

PROCLAMATION

BY HIS EXCELLENCY THE HIGH COMMISSIONER.

No. 84 of 1914.

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WHEREAS it is expedient to amend and consolidate the laws relating to the management of the Customs of the territory of the Bechuanaland Protectorate (herein after referred to as the territory);

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

CHAPTER I.

Administration of Proclamation.—Director of Customs and Powers and Duties of Customs Officers.

1. (1) There shall be a Director of Customs appointed by the High Commissioner who shall, subject to the provisions of this Proclamation or any other law, have such powers and perform such duties as are assigned to him by the High Commissioner.

(2) The Director shall have the control and management of the collection of duties and of matters incidental thereto.

2. Every person employed on any duty or service relating to the Customs by order or with the concurrence of the Resident Commissioner or of the Director or any proper officer of Customs, whether previously or subsequently expressed, shall be deemed to be the officer of the Customs for that duty or service and every act, matter, or thing required by any law to be done by, before or with any particular officer nominated for such a purpose shall, if done by, before, or with any person appointed by the Resident Commissioner or Director to act for that particular officer, be deemed to be done by, before or with that particular officer.

3. (1) Every officer of Customs, whenever he is specially authorized thereto by the proper officer of Customs, is hereby invested with the several additional powers following, that is to say:—

(a) He shall have free access to every store, shop, or other structure for the reception of goods and to every vehicle conveying or suspected or supposed to be conveying goods, with the power to seal, mark, or otherwise secure any packages there found.

(b) If any such store, shop, or other structure, or if any box or package be locked and the keys thereof be not produced when demanded, he may open any such store, shop, structure, box, or package in the best manner in his power.

(c) He shall have the right to examine, rummage, or search every part of any such store, shop, structure, box, or package for any purpose in pursuance of his duties and to take an account of all dutiable goods found therein.

(2) Under the authority of any order granted by a court having jurisdiction in the territory (and any such court is hereby authorized to grant such an order upon application made to it by the Director), any officer of Customs may, taking with him any officer of the law proper for the execution of criminal warrants, enter any other building or place, and search for and seize and secure any goods liable to forfeiture under any law relating to the Customs, and may attach all bills of lading, invoices, books and other documents relating to those goods and, in case of necessity, may break open any doors and chests or other packages for that purpose.

(3) Every officer of Customs is hereby invested with the several additional powers following, that is to say:—

(a) He may board, search, and freely remain on any train in the pursuance of his duties.

(b) He may search any person who he has good reason to suppose has any dutiable or prohibited goods secreted about him or in his possession: Provided that before being searched such person may require the searching officer to take him before the proper officer of Customs at the port of entry or station, who shall, if he see no reasonable cause for search, discharge him, but, if otherwise, such officer may direct him to be searched: Provided further that a female shall only be searched by a female.

4. The proper officers of Customs on the entry of any goods, or at any time afterwards, may take, without payment, samples thereof for examination or for ascertaining the duties payable thereon or for such other purpose as the Director may deem necessary, and those samples shall be disposed of and accounted for in such manner as the Director may direct: Provided that any sample so taken shall, whenever possible, be returned to the importer.

5. Any person, who assaults, resists, molests, hinders, or obstructs any officer of Customs in the carrying out of his duties or any person aiding or assisting an officer, shall be liable on conviction to a fine not exceeding two hundred pounds.

6. Any person who wilfully alters, defaces, or obliterates any mark placed by an officer of Customs on any package of goods in transit, shall be liable on conviction to a fine not exceeding one hundred pounds.

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Appointment of Ports of Entry.

7. The High Commissioner may, by notice in the *Gazette*, appoint places to be ports of entry for the territory, to or through which goods upon which duties are due to be paid under any law in force in the territory may be imported, or through which alone they may be exported. The High Commissioner may in like manner declare the roads or routes in the territory over which alone goods shall be conveyed to their destination.

8. No goods upon which duties are due to be paid under any law in force in the territory shall be imported into or exported from the territory except through such ports of entry as have been appointed by the High Commissioner as aforesaid, nor shall any such goods be imported, except by rail, before or after such hours as may be specified by the Resident Commissioner or on Sundays or public holidays, without the special permission in writing of a proper officer of Customs.

Collection of Duties.

9. All duties shall, unless otherwise specially provided, be charged, paid, and received on and according to the weights and measures by law established in the territory; and in all cases where duties are imposed according to any specific quantity, or any specific value, the same shall be deemed to apply proportionately to any greater or less quantity or value.

