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in Military Occupation of the Union Forces

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PROCLAMATIONS

BY HIS HONOUR SIR EDMOND HOWARD LACAM GORGES, KNIGHT COMMANDER OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, A MEMBER OF THE ROYAL VICTORIAN ORDER, ADMINISTRATOR OF THE PROTECTORATE OF SOUTH WEST AFRICA IN MILITARY OCCUPATION OF THE UNION FORCES.

No. 16 of 1919.]

WHEREAS it is desirable to amend the provisions of the "Sunday Trading Proclamation, 1919",
NOW THEREFORE under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known that the words "and 10 a. m. and between the hours of noon" shall be and are hereby deleted from clause (a) of section 2 of the "Sunday Trading Proclamation, 1919"

GOD SAVE THE KING.

Given under my hand this 19th day of November, 1919.

E. H. L. GORGES
Administrator.

No. 17 of 1919.]

WHEREAS it is desirable to amend the law relating to the prevention and punishment of cruelty to animals,

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

1. The provisions of the Prevention of Cruelty to Animals Act, 1914, of the Union Parliament shall, *mutatis mutandis*, be of force and effect within the Protectorate.
2. Section 360 (13) of the Imperial German Criminal Code shall no longer have force or effect within the Protectorate.
3. This Proclamation may be cited for all purposes as the "Prevention of Cruelty to Animals Proclamation, 1919", and shall commence and come into operation on the first day of January, 1920.

GOD SAVE THE KING.

Given under my hand at Windhuk this 2nd day of December, 1919.

E. H. L. GORGES
Administrator.

No. 18 of 1919.]

WHEREAS it is desirable to control the export of gold from the Protectorate,

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

1. The export of gold coin (except as personal cash in amount not exceeding five pounds) and of gold bullion and of gold ornaments save under authority of a permit issued by the Secretary for the Protectorate is prohibited.
2. Any person who contravenes or attempts to evade any provision of this Proclamation or who incites or induces any other person so to do or who alters, counterfeits or substitutes any permit or who fails or refuses to exhibit any permit upon demand made by any magistrate or member of the police shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding five hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two years or to both such fine and such imprisonment.
3. This Proclamation may be cited for all purposes as the "Control of Export of Gold Proclamation, 1919".

GOD SAVE THE KING.

Given under my hand at Windhuk this 2nd day of December 1919.

E. H. L. GORGES
Administrator.

No. 19 of 1919.]

WHEREAS certain concessions of rights over or interests in land or minerals within the Protectorate or in the territorial waters thereof and certain other concessions were granted or recognised by the late Government of the Protectorate,

AND WHEREAS it is necessary and expedient in the interests of the inhabitants of the Protectorate that all concessions of whatsoever nature granted or recognised by the late Government should be examined in order that the Union Government should be in a position to determine whether such concessions or any of them should be recognised, modified, or terminated,

NOW THEREFORE, under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known that I have appointed a commission consisting of

CARL JEPPE Esquire, K. C., Judge of the Water Court, Union of South Africa. (who shall be Chairman)

MICHEL CHRISTIAAN VOS, Esquire, B. A.
ALFRED JOHN WATERS, Esquire, B. A.

to enquire into and examine all such concessions; to report to me whether such concessions or any of them should be recognised, modified or terminated; to advise as to any conditions which should be imposed in respect of any such concessions recognised, or as to any compensation which should be given in respect of any such concessions modified or terminated; and generally to report upon all other matters incidental to such questions. The concessions aforesaid shall not be taken to include the mining title of diamond mining companies recognised as valid by the German Government, but any interest arising out of diamond mining operations held or claimed by the Deutsche Kolonial Gesellschaft shall be included as also any other rights held or claimed by the said Company.

To enable the said Commissioners the better to carry out the objects of their enquiry, I do hereby confer upon them the power to summon before them witnesses; to examine such witnesses on oath, such oath to be administered by the Chairman, to call for, have access to, and examine all books, documents, registers and records; to inspect property; and generally to do all such things and exercise all such powers as may be necessary to enable them the better to execute their duties.

The laws and rules obtaining in the Courts of the Magistrates of the Protectorate shall *mutatis mutandis* apply to procuring the attendance before the Commission of witnesses; their examination, and the production of their books, documents, registers and records; and for that purpose the Chairman or the Secretary of the Commission shall have power to sign all such documents as may be necessary for the purposes of the enquiry in the same manner as the magistrate or his clerk has power so to do under the rules obtaining in the magistrates' courts. Any process to be served for purposes of the enquiry shall be served as if it were process of a magistrate's court in the district of service.

Officials of the Protectorate are hereby required to render all due assistance to the Commission to enable them to execute the powers committed to them.

Any person who refuses to comply with any lawful summons or order of the Commission, or who without lawful excuse fails or neglects to comply with any such summons or order shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

AND I do hereby further declare and make known that the Union Government reserves the right to modify, to decline to recognise, or to terminate any concession hereinbefore referred to which may appear on examination to have been granted contrary to the interests of the inhabitants of the Protectorate, or in any way to affect their welfare prejudicially, or the conditions of which have not been fulfilled, or which was granted for insufficient value or consideration, or which for any other reason is deemed to be contrary to the public interests, or in any case in which the concessionaries or their servants have used the works and plant of such concession for the purpose of military operations against the Union Forces.

GOD SAVE THE KING.

Given under my hand at Windhuk this 8th day of December, 1919.

E. H. L. GORGES
Administrator.

No. 20 of 1919.]

WHEREAS it is desirable to amend the law relating to procedure and evidence in criminal cases;

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

1. Proclamation No. 5, dated 24th July, 1918, shall be and is hereby repealed.
2. Subject to the amendments set forth in the schedule hereto, the Criminal Procedure and Evidence Act, 1917, of the Union Parliament, shall have effect in the Protectorate.
3. This Proclamation may be cited for all purposes as the "Criminal Procedure and Evidence Proclamation, 1919".

GOD SAVE THE KING.

