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 in Military Occupation of the Union Forces

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PROCLAMATIONS

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. 3 of 1920.]

WHEREAS it is necessary to make provision for the licensing of duly qualified persons to practise as medical practitioners, dentists and chemists and druggists in this Protectorate,

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

1. From and after the date of the coming into effect of this Proclamation no person shall practise as a physician and surgeon, as a dentist or as a chemist and druggist unless he is in possession of a licence issued to him by the Secretary for the Protectorate under the authority of the Administrator. Any person infringing the provisions of this section shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one hundred pounds for each offence or to imprisonment with or without hard labour for a period not exceeding three months for each offence, or to both such fine and such imprisonment.

Every person who, on the date of the coming into force of this Proclamation, was bona fide in practice in this Protectorate as a physician and surgeon, as a dentist or as a chemist and druggist shall without undue delay, lodge with the Secretary for the Protectorate his diploma or certificate of his being duly qualified to practise as a physician and surgeon, as a dentist or as a chemist and druggist, as the case may be, together with a declaration sworn before a magistrate or commissioner of oaths of his identity, of the authenticity of his diploma or certificate and of his right to practise in the country where the same was

granted, and upon being satisfied with the proofs submitted the said Secretary shall issue a licence authorising the said person to continue to practise in the Protectorate.

3. Any person, not being a person referred to in section two, who, subsequent to the date of the coming into effect of this Proclamation, desires to practise in this Protectorate as a physician and surgeon, as a dentist or as a chemist and druggist, as the case may be, shall submit his diploma or certificate of his being duly qualified to practise to the Secretary for the Protectorate and the provisions of the said section shall, *mutatis mutandis*, be applied, save that for any licence issued under the provisions of this section a fee of ten pounds shall be paid by a physician and surgeon, and a fee of five pounds by a dentist or by a chemist and druggist. No person, other than a person who shews to the satisfaction of the Administrator that he is the holder of a diploma or certificate which would admit him to registration in any Province of the Union of South Africa, shall be entitled to make application for a licence under the provisions of this section.
4. If any person licensed under the provisions of this Proclamation to practise as a physician and surgeon, as a dentist or as a chemist and druggist shall, after due enquiry, at which such person shall have an opportunity of being heard, be found to have been guilty of infamous or disgraceful conduct in any professional or other respect the Administrator may direct that the licence held by such person shall be void and of no effect. So long as such direction remains in force it shall be unlawful for any person the subject thereof to practise in the Protectorate.
5. This Proclamation may be cited for all purposes as the "Medical Practitioners, Dentists and Chemists and Druggists Licensing Proclamation, 1920" and shall commence and come into operation on the first day of February, 1920.

GOD SAVE THE KING.

Given under my hand at Windhuk this 7th day of January, 1920.

E. H. L. Gorges
 Administrator.

No. 4 of 1920.]

WHEREAS it has become necessary to amend the law regulating the possession and carrying of firearms and ammunition by the inhabitants of this Protectorate,

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare, proclaim and make known that section 12 of Proclamation No. 10 of the 20th day of September 1915 is amended by the deletion of all the words after "Forces" in the seventh line thereof.

GOD SAVE THE KING.

Given under my hand at Windhuk, this 10th day of January, 1920.

E. H. L. Gorges
Administrator.

No. 5 of 1920.]

WHEREAS it is desirable to provide for the due punishment of theft of stock or produce and for the recovery of the value of stolen stock or produce,

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

1. In this Proclamation the following terms shall have the meanings hereinafter assigned to them, that is to say:—
 - "Stock" shall include any horse, mare, gelding, colt, filly, mule or ass; any bull, cow, ox, heifer or calf; any sheep or goat; any pig; or any domesticated ostrich; and the slaughtered carcass or portion of the slaughtered carcass of any such stock.
 - "Produce" shall include all skins, hides, horns, wool, mohair and ostrich feathers.
 - "Sufficient fence" when applied to wire fences, shall mean a fence of not fewer than four wires and not less than three feet six inches high; in other cases, any fence, wall or hedge through which no stock could pass without breaking or any natural boundary through or across which no sheep would ordinarily pass.
 - "Theft" shall embrace besides actual stealing (1) receiving knowing to have been stolen, (2) attempting to steal, and (3) being or having been in unlawful possession not being able to give a satisfactory account of such possession.
2. In the trial of cases hereunder magistrates' courts shall (except as hereinafter excepted) proceed in like manner as in criminal cases falling within their ordinary jurisdiction.
3. It shall be lawful for the courts of magistrates on the trial of any accused person for theft, as defined by this Proclamation, to find such accused person guilty of any of the offences embraced in the term theft as so defined, although such accused person may not have been originally charged with that particular offence.
4. From and after the taking effect of this Proclamation the courts of magistrates shall, respectively, have jurisdiction in all cases in which any person may be accused of the theft of any stock or produce, provided that it shall not be lawful save as is hereinafter excepted for any such court to punish any person convicted of any such theft in any higher or other manner than, in the case of the first conviction, by imprisonment with or without hard labour for any period not exceeding one year, or by imprisonment with spare diet and with or without hard labour for any period not exceeding three months, or by corporal punishment in any number of lashes or cuts not exceeding fifteen, or by both such first-mentioned imprison-

ment and such lashes or cuts; and, in the case of a second or any subsequent conviction within the space of three years next following a previous conviction for theft of stock or produce by imprisonment with or without hard labour for any period not exceeding two years or by corporal punishment in any number of lashes or cuts not exceeding twenty-five or both such imprisonment and such lashes or cuts: provided, also, that no offender sentenced under this Proclamation to imprisonment with hard labour for any period exceeding three months shall be sentenced to spare diet, except for offences against the discipline of the gaol or other place at which he may be lawfully confined or employed; provided, further, that in regard to the infliction of spare diet under this Proclamation, the courts of magistrates shall, in their sentences, observe and conform to such regulations and restrictions as shall from time to time be deemed necessary to prevent injurious consequences, and be by the Administrator prescribed for the guidance of such courts; and such courts shall, in their sentences, fix, in conformity with regulations and restrictions, the particular days or times during which the offender shall be subject to spare diet.

5. (1) In any criminal proceedings on a charge of theft of stock or produce the value of the stock or produce alleged to be stolen shall be enquired into as also the value of any portion thereof recovered.
 - (2) Save as hereinafter provided it shall be the duty of any court upon a conviction of theft of stock or produce to impose upon any person so convicted, in addition to any punishment awarded, a fine not exceeding the full market value at the time of the theft of such stock or produce, less the market value of any portion thereof recovered; and shall further sentence the convicted person or persons to undergo in default of payment of such fine an additional term of imprisonment with or without hard labour not exceeding six months.
 - (3) Should more than one person be convicted of the theft of the same stock or produce the payment of such fine shall be a liability to all such persons jointly and severally and payment of any portion thereof by or on behalf of any one such person shall absolve the other such person from the liability to the extent of such portion.
 - (4) Any part of such fine paid shall be handed over by the court to the owner of the stolen stock or produce.
 - (5) No such fine shall be imposed upon a person under the age of sixteen years.
 - (6) Nothing herein contained shall be taken to deprive the owner of any stolen stock or produce of his right to proceed by way of civil action to recover the value of the stolen property or any damage he may have suffered by reason of the theft; provided that in assessing any amount to be awarded in such civil action the court shall take into account any portion of such fine which has been paid to the owner.
6. As often as any charge of the theft of stock or produce shall be brought under the notice of any magistrate, which charge shall from its nature or magnitude appear to such magistrate to be unfit to be disposed of under the limited jurisdiction conferred by this Proclamation, it shall be lawful for such magistrate, instead of proceeding to try the case under this Proclamation, to commence and take a preparatory examination, in like manner precisely as if this Proclamation had not been

issued and subject otherwise to the provisions of this Proclamation; the procedure to be followed hereafter shall be that laid down in chapter VII of the Criminal Procedure and Evidence Act, 1917, of the Union Parliament, as amended and applied in the Protectorate by the Criminal Procedure and Evidence Proclamation 1919.

- When, in the course of any trial under this Proclamation in any court of any magistrate, it shall appear to the magistrate, from the facts disclosed by the evidence, that the case is one which from its nature or magnitude is unfit to be disposed of under the limited jurisdiction conferred by this Proclamation, it shall be lawful for such court to stop the trial, and to take or turn the proceedings into a preparatory examination; and thereupon all and singular the provisions of the last preceding section shall apply to such preparatory examination, precisely as if such trial as aforesaid had never been commenced.
8. Any person who shall, by way of purchase, bargain, exchange or gift, acquire or receive into his possession from any other person, any stolen stock or stolen produce, without guilty knowledge that the said stock or produce is stolen but without having reasonable cause, proof of which shall lie on such first-mentioned person, for believing, at the time of such acquisition or receipt, that such stock or produce was the property of the person from whom he received it, or that such person was duly authorised by the rightful owner to deal with or dispose of it, shall be deemed guilty of contravening this section, and shall be liable on conviction to a fine not exceeding one hundred pounds, or to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to both such fine and such imprisonment.
 9. The provisions of section 8 hereof shall not apply to stock or produce purchased:—
 - (1) on any public market;
 - (2) at any sale held by a duly licensed auctioneer or held in pursuance of the order of a court of competent jurisdiction.
 10. Any person who enters any farm, or part of a farm enclosed on all sides with a sufficient fence and whether such entry shall be effected by breaking through such fence or not, or any kraal, with intent to steal any stock which is in or upon such kraal, farm or part of a farm, shall be liable upon conviction to imprisonment with or without hard labour, for a period not exceeding one year, or to a fine not exceeding one hundred pounds, or to both such fine and such imprisonment.
 11. Any person found within any farm, or part of a farm enclosed on all sides with a sufficient fence, or within any kraal and who when so found was not proceeding along some road or thoroughfare traversing such farm or part of a farm, shall, if charged with contravention of section 10 of this Proclamation have the burden imposed upon him of proving that he did not enter such kraal, farm, or part of a farm with intent to steal the stock, if any, kept therein.
 12. Any person charged with the theft of stock from any such kraal, farm, or part of a farm, may in the same indictment be charged with a contravention of section 10 of this Proclamation; and upon conviction shall be separately sentenced in regard to each offence.
 13. If there be reasonable grounds for believing that any person is or has been in unlawful possession of any stock or produce, it shall be competent for any landholder or police constable to apprehend or

cause to be apprehended such person without warrant and convey him or cause him to be conveyed in custody before any magistrate having jurisdiction and if it be found that he is or has been in possession of any such stock or produce, and is not able to give a satisfactory account of such possession to such magistrate, he shall be deemed to be guilty of the crime of theft of stock or produce and shall thereupon be dealt with as if he had originally been charged with such crime.

14. If any person is reasonably suspected to have in any sack, knapsack, or other covering, any produce or the carcasses or portions of carcasses of slaughtered stock, it shall be lawful for any landholder or police constable to detain or cause to be detained such person and examine or cause to be examined the contents of such sack, knapsack or other covering, and in case such person shall, upon such examination, be found to be in possession of any of the articles aforesaid, it shall be lawful for such landholder or police constable to apprehend him or cause him to be apprehended without warrant and to convey him or cause him to be conveyed before any magistrate having jurisdiction, and in case he shall be unable to give a satisfactory explanation of such possession to such magistrate, he shall be deemed to be guilty of the crime of theft of stock or produce and shall be thereupon dealt with as if he had been originally charged with such crime.
15. Any person charged with theft of stock or produce in accordance with either of the last two sections may, if the court before whom he is tried be satisfied that he had no guilty knowledge that the stock or produce forming the subject of the charge was stolen, be dealt with in all respects as though he stood charged with a contravention of section 8 of this Proclamation.
16. Upon a conviction under this Proclamation the Administrator may award out of the public revenues of the Protectorate such sum as he may deem fit to be paid to the person other than the owner of the stolen property forming the subject of the charge who shall have given information leading to such conviction.
17. Any person who shall, under colour of this Proclamation, wrongfully and maliciously, or without probable cause, apprehend any other person, or cause him to be apprehended, shall be liable to pay a fine not exceeding twenty pounds, and to pay to the apprehended person such amount, not exceeding the sum of fifty pounds, as and for damages, as the magistrate before whom such apprehended person is brought for trial shall award, and in default of payment of the fine shall be liable to be imprisoned, with or without hard labour, for a period not exceeding three months, unless such fine shall be sooner paid: provided that nothing in this section contained shall have the effect of depriving any aggrieved person of the right to elect to take any other remedy given him by law in lieu of the remedy by this section given.
18. It shall be lawful for any magistrate or any police officer of or above the rank of sergeant upon being satisfied that there is reason to suspect that any stolen stock or stolen produce is concealed in any building, hut, kraal or enclosure, to search or to grant written authority to any person applying for the same to search such building, hut, kraal or enclosure at any time during the day or night: provided that any landowner shall in respect of any building or hut upon his own land be entitled to exercise all the powers conferred

by this section upon the officers hereinbefore mentioned.

