STATUTORY INSTRUMENTS

1962 No. 1874

RHODESIA AND NYASALAND FEDERATION

The Northern Rhodesia (Constitution) Order in Council 1962

Made - - - -	*24th August* 1962
Laid before Parliament	*30th August* 1962
Coming into Operation	*1st September* 1962

At the Court at Balmoral, the 24th day of August 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act 1890(a) or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement.

1.—(1) This Order may be cited as the Northern Rhodesia (Constitution) Order in Council 1962.

(2) This Order shall, except as otherwise provided, come into operation on 1st September 1962.

Interpretation.

2.—(1) In this Order—

"the appointed day" means the day after the day on which the Legislative Council constituted by the existing Orders is next dissolved after the commencement of this Order;

"the existing Orders" means the Orders in Council specified in schedule 1 to this Order;

"the Constitution" means the Constitution set out in schedule 2 to this Order.

(2) Unless the context otherwise requires, expressions used in section 1 to 10 (inclusive) of this Order have the same meaning as in the Constitution and the provisions of section 81 of the Constitution shall apply for the purposes of interpreting those sections as they apply for interpreting the Constitution.

Revocation.

3.—(1) The existing Orders are revoked with effect from the appointed day:

Provided that section 4 of the Northern Rhodesia (Electoral Provisions) Order in Council 1962(b), section 7 of that Order (to the extent that the section confers power upon the Governor to prescribe the manner in which Northern Rhodesia is divided into electoral areas under section 4 of that Order) and the whole of the Northern Rhodesia (Delimitation Commission Order in Council 1962(c) are revoked with

(a) 53 & 54 Vict. c. 37. (b) S.I. 1962/626 (1962 I, p. 617).
(c) S.I. 1962/1334 (1962 II, p. 1437).

effect from such day (hereinafter referred to as "the second appointed day"), not being earlier than the appointed day or later than the day before the day fixed for the holding of the next general election of the Legislative Council of Northern Rhodesia after the appointed day, as the Governor, acting in his discretion, may by notice in the Gazette appoint.

(2) The revocation of the existing Orders under subsection (1) of this section shall not extend to the provisions of section 1, section 3 (except the definitions in section 3 (1) other than the definition of "the Governor") and section 39 of the Northern Rhodesia Order in Council 1924(a), as amended by the Northern Rhodesia Order in Council 1960(b).

Establishment of Constitution.

4. The Constitution shall come into effect in Northern Rhodesia on the appointed day:

Provided that—

(*a*) sections 30, 31, 32 and 33 of the Constitution shall come into effect in Northern Rhodesia on the second appointed day; and

(*b*) the provisions of Part VII of the Constitution shall come into effect on such day after the second appointed day as the Governor, acting in his discretion, may by notice in the Gazette appoint.

Existing laws.

5.—(1) Subject to the provisions of this section, the existing laws shall, notwithstanding the revocation of the existing Orders, have effect after the appointed day as if they had been made in pursuance of this Order and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(2) The Governor may by order made at any time before 1st January 1963 make such amendments to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(3) Where any matter that falls to be prescribed or otherwise provided for the purposes of the Constitution by a law enacted under the Constitution or by any other person or authority is prescribed or provided for by or under any existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for, immediately before the appointed day, by or under the existing Orders, that prescription or provision shall, as from the appointed day, have effect as if it had been made by a law enacted under the Constitution.

(4) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

(5) For the purposes of this section, the expression "the existing laws" means all Ordinances, laws, rules, regulations, orders and other instruments made in pursuance of, or kept in force by, the existing Orders and having effect as part of the law of Northern Rhodesia or any part thereof immediately before the appointed day.

Existing Officers.

6. Where any office has been established by or under the existing Orders and the Constitution establishes a similar or an equivalent office

(a) S.R.& O. 1924/324 (Rev. VIII, p. 154: 1924, p. 395).
(b) S.I. 1960/204 (1960 III, p. 2900).

(not being the office of a member of the Legislative Council) any person who, immediately before the appointed day, holds or is acting in the former office shall, so far as is consistent with the provisions of this Order, be deemed to have been appointed, as from the appointed day, to hold or to act in the latter office in accordance with the provisions of the Constitution and to have taken any necessary oath under the Constitution.

First constituencies.

