And Whereas it is provided by the Acts that no provision made in exercise of any power conferred by the Acts shall have effect unless or until it is approved by His Majesty in Council;

And Whereas under the powers conferred on Him by the Acts His Majesty in Council may, on such conditions as He thinks fit, authorise the Admiralty to accept any offer made by the East Africa High Commission to place the officers or men of the Force and the vessels of war as aforesaid at His Majesty's disposal for general service in the Royal Navy:

Now, therefore, His Majesty, in exercise of the powers conferred on Him by the Acts, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the East African Naval Force Order, 1950.

2. Approval is hereby given to the provisions of the Act of the Legislature entitled the East African Naval Force Act, 1949, made in exercise of the powers conferred by the Acts.

3. The Admiralty is hereby authorised to accept any offer made by the East Africa High Commission to place at His Majesty's disposal for general service in the Royal Navy the whole or any number of the officers or men of the East African Naval Force raised under the East African Naval Force Act, 1949, and any vessel of war maintained thereunder.

E. C. E. Leadbitter.

NORTH BORNEO

The North Borneo (Legislative Council) Order in Council, 1950

1950 No. 1643

Made - - - -	*9th October*, 1950
Laid before Parliament	*10th October*, 1950
Coming into Operation:	
Section 32	*11th October*, 1950
Remainder—On a day to be proclaimed in the Colony in accordance with Section 2.*	

At the Court at Buckingham Palace, the 9th day of October, 1950

Present,

The Kings' Most Excellent Majesty in Council

Whereas by the North Borneo Letters Patent, 1946, as amended by the North Borneo (Amendment) Letters Patent, 1950, it is provided that there shall be such Legislative Council in and for the Colony of North Borneo (which includes the Settlement of Labuan) as may be established by any Order of His Majesty in Council, with such functions as may be prescribed by any such Order:

* The date thus appointed was 17th October, 1950.

And Whereas it is expedient to make provision accordingly for the constitution and functions of a Legislative Council in and for the said Colony:

Now, therefore, His Majesty by virtue and in exercise of the powers vested in His Majesty by the British Settlements Acts, 1887(a) and 1945(b), and of all other powers enabling His Majesty in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

PART I

Preliminary

Interpretation.

1.—(1) In this Order, unless the context otherwise requires—

"the appointed day" means the day appointed under Section 2 of this Order;

"the Colony" means the Colony of North Borneo;

"the Council" means the Legislative Council of the Colony established by this Order;

"dollars" means dollars in the currency of the Colony;

"the Executive Council" means the Executive Council of the Colony;

"the Gazette" means the North Borneo Government Gazette;

"the Governor" means the Governor and Commander-in-Chief of the Colony, and includes the Officer for the time being administering the Government and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy;

"the Governor in Council" means the Governor acting after consultation with the Executive Council but not necessarily in accordance with the advice of such Council nor necessarily in such Council assembled;

"meeting" means any sitting or sittings of the Council commencing when the Council first meets after being summoned at any time and terminating when the Council is adjourned *sine die* or at the conclusion of a session;

"native of the region" means a person who is a member of any race which is indigenous to any territory within the Colony, the State of Brunei, the colony of Sarawak, the colony of Singapore, the Federation of Malaya, or the Sulu group of the Philippine Islands, or the descendant of any such person;

"office in the public service" means office of emolument in the service of the Crown in respect of the Government of the Colony;

"the Public Seal" means the Public Seal of the Colony;

"session" means the meetings of the Council commencing when the Council first meets after being constituted under this Order, or after its prorogation at any time, and terminating when the Council is prorogued;

"sitting" means a period during which the Council is sitting continuously without adjournment, and includes any period during which the Council is in Committee.

(a) 50 & 51 Vict. c. 54. (b) 9 & 10 Geo. 6. c. 7.

(2) Where in this Order reference is made to any officer by the term designating his office, such reference shall be construed as a reference to the officer for the time being lawfully discharging the functions of that office.

(3) References in this Order to His Majesty's dominions shall have effect as if they included references to all British protectorates and British protected states and to all territories administered by the Government of any part of His Majesty's dominions under the trusteeship system of the United Nations.

(4) (*a*) For the purposes of this Order a person shall not be considered to hold an office in the public service by reason only that he is in receipt of a pension or other like allowance in respect of service under the Crown.

(*b*) If it shall be declared by the Governor in Executive Council, by regulation published in the Gazette, that an office shall not be an office in the public service for all or for any of the purposes of this Order, this Order shall have effect accordingly as if such regulation were enacted therein.