19. Any person who shall, under colour of this Proclamation, wrongfully and maliciously, or without probable cause, apply for, obtain and act upon such written authority as aforesaid, or wrongfully and maliciously, or without probable cause exercise the powers of search conferred by the last preceding section, shall be liable to a fine not exceeding twenty pounds, or in default of payment to imprisonment with or without hard labour, for any period not exceeding three months; and shall also be liable to pay to the person lawfully in occupation of the building, hut, kraal or enclosure in question, when the same was searched, such sum not exceeding fifty pounds for damages as any competent court may award.
20. The magistrate of the district in which any building, hut, kraal or enclosure wrongfully searched as aforesaid is situated shall have jurisdiction to impose the penalty and to award the damages in the last preceding section provided. But nothing in this or the last preceding section contained shall have the effect of depriving any aggrieved person of the right to elect to take any other remedy allowed by law in lieu of the remedy under this Proclamation.
21. It shall not be lawful for any person to purchase or sell for purposes of trade, any produce between the hours of sunset and sunrise: provided, however, that this prohibition shall not apply to any person purchasing or selling produce at any public sale. Any person contravening the provisions of this section shall be guilty of an offence and shall upon conviction, be liable to a fine not exceeding twenty pounds or to imprisonment with or without hard labour for a period not exceeding three months; provided that the provisions of this section shall not apply to any contract for the purchase and sale of produce where the purchase price paid or agreed to be paid for the said produce shall amount in value to the sum of fifty pounds sterling or upwards.
22. (1) The head of any native kraal or werf shall be responsible for the value and damages of any stolen animals, the spoor of which is traced to such kraal or werf.
- (2) The owner of any stolen animals, the spoor of which has become lost or obliterated shall have the right of search for any traces of such animal, in any hut, kraal, werf, enclosure or lands in that neighbourhood and any person refusing to permit such search shall be responsible for the value of the animals stolen.
- (3) When the owner of any animal is on the spoor of such animal, it shall be lawful for the owner to demand from the persons living in the neighbourhood all reasonable assistance in following up such spoor, and whoever neglects or refuses to give such assistance, and by such neglect or refusal causes the loss or obliteration of such spoor, or whoever by wilful obstruction or malice causes the obliteration or loss of such spoor, shall be liable for the value of the animal stolen.
- (4) When such spoor cannot be traced to any specific kraal or kraals, werf or werven, but is lost or becomes obliterated on any lands, then the responsibility for the value of such stolen animal shall devolve upon the heads of the kraals, werf or werven, adjacent to and surrounding the spot where such spoor has been lost or obliterated; and for the purpose of compensating the owner

of such stolen animal, it shall be lawful for the magistrate so to fix such responsibility by an assessment not exceeding two head of cattle (or their money value), to be by such magistrate levied on each kraal or werf, to make up the whole value, or as near as possible the whole value, of the stolen animal or animals.

(5) Whenever a spoor is traced to, or within, the confines of any locality occupied by any kraal or kraals or werf or werven, or to or within any area occupied by any community or section of a tribe, if the persons occupying such kraal or kraals or werf or werven, or locality, or constituting such community or such section of a tribe, without lawful excuse, neglect or refuse to receive, to take over and follow up such spoor, they shall be responsible for the value of the stolen animal whose spoor shall have been so traced, and shall be compelled to make good such value to the owner in like manner as is provided for with reference to "lost spoor" cases in the preceding sub-section.

23. Whoever fraudulently and with intent to injure another shall create any spoor, shall be punished with a fine not exceeding fifty pounds sterling, and in default of payment with imprisonment with or without hard labour for a period not exceeding twelve months.
24. It shall be lawful for the magistrate of any district, whenever any claim is made against any person or persons in respect of the spoor traced to any kraal or werf or locality, upon request of the owner of the animal or animals stolen, or of any person authorised by such owner to enquire summarily and without pleading, but in the presence of the heads of the kraals or werven upon whom responsibility is sought to be attached, into the circumstances of the case, and the value of the animal or animals alleged to have been stolen, together with the damage which the owner or owners shall have sustained by the loss, or by the cost of search or other endeavour to recover the same, and may give judgment in favour of such owner as hereinbefore provided.
25. The provisions of sections 22, 23, and 24 shall not be of general application and shall be restricted in operation solely to such communally occupied native reserves as the Administrator may from time to time by notice in the Gazette prescribe.
26. This Proclamation may be cited for all purposes as the "Stock Theft Repression Proclamation, 1920".

GOD SAVE THE KING.

Given under my hand at Windhuk, this 15th day of January, 1920.

E. H. L. Gorges
Administrator.

No. 6 of 1920.]

WHEREAS it is desirable to amend the law relating to the sale and control of intoxicating liquor in 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 laws and regulations mentioned in the first schedule hereto shall be and are hereby repealed.
2. Nothing in this Proclamation contained shall apply
 - (1) to any person selling any spirituous or distilled perfume or perfumery unless such be specially declared by the Administrator to be intoxicating liquor;

- (2) to any chemist and druggist who may sell for medicinal purposes any spirituous, distilled, or fermented liquors, made up in medicinal form;
 - (3) to any person engaged in agriculture who may sell, upon the property occupied by him, intoxicating liquors in quantities of not less than four gallons or one unbroken case containing not less than twelve reputed quart, or twenty-four reputed pint bottles at one time, such liquors being the produce of grapes or other fruits respectively of his own growth or purchased or procured by him: provided that such liquors shall be distilled or made upon such property and shall not be drunk or consumed on his premises;
 - (4) to any such person as in the last preceding sub-section mentioned, who may sell any liquors, being such produce as aforesaid, upon any public market, or to any licensed dealer;
 - (5) to any sheriff, messenger, or other officer acting under the authority of any court, judge, or magistrate; or to any officer of customs, in the exercise or discharge of his duty;
 - (6) to any auctioneer selling by auction liquor, in quantities not less than such as are authorised to be sold under a wholesale licence belonging to a licensed dealer, upon the licensed premises of such dealer, or belonging to any such person as is mentioned in sub-section (3) upon the property occupied by such person.
3. In this Proclamation, if not inconsistent with the context, "intoxicating liquor" or "liquor" shall mean any spirits, wine, ale, beer, porter, cider, perry, or other fermented, distilled, spirituous or malt liquor of an intoxicating nature, or any medicine or any perfume or perfumery containing liquor of an intoxicating nature and specially declared by the Administrator to be intoxicating liquor and every drink with which any such liquor shall have been mixed, as also the article known as "Kaffir beer" in its different forms.

"Licence" means any licence for the sale of liquors granted under this or any other law now or hereafter to be in force relating to the sale of such liquors.

"Licensing court" or "court" means the licensing court of the district wherein a licence is intended to take effect.

"Native" shall mean and include any person other than a European.

LICENCES.

4. The licences authorised under this Proclamation shall be issued by the magistrates of the several districts of the Protectorate and such magistrates shall, in regard to the issue of such licences and any privileges allowed or granted to the holders thereof and any restrictions to be imposed thereon to be noted or endorsed upon any licence, conform to the provisions of this Proclamation and any regulations made thereunder.
5. For or in respect of licences granted or renewed, or transfers or removals of licences under and in terms of this Proclamation there shall be paid to the Protectorate Administration such sums of money as are prescribed in the second schedule hereto. Provided that any sum or sums of money received on account of any licences in respect of any premises situate within any municipality may be paid to such municipality on such conditions as the Administrator may approve.

All licences other than temporary licences issued in terms of this Proclamation shall cease and determine on the thirty-first day of March next after issue.

For or in respect of club licences or a licence on railway premises issued for any period less than a year, one-twelfth of the sum prescribed in the said second schedule shall be payable for every month for which or part of which the said licence is granted.

6. Licences under this Proclamation may be granted of the several descriptions following, that is to say:—

1. wholesale licences
2. retail licences
3. railway refreshment room licences for the sale of liquor
4. bottle licences
5. temporary licences
6. club licences
7. canteen licences.

7. In regard to licences granted under this Proclamation the following definitions and provisions shall apply:—

- (1) A "wholesale licence" shall authorise a dealer to sell and deliver liquors in quantities of not less than five gallons if in cask, or one unbroken case containing not less than twelve reputed quart, or twenty-four reputed pint bottles, to be delivered at one time, such liquors not to be consumed in or upon the seller's house or premises; a case shall not be deemed to be an "unbroken case" unless the liquor therein contained is all of the same kind, description or brand, provided that this provision shall not apply to sample cases made up for export and actually exported nor to liquors sold wholesale to retail dealers in quantities less than those provided in this section.

- (2) A "retail licence" shall authorise the sale of liquor in any quantity on the premises therein specified between the hours of six o'clock in the morning and nine o'clock at night on any day other than a Sunday, or Good Friday or Christmas Day, or between such other hours as may be fixed by the licensing court under the provisions of this Proclamation; such liquors, according to the conditions of the licence, to be consumed in or upon the seller's house or premises, or otherwise, provided that the licensing court may, if it shall be satisfied that it is for the benefit and convenience of the public so to do, at any licensing meeting, grant authority to the holder of any retail licence to supply on a Sunday to any person who takes and pays for a bona fide lunch or dinner a reasonable quantity of liquor to be consumed at such meal.

- (3) A "bottle store licence" shall authorise the sale of liquor upon the following conditions:—

- (a) not less than one reputed pint bottle of liquor shall be sold at one time to one person;
- (b) upon a Sunday, or Good Friday or Christmas Day no sales shall take place;
- (c) upon other days sales may take place only during the hours fixed by the licensing court in respect of each licence, not being earlier than eight o'clock in the morning nor later than eight o'clock at night.

- (4) A "temporary licence" shall authorise the dealer, being also the holder of a retail licence,

to sell liquors by retail at any place of recreation or public amusement for the period stated therein subject to such restrictions and conditions as the magistrate authorising the issue of the same shall think fit to impose.

- (5) A "club licence" shall authorise the sale and supply of liquor in any quantity to the members of the club, at any time, for consumption on the premises; provided that no place of accommodation, entertainment or refreshment shall be considered a club where others than members, or the invited guests of such members are allowed entry or accommodation, or where others than members are charged or permitted to pay for any refreshment or accommodation they may obtain therein.
8. No licence shall be granted or transferred to any person or to the wife of any person
- (1) holding office or appointment under Government;
 - (2) occupying premises of which any constable or member of a police force is the proprietor or landlord, or in which such constable or member has any interest;
 - (3) convicted of selling liquor without a licence until after a period of one year subsequent to the date of such conviction;
 - (4) keeping a native vating house in the district of Luderitzbucht.
9. No retail licence or bottle licence shall contain any provision authorising the sale of liquors in any town or village otherwise than in premises having the bar entrance opening in or towards a public street or thoroughfare. No licence shall contain any provision authorising the sale by auction of liquors in quantities less than such as may be sold under a wholesale licence.
10. Every club licence shall be issued to the manager or chief steward of the club. No transfer of any such licence shall be necessary upon any change of any such manager or steward, but the person for the time being holding any such office shall be entitled to the privileges granted by the licence and be subject to all duties and liabilities imposed upon the holder thereof. The approval by the magistrate of such change shall first be obtained. The issue of a club licence shall not constitute the club premises "licensed premises" for the purposes of this Proclamation. The objections to the renewal of any club licence shall be limited to the following, viz:—
- (1) that the club has ceased to exist or that the number of members is less than twenty-five;
 - (2) that it is kept or habitually used for an unlawful purpose or mainly for the supply of intoxicating liquor;
 - (3) that there is frequent drunkenness on the premises, or that the club is conducted in a disorderly manner;
 - (4) that persons who are not members are habitually admitted to the club merely for the purpose of obtaining liquor during ordinary or close time;
 - (5) that the club is not a bona fide club, on which question the facility of obtaining membership shall be regarded as prima facie evidence.
11. A certificate from a licensing court shall be a condition precedent to the issue of every licence except a temporary licence, a railway refreshment room licence for the sale of liquor, or a canteen licence.

WHOLESALE LICENCES.

12. Wholesale licences may be issued in the name of a company or co-partnership where two or more persons carry on business as a company or co-partnership in the same house or premises.
13. Any person holding a wholesale licence may store any liquors in any number of stores or places approved of by the magistrate and described in or endorsed upon the licence.
14. Any auctioneer having a wholesale licence may sell by auction liquors at any sale held by him.

RAILWAY REFRESHMENT ROOMS AND CARS FOR SALE OF LIQUOR.

15. The Director of Railways may undertake and provide for the supply and sale of intoxicating liquors, in refreshment rooms at such railway station as may be approved by him after consultation with the magistrate of the district in which such station is situated, and in refreshment cars, subject always to the regulations of the Railway Administration; provided that all refreshment rooms shall, in respect of the sale of liquor to natives and the hours of opening and closing for the sale of intoxicating liquors, conform to the laws in force in the district in which such refreshment rooms are situated, and shall be subject to such further restrictions as may be imposed by regulation; provided further that, except in the case of a railway junction, no refreshment room for the sale of intoxicating liquor shall be established at a railway station which is situated outside the limits of a recognised town, village or township.

Notwithstanding anything in this section contained no intoxicating liquor shall be sold at a refreshment room in any area in which, under the provisions of any law the grant of licences for the sale of intoxicating liquor is prohibited, whether with or without an exception of any particular form of licence.