Given under my hand at Windhuk this 12th day of December, 1919

E. H. L. GORGES
Administrator.

SCHEDULE.

I. General Amendments.

1. "Superior Courts" includes the High Court of South-West Africa.
2. "Attorney General" means the Crown Prosecutor.
3. "Union" means the Protectorate except in relation to sections 304 and 314 and the definition of "person", "owner" and other like terms in section 390.
4. "Minister" means the Administrator.
5. "Governor General" means the Administrator except in relation to section 314.
6. "Gazette" means the official Gazette of the Protectorate.

II. Particular Amendments.

1. Section 2 (c) is deleted.
2. The figures XI, XII are deleted from section 3 (1).
3. Section 6 (1) is deleted and the following substituted therefor:—
"The Supreme Court for the Protectorate is the High Court of South-West Africa as described in the Administration of Justice Proclamation, 1919.
Section 6 (2) is amended by adding the words "or any Courts administering Martial Law" to the end thereof.
4. Section 7 is deleted and the following substituted therefor:—
"7 (1) The Crown Prosecutor of the Protectorate is vested with the right and entrusted with the duty of prosecuting in the name and on behalf of His Majesty the King in respect of any offence which is alleged to have been committed within the jurisdiction of the High Court of South-West Africa
(2) That right and duty of prosecution vested in and entrusted to such Crown Prosecutor is absolutely under his own management and control."
5. Section 78 (3) is deleted and the following substituted therefor:—
"Provided that no child shall, without the authority of the Administrator, be detained in any prison or gaol or police lock-up while awaiting trial unless there is no other accommodation available; and provided further that every child who is charged with an offence shall, where his detention is necessary, be detained in some place generally or specially determined by the Administrator or shall be detained by a temporary custodian approved by the magistrate of the district where such child is awaiting trial; provided that any policeman above the rank of sergeant may (a) unless the charge be that of homicide or any other serious crime or offence; or

- “(b) if it be necessary in the opinion of such officer to detain such child in order to remove him from the society of persons of bad character; or
“(c) unless the ends of justice are likely to be defeated
“release such child from custody if any person will enter into recognizances with or without sureties for his appearance when required to answer the charge made against him.”
“For the purposes of this section “child” shall mean a person under the age of sixteen.”
6. Section 120 (b) is deleted.
 7. Section 146 (2) is deleted.
 8. Section 161 is deleted and the following substituted therefor:—
“161 (1) If on the arraignment or during the trial of any person charged with an offence, it appears to the Judge, magistrate or other judicial officer presiding at the trial that such person is mentally disordered or defective the question of such person’s mental condition shall be enquired into by the Court.
“(2) If the Court finds after hearing evidence (which may include such medical evidence as may be necessary) that such person is mentally disordered or defective, the Court shall record such finding and issue an order committing such person to a gaol pending the signification of the Administrator’s decision.
“(3) If the Court has any doubt as to whether such person is or is not suffering from mental disorder or defect, the Court shall direct that the person be removed to some institution (not being a licensed institution) there to be under observation. Such institution may be outside the limits of the Protectorate.
“(4) Every such person, while so detained in the Protectorate, shall be deemed to be in lawful custody.
“(5) If the Court finds that such person is not suffering from mental disorder or defect, the trial shall proceed as in other cases.
“(6) If when the accused is called upon to plead to an indictment, summons or charge, it appears to be uncertain for any other reasons whether he is capable of understanding the proceedings at the trial, so as to be able to make a proper defence, the foregoing procedure shall be followed so far as may be.
“(7) If the Court finds that he is so capable, the trial shall proceed as in other cases.
“(8) If the Court finds that he is not so capable the procedure laid down in subsection (2) hereof shall be observed.
“(9) A person so found to be incapable of understanding the proceedings at the trial may thereafter be again indicted or charged and tried for the offence at any time when he is so capable.”
 9. Sections 165 to 216 inclusive are deleted.
 10. Section 223 is deleted.
 11. All reference to an official Gazette of any Province is deleted from section 280.
 12. In section 304 for the words “part of Africa included in the Union” are substituted the words “part of the Protectorate or the Union of South Africa”.
 13. In section 307 for the words “of His Majesty’s Mint or other persons employed in producing the lawful coin in His Majesty’s Dominions or elsewhere, whether the coin counterfeited is current coin of any part of His Majesty’s Dominions, or any foreign country”, are substituted the words “employed in the production of lawful coin”.
 14. In section 314 after the words “Governor-General of the Union” are inserted the words “and by him passed through the usual channels to the Administrator”.
 15. Section 331 (2) is deleted.
 16. Section 334 (3) is deleted.
 17. Section 336 (2) is deleted and the following substituted therefor:—
“(2) If the trial is held before a circuit court of the Protectorate the recognizance may in the discretion of the Court be conditioned to appear and receive judgment at some future time or when called upon before the High Court of South-West Africa”.
 18. The first paragraph of section 345 is amended by the deletion of all the words after “for” in the fifth line thereof and the substitution therefor of the words “such period as may appear proper and in accordance with law and justice”.
 19. In section 352 (2) for “provincial division” is substituted “High Court of South-West Africa”.
 20. In section 358 for the words “five pounds” are substituted the words “seven pounds and ten shillings”.
For the purposes of this section the term “prescribed officer” shall include any policeman in charge of a charge office.
 21. The second paragraph of section 362 is deleted and the following substituted therefor:—
“Until new regulations are made hereunder the regulations contained in the sixth schedule hereof shall have effect.”
 22. Sections 368 to 375 inclusive are deleted.
 23. Section 377 (2) is deleted and the following substituted therefor:—
“(2) Such commutation shall have the effect of a valid sentence passed by the Court before which the offender was convicted”.
 24. Section 388 is deleted.
 25. Section 389 (4) is deleted and the following substituted therefor:—
“(4) Every rule made or form prescribed under this Section shall be subject to the approval of the Administrator and when so approved and published in the Gazette shall have the same force and effect as if it were in this Proclamation contained”.
 26. Section 390 is amended as under:—
“Justice” includes commissioned officers of police or any other person upon whom the Administrator confers the functions of a justice hereunder.
The definition of “Minister” is deleted.
The definitions of “person”, “owner” and other like terms are amended by the addition at the end thereof of the words “and of the Protectorate Administration”.
 27. Section 391 is deleted.
 28. The second schedule is deleted.
 29. The fifth schedule is amended as follows:—
From the sixth rule the last sentence is deleted. From the seventh rule the second paragraph is deleted.
The twenty-first rule is deleted and the following substituted therefor:—
“21. For the purposes of these rules the expression “Provincial Division” shall mean The High Court of South-West Africa.”
The forms set out shall be subject to such alterations and amendments as may be required.
 30. The sixth schedule is deleted and the following substituted therefor:—

Sixth Schedule

Probation Regulations for Suspended Sentences.
(§ 362.)