CHAPTER II.

Importation of Goods.

10. The goods enumerated and described in the following list are hereby prohibited to be imported into the territory, that is to say:—

- (a) Goods, which being foreign manufacture, bear the name, mark, or brands of manufacturers resident in the United Kingdom or any British possession, or which, whether of foreign manufacture, or not, bear marks contravening the provisions of any law in force in the territory relating to merchandise marks.

- (b) Coins, base or counterfeit.
- (c) Indecent, obscene, or objectionable prints, paintings, photographs, books, cards, lithographic or other engravings, or any other indecent, obscene or objectionable articles; in the event of any question arising as to whether such articles are indecent, obscene or objectionable, the decision of the Resident Commissioner shall be final.
- (d) Prison-made or penitentiary-made goods.
- (e) Printed books, music, and newspapers which are unauthorized prints of any works which are copyright in the United Kingdom or the territory or any British possession.
- (f) All animals, articles, matter, or things, the importation of which is from time to time prohibited by or under the authority of any law;

and the High Commissioner may make regulations for effectually carrying out the prohibitions in this section enacted.

11. The High Commissioner may, by notice in the *Gazette*, impose restrictions on the importation of opium or extract of opium into the territory, may specify the classes of persons by whom the same may be imported, and may make regulations for effectually carrying out the restrictions so imposed.

12. Any goods, the importation of which is prohibited or restricted, shall, if imported contrary to the provisions of this Proclamation, be forfeited.

Obligations of Importers.

13. (1) Except as provided in sub-section (2) of this section no goods shall be imported into the territory without due entry as herein after provided and without such duties (if any) as are imposed by law being paid or secured. Any goods imported in contravention of this section shall be liable to forfeiture; provided that no such liability to forfeiture shall affect or remove the liability to any other fine or punishment which has been incurred under this Proclamation or under any law in force at the time of the importation.

(2) Nothing in this section contained shall be deemed to apply to goods imported from the Union of South Africa or from any country the Government of which has entered into a Customs agreement with the Union of South Africa except in the case of spirits or beers, manufactured in the Union or such country as aforesaid.

14. Every person carrying on any business in the territory shall keep within the territory reasonable and proper books or accounts of his transactions. Every such person shall, if required at any time within a period of two years after the date of the importation or purchase of any goods, produce the

bills of lading, invoices and all other documents containing all particulars regarding those goods and shall allow such books, accounts, and documents aforesaid at all times within the period aforesaid to be open for inspection by the Director or a proper officer of Customs and so that the same may be attached by him if necessary. In default of compliance with any provisions of this section every such person shall be liable to the penalties provided in this Proclamation.

15. All invoices and certificates thereto, relating to goods imported into the territory shall contain such particulars as may be prescribed by regulation, and the Director may refuse to accept any invoice or certificate in respect of which the regulations are not complied with.

16. Any person offering goods for sale or removing the same, or having such goods entered in his books or mentioned in any document referred to in section *fourteen* shall, when requested by the Director or an officer of Customs specially authorized thereto by him, produce proof as to the person from whom the goods were obtained, and if he be the importer, as to the place where the import dues thereon have been paid, as also the date of payment, the marks and numbers of the cases, packages, bales, and other articles consigned. Those marks and numbers shall correspond with the documents produced in proof of the payment of the import dues.

Any person failing or delaying without reasonable cause to produce proof of any of the matters in this section mentioned shall be liable to the penalties provided by this Proclamation.

17. Upon or before the arrival at a railway station of any train, with any goods thereon upon which duties are due to be paid under any law in force in the territory from any place beyond the borders of the territory, the station master or other person in charge of the station shall deliver to the proper officer of Customs a copy of all way-bills or other documents received by him relating to such goods consigned to that station by that train, and shall not permit any such goods to be removed from the railway premises without the written sanction of such proper officer. The conductor, guard, or any other person in charge of such a train aforesaid shall, on demand of any officer of Customs, furnish him with such information as he may have in his possession in respect to the goods carried by the train.

18. Upon or before the arrival at any port of entry with goods upon which duties are due to be paid under any law in force in the territory of any wagon or other vehicle (except a train) or any animal, the person in possession or in charge thereof shall come at once to the proper officer of Customs and make full written report in duplicate, concerning that

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wagon or other vehicle or animal, the goods in his charge, and the journey and the destination of the goods. The said person shall make and subscribe before the proper officer of Customs a declaration at the foot of the report as to the truth of the same, and shall answer all such questions, and produce all way-bills or other documents relating to the goods, freight, and journey, as may be demanded of him by such officer. If any person fail to make such report, or make an untrue report, or do not truly answer the questions demanded of him, he shall forfeit a sum not exceeding one hundred pounds, and any such goods not reported shall be forfeited.