(5) This Order shall be construed—

(*a*) as if subsection (1) of Section 1 of the India (Consequential Provision) Act, 1949(**a**), applied to it in the same way as that subsection applies to laws in force on the date mentioned in that subsection; and

(*b*) as if subsection (2) of Section 3 of the British Nationality Act, 1948(**b**) (as interpreted by subsection (1) of Section 3 of the Ireland Act, 1949(**c**)) and subsection (2) of Section 3 of the Ireland Act, 1949(**c**) applied to it as those subsections apply to laws in force at the dates of the commencement of those Acts respectively.

(6) The Interpretation Act, 1889(**d**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Short title and commencement.

2. This Order may be cited as the North Borneo (Legislative Council) Order in Council, 1950. It shall be published in the Gazette and, save as otherwise expressly provided in this Order, shall come into operation on a day to be appointed by the Governor by Proclamation published in the Gazette, which day shall not be earlier than the day after the day on which this Order shall have been laid before both Houses of Parliament.

PART II

Legislative Council

Establishment of Legislative Council.

3.—(1) There shall be a Legislative Council in and for the Colony constituted in accordance with the provisions of this Order.

(2) The Council shall consist of the Governor as President, three *ex officio* Members, nine Official Members and ten Nominated Members.

Ex officio Members.

4. The *ex officio* Members of the Council shall be the Chief Secretary, the Attorney-General and the Financial Secretary.

Official and Nominated Members.

5. The Official Members and the Nominated Members of the Council shall be persons qualified for appointment as such under the provisions of this Order and appointed by the Governor by Instrument under the Public Seal.

(**a**) 12, 13 & 14 Geo. 6. c. 92.
(**b**) 11 & 12 Geo. 6. c. 56.
(**c**) 12, 13 & 14 Geo. 6. c. 41.
(**d**) 52 & 53 Vict. c. 63.

Qualifications for Official and Nominated Membership.

6. Subject to the provisions of section 8 of this Order—

(*a*) any person, who is a British subject or a British protected person and who holds office in the public service, shall be qualified to be appointed as an Official Member of the Council; and

(*b*) any person, who is a British subject or a British protected person of the age of twenty-one years or upwards and who, unless a native of the region, does not hold any office in the public service, shall be qualified to be appointed as a Nominated Member of the Council.

Governor to report appointments of Members.

7. The Governor shall, without delay, report to His Majesty, through a Secretary of State, every appointment of any person as an Official or Nominated Member of the Council.

Disqualification for Official and Nominated Membership.

8. No person shall be qualified to be appointed as an Official or Nominated Member of the Council or, having been so appointed, shall sit or vote therein, who at the time of his appointment—

(*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State; or

(*b*) is a person certified to be insane under any law in force in the Colony; or

(*c*) has been sentenced by a court in any part of His Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding six months and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor, or received a free pardon; or

(*d*) is an undischarged bankrupt, having been declared a bankrupt under any law in force in any part of His Majesty's dominions; or

(*e*) is a party to, or a member of a firm, or a director or manager of a company, which is a party to, any contract with the Government of the Colony for or on account of the public service and has not disclosed to the Governor the nature of such contract and his interest, or the interest of any such firm or company, therein:

Provided that a person shall not be considered to be a party to a contract with the Government of the Colony for the purposes of paragraph (*e*) of this section by reason of his holding, or acting in, any office in the public service.

Tenure of Office of Official and Nominated Members.

9.—(1) Subject to the provisions of this Order, every Official or Nominated Member of the Council shall hold his seat in the Council during His Majesty's pleasure and shall in any case cease to be a Member at the end of three years from the date of the Instrument by which he is appointed or at such earlier date as may be provided by such Instrument, or previously thereto if his seat shall become vacant under the provisions of this Order.

(2) The seat of an Official or Nominated Member of the Council shall become vacant—

(*a*) upon his death; or

(*b*) if he shall, by writing under his hand addressed to the Governor, resign his seat in the Council and, in the case of an Official Member, his resignation shall be accepted by the Governor; or

(*c*) if he shall be absent from two consecutive meetings of the Council and neither of such absences has been excused by the Governor within a period of twenty-eight days from the end of the meeting; or

(*d*) if, being an Official Member, he shall cease to hold office in the public service ; or

(*e*) if, being a Nominated Member other than a native of the region, he shall be appointed permanently to any office in the public service ; or

(*f*) if he shall cease to be a British subject, or shall cease to be a British protected person without becoming a British subject ; or

(*g*) if he shall take any oath, or make any declaration or acknowledgment of allegiance, obedience or adherence to any foreign Power or State ; or shall do, concur in or adopt any act done with the intention that he shall become a subject or citizen of any foreign Power or State ; or