- “1. The circumstances under which a Court of Law may entrust the care or supervision of offenders whose sentences of imprisonment have been postponed or suspended under this Act to a probation officer shall be as follows, namely, whenever the Court considers that there is some prospect of such care or supervision conducing to the reformation or benefit of the offender or his dependents. In such cases the Court shall entrust the offender to the care or supervision of the nearest probation officer during the period of postponement or suspension of his sentence.
- “2. A person whose sentence has been postponed or suspended and who has been placed under the care or supervision of a probation officer shall, during the period of suspension of sentence, follow and observe such of the following rules and conditions or any other rules and conditions which may be determined by the Court from time to time:—
- “ (a) He shall report himself immediately to the probation officer and as often thereafter as may be fixed by the Court, or, failing such, as may be required by the probation officer.
- “ (b) He shall not go beyond the limits assigned to him by the Court, or, failing such, by the probation officer from time to time.
- “ (c) He shall immediately inform the probation officer of any change of his address within his local limits.
- “ (d) He shall, failing any other direction or requirement under paragraph (a), on the first of every month furnish a report to the probation officer verbally or in writing as may be required by him.
- “ (e) He shall not enter any bar, tap, beer-hall, or canteen where intoxicating liquor is exposed for sale or obtain such liquor therefrom.
- “ (f) He shall not drink intoxicating liquor.
- “ (g) He shall not associate with criminals or persons of known bad reputation.
- “ (h) He shall in all respects conduct himself honourably and soberly.
- “ (i) He shall work diligently and honestly for himself and his employers.
- “ (j) Where specially ordered by the Court he shall allow the probation officer to receive his wages from his employers periodically as they become due and to administer the same for the benefit of himself and his family.
- “ (k) He shall promptly and truthfully answer all enquiries directed to him by the probation officer.
- “ (l) He shall commit no offence.
- “ (m) He shall consult with the probation officer as his best friend and follow his advice.
- “ (n) He shall carry out faithfully all conditions imposed on him by the Court.
- “ On the report of the probation officer the Court may relax or vary any of the conditions previously imposed by it.
- “3. The Administrator may appoint during pleasure such probation officers as he may think fit. Payment to any such person shall not be held to constitute him a public servant for the purposes of any Public Service Act.
- “4. A probation officer shall obey all directions of the Administrator and of the Court sitting within the area assigned to him, and shall:—
- “ (a) make all preliminary investigations required by the Court as to any person, and promptly report results;

- “ (b) watch over the person entrusted to his supervision or care and serve as his best friend;
- “ (c) ensure wherever possible the carrying out by the person concerned of the conditions of his sentence, warning him of the penalties of failing to do so;
- “ (d) visit the person entrusted to his care at least once a month, and require such person to visit him at least once a fortnight, both in so far as may be practicable and at all times be prepared to aid him with advice and sympathy;
- “ (e) immediately investigate any breach of conditions;
- “ (f) report to the Court or to the Administrator as may be necessary, any serious breach of conditions;
- “ (g) furnish periodical reports as may be required by the Court or by the Administrator;
- “ (h) keep such records as may be directed by the Administrator;
- “ (i) where practicable and advisable receive wages from employers on behalf of any person placed in his care where such has been ordered by the Court or has been consented to in writing by such person, and administer the same for the benefit of such person and his family.
- “5. The Administrator may also utilise the services of any such probation officer or voluntary worker in connection with such offenders as he may think fit, and may require him to visit such offenders at their employers' or their own homes or elsewhere, and to furnish such reports as may be required from time to time, and generally to carry out such instructions as may be given to him.”

No. 21 of 1919.]

(WHEREAS it is desirable to introduce Roman Dutch Law into this Protectorate, to amend the Law constituting provisional Courts for the administration of justice in criminal cases therein, to establish Courts of Civil and Criminal jurisdiction, to establish a police force and to constitute certain public offices which have become necessary,

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

1. (1) The Roman Dutch Law as existing and applied in the Province of the Cape of Good Hope at the date of the coming into effect of this Proclamation shall, from and after the said date, be the Common Law of the Protectorate, and all Laws within the Protectorate in conflict therewith shall, to the extent of such conflict and subject to the provisions of this Section, be repealed.
 - (2) Notwithstanding the provisions of paragraph (1) of this section, all Proclamations which have been issued during the Military occupation of the Protectorate and are still in force on the said date shall continue to be in force.
 - (3) All rights, privileges, obligations or liabilities acquired, accrued or incurred prior to the said date shall be determined according to the law in force in the Protectorate at the time of acquisition, accrual or incurrence.
2. All offences committed prior to the date of the coming into effect of this Proclamation shall be tried and determined by the Court having jurisdiction under this Proclamation according to the criminal law in force in the Protectorate before the said date, and any criminal case pending in any Court established prior to the said date may be continued and determined in the Court having jurisdiction under this Proclamation as if this Proclamation had not been

issued. Provided that where the person constituting such Court shall not be the same person as constituted the Court before which the offence was originally brought the proceedings shall be commenced *de novo*.