19. No wagon or other vehicle (except a train) or any animal, with goods upon which duties are due to be paid under any law in force in the territory shall be removed, and no person with any such goods shall depart, from the port of entry until after due entry of, and the payment of duty on, the goods in the manner prescribed by regulation, or until a pass be granted by the proper officer of Customs authorizing the removal or departure.

20. The person entering any goods as required by section *thirteen* of this Proclamation shall deliver to the proper officer of Customs a separate bill of entry, on behalf of each separate importer or exporter, shall set forth the full particulars of the goods as indicated on the form and as required by that officer, and at the same time shall deliver such duplicates of the bill as may be prescribed, not exceeding three, and shall pay all duties on the goods. He shall further produce all way-bills, invoices, or other documents, and answer all questions relating to the goods, as may be demanded of him by the officer.

21. The carrying, opening, closing, packing, unpacking, or repacking of all packages or goods, and the bringing of the same to the proper place of examination, or for weighing, or for gauging, or for measuring, and the putting the same into the scales or weighing or removing therefrom shall be performed by, or at the expense and risk of the importer.

22. If the importer of any goods make and subscribe a declaration that he cannot, for want of full information, make perfect entry thereof, the proper officer of Customs may receive an entry by bill of sight, for the package or parcels of those goods, by the best description which can be given, and may grant a warrant in respect thereof so that the same may be secured to the satisfaction of such officer and at the expense of the importer and may be seen and examined by the importer in the presence of the proper officer.

23. Notwithstanding anything to the contrary in this Proclamation contained in regard to the sale of any goods by any Customs officer if any goods be of a perishable nature or if it

be considered that, unless the goods be sold at once, the proceeds would not be sufficient to cover the duties and charges, the Director may forthwith direct the sale thereof and apply the proceeds as directed by law.

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-24 (1) No entry, nor any warrant for the delivery of any goods out of the charge or supervision of a Customs officer shall be perfect or valid unless—

- (a) the particulars of the goods and packages in that entry correspond with the particulars of the goods and packages purporting to be the same in the certificate or other document (where any is required) by which the importation or entry of those goods is authorized;
- (b) the goods have been properly described in the entry by the denomination and with the characters and circumstances according to which they are charged with duty, or may be imported;
- (c) the true value of the goods on which duty is leviable according to law has been declared.

(2) Any goods taken or delivered by virtue of any entry or warrant which is not perfect or valid, shall be deemed to be goods taken without due entry thereof, and shall be liable to forfeiture; provided that if the goods so declared to be forfeited be contained in any entry or warrant embracing more than one package, and it be shown that any invalidity arose without any wilful default or neglect of any one connected with the goods and that the invalidity does not exist as to the whole of the packages in that entry or warrant, then only the package not entered validly shall be forfeited.

25. Goods imported into the territory in contravention of any law or regulation relating to Customs may be seized by any officer of Customs, Assistant Commissioner, magistrate, justice of the peace, or European member of a police force.

26. (1) In all cases where the duties imposed upon the importation of goods into the territory are charged, not according to the weight, tale, gauge, or measure, but according to the value thereof, that value shall be ascertained by the declaration of the importer of the goods, made in the manner and form prescribed by regulation.

(2) Every such declaration shall be made on the bill of entry of the goods and shall be subscribed to by the importer thereof, and the said value shall be the sum whereon duty shall be levied; provided that if, upon view and examination of the goods by the proper officer of Customs, it appears to him that the goods are not valued according to the current value thereof for purposes of duty, as defined by law, he may, if he deem it fitting so to do require the importer to declare on oath before him to the truth of the said declaration, accord-

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ing to the best of the belief of the importer, and to adduce any documentary evidence he may possess in support thereof; and the proper officer is hereby authorized to administer such oath; provided further if it appear to the proper officer (whether such oath as aforesaid has been required or not) that the goods have been declared at a value below the current value thereof for purposes of duty, as defined by law, the Director shall (save where other procedure for ascertaining the said current value is provided in any law relating to Customs) require the goods to be examined by two competent persons, one to be nominated and appointed by the Director and the other by the importer; and these two persons shall, before entering upon the inquiry, appoint an umpire, and shall then declare on oath, before the proper officer of Customs, what is to the best of their knowledge and belief the current value for purposes of duty, as defined by law, of the goods; and if those persons do not agree, the declaration on oath of such value by the umpire shall be final.