16. There shall be annually paid over to the Administrator of the Protectorate by the Railway Administration:
 - (1) in respect of all refreshment cars, one total sum of thirty pounds sterling;
 - (2) in respect of each refreshment room in which intoxicating liquor is sold under the provisions of this Proclamation, or the regulations of the Railway Administration, such sum as is payable in respect of a retail licence in the district in which such railway station is situated.
 17. Whenever, by reason of riot or tumult occurring or expected to occur, licensed premises in the district are closed under the law therein in force relating to the sale of intoxicating liquors, the provisions of that law so far as it relates to the closing of licensed premises under those circumstances shall also apply to the railway station refreshment rooms.
 18. Nothing in this Proclamation contained shall be construed as exempting the Railway Administration from paying customs duties on any liquors imported by it for sale on the railways or stations.
- #### CANTEEN LICENCES.
19. Upon application and upon production of a certificate signed by the Deputy Commissioner of Police it shall be lawful for a magistrate, without claiming payment of any sum of money, to grant to the applicant a licence to be called a "canteen licence" and thereupon the applicant shall be entitled and authorised at any time or place during the period specified in such certificate, to sell in any quantity intoxicating liquors to any European

member of the police but to no other person whatsoever; provided that every certificate shall specify and set forth:—

- (1) the name of the applicant;
- (2) that the applicant is a fit and proper person to receive and hold the licence required;
- (3) the period during which the licence is recommended to be granted;
- (4) the place or premises where the sale of liquor is to take place.

20. Any such canteen licence may at any time be cancelled on the recommendation of the Deputy Commissioner of Police.

TEMPORARY LICENCES.

21. Any person being the holder of a retail licence may apply to the magistrate for a licence for the temporary sale of liquor at any place of recreation or amusement.
22. The magistrate to whom any such application shall be made may, if he shall see fit, grant such licence, stating therein the name of the applicant, the place where such temporary licence is to be granted, the number of days during which sales are authorised and any restrictions or conditions which the magistrate may see fit to impose. The time specified in any such licence may be extended; but in no case shall the licence endure for longer than twenty-one days in all.

NATIVE LOCATIONS AND AREAS.

23. A licence shall not be issued for the sale of liquor within the limits of any native location or reserve now existing or hereafter established.
24. In districts where natives are located or resident or are congregated upon public or other works or mines, the Administrator may define areas within the limits of which no licence other than a club licence may be issued. Any licence issued in contravention of this or the last preceding section shall be void.

PROHIBITION OF SALES TO NATIVES.

25. Save for bona fide medicinal purposes upon a prescription of a duly qualified medical practitioner intoxicating liquor shall not be sold, delivered, given or otherwise supplied to any native either for his own use or for the use of any other person, and no such native shall receive or have in his possession any intoxicating liquor.

LICENSING COURTS.

26. Courts for the consideration of applications for or relating to the granting, renewal, transfer or removal of wholesale licences, retail licences, club licences and bottle licences for the sale of intoxicating liquors are hereby constituted and shall be held in and for each district of the Protectorate. Every such court shall consist of the magistrate, or in his absence the acting magistrate, or if one has not been appointed, the assistant magistrate.
27. A meeting of the licensing court, open to the public, shall be held in each district on the first Wednesday in the months of March and September in each year, for the purpose of taking into consideration all such applications as are referred to in the last preceding section.

The meeting to be held in the month of March shall be the "annual licensing meeting".

28. Any meeting of a licensing court may be adjourned from time to time as such court may determine.
29. The court shall transmit the proceedings thereat and report its finding upon each application to

the Administrator, who shall thereupon confirm the same or otherwise and determine the conditions upon which a licence shall be granted and thereafter the required licence shall be issued by the magistrate.

30. The licensing court may, as a condition of the granting of any retail licence, require that the holder thereof shall, during the continuance of his licence, provide for the accommodation of travellers such number of rooms and stabling for such number of horses and garage accommodation for such number of motor cars as such court may deem necessary for the convenience of the public; and may also require such holder to make provision for sufficient means of egress in case of fire, and for proper drainage and sanitary arrangements and conveniences upon the licensed premises.
31. The licensing court may, if it shall be satisfied that it is for the benefit and convenience of the public so to do, at any licensing meeting grant to the holder of any retail licence, on payment of such additional sum as may be prescribed in that behalf, an extension of the time prescribed for the sale of liquors until not later than eleven o'clock at night, or authority to keep open his licensed house during such hours of Sunday, Christmas Day, or Good Friday as such court shall think fit for the refreshment of bona fide travellers. Such extension or authority shall respectively be termed "night privileges" and "Sunday privileges".
32. The licensing court may, if it shall be satisfied that it is for the benefit and convenience of the public so to do, grant to the holder of any retail licence authority to keep open his licensed house during such hours of Christmas Day or Good Friday as such court shall think fit.
33. When any licensing court shall deem it necessary to take evidence respecting any question to be determined by such court, such evidence shall be given on oath (which oath the person presiding is hereby authorised to administer, and shall after submission to and return by the Administrator be filed of record in the office of the magistrate of the district).
34. If any person shall, upon any examination before any licensing court, wilfully and corruptly give false evidence, such person shall be deemed and taken to be guilty of perjury.

APPLICATIONS FOR OR RELATING TO LICENCES.

35. On or before the last day of the months of January and July, any person desiring to obtain at the next licensing meeting any licence for which the certificate of a licensing court is necessary, or the renewal of any such licence or the removal of any such licence from the licensed premises or club premises to other premises in the same district or the transfer of a licence by the holder to any other person shall make application in writing to the magistrate of the district setting forth the nature and description of the licence required to be obtained, renewed, removed, or transferred, as the case may be, and of the place, stating the number or name (if any) of the premises and the street or road where the business or club is intended to be, or is being carried on, and, in the case of transfer of a licence the name and description of the person to whom the same is desired to be transferred; provided that in case a transfer is made after the 31st January or after the 31st July the application may be made to the following sitting of the licensing court.

36. The magistrate receiving any such application as is in the last preceding section mentioned shall cause a notice to be posted in some conspicuous place at or in his office, and to be published in a newspaper, if there be such, circulating in his district, containing the name of the applicant, the description of the premises referred to in the application, the nature of the application, the day on which and the place where the court will sit for hearing such application.

Such notice shall be posted and published fourteen days at least before the sitting of the said court: provided that any licence authorised by the Administrator shall not be capable of being questioned by reason that any such notice was not duly posted or published.

37. In case any application for the granting, removal, renewal or transfer of any licence which ought under the provisions of this Proclamation, to have been made on or before the last day of January or July, as the case may be, shall through inadvertence not be made in due time, but shall be made within ten days after the appointed day, the Administrator may, if he shall see fit, authorise the consideration of such application by the licensing court at the next meeting or any adjournment thereof, upon condition of payment in case the application shall be granted or allowed of such sum as the Administrator may determine, not being less than five pounds and upon such terms, as to notice to be given, as the said Administrator may prescribe.

Such sum of money shall be denoted by stamps, to be affixed to the licence, issued and cancelled as by law required.

38. In case the applicant for any licence shall die, or shall become insolvent after applying for the grant or renewal of a licence but on or before the day for considering such application by the licensing court, such court may, if it shall think fit, grant a certificate for such licence to the widow of any deceased applicant, or to the executor, curator bonis, or trustee, as the case may be, of the estate of such applicant.

OBJECTIONS.

39. Any municipality or any person duly authorised thereto by a municipality, any officer of police and any person residing in the district, may object in writing or personally at any meeting of the licensing court to the grant, renewal, removal or transfer of a licence.

40. The objections which may be taken to the granting of a licence may be one or more of the following:—

- (1) that the applicant is of bad fame or character, or of drunken habits, or has previously forfeited a licence, or has been convicted of selling liquor without a licence within a period of three years; or
- (2) that the premises in respect of which the application is made are out of repair, or do not contain reasonable accommodation;
- (3) that the licensing thereof is not required in the neighbourhood, or that the premises are in the vicinity of a place of public worship, hospital, school or native location, or reserve, or that the quiet of the place in which such premises are situated will be disturbed if such licence is granted;
- (4) that the number of previously licensed premises is sufficient for the requirements of the neighbourhood.

41. The licensing court may of its own motion take notice of any matter or thing which would under the last preceding section hereof or in the opinion of the court be an objection to the grant of a licence or to the renewal, transfer or removal of a licence, although no objection has been made by any person.

In any case in which objection is raised the court shall inform the applicant and shall, if necessary, or should the applicant so request, adjourn the further consideration of the application, for any period not less than four days in order that the person affected by such objection may be afforded an opportunity of replying thereto.

The court shall at or after any such adjournment give notice in writing, of the cause of objection to the person affected thereby, and of the day on which the adjourned application will be considered.

42. The objections that may be taken to the renewal of any licence may be all or any of the following:—

- (1) that the applicant is of bad fame and character, or of drunken habits;
- (2) that the licensed premises are out of repair, or are not kept in a clean and wholesome state;
- (3) that the business is conducted in an improper manner or drunkenness is permitted upon the licensed premises;
- (4) that the conditions upon which the licence was granted have not been satisfactorily fulfilled;
- (5) that a licensed place is no longer required in the neighbourhood.

43. In case of objection to the renewal of any licence the person objecting shall cause notice of the intention to object and grounds of objection to be given to the applicant at least two days before the sitting of the licensing court. If such notice shall not have been given, such court may, notwithstanding, if it see fit, adjourn the hearing of the application to a future day, and require the attendance of the holder of the licence on such day, and may then consider the objections and, subject to the provisions of section 29 hereof, determine thereon.

44. When the renewal of any licence is refused for some reason personal to the licensed person, the licensing court may, if it see fit to do so, adjourn to such day not being less than fourteen nor more than thirty days after such meeting.

Application (not being by the person so refused for a licence of the same description as that refused in respect of the same premises may be heard and determined at such adjourned meeting.

45. In case the renewal of a licence held by any person shall be refused by the licensing court, and such person shall not during the preceding twelve months have been convicted of any offence against this or any other Proclamation relating to the sale of intoxicating liquors, he shall, upon payment of a proportionate part of the cost of a licence such as then held by him, be entitled to obtain a licence for a period of three months.

TRANSFER AND REMOVAL OF LICENCES.

46. Any person being the holder of a wholesale, retail or bottle licence who shall during the currency thereof sell or dispose of his business or the house or premises in respect of which such licence was granted, may make application to the magistrate for a temporary transfer of such licence to the purchaser of such business or to the

- purchaser or lessee of such premises, as the case may be; and such magistrate may, if he think fit, upon payment by the applicant of the sum prescribed for such transfer, by memorandum endorsed upon the original licence, grant temporary transfer of such licence accordingly.
47. The magistrate may either upon or without production of a licence, authorise any person whom he shall consider entitled to the benefit of any licence (other than a wholesale licence or club licence to carry on the business in the licensed premises for the remainder of the term for which the licence was granted in any of the following cases:—
- (1) whenever any person to whom the licence was granted absconds or abandons the licensed premises;
 - (2) if, during the currency of any licence, the holder is ejected from, or ceases to occupy, the licensed premises or his tenancy thereof is determined by effluxion of time, or by notice to quit, or by any other means except insolvency, and he neglects or refuses to transfer the licence to the person claiming to be entitled to the benefit of the licence as owner or lessor of the licensed premises;
 - (3) when, in pursuance of any contract or agreement between the parties, the licensed person has agreed to transfer the licence to the person claiming to be entitled, and unjustly refuses or neglects to do so;
 - (4) when any licensed person (not being the owner or lessor of the licensed premises) becomes personally disqualified or has his licence forfeited, and such owner or lessor has not been privy to, nor a consenting party to, the act or default of his tenant, and has a legal right to eject the tenant from such premises, or such tenant agrees to vacate the licensed premises: provided that (except in any case where the licensed person shall have absconded) the licensed person shall have served upon him notice in writing of the intention to apply for the authority sought, stating the grounds upon which the application is made, and the time and place where it will be considered, at least two days before the time therein fixed.
48. The holder of any licence (except a temporary licence who may desire to remove his licence from the licensed premises to any other premises in the same district not distant more than one mile, may make application to the magistrate to authorise such removal; and such magistrate, if satisfied that to wait for the next meeting of the licensing court would subject such holder to serious loss or inconvenience, and if he thinks fit, may, upon payment of the sum prescribed, authorise such removal after notice of such application shall have been posted in some conspicuous place at or in his office for not less than fourteen days and published for a like period in a newspaper if there be such, circulating in his district, and in such other manner as may by the said magistrate be directed, provided that in case objections be made to the removal of the licence to the premises proposed by any person who would be entitled to object to the granting of a licence for such premises, such removal shall not be authorised as aforesaid.
49. In any case in which the holder of any licence who shall not be the owner of the licensed premises shall make application under the said Proclamation for the removal of his licence from the licensed premises to any other premises or for the transfer or temporary transfer of the licence from such holder to any other person, such application shall not be considered unless proof be given that at least two days' notice in writing has been given to the owner of the premises or lessor of the applicant when the lessor is not the owner, stating the nature of the intended application, and the time and place when it will be considered.
50. Any person to whom a licence may be temporarily transferred and any person who may be authorised to remove his licence to other premises shall at the next licensing meeting apply for a licence in the same manner as if he were not a licensed person: provided that if any such application shall be made at the September meeting of the court, and be allowed by such court, an endorsement thereof shall be made upon the existing licence, which shall, subject to such endorsement, be of force during the unexpired term thereof.
51. Any objections which may be taken to the granting or renewal of a licence may in like manner be taken to the transfer or removal of a licence.
52. In case the temporary transfer of a licence, or the removal of a licence as aforesaid shall not be ratified by the action of the licensing court at the next meeting upon consideration of the application then made in respect thereof, such licence shall, as to the person to whom the same was originally granted, or in respect of the premises originally licensed, as the case may be, remain unimpaired.
53. Any person to whom a licence may be temporarily transferred, or who may be carrying on or conducting the business of licensed premises as the widow, or curator bonis, or executor of the estate of any deceased person, or as trustee of the estate of any insolvent, or as approved agent of any such widow, curator, executor, or trustee, shall, until the end of the period for which the licence was granted, possess all the rights and be subject and liable to all the duties, obligations and penalties of the original holder of the licence.
54. In case of the death of the holder of any licence, the widow (if any) or the executor of the deceased person, and failing the appointment of an executor, any curator bonis appointed by the Master of the High Court for taking charge of the estate of such deceased person, or any person approved of by the magistrate, and in case of insolvency, the trustee of the estate of such insolvent, may carry on the business until the next meeting of the licensing court, either personally or by an agent approved of by any writing under the hand of the magistrate without any formal transfer of the licence.
55. In case of the marriage of any woman who shall have obtained any licence, such licence shall confer on her husband the same privileges, and shall impose upon him the same duties, obligations and liabilities as if such licence had been granted to him originally.
56. No transfer or temporary transfer of a liquor licence shall be lawful, save and except with the consent of the Administrator until all spirit duty due by the transferor has been paid.