3. (1) There shall be and there is hereby created and constituted for the Protectorate a Superior Court to be known as the High Court of South-West Africa which shall be a Court of Record and which shall, subject to the provisions of paragraph (7) of this Section consist of and be holden by and before one Judge to be appointed by the Administrator.
- (2) The Judge of the High Court shall receive a salary of £2250 per annum, and he shall, in regard to fixity of salary, leave of absence, tenure of office, pension and superannuation, have all such rights as are held and possessed by any Judge of the Cape Provincial Division of the Supreme Court of South Africa appointed after the commencement of the Judges' Salaries and Pensions Act, 1912, of the Union Parliament, and shall be under all such obligations and disabilities as any such Judge.
- (3) The said High Court shall have and use as occasion may require a seal bearing a device and impression of the Arms of the Union of South Africa within an exergue or label surrounding the same with this inscription, "The Seal of the High Court of South-West Africa. Het Zegel van het Hooggerechtshof van Zuid-West Afrika". The said seal shall be delivered to and shall be kept in the custody of the Registrar of the said Court or the officer for the time being acting as such.
- (4) The seat of the High Court shall be at Windhuk, and, subject to the provisions of this Proclamation, it shall exercise within the Protectorate all such jurisdiction as may lawfully be exercised within the province of the Cape of Good Hope by the Judges of the Cape Provincial Division of the Supreme Court.
- (5) The Judge of the High Court shall, subject to the approval of the Administrator, frame rules for the conduct of the proceedings of the said Court. Until such rules shall have been promulgated, the rules relating to practice and procedure in force in the Cape Provincial Division of the Supreme Court of South Africa shall govern the practice and procedure in the High Court.
- (6) The law of procedure and evidence in Civil proceedings before the High Court shall be that for the time being followed by the Cape Provincial Division of the Supreme Court of South Africa and the law of procedure and evidence in Criminal proceedings before the High Court shall be that prescribed by any such modification of the Criminal Procedure and Evidence Act, 1917, of the Union Parliament as may be in force in the territory at the date of coming into effect hereof.
- (7) The jurisdiction of the High Court for the trial and punishment of crimes and offences shall be exercised by the Judge thereof and two members appointed thereto from time to time as occasion may require by the Administrator who shall be advocates of not less than five years standing or persons holding or qualified to hold within the Union or the Protectorate the office of Magistrate. The Judge of the High Court shall be the president of the Court, and the decision of the majority of the members of the Court shall be the judgment of the Court.
- (8) There shall be a Registrar of the High Court who shall be appointed by the Administrator and shall have all such powers and perform all such duties as may be assigned to or imposed upon him by the rules of the said Court or by any law. The Registrar shall receive on behalf of the Administration such fees as shall be prescribed by the Administrator by notice in the Gazette.
4. The Registrar if thereto requested by any party in whose favour any judgment or order has been given or made by any Division of the Supreme Court of South Africa, shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the High Court of South-West Africa.
5. A Sheriff of the Protectorate shall be appointed by the Administrator. Such Sheriff and any lawful deputy of such shall have all such rights, exercise all such powers, and be subject to all such obligations as the Sheriff of the Province of the Cape of Good Hope or his lawful deputy respectively. The Sheriff shall receive on behalf of the Administration such fees as shall be prescribed by the Administrator by notice in the Gazette.
6. (1) A Master of the High Court shall be appointed by the Administrator.
- (2) The provisions of the Administration of Estates Act, 1913, and of the Insolvency Act, 1916, of the Union Parliament shall, so far as circumstances permit, be of force and effect within the territory, and in respect of the said Acts or of any other law of the Protectorate the person appointed to be the Master of the High Court of South-West Africa shall have all such rights, exercise all such powers, and be subject to all such obligations as the Master of the Cape Provincial Division of the Supreme Court of South Africa.
7. From and after the date of the appointment of a Master of the High Court, the Office of Public Trustee created by Proclamation of the Military Governor of the South-West Africa Protectorate No. 20 of the 25th October, 1915, shall be abolished, and all and several the powers and functions of the Public Trustee shall devolve upon the Master of the High Court of the territory, and all monies and other assets held by the said Public Trustee at the date aforesaid shall become vested in, and all liabilities of the said Public Trustee shall devolve upon, the said Master.
8. There shall be appointed by the Administrator an officer styled the Crown Prosecutor of South-West Africa who shall, in regard to the prosecution of crimes and offences which may have been or may be committed within the Protectorate, have all such powers, authorities and functions as are held and exercised by the Attorney-General in any of the Provinces of the Union under and by virtue of Section 129 of the South Africa Act, 1909, or any other law, and who shall further discharge such other duties as may be assigned to him by the Administrator.
9. (1) Magisterial Districts may be created and altered and Magistrates' Courts constituted for the Protectorate by the Administrator who for this and any other purpose hereunder shall have like powers as are conferred upon the Governor-General and the Minister of Justice of the Union by the Magistrates' Courts Act, 1917, of the Union Parliament. The Courts of Military Magistrates and the Magisterial Districts existing within the Protectorate at the date of the coming into effect of this Proclamation shall be deemed to be Magistrates' Courts and Magisterial Districts created and constituted under this provision; but no person holding at that date the office of Military Magistrate or Assistant Military Magistrate shall become a Magistrate, Additional Magistrate or Assistant Magistrate unless so appointed by the Administrator.