27. If any importer, after he has been required by the proper officer of Customs to make an appointment as provided by the last preceding section, fail to do so within three days, or if no declaration be made by the persons appointed, or by the umpire selected by them, within three days of their appointment or selection, the declaration of the person appointed as aforesaid by the Director shall be final, and the duties shall be charged and paid upon the value as ascertained and declared in conformity therewith.

28. If the value so ascertained and declared under any of the provisions herein before contained relating to arbitration exceed by fifteen per cent. and not by thirty per cent., the value originally declared by the importer, there shall be payable on the goods in addition to the amount of duty chargeable thereon, a penalty equal to such amount of duty.

If the value so ascertained and declared as aforesaid exceed by thirty per cent. and not by sixty per cent. the value originally declared by the importer, there shall be payable on the goods in addition to the amount of duty chargeable thereon, a penalty equal to three times such amount of duty.

If the value so ascertained and declared as aforesaid exceed by sixty per cent. the value originally declared by the importer, the goods shall be liable to forfeiture, but such goods may be released and delivered on payment of an amount equal to the full duty-paid value of the goods.

Provided that nothing in this section or in section *twenty-six* or *twenty-seven* contained shall affect the forfeiture of goods for which a false invoice has been produced or the punishment for any false declaration made in connection with any such false invoice.

29. If the importer refuse to pay the duties and penalties imposed under the last preceding section, the proper officer of Customs shall take and secure the goods, with the casks or other packages thereof, and may cause the same to be publicly sold within a period of one month after the refusal, and at such time and place as such officer may, by four or more days' public notice, appoint for that purpose. The goods shall be sold for cash to the highest bidder, and the proceeds shall be applied in the first place, in payment of the said duties and penalties, together with the charges which have been occasioned by the said sales and all costs and charges of arbitration, and the overplus, if any, shall be paid to the importer, or owner, or any other person authorized to receive the same.

30. (1) For the purpose of entry for Customs and collection of duty on goods imported into the territory by parcels post any form or label affixed to the parcel under the postal regulations shall be deemed to be an entry made under the provisions of this Proclamation, and the statement of value entered on any such form and signed by the sender shall, for the purpose of ascertaining for purposes of duty the value of the articles on importation into the territory, take the place of the declaration to be made by the importer under section *twenty-six*.

(2) All goods contained in any packets imported by parcels post and found not to agree with the value or description or quantity entered on the said form or label shall be subject to forfeiture, or the importer shall be as liable to the penalties prescribed for under valuation or misdescription or wrong quantity as if an entry and a declaration had been made.

CHAPTER III.

Smuggling.

31. (1) Every officer of Customs or any person employed for the prevention of smuggling who makes any collusive seizure or delivers up, or makes any agreement to deliver up or not to seize goods liable to forfeiture under this Proclamation or any law relating to the Customs, or takes any bribe, recompense, gratuity or reward for the neglect or non-performance of his duty, in any of these respects, shall be liable on conviction to a fine not exceeding five hundred pounds.

(2) Every person who gives or promises to give or offer, or procures to be given, any bribe, recompense, or reward to, or makes any collusive agreement with, any such officer or per-

son aforesaid in the territory to induce him in any way to neglect his duty in any of these respects or to do anything in conflict with his duty or to do, or conceal, or connive at anything whereby the provisions of this Proclamation or any law relating to the Customs may be evaded, shall be liable on conviction to the penalties in sub-section (1) of this section mentioned.

32. (1) All vehicles and animals made use of in the removal of any goods liable to forfeiture under this Proclamation or any law relating to the Customs shall be forfeited unless it be shown that the same were used for the removal of those goods without the consent or knowledge of the owner thereof, or of any other person in possession or charge thereof with the consent of the owner.

(2) Any person who—

- (a) unloads, removes or harbours any goods liable to forfeiture under this Proclamation or any law relating to Customs; or
- (b) delivers, removes, or withdraws from any place any goods imported into the territory prior to their being released or examined by the proper officer of Customs, save where the goods are under the care or authority of such officer; or
- (c) knowingly assists or is otherwise concerned in the unloading, removal, delivery, withdrawal, or harbouring of such goods;

or any person into whose hands or possession the same knowingly come, shall be liable to pay treble the duty-paid value thereof, or at the election of the Director a penalty of one hundred pounds, and in any proceedings for the recovery of the duty or penalty the statement that the officer proceeding has elected to sue for the treble duty-paid value or penalty (as the case may be) shall be deemed sufficient proof of his election without any other or further evidence of that fact.

