tendered."

2. Section *eighty-three* of the code shall be and is hereby amended by the insertion of the following paragraph (d) after paragraph (c):

“(d) Whenever it appears in the course of the inquiry that the offence charged is of a trivial nature and is also an offence which the assistant commissioner’s court of the district has jurisdiction to try summarily, stop the inquiry and, with the consent of the prosecutor and the accused, place the accused on trial for that offence before such court and cause the depositions already taken at the inquiry to be read to the accused and to be recorded as evidence at such trial: Provided that either the prosecutor or the accused may require any person who has given evidence at the inquiry to be recalled for further examination.”

3. Chapter XVI of the code shall be and is hereby amended by the insertion therein after section *two hundred and thirty-four* of the following new section:—

“234A. When any person indicted before the Special Court of Swaziland for any offence has been previously convicted of any offence (whether in Swaziland or elsewhere) it shall be lawful for the Crown Prosecutor, if the accused has under section *seventy-three* of this code admitted that he has been so previously convicted and his admission has also been subscribed by the assistant commissioner in accordance with that section and if further he has pleaded guilty to or been found guilty of the offence, and before sentence is pronounced, to tender the admission in proof of the previous conviction, and such admission shall be received by the court upon its mere production as proof of the previous conviction unless it is shown that the admission was not in fact duly made or that the signatures or marks thereto are not in fact the signatures or marks of the accused and the assistant commissioner respectively:

Provided that if the accused made the admission under section *seventy-three* but refused to subscribe the same by signature or mark, a solemn declaration signed by the assistant commissioner and attached to the document signed by him under section *seventy-three*, stating that the accused did so make the admission but refused to subscribe the same shall upon its mere production, be sufficient evidence that the accused admitted the previous conviction.”

4. This Proclamation may be cited for all purposes as “The Swaziland Criminal Procedure Code Amendment Proclamation 1922” and shall be read as one with the code 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 Sixteenth day of March One thousand Nine hundred and Twenty-two.

ARTHUR FREDERICK,
High Commissioner.

By Command of His Royal Highness
the High Commissioner.

H. J. STANLEY,
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

No. 22 of 1922.]

PROCLAMATION

BY HIS ROYAL HIGHNESS THE HIGH COMMISSIONER.

Whereas it is desirable to facilitate the completion of contracts of service or labour between employers and natives of a certain age;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare proclaim and make known as follows:—

1. Notwithstanding anything contained in the Master and Servants Law, No. 13 of 1880, of the Transvaal as in force in Swaziland, the Native Labour Regulation (Swaziland) Proclamation 1913, or any other law, any contract of service or labour entered into between an employer and a native under the age of twenty-one years shall be deemed to be valid and binding notwithstanding the fact that the parent or guardian of such native shall not have been a party to such contract of service or labour if such native shall be of the age of 18 years or over and shall have been previously certified by an assistant commissioner to have become liable to payment of the tax imposed by Proclamation No. 1 of 1916, as amended, or shall be in possession of a tax receipt showing that such tax has been paid by him, and if all other requirements of the law relating to such contract have been duly complied with.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Sixteenth day of March One thousand Nine hundred and Twenty-two.

ARTHUR FREDERICK,
High Commissioner.

By Command of His Royal Highness
the High Commissioner.

H. J. STANLEY,
Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 23 of 1922.

It is hereby notified for general information that His Royal Highness the High Commissioner has been pleased to approve the temporary appointment of David Brown Johnson McCall, Esquire, M.R.C.V.S., to act as Principal Veterinary Surgeon in Basutoland during the absence on leave of Frank Arthur Verney, Esquire, with effect from the 8th day of March, 1922.

By Command of His Royal Highness the
High Commissioner.

H. J. STANLEY,
Imperial Secretary.

High Commissioner's Office,
Capetown, 17th March, 1922.

HIGH COMMISSIONER'S NOTICE No. 24 of 1922.

It is hereby notified for general information that His Royal Highness the High Commissioner has been pleased to approve the following appointments on the Basutoland establishment:—

Geoffrey Thomas Stanley Clarke, Clerk to Assistant Commissioner, to be Sub-inspector in the Basutoland Mounted Police, with effect from 14th May, 1921;

William Augustine Horan, Chief Clerk at the Leper Settlement, to be Clerk to Assistant Commissioner, with effect from 1st May, 1921;

George Borwick Robertson, Storekeeper, to be Chief Clerk at the Leper Settlement, with effect from 1st May, 1921;

Alfred John Pitout, Assistant Compound Manager, to be Farm Bailiff at the Leper Settlement, with effect from 1st April, 1921.

By Command of His Royal Highness the
High Commissioner.

H. J. STANLEY,
Imperial Secretary.

High Commissioner's Office,
Capetown, 20th March, 1922.

HIGH COMMISSIONER'S NOTICE No. 25 of 1922.

It is hereby notified for general information that His Royal Highness the High Commissioner has been pleased to appoint Shirley Eales, Esquire, to act as Assistant Imperial Secretary, in addition to his other duties, during the absence on leave of Charles Leonard O'Brien Dutton, Esquire

By Command of His Royal Highness the
High Commissioner.

H. J. STANLEY,
Imperial Secretary.

High Commissioner's Office,
Capetown, 20th March, 1922.

In the Insolvent Estate of CARRIM CASSIM, of Solomo, District Butha Buthe, Basutoland.

SALE, WEDNESDAY, 12TH APRIL, 1922.

Duly instructed by Mr. C. F. Heney, of the Bloemfontein Board of Executors and Trust Company, Limited, of Maseru, Trustee of the above Insolvent Estate, the undersigned will sell by auction at Butha Buthe Camp, Basutoland, on Wednesday, the 12th April, 1922, at 10 a.m. sharp:—

The whole of the Merchandise, Live Stock, Wool, and Mohair belonging to the above Insolvent Estate, valued at about £750

Without Reserve, in small Lots.

Also one large Safe and two Platform Scales.

The goods can be viewed at the stores of the undersigned on Tuesday, the 11th April, 1922, between 10 a.m. and 4 p.m.

Terms cash.

W. J. L. FREER,
Auctioneer.

Butha Buthe, Basutoland.

BECHUANALAND PROTECTORATE.

NOTICE AND DECLARATION OF INSOLVENCY.

Notice is hereby given that the Estate of CASSIM ARBI, of Ramoutsa, in the Southern District of the Bechuanaland Protectorate, has, by order of the Resident Commissioner's Court, dated the 15th day of March, 1922, been placed under sequestration in the hands of the Master of the said Court, and that all persons having any claim upon the said Estate are required to attend two meetings of Creditors to be held before the said Master at his office at Mafeking, the first meeting to be held on Wednesday, the 12th day of April, 1922, at 10 o'clock in the forenoon precisely, for Proof of Debts, the second meeting on Wednesday, the 19th day of April, 1922, at 10 o'clock in the forenoon precisely, also for the Proof of Debts and for the election of a Trustee or Trustees, who shall administer the said Estate.

M. WILLIAMS,
Master of the Resident Commissioner's Court.

Master's Office,
Mafeking, 16th March, 1922.