- (2) Magistrates' Courts within the Protectorate shall have the same jurisdiction and shall observe the same procedure in all matters as are prescribed in the Magistrates' Courts Act, 1917, of the Union Parliament and any amendment thereof or rules thereunder for the time being in force within the Union.
- (3) Subject to the provisions of paragraph (2) of this Section all and several the provisions of Section 3 (6) of this Proclamation in respect of laws of procedure and evidence shall apply to proceedings in Magistrates' Courts.
- (4) An appeal shall lie to the High Court from a decision of a Magistrate's Court in the same circumstances and on like terms and conditions as an appeal may be had under the Magistrates' Courts Act, 1917, of the Union Parliament or any amendment thereof or rules for the time being existing thereunder to a Provincial or Local Division of the Supreme Court of South Africa from a decision of any Magistrate, and upon such appeal the High Court shall have like powers as are possessed by a Provincial or Local Division of the Supreme Court of South Africa.
- (5) The proceedings of Magistrates' Courts shall be reviewed by the High Court in the same manner and subject to the same conditions as proceedings of Magistrates' Courts within the Union are reviewed by the Supreme Court of South Africa, save that any criminal case in which a sentence is passed by a Magistrate shall be reviewed by the High Court. All and several the powers and duties of the Supreme Court of South Africa reviewing any such proceedings within the Union shall be exercised and performed by the Judge of the High Court.
10. (1) Notwithstanding any of the provisions of this Proclamation, the Courts of Magistrates shall continue to exercise the functions and have all the jurisdiction and powers of the Military Magistrates' Courts established under Sections 1, 2 and 3 of Proclamation 11 of 1915 in regard to offences against any Martial Law Regulations or notices and may in respect of such offences impose the penalties provided by Section 3 of the said Proclamation.
- (2) There shall be no appeal to, or review by, the High Court of South-West Africa against any judgment or sentence of a Magistrate in terms of this Section, but all such judgments and sentences shall be reviewed by the Administrator who shall continue to exercise in regard thereto the power hitherto exercised by him.
- (3) Whenever by reason of its nature or magnitude an offence against any Martial Law Regulation or notice is unsuitable for trial by a Magistrate's Court, such offence shall be dealt with in accordance with the provisions of Sections 5, 6, 7 and 8 of Proclamation 11 of 1915 by a Special Criminal Court, and all and several the said provisions shall apply in the case of such offence.
- (4) In respect of the prosecution and trial of offences against Martial Law Regulations and notices, the Crown Prosecutor shall have and exercise all such powers as are held or exercised by him under Section 8 of this Proclamation in regard to crimes and offences.
11. (1) Any person entitled to practise or to be admitted to practise as an advocate or attorney in any Provincial or Local Division of the Supreme Court of South Africa shall be entitled to be admitted by the Court to practise as an advocate or attorney as the case may be in the High Court of South-West Africa upon the payment of such fee or charge as may be prescribed by the Administrator.
- (2) Upon the certificate of the Administrator that the person named in such certificate was at the date of the commencement of the Military occupation entitled in the Courts of German South-West Africa to practise as an advocate or practitioner of equal status or as an attorney or practitioner of equal status, and that such person is a fit and proper person to be admitted to practise as an advocate or attorney as the case may be in the Courts of the Protectorate, such person shall, without the payment of any fee or charge, be entitled to be admitted by the Court to practise as an advocate or attorney as the case may be in the High Court of South-West Africa.
- (3) No person shall be admitted by the Court to practise both as an advocate and as an attorney.
- (4) Any person who has been admitted as an attorney of the Court and who is entitled to practise in any Province of the Union of South Africa or to be admitted by any Provincial or Local Division of the Supreme Court of South Africa to practise as a notary public or conveyancer shall be entitled to be admitted by the Court to practise as a notary public or conveyancer or both as a notary public and conveyancer as the case may be, upon payment of such fee or charge as may be prescribed by the Administrator.
- (5) Upon the certificate of the Administrator that any person who has been admitted as an attorney of the Court was at the date of the commencement of the Military occupation entitled to practise in German South-West Africa as a notary or attorney or practitioner of equal status, and that such person is a fit and proper person to be admitted to practise as a notary public or conveyancer or both as a notary public and conveyancer in the Protectorate, such person shall without the payment of any fee or charge, be entitled to be admitted by the Court to practise as a notary public or conveyancer or both as a notary public and conveyancer, as the case may be.
- (6) Proclamation No. 3 dated the 23rd day of May, 1919, is hereby repealed, but notwithstanding such repeal any person who in terms of such Proclamation was permitted to practise as a notary public in the Protectorate shall for the period of one month after the date of the coming into effect of this Proclamation continue to be entitled to practise on the terms and conditions of such permission.
- The Administrator may by notice in the Gazette issue regulations for notaries public and for the examination of their protocols, and until such regulations are issued the regulations in force at the date of the coming into effect of this Proclamation shall continue in force.
- (7) Every person admitted by the High Court of South-West Africa to practise as an advocate, attorney, notary public or conveyancer shall, at the time of such admission, take and subscribe the like oaths as are now or shall hereafter by law be taken and subscribed by persons admitted to practise as such by the Cape Provincial Division of the Supreme Court of South Africa.
- (8) The High Court shall exercise similar jurisdiction in respect of any advocate, attorney, notary public, conveyancer or other person admitted to practise in terms of this Section as is exercised by the Cape Provincial Division of the Supreme Court of South Africa in respect of like practitioners in the Cape Province.
- (9) Any person admitted to practise as an advocate or attorney in the High Court of South-West Africa may also appear and plead in any action or proceedings before any Magistrate's Court within the Protectorate.

- (10) The Administrator may, by notice in the Gazette, prescribe fees to be paid by advocates, attorneys, notaries public, conveyancers and sworn translators upon admission by the Court to practise.
12. (1) There shall be established as from the first day of January, 1920, a police force for the territory entitled the South-West Africa Police which shall be under the command, superintendence and control of the Commissioner appointed under Section 5 of the South Africa Police Act, 1912, of the Union Parliament.
- (2) All and several the provisions of the South Africa Police Act, 1912, of the Union Parliament and of any amendment thereof or regulation thereunder shall *mutatis mutandis* be applicable to the South-West Africa Police; and the officers and members of that force shall be subject to the provisions *mutatis mutandis* of the Public Service and Pensions Funds Act, 1912, of the Union Parliament and of any amendment thereof or regulation thereunder in like manner as if they were officers or members for the time being of the South Africa Police.
13. (1) An office for the registration of all deeds and documents requiring registration under any law in the Protectorate shall be established at Windhuk. There shall be appointed by the Administrator a Registrar of Deeds who shall have and exercise at Windhuk all the functions and authorities in respect of such registration formerly assigned to and exercised by the several district Judges at Windhuk, Keetmanshoop, Swakopmund, Luderitzbucht and Omaruru.
- (2) Where in connection with the registration of any such deed or document the posting up at any particular place of any notice or information is required under any existing provision of law it shall be sufficient if such notice or information be exhibited at the office of the Registrar at Windhuk.
- 14 As soon as may be after any proclamation shall have been promulgated by the Administrator, the Secretary for the Protectorate shall cause two fair copies of such proclamation, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Administrator), to be enrolled of record in the office of the Registrar of the High Court; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Administrator shall prevail.
15. Proclamation No. 6 dated the 16th day of May, 1916, is hereby amended by the deletion of the words "or Judge of the Supreme Court" and the insertion of the word "or" immediately after the word "Governor-General" and before the word "Minister" occurring in Clause 1, and by the deletion of the whole of Clauses 4 and 5.
- 16 This Proclamation may be cited for all purposes as the "Administration of Justice Proclamation, 1919", and shall come into force and effect on the first day of January, 1920, save as regards the date of the appointment of the Judge of the High Court which shall take effect as from the fourteenth day of October, 1919.