33. All goods, vehicles, and all animals liable to forfeiture under this Proclamation or any law relating to the Customs, may be seized and secured by an officer of Customs, and every person who in any way hinders, opposes, molests, or obstructs any officer of Customs or any person aiding or assisting him shall be liable on conviction to the penalties mentioned in section *five*.

Provided that no such seizure shall be made at any time later than six months reckoned from the day on which the goods or other articles first became liable to forfeiture, unless—

- (a) the goods or articles have, before the expiration of such six months, been removed out of the territory, in which case the goods or other articles may, when

found again in the territory, be seized at any time if then owned by the same person who owned them when they became liable to forfeiture, or by any person who became owner with the knowledge or notice that the same were so liable, or if they are in the possession or charge of any person who took possession or charge with such knowledge or notice; or

- (b) the goods, or other articles, although never removed out of the territory be found in the possession of any such owner, or of a person who took possession with such knowledge or notice as aforesaid.

34. Any person who, on or after arriving in any vehicle within the territory whether still on such vehicle or not, is questioned by an officer of Customs whether he has any dutiable goods upon his person or in his possession, and denies it, or makes any statement for Customs purposes as to any dutiable goods upon the person or in his possession from which any dutiable goods are omitted, shall, if any such goods be discovered to be, or to have been at the time of the denial, or of the statement, upon his person, or in his possession, be liable to forfeit the goods and shall further be liable to a penalty not exceeding treble the duty-paid value thereof.

35. The proper officer of Customs shall have the power, in all cases where a person is detected or is concerned in an attempt to import goods illegally or to evade the payment of duties upon any goods, forthwith to take the offender before any Court having jurisdiction to be summarily or otherwise dealt with, or to secure such offender, in the police station or other suitable place, until he can be so taken before such Court.

CHAPTER IV.

Legal Proceedings—Penalties and Forfeitures.

36. All penalties and forfeitures heretofore or hereafter incurred under this Proclamation or any law relating to the Customs may be recovered either by civil action or upon criminal prosecution in any Court of competent jurisdiction.

37. If any goods or any vehicle be seized as forfeited under this Proclamation or any law relating to the Customs, and detained, any Court having jurisdiction may, with the consent of the Director, order the delivery thereof, on security of a bond, with two sufficient sureties to be first approved by the Director, to answer double the value of the seizure in case of condemnation. The bond shall be taken and delivered to and kept in the custody of the Director, and if the goods or vehicle be condemned, the value thereof shall be paid into the hands of the Director, who shall thereupon cancel such bond.

Proc. 38. All civil proceedings for the recovery of any penalty or
No. 84 forfeiture under this Proclamation or any law relating to Cus-
1914 toms shall be instituted in the name of the Director or of the
Resident Commissioner.

39. If any goods be stopped or seized for non-payment of duties or for any other cause of forfeiture and any dispute arise whether the proper duties have been paid on the goods or the goods have been lawfully imported or lawfully laden or exported, the burden of proving any such fact shall be on the owner or claimant of the goods.

40. (1) All vehicles, goods, and other things which have been seized in the territory as forfeited under this Proclamation or any law relating to the Customs shall be deemed and taken to be condemned, and may be disposed of as by section *fifty* is directed, unless the person from whom the same have been seized, or the owner of them, or some person authorized by him, give notice in writing, within one month after the date of the seizure, to the person seizing, or to the Director or to the proper officer of Customs at the place where the same have been seized, that he claims the vehicles, goods, or other things, or intends to claim them.

(2) If no such notice be given, no legal proceedings whatever shall be instituted against any officer of Customs, based merely upon the seizure of the vehicles, goods, or other things.

41. When the Director or the proper officer of Customs has received the notice in writing, in the last preceding section mentioned, the Director or officer aforesaid shall, within one month, cause proceedings to be instituted in a Court having jurisdiction in the territory for the purpose of obtaining the condemnation of the vehicle, goods or other things which have been seized.

42. When the Director or proper officer of Customs causes such proceedings as in the last preceding section are mentioned to be instituted no owner or other lawful claimant shall make any claim or be admitted to defend the said proceedings, or in any way to dispute the legality of the seizure, unless the owner of the vehicle, goods or other things seized or his attorney or agent has, to the best of his knowledge and belief, deposed on oath as to the ownership thereof. Every person making a false oath, in respect thereof, shall be guilty of an offence and shall be liable on conviction to the penalties prescribed by law for perjury.