DUTIES AND LIABILITIES OF LICENSED PERSONS AND OTHERS.

57. Every holder of a licence under this Proclamation who shall fail to produce such licence within a reasonable time after production thereof is demanded by any magistrate or officer or member of a police force shall be guilty of an offence.

58. Every licensed person, except the holder of a temporary licence or club licence, shall cause to be painted and fixed on the front of the premises in respect of which his licence is granted, in a conspicuous place, and in letters two inches at least in length, his name, with the addition of the word „licensed“, and of words sufficient to express the business for which the licence has been granted. No person who is not licensed shall have any words or letters on his premises importing that he is licensed, and no licensed person shall have any words or letters on his premises importing that he is licensed in any way other than that in which he is duly licensed.
59. The magistrate may, if he see fit, require the holder of any retail licence in any city, town or village to keep a lamp affixed over the door of the licensed premises, or within twenty feet thereof, and lighted during such hours as such magistrate shall determine.
60. The holder of every retail licence which shall have been granted on the condition of providing accommodation to travellers, who shall fail or refuse, except for some sufficient reason to be judged of by the magistrate, to supply lodging, meals or accommodation to travellers, shall, for each offence, be liable, on conviction, to a penalty not exceeding ten pounds.
61. No person shall recover any sum of money or maintain any suit at law on account of any liquor sold by him on credit to any person for consumption on the premises, except in the case of liquor supplied in moderate quantities with meals to any person actually lodging with such first mentioned person.
62. No person shall receive in payment, or as a pledge or security for any liquor or entertainment supplied in and from his licensed premises, anything except current money, cheques on bankers, or orders for payment of money.
- The person to whom anything pledged in contravention of this section shall belong shall have the same remedy for recovering any such thing, or the value thereof, as if it had not been pledged.
- No person shall receive payment in advance for any liquor to be supplied: any payment so made in advance may be recovered, notwithstanding that any liquor may have been supplied subsequently to such payment.
63. It shall be the duty of the chief police officer of the district to report to the licensing court any licensed premises which are out of repair, or have not reasonable accommodation, or proper or sufficient sanitary or drainage requirements, and any case in which the holder of a licence shall be of drunken habits, or shall keep a disorderly house.
64. Any member of a police force may, during the hours for which the premises are licensed, enter on any such premises, and inspect and examine every room and part of such premises, for the purpose of reporting, as in the last preceding section is required, as to the state and condition of the premises.
65. At every meeting of a licensing court a return shall be laid before such court by the clerk of the magistrate's court of the district showing:
- (1) the name of every applicant for a licence, and of every licensed person who shall, since the previous annual meeting of the court, have been convicted of any crime or offence, the nature of such crime or offence, and the penalty or punishment imposed;
 - (2) in case of a previous conviction, within three years, the particulars of such previous conviction.

IMPORTATION.

66. (1) It shall not be lawful for any person to
- (a) import any liquor into the Protectorate of South-West Africa from without.
 - (b) import any liquor into that portion of the District of Rehoboth known as the "Bastard Gebiet" from without, without having previously obtained therefor a permit in writing in the case of (a) from the Secretary for the Protectorate, and in the case of (b) from the Magistrate of the District of Rehoboth.
- (2) The officers aforesaid shall have discretion to grant or refuse any application for a permit under this section and to decide upon its terms in regard to quantity or otherwise.
- (3) Every permit granted under this section shall set forth
- (a) the name and address of the purchaser or importer;
 - (b) the name and address of the seller;
 - (c) the description of liquor to be bought or imported and the quantity of each kind stated in gallons, quarts, or pints;
 - (d) in the case of intended importation the approximate date of such;
 - (e) the route and the means of conveyance by which the consignment is to travel;
- (4) Within forty-eight hours of receiving any liquor in respect of which a permit has been granted, the person to whom such permit has been granted shall, under penalty of being found guilty of an offence, produce or forward to the magistrate of the district the permit across which shall be written in ink the quantity and description of liquor received, the date of receipt, and the signature of the person receiving the liquor. Thereupon the magistrate shall endorse "permit expired" and his signature and official date stamp upon the permit and return it to the holder and retain the duplicate.
67. (1) Any person who
- (a) imports liquor into the Protectorate of South-West Africa from without or takes possession or accepts delivery of liquor so imported,
 - (b) imports liquor into that portion of the District of Rehoboth known as the "Bastard Gebiet" from without or takes possession or accepts delivery of liquor so imported,
- save under the authority of and within the terms prescribed as to description and quantity by a permit granted under the provisions of this section shall be liable on conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding one year.
- (2) All liquor in respect of which a conviction takes place under the provisions of this section shall ipso facto be forfeited and the court before which the conviction is obtained may decree the forfeiture of any wagon or other vehicle used in conveying the liquor.
- (3) Nothing in this section shall apply to any one not being a prohibited person carrying a reasonable quantity of liquor for his personal use or that of persons with him while travelling.

SEARCH AND SEIZURE.

68. (1) Any member of the police force and any other person authorised thereto in writing by any magistrate or inspector of police may at all times:
- (a) enter on any premises and do all things necessary to make search for such liquor;
 - (b) search any package, parcel, or other thing on any train, wagon, or other vehicle or being conveyed in any way from one place to another for such liquor;
 - (c) call upon any person reasonably suspected to be in unlawful possession of liquor to produce it, and if he fails to do so to search his person, clothing, or other belongings.
- (2) If in the course of any search made under the provisions of this section any liquor is found for which the permit required by law is not produced, the police may seize and detain all such liquor, all packages or other things in which it is contained, any wagon or other vehicle in which it is being conveyed and any other thing which may be material to the charge to be preferred; and also if the person whose premises or other property searched is not a licence-holder, all marked money, liquor bottles, corks, funnels, glasses or other utensils used in connection with the storage or sale of liquor found thereon.
- (3) In the event of a conviction following upon a search and seizure made under the provisions of this section, any article so seized may in the discretion of the court be declared forfeited and if so declared shall be sold and the proceeds paid in to the revenue account of the Protectorate.
- (4) Any person obstructing any other person in the execution of his duty under the provisions of this section, shall on conviction be liable to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding two months.

OFFENCES.

69. The holder of any licence who shall be guilty of any of the following acts or offences shall upon conviction be liable in respect of each act or offence to a penalty not exceeding twenty-five pounds; that is to say, if he shall
- (1) permit drunkenness, or any violent, riotous or quarrelsome conduct to take place upon his premises;
 - (2) sell liquor to any person already in a state of intoxication or by any means encourage or incite any person to drink liquor;
 - (3) knowingly harbour or suffer to remain on his premises any constable or policeman during any time appointed for such constable to be upon duty unless for the purpose of keeping or restoring order, or in the execution of his duty;
 - (4) suffer any unlawful game or gambling to be carried on on his premises;
 - (5) permit his premises to be a brothel, or the habitual resort or place of meeting of reputed prostitutes;
 - (6) sell or knowingly permit to be sold, or deliver or knowingly permit to be delivered or supplied to any person apparently under the age of fifteen years any description of liquor, or permit or suffer any such person to drink any such liquor upon his premises;

- (7) keep his licensed premises open for the sale of liquor, or sell or expose any liquor for sale, or allow any liquors purchased before the hour of closing to be consumed on such premises, during any time when he is not authorised by the licence to sell.
- (8) sell or offer, or expose for sale any liquor at any place where he is not authorised by his licence to sell the same;
- (9) wilfully break any condition of his licence;
- (10) being the holder of a retail licence, knowingly permit any person under the age of fifteen years, or any native, to sell, handle, deal in, deliver or supply any liquor in connection with the business carried on under such licence;
- (11) being the holder of a club licence sell liquor to any person not being a member of such club.

And in the case of a second or subsequent conviction every such holder shall be liable to a penalty not exceeding fifty pounds.

70. Every person who shall be guilty of any of the following acts or offences shall upon conviction be liable in respect of each act or offence to a penalty not exceeding twenty pounds; that is to say, if he shall
- (1) wilfully mix or cause to be mixed with any liquors any injurious, poisonous, or deleterious ingredient or material to adulterate the same for sale;
 - (2) sell, or keep or offer for sale any liquor with which any ingredient or material injurious to the health of persons drinking such liquor has been mixed.
71. Any person who shall contrary to the provisions of this Proclamation
- (1) sell, deal in or dispose of intoxicating liquor without a licence;
 - (2) sell, deliver, supply or give intoxicating liquor to a native;
 - (3) with or without remuneration purchase or otherwise obtain any liquor for or on behalf of any native;
- shall upon conviction be liable to the following penalties, that is to say:
- For the first offence a penalty not exceeding fifty pounds, and in default of payment being made or security given for the same, to imprisonment, with or without hard labour, for any period not exceeding three months, unless such penalty be sooner paid or levied.
- For a second offence a penalty not exceeding one hundred pounds, and in default of payment or security as aforesaid being made or given, to imprisonment, with or without hard labour, for any period not exceeding six months, unless such penalty be sooner paid or levied.
- For a third or any subsequent offence a penalty not exceeding one hundred and fifty pounds, and in default of payment or security as aforesaid being made or given, to imprisonment with or without hard labour for any period not exceeding twelve months, unless such penalty be sooner paid or levied; or to both such penalty and such imprisonment.
- In addition to any other penalty imposed by this section or either of the last two preceding sections, the court may, in case of a second or subsequent conviction of any person for any offence in any of the said three sections mentioned within three years previously adjudged that such person shall, if he be the holder of a licence under this Proclamation, or the