GOD SAVE THE KING

Given under my hand at Windhuk this 12th day of December, 1919.

E. H. L. GORGES
Administrator.

No. 22 of 1919.]

WHEREAS the provisions of Proclamation No. 9, dated 18th July, 1915, and Proclamation No. 19, dated 20th October, 1915, dealing with the prospecting, mining and traffic in diamonds in the Protectorate are no longer necessary;

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare, proclaim and make known that the said Proclamations shall be and are hereby repealed.

AND I do further declare, proclaim and make known as follows:

- (1) All and singular the provisions of the law relating to prospecting for, mining and disposal of rough or uncut diamonds as it existed in the Protectorate on the 4th August, 1914, shall again become of full force and effect from the date of this Proclamation.
- (2) For the objects and purposes of the said law the Administrator may assume such functions of the Diamond Regie of the South-West Africa Protectorate as he may deem fit.
- (3) For the punishment imposed by Section 7 of the Ordinance of the Governor regarding trade and traffic in rough and uncut diamonds, dated 21st October, 1908, as amended on 31st May, 1911, shall be substituted a fine not exceeding one thousand pounds sterling, or imprisonment with or without hard labour for a period not exceeding five years, or both such fine and such imprisonment.

GOD SAVE THE KING.

Given under my hand at Windhuk this 12th day of December, 1919.

E. H. L. GORGES
Administrator.

No. 23 of 1919.]

WHEREAS there is doubt as to the validity of mining rights held by certain companies carrying on business in the Protectorate;

AND WHEREAS a Commission has been appointed to enquire into and report upon the validity of the said mining rights among other matters,

AND WHEREAS by agreements between these companies and the late German Government or otherwise the said companies have exercised authority to levy charges for or in respect of prospecting claims, mining claims, royalties and other matters connected with such mining rights,

NOW THEREFORE under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known that any existing provision of law and any act or omission of the present Administration of the Protectorate notwithstanding, no rights whatever deemed or claimed to be held by any of the companies mentioned in the Schedule hereto are recognised or admitted by the present Administration of the Protectorate and all monies payable to the said companies under any authority exercised by them by virtue of such rights shall from the date hereof be paid to this Administration, to be held in trust by it until such time as the continuance or otherwise of the said mining rights is decided upon.

GOD SAVE THE KING.

Given under my hand at Windhuk this 12th day of December, 1919.

E. H. L. GORGES
Administrator.

SCHEDULE.

Deutsche Kolonial-Gesellschaft für Südwestafrika.
Otavi Minen- und Eisenbahn-Gesellschaft.
The South West Africa Company, Limited.

The South African Territories, Limited.
Kaoko Land- und Minen-Gesellschaft.
Hanseatische Minen-Gesellschaft.

No. 24 of 1919.]

WHEREAS it is desirable to amend the law in force in the Protectorate relating to mining,

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

1. The provisions of the Imperial Mining Ordinance for German South-West Africa of the 8th August, 1905, shall be and are hereby amended as follows:

GENERAL.

- (a) For the Imperial Chancellor, for the Foreign Office, Colonial Department (except in Sections 86 and 93, and for the Governor, the Administrator is substituted.
- (b) For the District Courts shall be substituted the Courts created by Proclamation No. 21 of 1919, within their respective jurisdictions.
- (c) For the Mark is substituted the Shilling sterling.

PARTICULAR.

- (d) Section 1, heading B. 3 of the Ordinance shall be and is hereby amended by the addition of the following clause thereto:

(e) Mineral phosphates.

- (e) Section 2 of the Ordinance shall be and is hereby repealed.

- (f) The first paragraph of Section 3 of the Ordinance shall be and is hereby repealed and the following substituted therefor:

"For the purposes of this Ordinance

(a) Any person not domiciled in the Protectorate and any partnership or company whose head office is outside the Protectorate shall appoint a representative in the Protectorate to be approved of by the Mining Authority.

(b) Where, in the opinion of the Mining Authority, the scene of any mining operations is inaccessible, the person, partnership or company carrying on such operations shall appoint a representative to be approved of by the Mining Authority.

(c) Every such representative shall reside at a place which shall be approved of by the Mining Authority."

- (g) The second paragraph of Section 4 of the Ordinance shall be and is hereby repealed and the following substituted therefor:

"Such objection shall be dealt with by the Administrator and his decision thereon shall be final: the procedure shall be such as may be laid down by him."

- (h) Section 5 of the Ordinance shall be and is hereby repealed.

- (i) Section 6 of the Ordinance shall be and is hereby repealed.

- (j) Section 7 of the Ordinance shall be and is hereby repealed and the following substituted therefor:

"It shall be competent for the Mining Authority to take the evidence of witnesses and experts before giving decisions under this Ordinance. The laws and rules obtaining in the Courts of the Magistrates of the Protectorate shall mutatis mutandis apply to procuring the attendance of such persons, their examination and the production of books, documents, plans, registers and records."

- (k) Section 8 of the Ordinance shall be and is hereby repealed.

- (l) The second paragraph of Section 9 of the Ordinance shall be and is hereby repealed.