43. No person shall be permitted to institute or defend in any Court in the territory any proceedings in regard to anything seized in pursuance of this Proclamation or any law relating to the Customs, until sufficient security, to an amount not exceeding one hundred pounds, has been given in the Court

where such proceedings are to be or have been instituted, to answer and pay such costs as may be awarded against the party giving the security.

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44. (1) No summons shall be issued against any officer of the Customs for anything done by him in pursuance of this Proclamation or any law relating to the Customs until one month after notice, in writing, has been delivered to him, or left at his office by the party who intends to issue the summons.

(2) In the notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who is to bring the same, and the name and address for service of his attorney or agent if any.

(3) No evidence shall be adduced at the trial of the action by the plaintiff except as to causes thereof stated in the notice, and judgment shall not be given for the plaintiff unless he prove that the notice was given; in default of proof of the notice by the plaintiff, the defendant shall be entitled in such action to judgment and costs.

45. Any such officer may, within one month after the notice, tender amends to the party complaining, or his attorney, or agent, and may plead such tender in bar to any proceedings, together with any other plea, and if the Court find the amends sufficient, it shall give judgment for the defendant, except as to the amends tendered. In such event, or if there be absolution from the instance, or if the plaintiff discontinue his action, the defendant shall be entitled to costs; but if upon the trial of any such action the Court find that no amends were tendered, or that the same were not sufficient, or find against the defendant upon any such other plea, the Court shall give judgment for the plaintiff with such damages as it may think proper, together with costs of the action.

46. Every such action shall be brought within three months after the cause thereof arose, and the defendant may plead the general issue and give any special matter in evidence, and if the judgment be absolution from the instance, or if the plaintiff discontinue the action, or if judgment be given against the plaintiff, the defendant shall receive as costs full indemnity for all expenses incurred by him in or in respect of the action, and have such remedy for the same as any defendant has in other cases where costs are given by law.

47. (1) If any action instituted by the Director or by the Resident Commissioner be brought to trial on account of any seizure made under this Proclamation or any law relating to the Customs, and judgment be given for the defendant, and the Court before which that action is tried find that there was reasonable cause of seizure, the defendant shall not be entitled to any costs.

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(2) If any action be brought by any person against any officer of Customs for or on account of any seizure by that officer, wherein judgment is given for the plaintiff, and if the Court by and before which the action was tried find that there was reasonable cause of seizure, the plaintiff shall recover only the things seized, or the value thereof, without costs of the action.

48. All civil proceedings for the recovery of any penalties or forfeitures imposed by this Proclamation or any law relating to the Customs shall be commenced within three years after the cause thereof arose: Provided that nothing in this section contained shall be construed as modifying or affecting any of the provisions of section *thirty-three*.

49. No appeal shall lie against any judgment or order of any Court, touching any penalty or forfeiture imposed by this Proclamation or any law relating to the Customs unless the appeal be prosecuted within twelve months from the time when judgment or order was given: Provided that in every case in which proceedings have been or shall hereafter be instituted in any Court, in respect of any vehicle, goods, or effects, or for the recovery of any penalty or forfeiture under this Proclamation or any law relating to the Customs, the execution of any judgment or order restoring that vehicle or those goods or effects to the claimant thereof shall not be suspended by reason of any such appeal: Provided further that the claimant shall give sufficient security, to be approved by the Court, to render and deliver the said vehicle, goods or effects or the full value thereof, to the appellant if the judgment or order be reversed. The value aforesaid shall, in default of agreement between the parties, be determined by the Court or by arbitrators approved by the Court.

*Disposal of Forfeited Goods and Application and
Mitigation of Penalties.*

50. All things seized as being liable to forfeiture under this Proclamation or any law relating to the Customs shall be taken forthwith to and delivered into the custody of the proper officer of Customs who shall secure the same, and, after condemnation thereof, shall cause them to be advertised and sold by public auction to the highest bidder: Provided that the Resident Commissioner may direct that, in lieu of being sold, any of such things shall be destroyed or shall be reserved for the public service: Provided further that the proceeds of the sale shall be exempt from the payment of any licence moneys thereon.