- holder of a retail shop licence, forfeit such licence, or both such licences if both be held by such person, and that the offender be disqualified from taking out any other retail shop licence during the remainder of the then current year, and also from holding any licence for the sale of intoxicating liquors for any term of years or at any time.
72. Any native who shall receive or have in his possession any intoxicating liquor, contrary to the provisions of this Proclamation, shall be guilty of an offence.
73. If any purchaser of liquor from the holder of a bottle licence drinks such liquor on the licensed premises, or in any road, street, or public place, adjoining or near such premises, then such holder shall, if it shall appear that the drinking aforesaid was with his privity and consent,
- (1) for the first offence be liable to a penalty not exceeding five pounds,
 - (2) for any subsequent offence be liable to a penalty not exceeding ten pounds.
- For the purposes of this section, the expression "licensed premises" shall include any premises or place adjoining or near the premises actually licensed if belonging to the said holder of the bottle licence, or under his control, or used by his permission.
74. In any proceeding under the last preceding section of this Proclamation, the drinking of any liquor shall be taken to have been done with the privity and consent of any holder of a bottle licence who shall be proved to have uncorked or opened any bottle containing such liquor, or to have directly or indirectly assisted any person to uncork or open it.
75. Any person holding a canteen licence issued under the provisions of section 19 hereof, who shall sell intoxicating liquor to any person not being a member of the police shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty pounds, or in default of payment to imprisonment, with or without hard labour, for a period not exceeding six months.
76. (1) Any importer or general dealer not also the holder of a wholesale or a bottle licence who shall give or supply any liquor to any customer or other person in the room or rooms in which he carries on his business as such importer or general dealer, and
- (2) any holder of a liquor licence other than a wholesale licence who is at the same time an importer or general dealer, who shall sell, deal in or dispose of any liquor in any room or place which is not entirely separated by substantial walls or partitions containing no door or other opening, from the room or rooms in which such person carries on his importer's or general dealer's business, shall be guilty of an offence and shall upon conviction 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 six months.
77. The holder of any retail licence or bottle licence shall be liable to forfeit such licence
- (1) if he shall permit any other person to manage, superintend or conduct the business of the licensed premises during his absence for a longer period than one month without the consent, in writing, of the magistrate;
 - (2) if he shall, whether present in such premises or not, permit any unlicensed person to be in effect the owner of the business of the licensed premises, unless with the consent of the licensing court;
- (3) if (being the keeper of any inn or hotel) he shall fail to provide and maintain the accommodation required according to the conditions prescribed by the licensing court granting such licence;
 - (4) if (except in the case of fire, tempest or other cause beyond his control) he shall allow the licensed premises to become ruinous or dilapidated;
 - (5) if he shall permit his premises to be a brothel, or if he shall sell liquor to any person already in a state of intoxication;
 - (6) if he shall be twice convicted of selling, offering or keeping for sale any adulterated liquor;
 - (7) if he shall be convicted of any offence under this Proclamation, and a previous conviction within the preceding six months of the same or any other offence under this Proclamation shall be proved;
 - (8) if he shall be convicted of any crime and sentenced to imprisonment without the option of a fine.
78. Any licensed person may refuse to admit to or may eject from the premises in respect of which his licence is granted any person who is drunk, or who is violent, quarrelsome or disorderly, whether drunk or not, and any person whose presence on his premises would subject him to a penalty under this Proclamation, and may refuse to serve any such person with liquor. Any such person, who upon being requested by such licensed person, or his agent or servant, or any constable or policeman, to quit such premises, refuses or fails to do so, shall be liable to a penalty not exceeding five pounds; and all constables or policemen are required, on the demand of such licensed person, agent or servant, to expel or assist in expelling every such person from such premises, and may use such force as may be reasonably necessary for that purpose.
79. At any time within one quarter of an hour before the time by law or the terms of the licence prescribed for the closing of any premises licensed under a retail or bottle licence, the holder of such licence may lawfully request any person not being an inmate, lodger or servant residing upon such premises to take note of the time, and to leave such premises without delay, and if after such request and after the time so prescribed shall have expired, such person shall be found upon licensed premises, he shall, on conviction, be liable to a fine not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, for any term not exceeding fourteen days unless such fine be sooner paid; provided that no person shall be prosecuted both under this section and under the last preceding section for the same offence.
80. Any master or other person employing workmen, servants, or labourers, who pays or causes any payment to be made to any such workman, servant or labourer in or at any premises licensed for the sale of liquor, or where liquor is sold, shall for every such offence be liable to a penalty not exceeding ten pounds. But nothing herein contained shall extend to any holder of any liquor licence who pays upon his own licensed premises the workmen, servants, or labourers employed in his licensed business.
81. Every person who, by falsely representing himself to be a lodger, buys or obtains or attempts to

buy or obtain at any premises any liquor during the period for which such premises are to be closed under this Proclamation or otherwise, shall upon conviction be liable to a penalty not exceeding five pounds.

82. (1) Where any riot or tumult occurs or is expected to occur in any place, the magistrate may order any or every licensed person in or near such place to close his premises during any time which such magistrate may see fit.
- (2) Any person acting by order of any magistrate may use such force as may be necessary for closing such premises; any person resisting or obstructing the execution of any such order and any licensed person selling liquor in contravention of such order, shall upon conviction be liable to a penalty not exceeding fifty pounds.
- (3) (a) Upon necessity therefor being shown it shall be lawful for a magistrate, at the direction of the Administrator, or in sudden emergency, to prohibit or restrict in such manner or area and for such period as he may think fit, the sale or supply of intoxicating liquor;
- (b) such prohibition or restriction shall have effect upon exhibition at such magistrate's office and service upon all persons licensed for the sale of intoxicating liquor within the area affected, of a notice under the hand of the magistrate, stating the period and terms thereof;
- (c) any person who fails to comply with any of the terms of such prohibition or restriction shall be guilty of an offence;
- (d) any person who buys, receives, has in his possession, or consumes intoxicating liquor, sold or supplied contrary to such prohibition or restriction, shall be guilty of an offence;
- (e) any person guilty of an offence against this sub-section shall upon conviction 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 six months;
- (f) the minimum penalty for an offence against this section committed during the period of such prohibition or restriction shall be a fine of three pounds or in default of payment imprisonment, with or without hard labour, for a period of three weeks;
- (g) in any prosecution under the provisions of this sub-section proof of the presence of the accused in or upon premises licensed for the sale of intoxicating liquor at a time when the sale or supply thereof is forbidden by such prohibition or restriction shall be prima facie proof of guilt.
83. Any member of a police force may demand the name and address of any person found on premises in which he seizes or from which he removes any liquor under the provisions of this Proclamation, and if such person shall fail upon such demand to give his name or address, or shall give a name or address which the constable, or other person demanding the same, has reasonable grounds to believe is false, he may apprehend such person without warrant, and take him as soon as possible before a magistrate. Any such person who fails to give his name and address, when so demanded, or gives a false name or address, shall upon conviction be liable to a penalty not exceeding five pounds.

84. Any person convicted of contravening any of the provisions of this Proclamation for or in respect of which no penalty is specially provided, shall be liable to a penalty not exceeding twenty pounds and in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months; and when a penalty has been provided for any offence without any period of imprisonment in default of payment thereof then the person convicted of such offence shall be liable

to imprisonment, with or without hard labour, not exceeding one month if the penalty do not exceed five pounds; or

to imprisonment, with or without hard labour, not exceeding three months if the penalty exceeds five pounds;

unless such penalty be sooner paid.

85. All offences against this Proclamation shall be cognisable before the magistrate, within whose jurisdiction such offences shall have been committed, and any such magistrate may impose the penalties respectively by this Proclamation provided.

86. The magistrate of any district may by an order in writing, forbid the selling of liquor to any person who

shall within the space of three months have been thrice convicted of drunkenness, or, who having been twice so convicted shall also have been convicted of assault; or by excessive drinking of liquor misspends, wastes or lessens his estate, or greatly impairs his health, or endangers the peace of his family.

Every such order shall be in force during such time as the said magistrate may determine, not however exceeding twelve months, in the district wherein the same was granted and in any other district into which such person may remove or be. Every licensed person who shall with a knowledge of such prohibition sell to any such person any liquor, and every other person who with such knowledge shall give to, purchase or procure, for such prohibited person any liquor shall on conviction be liable to a penalty not exceeding five pounds, in respect of each offence.

87. It shall be lawful for the master of any ship which in the course of a voyage is in any dock or harbour in this Protectorate or in the territorial waters thereof, or for any person duly authorised by the master, to sell liquor without a licence on board such ship to any passenger therein.

EVIDENCE OF PROOF.

88. In any proceeding relative to any offence under this Proclamation it shall not be necessary to show that any money actually passed, or that any liquor was actually consumed, if the court hearing the case be satisfied that a transaction in the nature of a sale actually took place or that any consumption of liquor was about to take place and proof of consumption, or intended consumption of liquor on licensed premises by some person other than the occupier, or a servant in such premises, shall be evidence that such liquor was sold to the person consuming or about to consume the same by or on behalf of the holder of such licence.

If any vendor of ginger or other beer, soda water, lemonade, or the like drinks, not being duly licensed, shall supply intoxicating liquors to mix or be taken with such drinks, he shall be deemed to have sold such liquor.

89. If any person, other than the licensed holder, his agent or servant, or a person lodging in the licensed house, be found in any bar on the premises of the

holder of a retail licence during the hours in which the sale or disposal of liquor to the public is prohibited, it shall be taken to be *prima facie* evidence of a sale of liquor during such hours. The licence holder on whose premises any such person is found during such hours shall be liable to a penalty of not more than five pounds; but nothing in this section contained shall apply in the case of persons passing through any bar in any licensed premises for the sole purpose of obtaining access to any other part of such premises.

90. In any proceeding against any person for selling, or allowing to be sold, any liquors without a licence, such person shall be deemed to be unlicensed unless he shall produce his licence or give other satisfactory proof of his being licensed. The fact of any person not holding a licence having any sign or notice importing that he is licensed upon or near his premises, or having a house or premises fitted up with a bar or other place containing bottles, casks or vessels, so displayed as to induce a reasonable belief that liquor is sold or served therein, or of there being on such premises liquor concealed, or more liquor than is reasonably required for the persons residing therein, shall be deemed *prima facie* evidence of the unlawful sale of liquor by such person.
91. The production before any court of any licence or original counterpart or duplicate thereof, issued hereunder shall be *prima facie* evidence of its contents.
92. If any liquor the property, or in the possession of the holder of a licence to sell liquor shall be sold, delivered, dealt in or supplied by any person being a member of the family, or in the service or employ of such holder, such liquor shall, for all the purposes of this Proclamation, or any amendment thereof, be conclusively deemed to have been sold, delivered, dealt in or supplied with the knowledge and permission of the holder of such licence.
93. If by the holder of a licence to sell liquor or of a licence as a general dealer, importer, agent for a foreign firm, butcher, baker or dealer in aerated waters, any liquor shall be given or supplied in connection with any sale or exchange or with any dealing or transaction in the nature of a sale or exchange, whether the thing or things sold or exchanged or dealt in, or to which such transaction relates, be or be not in whole or in part liquor, then and in every such case the liquor so given or supplied shall for the purpose of any legal proceedings, civil or criminal, be presumed to form part of the cause or consideration for and of such sale, exchange, dealing or transaction, and such holder shall be presumed to have sold, dealt in or disposed of such liquor; provided that in any such proceedings any party thereto may rebut such presumption by proof to the satisfaction of the court before which such proceedings are pending that such liquor was in truth given or supplied independently altogether of such sale, exchange, dealing or transaction.
94. (1) If in the course of any seizure undertaken in terms of this Proclamation, or in any manner, liquor shall be found for which no valid permit is produced the onus of proving that such liquor was lawfully purchased, imported, removed, or held shall lie upon the owner or occupier of the premises in which it is found or the person conveying or otherwise in possession of it.
- (2) In any prosecution for a contravention of sections 71 (2), 71 (3) and 72 of this Proclamation if evidence shall have been adduced that the person alleged to be a native is by

repute and appearance not a European and if in addition the magistrate hearing the case is himself satisfied by personal observation that the person is of such appearance he shall announce and enter upon the record a note of the fact that he is so satisfied whereupon the onus of proving that such person although having the appearance of is not in fact a native shall rest upon the accused.

- (3) In any prosecution for a contravention of section 70 of this Proclamation a certificate under the hand of any government analyst in this Protectorate or in the Union of South Africa shall be *prima facie* evidence of the facts stated therein, and it shall not be necessary for the prosecution to tender the oral evidence of such analyst in support of the statements made or opinions given in his certificate unless the court specially direct.

MISCELLANEOUS PROVISIONS.

95. Nothing in this Proclamation contained shall preclude any person who is licensed to sell liquor to be consumed on the premises from selling such liquor at any time to any European person lodging in his house.
96. Any licensed person being the keeper of any inn or hotel, to whom any person shall be indebted for board or lodging, or for the keep or expenses of any horse or other animal left with or standing at livery in the stables of such licensed person, shall be entitled to cause to be sold any property which may have been deposited with him or left in the house he keeps, or on the premises belonging thereto, subject to the following provisions and conditions:-
- (1) no such property shall be sold unless the same shall have been for the space of one month in the charge or possession of such licensed person without such debt being paid or satisfied;
 - (2) if the address of the debtor shall be known to such licensed person, notice in writing shall be given or sent by post prepaid, informing him that unless within ten days from the date of such notice the debt be paid or satisfied, the property in question will be sold;
 - (3) if the address of the debtor shall not be known, notice shall be given by advertisement in some newspaper if there be such circulating in the district, and if there be no newspaper by notice posted in some conspicuous place at or in the office of the magistrate of the district at least once a week during three weeks of the intended sale;
 - (4) if after the expiration of the period stated in any such notices respectively, the debt shall not be paid, the person having custody of any such property may require the messenger of the court of the magistrate of the district to sell such property by auction;
 - (5) the messenger if so required shall make an inventory of such property, and deal therewith precisely as if such property had been property attached by legal process. Such messenger shall lodge with the clerk of the court of the magistrate all documents and accounts which in the case of the execution of a writ he would be required to lodge, or such as the magistrate may order or require;
 - (6) the messenger after payment out of the proceeds of any sale of the fees and charges due to him in respect of such sale, according to the scale allowed in civil process and upon taxation thereof by the clerk of the court, shall pay to

the licensed person the amount due to him, including the cost of postage on, or of advertising any such notice as aforesaid, and if there be any surplus such surplus shall be paid to the debtor.