(*h*) if he shall be certified to be insane under any law in force in the Colony ; or

(*i*) if he shall be sentenced by a competent court in any part of His Majesty's dominions to death, or to imprisonment (by whatever name called) for a term exceeding six months ; or

(*j*) if he shall be declared a bankrupt under any law in force in any part of His Majesty's dominions ; or

(*k*) if, without the approval of the Governor, he shall become a party to, or any firm in which he is a partner or any company of which he is a director or manager shall become a party to, any contract with the Government of the Colony for, or on account of, the public service ; or if, without such approval as aforesaid, he shall become a partner in a firm, or a manager or director of a company, which is a party to any such contract :

Provided that a person shall not be considered to become a party to a contract with the Government of the Colony for the purposes of paragraph (*k*) of this subsection by reason of his being appointed to, or to act in, an office in the public service.

(3) If a Nominated Member of the Council, other than a native of the region, shall be appointed temporarily to any office in the public service or shall be appointed to act in any such office, he shall not sit or vote in the Council by virtue of his appointment as a Nominated Member so long as he continues to hold, or to act in, that office.

(4) The Governor may, by Instrument under the Public Seal, declare any Official or Nominated Member of the Council to be incapable of discharging his functions as a Member, and thereupon such Member shall not sit or vote in the Council until he is declared, in manner aforesaid, again to be capable of discharging his said functions.

(5) The Governor may, by Instrument under the Public Seal, suspend any Official or Nominated Member of the Council from the exercise of his functions as a Member. Every such suspension shall forthwith be reported by the Governor to His Majesty through a Secretary of State, and shall remain in force until it shall be removed by the Governor by Instrument under the Public Seal or by His Majesty through a Secretary of State, or the person suspended ceases to be a Member of the Council.

(6) Any person vacating a seat as a Member of the Council may, if qualified, be again appointed as a Member from time to time.

Decision of questions as to Membership of Council.

10. All questions which may arise as to the right of any person to be or remain a Member of the Council shall be referred to, and decided by, the Governor in Council, whose decision shall be final and shall not be called in question in any court.

Filling of vacancies.

11. Whenever the seat of a Member of the Council becomes vacant, the vacancy shall be filled by appointment by the Governor in accordance with the provisions of this Order.

Temporary Members.

12.—(1) Whenever there shall be a vacancy in the number of persons sitting in the Council by reason of the fact that—

(*a*) an *ex officio* Member or an Official Member is administering the Government of the Colony ; or

(*b*) one person is lawfully discharging the functions of more than one of the officers mentioned in section 4 of this Order ; or

(*c*) no person is lawfully discharging the functions of one of those officers ; or

(*d*) an Official Member is lawfully discharging the functions of one of those officers ; or

(*e*) an Official or Nominated Member is unable to sit or vote in the Council in consequence of a declaration by the Governor, as provided in this Order, that he is incapable of discharging his functions as a Member ; or

(*f*) an Official Member or Nominated Member is suspended from the exercise of his functions as a Member ; or

(*g*) a Member is absent from the Colony ; or

(*h*) a Nominated Member, other than a native of the region, is unable to sit or vote in the Council in consequence of his having been appointed temporarily to any office in the public service or to act in any such office ;

the Governor may, by instrument under the Public Seal, appoint a person to be a Temporary Member of the Council for the period of such vacancy.

(2) If the vacancy is in the number of persons sitting in the Council as *ex officio* Members or Official Members, the person appointed shall be a person qualified for appointment as an Official Member ; and if the vacancy is in the number of persons sitting in the Council as Nominated Members, the person appointed shall be a person qualified for appointment as a Nominated Member.

(3) Every person appointed to be a Temporary Member of the Council under this section shall, as long as his appointment shall subsist, be to all intents and purposes—

(*a*) if appointed to fill a vacancy in the number of persons sitting in the Council as *ex officio* Members or Official Members, an Official Member ; and

(*b*) if appointed to fill a vacancy in the number of persons sitting in the Council as Nominated Members, a Nominated Member ;

and, subject to the provisions of this section, the provisions of section 9 of this Order shall have effect accordingly :

Provided that a person so appointed to fill a vacancy in the number of persons sitting in the Council as *ex officio* Members shall not be reckoned as an Official Member in computing the number of such Members for the purposes of subsection (2) of section 3 of this Order.

(4) The Governor shall forthwith report every temporary appointment made under this section to His Majesty through a Secretary of State, and any such appointment may (without prejudice to anything done by virtue thereof) be revoked by the Governor by Instrument under the Public Seal.