- (m) Section 10 of the Ordinance shall be and is hereby repealed and the following substituted therefor:

"It shall be lawful for any person to search for the minerals mentioned in Section 1 in their natural state upon a prospecting licence issued subject to the provisions of the Ordinance by the Magistrate of the District in which such person desires to prospect. Such licence shall specify the areas in which prospecting is permitted thereunder. The fee payable for such licence shall be two shillings and sixpence for each month or part of a month of the period thereof. No such licence shall be granted until such person has given security to the satisfaction of the Magistrate for the restoration to a safe condition of any property rendered dangerous or unsafe through such prospecting. Such person shall be bound so to restore any property so rendered dangerous or unsafe."

- (n) In Section 19 of the Ordinance, for the District Magistrate shall be substituted the Administrator.

- (o) The first paragraph of Section 23 of the Ordinance shall be and is hereby repealed and the following substituted therefor:

"No person, not being the holder of a prospecting licence, shall peg off a prospecting claim. Subject to the provisions hereinafter contained, a prospector may peg off one or more prospecting claims, and such claims may be either precious mineral claims or base mineral claims."

- (p) Section 76 of the Ordinance shall be and is hereby amended by the addition of the following words to the second paragraph thereof:—

"Provided, however, that if, in the opinion of the Mining Authority, against whose decision in this respect no appeal shall lie, the erection of buildings or the enclosure of lands is being, or has been carried out not for bona fide occupation, farming or industry, but with the intention of preventing the holders of mineral rights from exercising the full enjoyment of those rights, it shall be lawful for the Mining Authority to set aside the prohibition in this paragraph contained."

- (q) The words, "and natives" are deleted from the fifth paragraph of Section 86 of the Ordinance.

- (r) Clause 1 of Section 91 of the Ordinance shall be and is hereby repealed and the following substituted therefor:

"1. Contravenes any of the provisions of Sections 10, 11, 22, 24, 32 and 33; or"

- (s) Section 92 of the Ordinance shall be and is hereby repealed.

- (t) Section 97 of the Ordinance shall be and is hereby repealed.

2. In any case in which the provisions of the Ordinance in regard to the erection of any beacon have not been observed by reason of the war, and in any case in which any beacon erected in terms of the Ordinance has been removed, destroyed, or rendered useless or un-serviceable, steps shall be taken to erect or re-erect such beacon forthwith. In default of compliance herewith on or before the 29th February, 1920, the prospecting or mining claim in relation to which the beacon was or should have been erected, shall thereupon lapse.

3. The Ordinance of the Secretary of State for the Colonies of the Imperial German Empire of the 21st August, 1909, relating to prospecting for and mining of coal in a certain area in the district of Gibeon, shall be and is hereby repealed.

4. No prospecting licence shall be issued before the 1st January, 1920; and no pegging shall take place before the 1st March, 1920.

5. This Proclamation may be cited for all purposes as the "Mining Law Amendment Proclamation, 1919".

GOD SAVE THE KING.

Given under my hand at Windhuk this 12th day of December, 1919.

E. H. L. GORGES
Administrator.

No. 25 of 1919.]

WHEREAS under the provisions of the German Imperial Mining Ordinance of the 8th August, 1905, certain rights were obtained by persons in the Protectorate prior to the occupation of the Protectorate by the Military Forces of the Union of South Africa;

AND WHEREAS during such occupation mining operations in the Protectorate have been to some extent interrupted,

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

- (1) All requirements of the German Imperial Mining Ordinance of the 8th August, 1905, whether as modified in terms of any Agreement made by the late Government of the Protectorate with any person or company or not, in respect of rights obtained by persons in this Protectorate prior to its occupation by the Military Forces of the Union of South Africa, shall be deemed to have been suspended and inoperative during the period from the 4th August, 1914, to the 31st December, 1919, and shall come again into operation on the 1st January, 1920, save as provided herein of by

any other provision of law; provided always that nothing herein contained shall be deemed to apply to any case in which, in the opinion of the Administrator, who shall be the sole judge, any such right was, or could have been, beneficially exercised during any part of the said period.

- (2) Subject to the provisions of Proclamation No. 23 dated the 12th day of December, 1919, any requirement of the said Ordinance in respect of any such right which, in the opinion of the Administrator, was not or could not have been beneficially exercised during any part of the said period, shall be complied with on or before the 16th February, 1920, and in any case in which a person possessing any such right fails to comply with any such requirement on or before the said 16th February, 1920, his interest in such right shall cease and determine from that date and the area or mine in respect of which such right existed shall be deemed to be open for further prospecting, pegging or mining under the provisions of law.
- (3) Any person desirous of exercising any such right shall give notice in writing to that effect to the Inspector of Mines at Windhuk on or before the 16th February, 1920.
- (4) No person possessing any such right shall have any claim to compensation for damage suffered by reason of the provisions hereof.

GOD SAVE THE KING.

Given under my hand at Windhuk this 12th day of December, 1919.

E. H. L. GORGES
Administrator.

Government Notices.

The following Government Notices are published for general information.

J. F. HERBST
Secretary for the Protectorate.

Administrator's Office,
Windhuk.

No. 50.] [18th September 1919.
APPOINTMENT OF POUNDMASTER:
OKAHANDJA.

The Administrator has approved in terms of section two of Proclamation No. 5 of 1917 of the appointment of Ferdinand Bachran as Poundmaster at Okahandja in place of Fritz Meyer.

No. 51.] [14th October, 1919.
DESIGNATION OF COMMISSIONER OF OATHS.

The Administrator has in terms of section one of Proclamation No. 17, dated the 21st September, 1915, designated Chari Marais Marchand of the Military Magistrate's Office, Windhuk, to be a Commissioner of Oaths during pleasure with jurisdiction throughout the Magisterial District of Windhuk.

No. 52.] [5th November, 1919.
APPOINTMENT.

The Administrator has approved of the appointment of Mr. A. J. Waters, Crown Prosecutor for the Protectorate, to act as Secretary for the Protectorate during the absence on duty of Major J. F. Herbst, with effect from the 22nd October, 1919.