7. Until other provision is made under section 33 of the Constitution—

(*a*) the boundaries of the higher franchise constituencies, the lower franchise constituencies and the national constituencies into which Northern Rhodesia is divided by section 30 of the Constitution shall be the boundaries declared by any proclamation made under section 6 (1) of the Northern Rhodesia (Delimitation Commission) Order in Council 1962 and in force immediately before the second appointed day;

(*b*) every national constituency designated by any such proclamation in pursuance of section 6 (1) (*c*) of that Order shall be deemed to have been designated as a national constituency that shall return one European member and one African member to the Legislative Council in pursuance of section 33 (1) (*d*) of the Constitution;

(*c*) the electoral areas into which Northern Rhodesia is divided immediately before the second appointed day in pursuance of section 4 of the Northern Rhodesia (Electoral Provisions) Order in Council 1962 shall be the electoral areas for the purposes of Part IV of the Constitution.

Rules and orders of Legislative Council.

8. The rules and orders of the Legislative Council constituted by the existing Orders as in force immediately before the appointed day shall, as from the appointed day and until it is otherwise provided under section 43 of the Constitution, continue to be the rules and orders of the Legislative Council constituted by the Constitution but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

Courts.

9.—(1) Until such time as other provision is made by any competent authority, the High Court of Northern Rhodesia established by the Constitution and all other courts in Northern Rhodesia shall possess the same jurisdiction and powers, and shall observe the same rules of procedure, as were respectively possessed and observed under the existing Orders immediately before the appointed day by the High Court of Northern Rhodesia established by the existing Orders and such other courts.

(2) Any proceedings pending immediately before the appointed day before the High Court of Northern Rhodesia established by the existing Orders may be continued after the appointed day before the High Court of Northern Rhodesia established by the Constitution.

Electoral law.

10.—(1) The Governor, acting in his discretion, may at any time after the commencement of this Order by regulation make provision for all or any of the matters for which provision may be made by a law enacted in pursuance of section 39 of the Constitution.

(2) If any regulation made under this section is inconsistent with any existing law (as defined in section 5 of this Order) the provisions of the regulation shall prevail.

(3) Any matter prescribed by regulations made under this section for the time being in force shall, for the purposes of Part IV of the Constitution, be deemed to have been prescribed by a law enacted under the Constitution.

(4) This section shall cease to have effect on such day as may be specified in any law enacted in pursuance of section 39 of the Constitution; and, subject to the provisions of section 7 of this Order, any regulations made under this section or the Northern Rhodesia (Electoral Provisions) Order in Council 1962 and in force immediately before that day shall have effect thereafter as if they were laws enacted in pursuance of section 39 of the Constitution and may be amended or revoked accordingly.

E. N. Landale.

Section 2.

SCHEDULE 1 TO THE ORDER

The Existing Orders

The Northern Rhodesia Order in Council 1924.

The Northern Rhodesia (Amendment) Order in Council 1928(a).

The Northern Rhodesia (Amendment) Order in Council 1931(b).

The Northern Rhodesia (Amendment) Order in Council 1939(c).

The Northern Rhodesia (Amendment) Order in Council 1941(d).

The Northern Rhodesia (Amendment) Order in Council 1947(e).

The Northern Rhodesia Order in Council 1949(f).

The Northern Rhodesia Order in Council 1951(g).

The Northern Rhodesia Order in Council 1954(h).

The Northern Rhodesia (No. 2) Order in Council 1954(i).

The Northern Rhodesia Order in Council 1957(j).

The Northern Rhodesia (Legislative Council) Order in Council 1959(k).

The Northern Rhodesia Order in Council 1960.

The Northern Rhodesia Order in Council 1961(l).

The Northern Rhodesia (Electoral Provisions) Order in Council 1962.

The Northern Rhodesia (Delimitation Commission) Order in Council 1962.

(a) S.R. & O. 1928/901 (Rev. VIII, p. 154: 1928, p. 600).
(b) S.R. & O. 1931/420 (Rev. VIII, p. 154: 1931, p. 451).
(c) S.R. & O. 1939/523 (Rev. VIII, p. 154: 1939 II, p. 1647).
(d) S.R. & O. 1941/967 (Rev. VIII, p. 154: 1941 I, p. 353).
(e) S.R. & O. 1947/1486 (Rev. VIII, p. 154: 1947 I, p. 776).
(f) S.I. 1949/1054 (1949 I, p. 1858).
(g) S.I. 1951/1167 (1951 II, p. 94).
(h) S.I. 1954/481 (1954 II, p. 1924).
(i) S.I. 1954/1703 (1954 II, p. 1925).
(j) S.I. 1957/1529 (1957 II, p. 1969).
(k) S.I. 1959/105 (1959 II, p. 2321).
(l) S.I. 1961/996 (1961 II, p. 1922).