17. Any property which may have been left in charge of any such licensed person, not reclaimed within six months, may, after notice such as is provided in the last preceding section shall have been given, be sold by the messenger provided in the manner aforesaid.
18. Any person may prosecute any offender for contravening the provisions of this Proclamation: and in any summons or information it shall be sufficient to set forth the offence charged in the words of this Proclamation or in similar words without inserting or negating any exception, exemption or qualification, but any such exception, exemption or qualification may be proved by the defendant.
19. The court before which any offence against this Proclamation shall be prosecuted may direct that any portion not exceeding one half of any penalty imposed and recovered, shall be paid or awarded to any person who may have given such information as shall have led to the conviction of the offender.
20. For the purposes of levying any penalty imposed under the provisions of this Proclamation execution may be levied upon all goods and chattels found on the premises upon or in respect of which the offence shall have been committed, whether the said goods and chattels be or be not the absolute property of the person upon whom the penalty was imposed. The provisions of this section shall not apply to goods the bona fide property of lodgers or travellers or of persons who may leave or deposit such goods for safe custody, or convenience, or for the purpose of being worked by any handicraftsman.
21. The costs incurred by a licensing court in connection with any legal proceedings instituted against it as such, shall unless the court before which the proceedings are taken shall order the said costs to be borne by the opposite party or by the magistrate composing the said licensing court, *de bonis propriis*, be paid by the Administration.
22. If through any accident or omission anything required by this Proclamation to be done is omitted to be done, or is not done within the time fixed, the Administrator may order all such steps to be taken as may be necessary to rectify any error or omission, and may validate anything which may have been irregularly done in matter of form, so that the intent and purpose of this Proclamation may have effect.
The Administrator may also authorise on such conditions as he may deem fit, the holding of a special meeting of any licensing court in the event of any emergency requiring that a special meeting should be held.
23. The Administrator may from time to time make, alter, and revoke regulations, not being contrary to the provisions of this Proclamation, for regulating the proceedings and meetings of licensing courts, prescribing the forms of licences, notices, and other documents to be used, and generally for the more efficient administration of this Proclamation.
24. This Proclamation shall come into operation on the first day of February. One Thousand Nine Hundred and Twenty, and may be cited as the "Liquor Licensing Proclamation, 1920".

GOD SAVE THE KING.

Given under my hand at Windhuk, this 15th day of January, 1920.

E. H. L. Gorges
Administrator.

THE FIRST SCHEDULE

1. The Ordinance of the Governor relating to the import of and traffic in intoxicating liquor of the 11th of March 1911, as amended on the 6th of March 1912;
2. Martial Law Regulations Nos. 54, 69 and 78.

THE SECOND SCHEDULE.

Sums payable for or in respect of licences granted or renewed, and privileges allowed under the "Liquor Licensing Proclamation, 1920".

- | | |
|---|---|
| 1. For a wholesale licence for one year | Thirty pounds |
| 2. For a retail licence for one year, ending on the last day of March, and for a renewal of any such licence, if issued in respect of any place or premises: | |
| (1) In any of the towns or villages of Windhuk, Klein Windhuk, Okahandja, Karibib, Usakos, Swakopmund, Omaruru, Otjiwarongo, Outjo, Grootfontein, Tsumeb, Gobabis, Rehoboth, Gibeon, Maltahohe, Keetmanshoop, Bethany, Luderitzbucht, Aroab and Warmbad | Forty pounds |
| (2) Not in any such town or village | Thirty pounds |
| 3. For a retail licence for six months ending on the last day of March after the issue thereof | Half the sum payable for such licence for a year |
| 4. For a bottle licence for one year, ending on the last day of March, or for the renewal thereof | Thirty pounds |
| 5. For a bottle licence for six months ending on the last day of March after the issue thereof | Fifteen pounds |
| 6. For a temporary licence | A sum to be fixed by the magistrate authorising the issue thereof, not being less per diem than ten shillings |
| 7. For a club licence for one year | Eighteen pounds |
| 8. For the removal of a licence to other premises | Two pounds |
| 9. For the transfer of a licence to a person other than the person to whom the licence was granted | Two pounds |

No. 7 of 1920.]

WHEREAS it is desirable to amend the law and regulations relating to the survey of land and the admission of land surveyors in 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 Regulations of the Governor for the Survey Administration (*Dienstanweisung für die Vermes-*

sungsverwaltung) of the 12th June, 1912, published in Gazette No. 14 at Windhuk on the 24th June, 1912, are hereby repealed and also all laws within the Protectorate repugnant to or inconsistent with the provisions of this Proclamation.

2. (1) There shall be at Windhuk a Surveyor-General's Office.
- (2) In this Office shall be carried out to completion all such matters as immediately prior to the coming in force of this Proclamation were in the Survey Administration Office at Windhuk and in the Survey Offices at Windhuk, Keetmanshoop and Omaruru respectively uncompleted, and this Office shall be deemed to be a continuation of the Survey Administration Office at Windhuk and of the Survey Offices at Windhuk, Keetmanshoop and Omaruru existing prior to the coming in force of this Proclamation.
- (3) Every such uncompleted matter shall be completed as if this Proclamation were of no effect.
3. The Administrator shall appoint a land surveyor to be styled the Surveyor-General and may from time to time appoint such other persons as may be necessary to carry out effectually the provisions of this Proclamation.
4. The Surveyor-General shall be in charge of all matters appertaining to the survey and charting of land in the Protectorate and it shall be the duty of all land surveyors to carry out his instructions. If any land surveyor fails or neglects to carry out such instructions the Surveyor-General may at his discretion refuse to accept any further survey work from such land surveyor until such time as his instructions have been complied with.
5. The Surveyor-General shall, subject to the provisions of the law and the regulations:--
 - (a) take charge of and preserve all records appertaining to surveys which were, prior to the taking effect of this Proclamation, records in the Survey Administration Office, and in the Survey Offices at Windhuk, Keetmanshoop and Omaruru or which may become from time to time after such taking effect, records of his office.
 - (b) examine and, if found correct, approve all inspection reports, plans, or diagrams of any surface survey relating to title of land, before registration thereof is effected in the Deeds Registry;
 - (c) where necessary, deduct from diagrams the figure and area included therein of any piece of land when such piece of land is to be transferred or a certificate of registered title in respect thereof is to be issued, or when such piece of land has been laid out as a township for which a certificate of township title has been issued;
 - (d) cancel and amend in accordance with law, any inspection report, plan or diagram found to be incorrect;
 - (e) frame diagrams from plans filed in his office;
 - (f) prepare and certify copies of diagrams and other documents lodged and filed in his office and copies and diagrams lodged for registration or registered in the Deeds Registry;
 - (g) compile and keep amended from time to time as the circumstances necessitate any plan filed in his office and prepare any map which may be required;
 - (h) conduct, when required, a general triangulation and topographical survey of any portion of the Protectorate;

(i) test or cause to be tested if deemed necessary by him the accuracy of any completed survey in respect of which the diagrams and plans have been lodged in his office, and generally shall exercise all such powers and discharge all such duties as are by law or regulation exercised or exercisable or are to be discharged by a Surveyor-General in the Union of South Africa, and shall carry out the objects and purposes of this Proclamation.

Any official in the Surveyor-General's department, being a land surveyor, may, if deputed by the Surveyor-General, do any act or thing which may be lawfully done either under this Proclamation or under any other law by the Surveyor-General.

6. (1) Every land surveyor shall be responsible for the correctness of any survey made, performed, or executed by him and shall conduct every survey as prescribed and in such a manner as will secure, as far as possible, accurate results. Should it appear that through his own fault he has made an error in his survey or in any work appertaining thereto, he shall whenever required by the Surveyor-General so to do, correct such error at his own expense.
- (2) The Administration and any official thereof shall not be held liable for any defective survey, or work appertaining thereto, made, performed or executed by a land surveyor, notwithstanding that a diagram in respect thereof has been approved by the Surveyor-General.
7. (1) If a land surveyor
 - (a) sign a diagram or plan the survey and the active field operations in respect whereof he has not carried out or personally supervised; or
 - (b) sign a defective diagram or plan knowing it to be defective; or
 - (c) continually make defective surveys owing to negligence or incompetence; or
 - (d) otherwise contravene or fail to comply with the provisions of any law or regulation relating to the survey of land in the Protectorate.
 the Administrator may, on the recommendation of the Surveyor-General, direct that such land surveyor be suspended from practice for such period as the Administrator may deem just, or that the name of such land surveyor be struck off the roll of admitted land surveyors. Thereafter such land surveyor shall cease to be permitted to practise during the period of his suspension or after his name has been struck off the roll.
- (2) In this section the word "supervised" shall mean that the land surveyor who has signed the diagram or plan has personally taken over the beacons of the land to be surveyed, has measured the base where such base measurement is necessary, has defined on the land the position in which any beacon is to be erected, has, after the survey, inspected the beacons, in order that he may certify that they have been erected properly, substantially and durably, and in accordance with regulation, and has carefully examined any field books, angle sheets, calculations and working plans which he may have entrusted to his assistant and has compared the same with the furnished plans and diagrams.
8. From and after the date of the taking effect of this Proclamation, no person, except a land surveyor or his bona fide assistant acting on

his instructions and under his personal supervision shall perform or execute

- (a) any surface survey, intended to form the basis of any plan or diagram appertaining to a matter to be registered in the Deeds Registry, whether the plan or diagram is to be itself registered or only attached to another document for registration.
- (b) any survey affecting the delimitation of boundaries or the location of beacons of property registrable or registered in the Deeds Registry.

Any person who contravenes any provision of this section shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds sterling or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.

- 9. The Regulations of the Governor for the carrying out of Surveys by Government, Private and Company Land Surveyors (Anweisung zur Ausführung von Vermessungsarbeiten durch Gouvernements-, Privat- und Gesellschaftslandmesser in Deutsch-Südwestafrika) of the 6th June, 1912 published in Gazette No. 14 at Windhuk on the 24th June, 1912 shall remain of full force and effect until such time as the Administrator may make regulations under section 13 hereof; provided however that the Surveyor-General may in his discretion permit the modification of the said first-mentioned Regulations if circumstances render such modification necessary or desirable.
- 10. Any person who at the date hereof is resident in the Protectorate and who on the 9th day of July 1915, was in practice as a land surveyor in the Protectorate of German South-West Africa may, on the recommendation of the Surveyor-General, be admitted by the Administrator to practise as a land surveyor within the Protectorate, provided that he produces proof that he was or is so entitled to practise and completes a solemn declaration before a magistrate or commissioner of oaths in the form of the schedule hereunto annexed.
- 11. The provisions of section 10 shall apply *mutatis mutandis* to any person entitled to practise as a land surveyor in any province of the Union of South Africa who, subsequent to the date of the taking effect hereof, desires to practise as a land surveyor in this Protectorate. A registration fee of five pounds five shillings sterling shall be payable by every such person.
Before recommending any land surveyor for admission to practise under the provisions of this section the Surveyor-General may, at his discretion, require the applicant to submit to a practical examination in the methods and procedure of surveying and in the laws and regulations relating to the survey and registration of land in this Protectorate.
- 12. The Surveyor-General shall keep in his office a roll of all land surveyors admitted to practise under the provisions of sections 10 and 11 hereof.
- 13. The Administrator may make regulations not inconsistent with this Proclamation in regard to all matters necessary to give the force and effect thereto.
- 14. In this Proclamation and the regulations made thereunder, unless inconsistent with the context, "Deeds Registry" shall mean the office established for the registration of deeds under the provisions of section 13 of Proclamation No. 21 of 1919.

"Diagram" and "Plan" shall mean respectively a diagram and plan which has been signed

by a person recognised under this Proclamation as a land surveyor, and which has been approved or certified by the Surveyor-General or other officer empowered hereunder so to approve or certify a diagram and plan, and shall include a diagram and plan, or a copy thereof, prepared in the Surveyor-General's office and approved or certified as aforesaid, or a diagram and plan which has been certified by a person who by law has been authorised to certify diagrams and plans and shall also include a certified copy, sketch or tracing thereof made under any German Law, regulation or custom prior to the taking effect of this Proclamation.

- 15. Nothing in this Proclamation contained shall be construed as repealing, amending or otherwise modifying the provisions of the Ordinance of the 26th April 1909 of the Imperial Governor of German South-West Africa concerning the survey and demarcation of mining claims within the South-West Africa Protectorate.
- 16. This Proclamation may be cited for all purposes as the "Land Survey Proclamation, 1920", and shall commence and come into operation on the 1st day of February, 1920.

GOD SAVE THE KING.

Given under my hand at Windhuk this 19th day of January, 1920.

E. H. L. Gorges
Administrator.

SCHEDULE.

No.

Declaration.

I, do solemnly and sincerely promise to discharge the duties of a Land Surveyor carefully and without partiality, fear, favour, or affection, and to conform to all regulations defining those duties which are now in force, or shall hereafter be established by competent authority.

2. If at any time I shall receive notice in writing from the Surveyor-General, that, having reason to regard my survey of any land as incorrect, he requires me either to admit or deny by some writing addressed to him the incorrectness of the said survey, I promise within a reasonable time (not being more than two months after notice to comply with such requirement.

3. If in any case I shall refuse or neglect so to comply, or shall admit the incorrectness of the said survey, the Surveyor-General shall have the right of requiring from me, at his discretion, either that I shall refund all money received by me for such survey or that I shall, at my own cost, rectify it, and the diagrams and plans thereof, with which requirement I promise to comply.