51. All penalties and forfeitures recovered under this Proclamation or any law relating to the Customs shall be paid

into the hands of the proper officer of Customs at the place where those penalties or forfeitures are recovered, and shall, after deducting the costs of sale, be paid by the proper officer of Customs into the Treasury. Proc. No. 84 1914

52. The High Commissioner may direct any vehicle, goods, or things whatever, seized under this Proclamation or any law relating to the Customs to be delivered to the owner thereof, whether condemnation has taken place or not, and also may mitigate or remit any penalty or forfeiture incurred under this Proclamation or any such law, on such terms and conditions as to him appear to be proper: Provided that no person shall be entitled to the benefit of any such direction for delivery, mitigation or remission, unless the terms and conditions aforesaid be fully and effectually complied with: Provided further that if the owner aforesaid accept the terms and conditions prescribed as aforesaid, he shall not be entitled to institute or maintain any action for damages on account of the seizure or detention, and the person making the seizure shall not proceed in any matter for the condemnation.

CHAPTER V.

General and Miscellaneous.

53. Any person who counterfeits or falsifies, or uses knowing the same to be counterfeited or falsified, any entry, warrant cocket, transire, or other document, for the entering, reporting or clearing of any stores, baggage or articles whatever, or who by any false statement procures any writing or document to be made for any such purpose, or who makes any false oath or declaration required by this Proclamation or any law relating to Customs, or makes any untrue statement in connection with any matter relating to the Customs, knowing such oath, declaration or statement to be false or untrue, or who forges or counterfeits or alters a certificate of any such oath or declaration, or uses such certificate knowing the same to be forged or counterfeited or altered, shall be liable on conviction to a fine not exceeding three hundred pounds.

54. Any person who knowingly

- (a) produces any false invoice;
- (b) makes any false representation in regard to the country in which any goods were grown, produced, or manufactured;

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(c) makes any false representation with intent to evade or contravene this Proclamation or any law relating to the Customs;

shall be liable on conviction to a fine not exceeding three hundred pounds, or to imprisonment, without the option of a fine for a period not exceeding twelve months, and all goods in respect of which any such false invoice is produced or false representation made, all goods imported, exported, or removed in contravention of this Proclamation or any such law, and all vehicles and animals used in the importation, exportation, or removal of the goods shall be liable to forfeiture.

55. (1) Every importer shall be responsible for any act committed by any person on his behalf, whether the said act was done within or outside the territory and the person so acting shall, if within the territory, be likewise liable for any penalties which may have been incurred under this Proclamation or any law relating to the Customs or any regulations made thereunder.

(2) Any entry, writing, oath, affirmation, or declaration required to be made by this Proclamation or any law relating to Customs shall, if made in any British South African Colony Protectorate or Possession be binding and of full force and effect in the territory.

56. Any person who without lawful excuse (the proof of which shall lie upon him) brings into the territory or has in his possession any bill heading, or other paper appearing to be a heading or blank, capable of being filled up and used as an invoice for goods from outside the territory shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds.

57. Every forwarding agent transacting Customs business, and every trolley owner or other person carrying goods upon which the duties have not been paid and which are being removed under bond, shall, if required by the Director and before Customs business may be transacted or the goods carried, enter into security by bond, with one or more sureties and in such amount as the Director may deem sufficient, that he will duly observe all rules and regulations for controlling such business or carrying of goods as the case may be. Such bond may be a general one to cover all such work as may be done at any time.

58. Any person contravening any rule made by the Director under this Proclamation or any law relating to the Customs shall, if no penalty be specially provided, forfeit a sum not exceeding twenty pounds.

59. Any person who contravenes or fails to comply with any provision of this Proclamation or any notice or regulation issued thereunder, or a condition of any such notice or regula-

tion or any law relating to the Customs shall, if no penalty be specially provided for the contravention or defaults, be liable to a fine not exceeding three hundred pounds; and all goods imported, or removed in contravention of, or on failure to comply with, any such provision, regulation or condition, and all vehicles and animals, made use of in the importation or in the removal of those goods, shall be liable to be forfeited to the Crown.

60. Whenever any fine has been imposed under the provisions of this Proclamation or of any rule or regulation, and the person convicted does not forthwith pay that fine, the court imposing it may order that such person be imprisoned with or without hard labour for a period—

- (a) not exceeding one month if the fine imposed do not exceed twenty pounds;
- (b) not exceeding six weeks if the fine imposed do not exceed twenty-five pounds;
- (c) not exceeding three months if the fine imposed do not exceed fifty pounds ;
- (d) not exceeding six months if the fine imposed do not exceed one hundred pounds;
- (e) not exceeding twelve months if the fine imposed do not exceed three hundred pounds;
- (f) not exceeding two years if the fine imposed exceed three hundred pounds,

unless the fine be sooner paid.