No. 53.] [12th December, 1919.
ESTABLISHMENT OF POUND AND APPOINTMENT OF POUNDMASTER AT UKAMAS.

The Administrator has approved in terms of section two of Proclamation No. 5 of 1917 of the establishment of a pound at Ukamas in the District of Warmbad and of the appointment of Hugo Friedmann as poundmaster thereof.

No. 54.] [13th December, 1919.
APPOINTMENT OF POUNDMASTER AT WARMBAD.

The Administrator has approved in terms of section two of Proclamation No. 5 of 1917 of the appointment of Michael Charles Edward McDonald as poundmaster of the Warmbad pound in place of George Lerm.

No. 55.] [15th December, 1919.
APPOINTMENT.

The Administrator has approved of the appointment of Henry William Drew, Esq., Inspecting Officer of the Administration, to act as Crown Prosecutor for the Protectorate during the absence on special duty of A. J. Waters, Esq., with effect from the 11th December, 1919.

No. 56.] [15th December, 1919.
CLAIMS FOR WAR LOSSES.

1. The Administrator will at an early date appoint a Commission to enquire into, assess and make recommendations for satisfying:—
(a) claims by British, Allied, or Neutral subjects for losses sustained directly attributable to military action in South-West Africa during the 1914—1915 campaign.

- (b) claims in respect of property bona fide requisitioned or commandeered for the service of the Union Forces in the field.
All persons who wish to prefer claims must forward such claims to the Secretary for the Protectorate not later than the 15th January, 1920.
2. All claims preferred by British, Allied or Neutral subjects for losses sustained directly attributable to military action in South-West Africa during the 1914—1915 campaign must be supported by:—
(a) proof of nationality in respect of the claimant,
(b) affidavits and such other evidence as the claimant is in a position to produce.
(c) a detailed statement of losses shewing the stock taken or the articles destroyed or lost,
(d) the actual cost price of such when acquired,
(e) the value of such at the time they were taken, lost or destroyed.
3. The Commission will have no authority to consider claims for consequential losses or damage, and such must therefore not be included in the written particulars aforesaid.
4. The Commission will only consider claims in respect of losses sustained directly attributable to military action in South-West Africa during the 1914—1915 campaign preferred by BRITISH, ALLIED or NEUTRAL SUBJECTS, duly supported by proofs of nationality, and NO claim in respect of such losses will be considered when preferred by an ENEMY SUBJECT. The only claims preferred by an enemy subject which will receive consideration from the Commission will be those claims in respect of property bona fide requisitioned or commandeered for the service of the Union Forces in the field.
5. All claims in respect of property bona fide requisitioned or commandeered for the service of the Union Forces in the field must be supported by:—
(a) receipts proving that the property has been requisitioned for the service of the Union Forces in the field.
(b) a statement shewing the value of the property which has been requisitioned.
6. Pre-war values only will be recognised and the Commission will make no recommendation to the Administrator in favour of any person who in his particulars or in his evidence, has knowingly made any false statement or has grossly exaggerated the amount of the value aforesaid, or his losses.
7. The Commission may require any oral evidence given or document produced before it to be verified or substantiated on oath.
8. It will be unnecessary for those who have already preferred their claims to do so again but it is necessary that such particulars as are now called for such as proof of nationality, evidence, receipts and statements of value which have not as yet been furnished should be forwarded before the 15th January 1920.
9. As far as possible the Commission when appointed will afford each claimant an opportunity of appearing before it personally in support of his claim. Intimation will be furnished in due course as to the places which the Commission will visit.
10. It is to be noted that no recommendation by the Commission in favour of any person will entitle such person to claim payment. Any award will depend entirely upon the decision taken by the Administrator after considering the report and recommendations of the Commission.

No. 57.]

[23rd December, 1919.

REPEAL OF MARTIAL LAW REGULATIONS.

MARTIAL LAW REGULATIONS.

Regulations Nos. 97 and 98 issued under Martial Law by and with the approval of the Administrator.

REPEAL OF MARTIAL LAW REGULATIONS.

97. Martial Law Regulations Nos. 30, 31, 32, 33, 37, 38, 39, 40, 47, 55, 57, 58, 60, 65, 67, 68, 70, 72 and 85 shall be and are hereby repealed.

98. Martial Law Regulations Nos. 12, 16, 52, 53 and 86 shall be and are hereby repealed.

Advertisements.

ADVERTISING IN THE OFFICIAL GAZETTE OF SOUTH WEST AFRICA.

The Official Gazette will be published periodically but approximately once a month.

Advertisements will be accepted for insertion in the Official Gazette of the Protectorate of South West Africa at the Office of the Secretary for the Protectorate.

Advertisements will be inserted in the Gazette after the official matter or in a supplement to the Gazette, at the discretion of the Secretary.

Advertisements will be accepted for the English, Dutch or German editions and will be published in the language in which they are written in the relevant editions of the Gazette.

The Secretary will have the right to refuse to accept for publication any advertisement which he considers is not of a suitable nature.

The subscription for every number of the Gazette is six shillings per annum, post free. Single copies of the Gazette may be obtained at the price of 6d per copy.

The charge for the insertion of advertisements other than the notices mentioned in the succeeding paragraph, is at the rate of 6/- per inch single column and 12/- per inch double column, repeats half price.

Notices to creditors and debtors in the estates of deceased persons and notices by executors concerning liquidation accounts lying for inspection, are published in schedule form at 9/- per estate.

No advertisement will be inserted unless the charge is prepaid to the Secretary. Cheques, drafts postal orders or money orders must be made payable to the Secretary for the Protectorate.

CHANGE OF NAME.

I, Abraham Norman Le Grange Campbell, presently residing at Kectmanshoop and employed by the South-West African Railways at that place, give notice that I wish to change my christian names, and I hereby declare that on and after the date hereof I take the names of Norman Abraham Campbell and I desire that I be so known and addressed.

NORMAN ABRAHAM CAMPBELL.