SCHEDULE 2 TO THE ORDER Section 2.

THE CONSTITUTION OF NORTHERN RHODESIA

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3. Deputy to Governor.
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31. Appointment of Delimitation Commission.
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SCHEDULE 1 TO THE CONSTITUTION
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PART I
THE GOVERNOR

Governor.

1.—(1) There shall be a Governor in and over Northern Rhodesia who shall be appointed by Her Majesty by commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) Before entering on the duties of his office, the Governor shall make oaths or affirmations of allegiance and for the due execution of the office of Governor in the forms set out in schedule 1 to this Constitution.

(3) The Governor shall have such powers and duties as are conferred or imposed upon him by or under this Constitution or any other law and such other powers and duties as Her Majesty may from time to time be pleased to assign to him and, subject to the provisions of this Constitution and of any other law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office (including the exercise of any powers with respect to which he is empowered by this Constitution to act in his discretion) according to such instructions, if any, as Her Majesty may from time to time see fit to give him; but the question whether he has in any matter complied with such instructions shall not be enquired into in any court.

Acting Governor.

2.—(1) During any period when the office of Governor is vacant or the Governor is absent from Northern Rhodesia or is for any other reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by—

(*a*) such person as Her Majesty may designate in that behalf by instructions given under Her Sign Manual and Signet or through a Secretary of State; or

(*b*) if there is no person in Northern Rhodesia so designated and able to perform those functions, the Chief Secretary to the Government of Northern Rhodesia.

(2) Before assuming the functions of the office of Governor any person as aforesaid shall make the oaths or affirmations directed by section 1 of this Constitution to be made by the Governor.

(3) Any such person as aforesaid shall not continue to perform the functions of the office of Governor after the Governor or some other person having a prior right to perform those functions has notified him that he is about to assume or resume those functions.

(4) The Governor or any other person as aforesaid shall not, for the purposes of this section, be regarded as absent from Northern Rhodesia or as unable to perform the functions of the office of Governor—

(*a*) by reason only that he is in passage from one part of Northern Rhodesia to another;

(*b*) by reason only that, in performing the functions of the office of Governor, he is in any territory adjacent to Northern Rhodesia or in passage between Northern Rhodesia and any such territory; or

(*c*) at any time when there is a subsisting appointment of a deputy under section 3 of this Constitution.

Deputy to Governor.

3.—(1) Whenever the Governor—

(*a*) has occasion to be absent from the seat of government but not from Northern Rhodesia;

(*b*) has occasion to be absent from Northern Rhodesia for a period that he has reason to believe will be of short duration;

(*c*) is suffering from any illness that he has reason to believe will be of short duration ; or

(*d*) considers for any reason that the public interest so requires,

he may, acting in his discretion, by instrument under the public seal appoint any person to be his deputy and in that capacity to perform on his behalf such of the functions of the office of Governor as may be specified in the instrument.

(2) The powers and authority of the Governor shall not be abridged, altered or in any way affected by the appointment of a deputy under this section and a deputy shall comply with all instructions that the Governor may from time to time address to him; but the question whether a deputy has in any matter complied with such instructions shall not be enquired into in any court.

(3) Any appointment under this section may be revoked at any time by Her Majesty by instructions given through a Secretary of State or by the Governor, acting in his discretion, by instrument under the public seal and, subject thereto, a person appointed as a deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed.

Governor's powers of pardon.

4.—(1) The Governor may in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person concerned in the commission of any offence for which he may be tried in Northern Rhodesia or to any person convicted of any offence in any court in Northern Rhodesia a pardon either free or subject to lawful conditions ;

(*b*) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person in any court in Northern Rhodesia ;

(*c*) substitute a less severe form of punishment for that imposed by any sentence of any such court ; or

(*d*) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence in respect of which a person has been convicted by any court in Northern Rhodesia.

(2) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

Public seal.

5. The Governor shall keep and use the public seal of Northern Rhodesia.

PART II

THE EXECUTIVE COUNCIL

Executive Council.

6.—(1) There shall be an Executive Council for Northern Rhodesia which shall consist of—

(*a*) such number of ex-officio members, not exceeding four, as Her Majesty may from time to time direct by instructions given to the Governor through a Secretary of State ;

(*b*) six appointed members ; and

(*c*) such temporary members as may be appointed under section 12 of this Constitution.

(2) The members of the Executive Council shall be styled Ministers.

Ex-officio members.

7. The ex-officio members of the Executive Council shall be the persons for the time being performing the functions of such public offices as Her Majesty may from time to time designate by instructions given to the Governor through a Secretary of State.