(5) A temporary appointment made under this section shall cease to have effect on notification by the Governor to the person appointed of its revocation by the Governor or on supersession of the appointment by the definitive appointment of a person to fill the vacancy or when the vacancy shall otherwise cease to exist.

Attendance of persons other than Members.

13.—(1) The Governor may summon to any meeting of the Council any person, notwithstanding that such person may not be a Member of the Council, when, in the opinion of the Governor, the business before the Council makes the presence of such person desirable.

(2) Any person so summoned shall be entitled to take part in the proceedings of the Council relating to the business in respect of which he is summoned as if he were a Member of the Council, except that he shall not have the right to vote in the Council.

Presiding in Legislative Council.

14. The Governor, if present, shall preside at the meetings of the Council; and, in his absence, such Member of the Council as the Governor may, from time to time, in writing appoint or, in the absence of such Member or if no Member be so appointed, the Member present who stands first in order of precedence, shall preside.

Precedence of Members.

15.—(1) After the Governor the Members of the Council shall take precedence among themselves as His Majesty may specially assign and, if precedence be not so assigned, as follows:—

First, the *ex officio* Members in the order in which they are mentioned in section 4 of this Order;

Secondly, the Official Members in such order as the Governor may direct;

Thirdly, the Nominated Members according to the length of time for which they have been continuously Members of the Council, persons who have been continuously Members for the same length of time taking precedence among themselves as the Governor may direct.

(2) When any person is re-appointed to the Council to fill a vacancy caused by the termination of his own term of office, any interval between such termination and re-appointment shall be disregarded in calculating for the purposes of this section the length of time for which such person has been continuously a Member of the Council.

PART III

Legislation and Procedure in Legislative Council

Power to make laws.

16. Subject to the provisions of this Order, it shall be lawful for the Governor, with the advice and consent of the Council, to make laws for the peace, order and good government of the Colony.

Retrospective effect of laws.

17. For the avoidance of doubt it is hereby declared that any provision made by or under any law enacted under this Order may, if it is so provided in such law, be made to operate retrospectively to any date.

Voting.

18.—(1) All questions proposed for decision in the Council shall be determined by a majority of the votes of the Members present and voting.

(2) The Governor shall not have an original vote, but, if upon any question the votes shall be equally divided, he shall have a casting vote.

(3) In the absence of the Governor, the Member presiding shall have an original vote and also, if upon any question the votes shall be equally divided, a casting vote.

Vacancies and Quorum.

19.—(1) The Council shall not be disqualified for the transaction of business by reason of any vacancy among the Members thereof; and any proceedings therein shall be valid notwithstanding that some person, who was not entitled so to do, sat or voted in the Council or otherwise took part in the proceedings.

(2) No business except that of adjournment shall be transacted by the Council if objection is taken by any Member present that there are present less than seven Members besides the Governor or other Member presiding.

Assent to Bills, etc.

20.—(1) No Bill shall become a law until either the Governor shall have assented thereto in His Majesty's name and on His Majesty's behalf and shall have signed the same in token of assent, or His Majesty shall have given his assent thereto through a Secretary of State.

(2) When a Bill is presented to the Governor for his assent, he shall, according to his discretion but subject to the provisions of this Order and of any Instructions addressed to him under His Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, thereto, or that he reserves the Bill for the signification of His Majesty's pleasure.

(3) A law assented to by the Governor shall come into operation on the date on which such assent shall be given, or, if it shall be enacted either in the law or in some other enactment (including any enactment in force on the appointed day) that it shall come into operation on some other date, on that date.

(4) A Bill reserved for the signification of His Majesty's pleasure shall become a law as soon as His Majesty shall have given His assent thereto through a Secretary of State and the Governor shall have signified such assent by Proclamation published in the Gazette. Every such law shall come into operation on the date of such Proclamation or, if it shall be enacted either in the law or in some other enactment (including any enactment in force on the appointed day) that it shall come into operation on some other date, on that date.

Disallowance of laws.

21.—(1) Any law to which the Governor shall have given his assent may be disallowed by His Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by His Majesty, the Governor shall cause notice of such disallowance to be published in the Gazette.

(3) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid and thereupon any enactment repealed or amended by, or in pursuance of, the law disallowed shall have effect as if such law had not been made; but, save as aforesaid, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889(**a**), shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

Royal Instructions.

22. Subject to the provisions of this Order, the Governor and the Council shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under His Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf.

Standing Orders.