61. The High Commissioner may from time to time by notice in the *Gazette* make alter and revoke regulations not inconsistent with this Proclamation or any other law—

- (a) as to the importation, entry, removal or conveyance of all goods imported into, or exported from, or passing through the territory;
- (b) prescribing the forms, bills and documents necessary for the convenient and effective carrying out of this Proclamation;
- (c) prescribing the particulars that shall be inserted on invoices and the certificates thereto, that shall be presented at the time of entry and clearance of goods;
- (d) prescribed the powers of any officer or other person employed in the administration of this Proclamation;

and generally for the better carrying out of the objects and purposes of this Proclamation.

The Director may from time to time by notice in the *Gazette* make alter and revoke rules, not inconsistent with this Proclamation or any other law, in respect of any matter in which it is expressly indicated in any provision thereof that such matter is to be dealt with in accordance with rules made by the Director.

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“Director” shall mean the Director of Customs or any officer for the time being lawfully acting in that capacity;

“duty” or “duties” shall mean any duty leviable under any law relating to Customs, and shall include any special duty or surtax;

“goods” shall mean all wares, articles, merchandise, animals, matter or things imported or brought into the territory;

“import,” “importation” or “importing” shall mean to bring or the bringing of goods into the territory;

“importer” shall not include a person outside the territory who consigns goods thereto, but shall mean, in relation to goods, the person who actually brings the goods into the territory or any person in the territory acting as his agent, or any person in the territory for the time being possessed of or beneficially interested in any goods at and from the time of the importation thereof;

“imprisonment” shall mean imprisonment with or without hard labour as the court which passes sentence may direct;

“officer” shall mean an officer of Customs;

“owner” shall include any person lawfully acting on behalf of the owner;

“port of entry” shall mean any place appointed by the High Commissioner under section *seven* of this Proclamation;

“proper officer of Customs” shall mean in respect of any matter, the officer designated by regulations to be the proper officer in respect of that matter;

“regulation” shall mean any regulation made by the High Commissioner and in force under this Proclamation;

“Resident Commissioner” shall include any officer for the time being acting in that capacity and a Deputy-Resident Commissioner;

“rule” shall mean a rule made by the Director and in force under this Proclamation;

“this Proclamation” shall include also any notice, regulation or rules issued or made thereunder;

“value” in respect of any penalty or forfeiture imposed by this Proclamation and based upon the value of any goods or articles, shall mean the duty-paid value of those goods or articles at the time of the commission of the offence by which the penalty or forfeiture is incurred;

“vehicle” shall mean any train, cart, wagon, carriage, barrow, or other conveyance of whatsoever kind.

whether drawn or propelled by steam, by animals, or by hand or other power, and shall include the harness or tackle of the animals, and the fittings, furnishings and appurtenances of the vehicles.

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63. The laws mentioned in the Schedule to this Proclamation shall be and are hereby repealed to the extent set out in the third column of that Schedule, together with so much of any other law as may be repugnant to or inconsistent with the provisions of this Proclamation.

64. This Proclamation may be cited for all purposes as the Bechuanaland Protectorate Customs Management Proclamation 1914 and shall have force and take effect from the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Johannesburg this Seventeenth day of December, One thousand Nine hundred and Fourteen.

BUXTON, High Commissioner.
By Command of His Excellency
the High Commissioner.

C. H. RODWELL,
Imperial Secretary.

SCHEDULE.

No. and year of Law.	Title or Subject of Law.	Extent of Repeal.
Act No. 8 of 1855 of the Cape of Good Hope	An Act to amend Ordinance No. 6 of 1853	So much as is of force in the Bechuanaland Protectorate and remains unrepealed at the date of the taking effect of this Proclamation.
Act No. 1 of 1864 of the Cape of Good Hope	An Act for the better protection of the Customs Revenue in certain cases.	" " "
Act No. 10 of 1872 of the Cape of Good Hope	The Customs Act, 1872	" " "
Act No. 6 of 1885 of the Cape of Good Hope	The Customs Amendment Act, 1885	" " "
Act No. 18 of 1890 of the Cape of Good Hope	The Customs Union Tariff Act, 1890	" " "
Proclamation dated the 12th of June, 1893.	Making provision for the entry of the Bechuanaland Protectorate into the South African Customs Union and generally for the collection of Customs duties, etc.	So much as remains unrepealed at the date of the taking effect of this Proclamation.
Proclamation No. 9 of 1906.	Amending the Customs Law and Customs Tariff.	Sections <i>ten</i> and <i>thirteen</i> .