4. If, however, in any case I shall deny the incorrectness of my survey of any land, I hereby agree that the question of its correctness shall be determined in the following manner:

The Surveyor-General shall name a Surveyor for the purpose of re-surveying the land in question, and shall communicate his name to me, whereupon I shall be entitled to name a Surveyor and to communicate his name to the Surveyor-General. Having done this, the two Surveyors so named shall together perform a re-survey in order to test the accuracy of my work, and upon its completion, they, together with the Surveyor-General (or his Assistant) shall form a Commission of Inquiry, which Commission shall upon the evidence obtained by the re-survey, and upon such other evidence as either the Surveyor-General or myself may have supplied, decide whether my survey is incorrect or otherwise. In the former case, this Commission shall likewise determine: first, whether I shall refund the money received by me for my survey, or shall, at my

own cost, rectify the errors thereof, and secondly, if any and how much of the cost of the re-survey, and of the cost of the Commission of Inquiry shall be paid by me.

5. Provided that if, upon my being informed of the name of the Surveyor named by the Surveyor-General I shall elect to waive my right of likewise naming a Surveyor, I shall at once inform the Surveyor-General thereof, and thereupon the re-survey shall be made solely by the Surveyor named by the Surveyor-General, and provided also that in any case, in which I shall have named a Surveyor, it shall be competent for the Surveyor-General to agree to the performance of the re-survey by the said Surveyor alone, instead of by the Surveyor previously named by himself.

6. In either of the two cases mentioned in the preceding paragraph, the Commission of Inquiry shall consist of only two persons, namely, the Surveyor-General (or his Assistant) and the Surveyor who has performed the re-survey, but it shall have the same powers as the Commission constituted as provided in the fourth paragraph of this declaration. Provided that, in the event of its two members being unable to agree as to their decision, a third Surveyor shall be added to the Commission, such third Surveyor to be named by myself or by the Surveyor-General, according as the re-survey was performed by the Surveyor-General's nominee, or by my nominee.

7. Further, I promise in every case to recognise the decisions of the Commission of Inquiry as final and binding upon me, and to conduct myself accordingly.

Declared before me

at
this day of 19

Commissioner of Oaths or Magistrate.

No. 8 of 1920.]

WHEREAS under the provisions of Proclamation No. 21 of 1919 a Deeds Registry has been established at Windhuk for the registration of all deeds and documents requiring registration under any law in the Protectorate

AND WHEREAS it is desirable to introduce in this Protectorate the practice and system of registration of deeds of the Union of South Africa which provide for the grant of written registered title to land and to repeal any laws in conflict therewith

AND WHEREAS according to the German system of registration of land no separate written title was issued to the owner thereof, the registration entries in the "Grundbücher" and "Landregisters" constituting in the former case an indisputable title to land and in the latter case a provisional title

AND WHEREAS it is desirable to make provision for the issue of certificates of substituted titles in lieu of such entries in the "Grundbücher" and "Landregisters" respectively in order to conform to the practice and system obtaining in the Union of South Africa,

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 provisions of the Deeds Registries Act, 1918, of the Union Parliament, together with the regulations and schedule of fees framed thereunder shall, as far as circumstances permit and subject to the amendments set forth in Schedule A hereto, be of force and effect within 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 deemed to be repealed.

- (2) Section 28 (2) of the said Act shall be deemed to be modified to the extent that any marriage contract drawn according to German law and custom and registrable in the Protectorate, or any ante-nuptial contract executed prior to the date of the coming into effect of this Proclamation, shall be registered in the Deeds Registry at Windhuk within a period of twelve months after such date, or within such further period as the High Court of South-West Africa may, upon application, determine.

2. Every notarial bond executed prior to the taking effect of this Proclamation which is capable of registration under the Deeds Registries Act, 1918, shall be valid if registered in the Deeds Registry at Windhuk within a period of six months after such date, or within such further period as the High Court of South-West Africa may, upon application, determine.

3. Notwithstanding anything contained in subsection (1) of section 1 hereof all deeds and documents

- (a) prepared and executed in accordance with German law and custom prior to the taking effect of this Proclamation, and in particular declarations of debt (Schuldurkunde) and declarations of sale (Auflassung);

- (b) prepared and executed in the Protectorate prior to the taking effect of this Proclamation by a notary or conveyancer duly admitted to practise as such in the Union of South Africa;

- (c) signed or executed in the presence of a military magistrate;

shall be accepted by the Registrar of Deeds for the purpose of effecting registration.

4. The Registrar of Deeds is hereby empowered and authorised to issue and register bonds and transfers in accordance with the forms set out in Schedules B and C hereto, and is further empowered to issue certificates of substituted title in accordance with the form set out in Schedule D hereto.

Provided however that no bond or transfer shall be issued or registered until a certificate of substituted title shall have been applied for and obtained; and

Provided that in the case of land registered in the German "Landregisters" no bond or transfer shall be issued or registered until the procedure specified in the regulations framed hereunder shall have been complied with; and

Provided further that all bonds, transfers and certificates of substituted title shall be prepared by a conveyancer duly admitted to practise as such in the High Court of South-West Africa.

5. (a) Prior to the issue or registration of any bond referred to in sections 3 and 4 hereof, all notaries, magistrates, and interested persons shall furnish the Registrar of Deeds, within a period of six weeks from date of coming into effect of this Proclamation, with a list of all bonds awaiting issue and registration. Such list shall contain the full names of the mortgagor and mortgagee, the amount of bond and clear description of the property to be mortgaged as well as a reference to the folio in the registers on which the property is registered. On expiration of the said period the Registrar of Deeds shall cause to be published in the Protectorate Gazette a complete alphabetical list of all bonds sought to be issued and registered, and shall further give notice that no bonds mentioned in such list will be registered until the expiration of

three calendar months from the date of such publication in order to enable interested parties to lodge objections against such registration with the Registrar of Deeds. Such list and notice shall also be posted for general information at the Deeds Registry. On expiration of the prescribed period the Registrar of Deeds shall forthwith proceed with the registration of any bond lodged with him and against which no objection has been filed, provided such bond is in order; but he shall refuse to register any bond against which an objection has been lodged until such time as the written consent of any interested party or parties or an Order of the High Court of South-West Africa is produced to him authorising the registration of such bond. Any bond included in the above-mentioned list may however, be registered on an Order of the High Court of South-West Africa before the expiration of the said period.

- (b) No certificate of substituted title to land against which a bond is sought to be registered shall be issued until such time as the bond is lodged for registration.
- (c) Should it appear that a notary, magistrate or interested person has failed, within the prescribed period, to notify the Registrar of Deeds in respect of a bond sought to be issued or registered, or in the event of the failure to register any bond mentioned in the list above referred to within a period of six calendar months from the date of publication thereof, registration of such bond shall only be effected on an Order of the High Court of South-West Africa.
6. Every deed and document drawn in the German language shall be accompanied by an English or a Dutch translation thereof duly attested by a sworn translator, and shall bear a revenue stamp of the value of one shilling.
7. The Administrator may make regulations not inconsistent with this Proclamation in respect of all matters necessary to give due force and effect hereto.
8. This Proclamation may be cited for all purposes as the "Deeds Registry Proclamation, 1920", and shall commence and come into operation on the 1st day of February, 1920.

GOD SAVE THE KING.

Given under my hand at Windhuk on the 19th day of January, 1920.

E. H. L. Gorges
Administrator.

SCHEDULE A.

Section 1 of the Deeds Registries Act, 1918, is deleted.

"Union" means Protectorate of South-West Africa.

"Governor General" in sub-section (2) of section 2 of the Deeds Registries Act, 1918, shall mean the Administrator of the Protectorate of South-West Africa.

"Deeds Registry" means, when used in relation to a Registrar or to immovable property or to any deed, bond or document, the Deeds Registry established for the Protectorate under the provisions of section 13 of Proclamation No. 21 of 1919.

"Diagram" shall mean, in addition to the interpretation given thereto by section 61 of the Deeds Registries Act, 1918, a diagram which has been certified by a person who by law has been authorised to certify diagrams and includes a certified copy, sketch or tracing

thereof under any German law, regulation or custom prior to the taking effect of this Proclamation.

"Master" means the Master of the High Court of South-West Africa.

"Prescribed" means prescribed by the Deeds Registries Act, 1918, or the regulations thereunder, and prescribed by this Proclamation and the regulations thereunder.

"Registrar" means the Registrar of Deeds appointed under Proclamation No. 21 of 1919.

"Regulation" means the regulations framed under the Deeds Registries Act, 1918, and those framed under this Proclamation.

"Surveyor-General" means the Surveyor-General of the Protectorate of South-West Africa.

"The Court" means the High Court of South-West Africa.

SCHEDULE B.

PREPARED BY

CONVEYANCER.

MORTGAGE BOND.

(HYPOTHEKENBRIEF.)

(Issued under the provisions of Proclamation No. 8 of 1920.)

I, the Registrar of Deeds for South-West Africa, do hereby certify that by virtue of a declaration of debt (Schuldurkunde dated the day of 19 . . . drawn up at and filed of record, a Mortgage has this day been registered by

the Mortgagor, in favour of the Mortgagee,

for the sum of with interest thereon at the rate of per cent per annum reckoned from and payable on the day of each calendar year. The Capital Sum to be repaid after months notice, which notice shall however, not be given by the Mortgagee before the provided the interest is paid within after the due date. The Mortgagor, the said

. binds as security for the above-mentioned claim, as Mortgage:

. (here insert a full description of the property, held by the said Mortgagor under No. dated 19)

In witness whereof, I, the said Registrar of Deeds, have subscribed to these presents and have caused my Seal of Office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds at Windhuk, this day of the month of in the year of Our Lord One Thousand Nine Hundred and (19)

Registrar of Deeds.

Registered in the Debt Register Book A folio on the above-mentioned date.

SCHEDULE C.

Prepared by

CONVEYANCER.

DEED OF TRANSFER.

(Issued under the provisions of Proclamation No. 8 of 1920.)

KNOW ALL MEN WHOM IT MAY CONCERN, that whereas had truly and legally sold the undermentioned property to

as will more fully appear from declaration of sale (Auflassung) dated the day of 19 drawn up at and filed of record.

NOW THEREFORE, I, the Registrar of Deeds for

South-West Africa, do hereby cede and transfer in full and free property to and on behalf of the said his heirs, executors, administrators and assigns, certain (here describe the property in full with all servitudes etc. and that by virtue of these presents the said his heirs, executors, administrators and assigns, now is and henceforth shall be entitled thereto, conformably to local custom, Government, however, reserving its rights.

In witness whereof, I, the said Registrar, have subscribed to these presents and have caused my Seal of Office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds at Windhuk on the day of the month of in the year of Our Lord One Thousand Nine Hundred and

Registrar of Deeds.

Registered in the Register of Book folio on the above date.

SCHEDULE D.

Prepared by

CONVEYANCER.

CERTIFICATE OF SUBSTITUTED TITLE.

(Issued under the provisions of Proclamation No. 5 of 1920.)

I, the Registrar of Deeds for South-West Africa, do hereby certify that, under and by virtue of the entry dated the day of 19 in the of Volume folio is the registered owner of (here insert a full description of the land and all conditions, servitudes and encumbrances referred to or contained in the Landregister or Grundbuch, and that in substitution of such entry in the the said his heirs, executors, administrators and assigns by virtue of these presents now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

In witness whereof I, the said Registrar of Deeds, have subscribed to these presents, and have caused my Seal of Office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds at Windhuk on this day of the month of in the year of Our Lord One Thousand Nine Hundred and (19)

Registrar of Deeds.

Registered in the Register of Book folio on the abovementioned date.

No. 9 of 1920.]

WHEREAS it is desirable to provide for the holding of inquests and other enquiries relative to deaths of persons who appear to have died from violence, criminal neglect or otherwise than from natural causes,

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

1. (1) It shall be the duty of every person
 - (a) who finds the dead body of a person who appears to have come by his death from violence, criminal neglect or otherwise than from natural causes; or
 - (b) to whom the knowledge of any such death may come; or
 - (c) to whom any such death is reported, to notify as soon as possible the finding, knowledge or report together with any other facts in connection therewith which are known

to him, to the magistrate of the district or to the person in charge of the nearest police station or police post. The person in charge of the police station or police post when so notified shall forthwith transmit the notification to the magistrate of the district.