23.—(1) Subject to the provisions of this Order and of any Instructions under His Majesty's Sign Manual and Signet, the Council may, from time to time, make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business

(**a**) 52 & 53 Vict. c. 63.

and for the passing, intituling and numbering of Bills and the presentation thereof to the Governor for his assent; but no such Orders, or any revocation or amendment thereof, shall have effect until approved by the Governor;

(2) The first Standing Orders of the Council may be made by the Governor and, if so made, may be amended or revoked by the Council under the provisions of this section.

Official language.

24. The official language of the Council shall be English.

Oath of allegiance

25. Except for the purpose of enabling this section to be complied with, no Member of the Council shall sit or vote in the Council or in any committee thereof until he shall have taken and subscribed before the Governor, or some person authorized by the Governor in that behalf, the Oath of Allegiance in the form prescribed by the Promissory Oaths Ordinance(a) or any ordinance amending or replacing that ordinance:

Provided that any person authorized by the law of the Colony to make an affirmation instead of taking an oath may make and subscribe an affirmation in like form in lieu of the said oath.

Introduction of Bills.

26. Subject to the provisions of this Order and of the Standing Orders of the Council, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Council, and the same shall be debated and disposed of according to the Standing Orders:

Provided that, except with the recommendation or consent of the Governor signified thereto, the Council shall not proceed upon any Bill, amendment, motion or petition, which in the opinion of the Governor or other Member presiding, would—

(*a*) dispose of or charge any public revenue or public funds of the Colony, or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax, or duty; or

(*b*) suspend the Standing Orders of the Council or any of them.

Sittings and Sessions.

27.—(1) The sittings of the Council shall be held at such times and in such places as the Governor shall from time to time by Proclamation appoint.

(2) There shall be a session of the Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting in one session and first sitting in the next session.

(3) The first session of the Council shall commence within six months of the appointed day.

Prorogation.

28. The Governor may at any time, by proclamation published in the Gazette, prorogue the Council.

PART IV
Miscellaneous

Unqualified persons sitting or voting.

29.—(1) Any person who—

(*a*) having been appointed a Member of the Council but not having been, at the time of such appointment, qualified to be so appointed, shall sit or vote in the Council, or

(*b*) shall sit or vote in the Council after his seat thereon has become vacant or he has become disqualified from sitting or voting therein,

(a) No. 5 of 1946.

knowing, or having reasonable grounds for knowing, that he was so disqualified, or that his seat has become vacant, as the case may be, shall be liable to a penalty not exceeding two hundred dollars for every day upon which he so sits or votes.

(2) The said penalty shall be recoverable by action in the Supreme Court at the suit of the Attorney-General.

Saving and construction of existing laws.

30.—(1) All laws in force in the Colony immediately before the appointed day shall be construed subject to such modifications as may be necessary to bring them into conformity with the provisions of this Order; but save as aforesaid nothing in this Order shall affect the operation of any such law.

(2) For the purposes of subsection (1) of this section the Governor may from time to time, by Order published in the Gazette, declare, for the removal of doubts, whether any reference in any such law as aforesaid to the Advisory Council established by the North Borneo Letters Patent, 1946, shall be construed as a reference to the Executive Council, or as a reference to the Legislative Council, of the Colony.

Validity of certain provisions of Letters Patent as respects Labuan.

31. For the removal of doubts it is hereby declared that no provisions contained in the North Borneo Letters Patent, 1946 and 1950, shall be deemed to be or ever to have been invalid as respects the Settlement of Labuan by reason only of the fact that they were not, or are not, contained in an Order of His Majesty in Council.

Removal of difficulties.

32.—(1) If any difficulty shall arise in bringing into operation any of the provisions of this Order or in giving effect to the purposes thereof, a Secretary of State may by Order make such provision as seems to him necessary or expedient for the purpose of removing the difficulty and may by such Order amend or add to any provision of this Order:

Provided that no Order shall be made under this section later than the thirtieth day of September, 1952.

(2) Any Order made under this section may be amended, added to, or revoked by a further Order, and may be given retrospective effect to a day not earlier than the date of this Order.

(3) This section shall come into operation on the day after the day on which this Order shall have been laid before both Houses of Parliament.

Powers reserved to His Majesty.

33.—(1) His Majesty hereby reserves to Himself, His Heirs and Successors, power, with the advice of His or Their Privy Council, to amend, add to or revoke this Order, as to Him or Them shall seem fit.

(2) Nothing in this Order shall affect the power of His Majesty in Council to make laws from time to time for the peace, order and good government of the Colony.

E. C. E. Leadbitter.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order in Council provides for the establishment of a Legislative Council which will legislate for the Colony of North Borneo. It will be presided over by the Governor, and will consist of three *ex officio* Members, nine Official Members and ten Nominated Members.