- (2) Any person who fails to comply with or contravenes any provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five pounds.
2. (1) Whenever it is notified to a magistrate that within a radius of ten miles from the magistrate's court house any person has died from violence, criminal neglect or otherwise than from natural causes, or is supposed or is suspected to have so died, such magistrate shall proceed as soon as possible to hold in some suitable place an inquest as to the cause of the death.
 - (2) If it is notified to a magistrate that a person has so died outside a radius of ten miles from the magistrate's court house he may himself proceed as soon as possible to hold in some suitable place an inquest as to the cause of the death or if he does not do so, he shall depute some fit and proper person resident in the vicinity of the place where the investigation is to be held to make such investigation in manner hereinafter provided as to the circumstances of the death.
 - (3) The magistrate shall, if he deems it expedient in the interests of justice, cause the dead body to be examined by the district surgeon or some other medical practitioner, who, if he deems it necessary for the purpose of ascertaining with greater certainty the cause of the death, may make, or cause to be made an examination of any of the internal organs of the body. If the body has already been interred, the magistrate may, by written order, cause it to be disinterred for the purpose of any examination mentioned in this sub-section.
 - (4) Any person who prevents, obstructs or interferes with a magistrate, a medical practitioner or any person acting on the instructions of a magistrate or medical practitioner in carrying out his powers or duties under this section shall be guilty of an offence and liable on conviction to the penalty mentioned in the last preceding section.
3. (1) The magistrate may subpoena witnesses to give evidence or to produce documents, implements, weapons or any other thing which will enable him to ascertain the cause of the death and by whom it was caused.
 - (2) The process for subpoenaing witnesses to attend before any inquest held under this Proclamation may be issued by the clerk of the magistrate's court and shall be in substance as set out in Form A in the Schedule to this Proclamation.
 - (3) If any person so subpoenaed as a witness fails to attend or to produce any document or any other thing aforesaid pursuant to the subpoena at the time and place therein mentioned he shall, if he is unable to give a reasonable excuse for the default, be guilty of an offence and liable on conviction before a magistrate's court to a fine not exceeding ten pounds; and the magistrate holding the inquest may issue a warrant for the arrest of the person in default; such warrant shall be substantially in accordance with Form B set out in the Schedule to this Proclamation.
 - (4) The oath to be taken by witnesses appearing at the inquest, shall be administered by the

- magistrate and shall be as set out in Form C in the Schedule to this Proclamation.
- (5) All contempts committed by witnesses or others at or in regard to any inquest shall be punished in like manner *mutatis mutandis*, as contempts committed by witnesses and others in the face of the magistrate's court of the district in which the inquest is being held.
 - (6) The evidence of each witness shall be taken down in writing by the magistrate or by the magistrate's clerk, according as the magistrate shall direct.
 - (7) No witness shall, upon any inquest under this Proclamation, be under an obligation to answer any question which may tend to incriminate him.
4. Every witness subpoenaed, or appearing in response to a request by the police, to give evidence at any inquest shall be entitled to receive such fees and expenses as he would be entitled to receive if he were a witness subpoenaed to give evidence at a criminal trial before a magistrate's court in the district where the inquest is being held.
 5. If the magistrate upon an inquest held under this Proclamation has reason to believe that the deceased's death was caused by an act or omission which amounts to a criminal offence and that the person guilty of such act or omission can be brought to justice, the magistrate shall cause him to be arrested or summoned in order that criminal proceedings may be instituted against him. In all cases the magistrate shall transmit the original evidence taken by him at the inquest, together with his report thereon to the Crown Prosecutor for the Protectorate.
 6. (1) Whenever a person is deputed by a magistrate to hold an investigation as to the circumstances of any death, he shall himself proceed as soon as possible to the locality where the death occurred and shall obtain all such information as is procurable for the purpose of ascertaining the cause of death.
 - (2) If the body has not already been interred he may inspect it. In his investigation he shall take careful note of all such appearances, marks and traces presented by the body and near where it was found as may tend to show whether the deceased did or did not come by his death from violence, and if from violence, whether the violence was used by himself or some other person, and if by some other person, who such other person was, or how he may be discovered, and shall, if necessary, take statements as to these matters from any person or persons who are able and willing to give information thereon.
 - (3) He shall, without delay, report to the magistrate in detail the circumstances of the case in order that the magistrate may take such further steps, if any, as may be necessary for ascertaining the cause of the death or for bringing to justice such person or persons as shall appear to have unlawfully caused the death.
 - (4) Any person who prevents, obstructs or interferes with such deputed person in carrying out his powers or duties under this Proclamation shall be guilty of an offence and liable on conviction to the penalty mentioned in section one.
7. (1) Upon receiving such report as is in the last preceding section mentioned the magistrate may, if in his opinion the circumstances of the case require it, hold an inquest for the purpose of ascertaining the cause of death and may thereupon exercise all such powers and functions and shall perform all such duties in regard to the subpoenaing and examination of witnesses, the examination and, if necessary, the disinterment of the dead body, as are hereinbefore conferred and imposed upon him, and the provisions of section two shall apply in respect of such last-mentioned examination.
 - (2) If no inquest is held by the magistrate and if no criminal proceedings are being instituted against any person for causing the deceased person's death, the magistrate shall transmit to the Crown Prosecutor aforesaid the report of the deputed person or a copy of it, together with such remarks thereon, if any, as the magistrate may think fit to make.
 - (3) The Crown Prosecutor aforesaid may upon receipt of such report and remarks, require the magistrate to hold an inquest, in manner provided by this Proclamation as to the cause of such death and the magistrate shall forthwith comply with any such requirement.
8. The Crown Prosecutor may upon receipt of any report from a magistrate under this Proclamation or at any time thereafter direct the magistrate to re-open the inquest and to take further evidence generally or in respect of any particular matter, or to cause an examination or further examination of a dead body to be made and if necessary to cause such body to be disinterred for the purpose of the examination; and the provisions of section 2 shall apply in respect of any such examination and disinterment.
 9. Any person who, after an oath has been administered to him under this Proclamation gives false evidence knowing it to be false shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury.
 10. (1) Nothing in this Proclamation contained shall be construed as preventing any person authorized by law to issue warrants of arrest or authorized to arrest offenders or supposed offenders, from acting in all respects as regards such warrants or such offenders (whether an inquest has or has not commenced precisely as if this Proclamation had not been issued).
 - (2) Nothing in this Proclamation contained shall be construed as affecting the powers or duties conferred and imposed by any law or regulation upon inspectors of mines, machinery, or explosives as to the holding of enquiries relative to accidents causing death, but the enquiry to be so held may be a joint enquiry or inquest of the magistrate and of the inspector under the presidency of the magistrate, such witnesses being subpoenaed to attend thereat to give evidence or produce documents or any article or thing as either the magistrate or the inspector may deem requisite. The magistrate and the inspector may make either a joint report under this Proclamation or the magistrate may make a separate report, but in every case the inspector shall make such report as he is required or empowered by any law or regulation to make.
 - (3) The provisions of sub-section (2) of this section may be applied *mutatis mutandis* as regards any public enquiry under any law or regulation applying to the control and management of railways in the Protectorate.

- (4) Nothing in this Proclamation contained shall be construed as modifying the provisions of section 92 of the Prisons and Reformatories Act, 1911 as amended and applied to the Protectorate by Proclamation No. 6 of 1916.
11. The Administrator may by regulation prescribe forms to be used for the purposes of this Proclamation other than for purposes indicated in the Schedule thereto and may by regulation also prescribe the fees and allowances (if any) which may be paid to medical practitioners and deputed persons in respect of duties performed by them under this Proclamation. If any such person as is described in this section receives from public funds a fixed salary in respect of the performance of duties under this Proclamation no fee prescribed by such regulations shall be paid to him.
12. The Administrator may, by notice in the Gazette from time to time assign one magistrate to exercise and perform in any two or more adjoining districts the powers conferred and the duties imposed upon a magistrate under this Proclamation and thereupon when there occurs in any such district a death as to which an inquest or enquiry under this Proclamation may be held, the magistrate so assigned shall be deemed for all the purposes of this Proclamation to be the magistrate. The Administrator may also, in cases where it is more convenient owing to distance from or means of communication with the place where the dead body is, direct that an inquest prescribed by this Proclamation shall be held by a magistrate of another district.
13. In this Proclamation unless inconsistent with the context
 "district" means, in relation to any death, the magisterial district or sub-district in which the dead body is found;
 "magistrate" includes an additional magistrate and an assistant magistrate;
 "magistrate's court house" means the stated and ordinary place where the magistrate's court of a district is held;
 "medical practitioner" means a person licensed as such under any law in force in this Protectorate relating to the licensing of medical practitioners;
 "policeman" includes any member of any force established under the authority of a law and carrying out police powers and duties;
 "police station or police post" includes any premises maintained by the Administration for policemen.

14. This Proclamation may be cited for all purposes as the "Inquests Proclamation, 1920".

GOD SAVE THE KING.

Given under my hand at Windhuk this 19th day of January, 1920.

E. H. L. GORGES
Administrator.

SCHEDULE.

FORM A.

INQUEST FOR THE DISTRICT OF
 To the Messenger of the Magistrate's Court for
 You are hereby required in His Majesty's name to summon A. B. of (describe him particularly), that he appear before magistrate on the day of 19... in the forenoon (or afternoon as the case may be, stating the day and hour according to the fact) at (stating the place), then and there to be examined at an inquest touching the death of C. D. (or "of a certain deceased person whose name is unknown" or to produce the following documents or articles.

Dated at (this day of 19...

.....
Clerk to the Magistrate's Court.

FORM B.

TO Police and other constables and officers of the law proper to the execution of criminal warrants.

WHEREAS A. B. of (describe him particularly as in the subpoena) who was duly subpoenaed to appear before me at (name the place as in the subpoena) at (state the time as in the subpoena) then and there to be examined (or to produce at an inquest touching the death of C. D. (or "of a certain deceased person whose name is unknown", and has failed so to do: These are, therefore, in His Majesty's name to command you or some of you to apprehend and bring the said A. B. before a competent court so that he shall be dealt with according to law; and for so doing this shall be your warrant.

Dated at this day of 19

.....
Magistrate.

FORM C.

"The evidence which you shall give at this inquest touching the death of C. D. (or of the deceased person whose name is unknown regarding whom this inquest is held) shall be the truth the whole truth and nothing but truth; so help you God."

Government Notices.

The following Government Notices are published for general information.

J. F. HERBST

Secretary for the Protectorate.

Administrator's Office,
Windhuk.

No. 12.] [19th January, 1920.

APPOINTMENT.

The Administrator has been pleased under the provisions of section 3 of the Land Survey Proclamation, 1920 to appoint Herman Eugene Schoch, Esquire, to act as Surveyor-General for the Protectorate of South-West Africa, with effect from the 17th November, 1919.

No. 13.] [19th January, 1920.

DEEDS REGISTRY REGULATIONS.

The Administrator has been pleased, under the provisions of section 7 of the Deeds Registry Proclamation, 1920, to make the following regulations:—

1. Notwithstanding the provisions of Regulation No. 59 of the Regulations framed under the Deeds Registries Act, 1918, of the Union Parliament and of the Tariff of Fees and Charges appended to such Regulations the tariff of fees and charges for drawing any of the deeds mentioned in section 4 of Proclamation No. 8 of 1920, including the necessary copy or copies of such deeds and attendance on lodgment, shall be limited to £3.3.0.
2. (1) The registered owner or any interested person desirous of obtaining a certificate of substituted title referred to in section 4 of Proclamation No. 8 of 1920 in respect of any land registered in the German "Landregister" shall apply in writing to the Registrar of Deeds for such certificate.
- (2) Such application shall be accompanied by:—
 - (a) a diagram of the land, certified or approved of by the Surveyor-General;
 - (b) the deed of the sale of the land, if such deed be not already filed in the Deeds Registry, or such other proof of ownership, in the form of affidavit, as the Registrar may require.

- (3) Before issuing such certificate of substituted title the Registrar shall, at the expense of the applicant, publish in the Official Gazette of the Protectorate of South-West Africa a notice in the following form which shall be prepared by the applicant in triplicate.

A copy of such notice shall also be posted for information in some conspicuous place at or in the Deeds Registry.

NOTICE.

Application having been made by
 for the issue and registration of
 a Certificate of Substituted Title in respect of
 (here insert full description and extent of the land
 at present registered in the German "Land-
 register" Volume folio
 in the name of
 all persons claiming to have any right or title in or
 over the said land are hereby required to notify me,
 in writing, of such claim, within three months from the
 date of publication of this notice.

Should any objection be taken it shall be the duty of the person objecting, in the absence of any agreement between the parties, to apply to the High Court of South-West Africa for an Order restraining the issue of the Certificate in question.

Registrar of Deeds.

- (4) The applicant shall furnish the Registrar of Deeds with a reference to the number and date of the Gazette in which such notice was published.
- 3 The Registrar of Deeds, notwithstanding anything to the contrary contained in the Deeds Registries Act, 1918, or any regulations framed thereunder, may grant information from the registers and records in his custody, subject to the provision that all copies of German documents or any extracts of entries in the German language from any register shall be made by the applicant himself, and the same may be certified as a true copy or extract by the Registrar of Deeds if so desired, provided however that the Registrar shall not in any way be held responsible for information obtained or supplied from such registers or records and no such information will be certified by him as correct.

General Notice.

No. 1.]

[20th January, 1920.

SURVEY REGULATIONS.

Land Surveyors are notified that owing to the voluminous nature of the Prussian regulations in Volumes VIII and IX referred to in the Survey Regulations of the 6th June, 1912, a translation of these volumes cannot be undertaken at present and that English and Dutch translations of the said Prussian regulations are not available.

H. E. SCHOCH

Acting Surveyor-General.