Appointed members.

8.—(1) The appointed members of the Executive Council shall be persons appointed by the Governor by instrument under the public seal in pursuance of instructions given to him by Her Majesty through a Secretary of State.

(2) Not less than two of the appointed members of the Executive Council shall be Europeans and not less than two shall be Africans.

Governor to consult Executive Council.

9.—(1) Subject to the provisions of this section, the Governor shall consult the Executive Council in the formulation of policy and in the exercise of all powers conferred upon him by this Constitution or by any other law for the time being in force in Northern Rhodesia except—

(*a*) any power conferred upon him by this Constitution that he is empowered to exercise in his discretion or in pursuance of instructions from Her Majesty; or

(*b*) any power conferred upon him by any other law that he is empowered, either expressly or by implication, to exercise without consulting the Council.

(2) The Governor shall not be obliged to consult the Executive Council in any case in which, in his judgment—

(*a*) it is in the public interest that he should act without consulting the Council;

(*b*) the matters to be decided are too unimportant to require their advice; or

(*c*) the urgency of the matter requires him to act before they can be consulted.

(3) In every case falling within subsection (2) (*c*) of this section the Governor shall, as soon as is practicable, communicate to the Executive Council the measures that he has adopted and the reasons for those measures.

Governor may act against advice of Executive Council.

10.—(1) In any case in which the Governor is required by section 9 of this Constitution to consult the Executive Council he may, if he thinks it right to do so, act against the advice given to him by the Council; but if he so acts he shall at the first convenient opportunity report the matter to a Secretary of State with the reasons for his action.

(2) Whenever the Governor acts against the advice of the Executive Council any Minister may require that there be recorded in the minutes any advice or opinion he may give upon the question at issue and his reasons.

Tenure of office of appointed members.

11.—(1) Subject to the provisions of this section, an appointed member of the Executive Council shall hold office as such during Her Majesty's pleasure.

(2) An appointed member of the Executive Council shall vacate his office—

(*a*) at such time or in such circumstances as may be specified in the instrument by which he is appointed;

(*b*) if he is absent from Northern Rhodesia for a period of more than two weeks without written permission given by the Governor, acting in his discretion;

(*c*) in the case of a member who was a public officer at the time of his appointment, if he ceases to be a public officer ; or

(*d*) in the case of a member who was an elected or nominated member of the Legislative Council at the time of his appointment—

(i) when, after any dissolution of that Council, he is informed by the Governor that the Governor is about to re-appoint him as a Minister or to appoint another person in his place ; or

(ii) if he ceases to be a member of the Legislative Council otherwise than by reason of a dissolution.

Temporary members of Executive Council.

12.—(1) Whenever an appointed member of the Executive Council is unable, because he is ill or absent from Northern Rhodesia or for any other reason, to perform his functions as such the Governor, acting in his discretion, may by instrument under the public seal appoint a person to be a temporary member of the Executive Council with the style of Minister.

(2) A person appointed under this section to be temporarily a member of the Executive Council shall hold office as such during the Governor's pleasure.

Determination of questions as to membership.

13. Any question whether any person is a member of the Executive Council shall be determined by the Governor, acting in his discretion.

Oath or affirmation by Ministers.

14. Before assuming the functions of his office a Minister shall make before the Governor or some other person authorized in that behalf by the Governor the oaths or affirmations of allegiance and for the due execution of his office in the forms set out in schedule 1 to this Constitution.

Summoning of Executive Council.

15. The Executive Council shall not be summoned except by the authority of the Governor, acting in his discretion.

Proceedings in Executive Council.

16.—(1) There shall preside at any meeting of the Executive Council—

(*a*) the Governor ;

(*b*) in the absence of the Governor, the Chief Secretary ; or

(*c*) in the absence of the Governor and the Chief Secretary, such Minister as may be designated in that behalf by the Governor, acting in his discretion.

(2) The Executive Council shall not transact any business unless there are present at least two Ministers (in addition to any Minister presiding).

(3) Subject to the provisions of subsection (2) of this section, the Executive Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council ; and any proceedings in the Council shall be valid notwithstanding that some person who was not entitled to do so took part in the proceedings.

(4) The Governor, acting in his discretion, shall alone be entitled to submit questions to the Executive Council for their advice ; but if the Governor declines to submit any question to the Council when requested in writing by any Minister to do so, that Minister may

require that there be recorded upon the minutes his written application, together with the answer given by the Governor.

Assignment of portfolios.

17. The Governor, acting in his discretion, may assign to any Minister responsibility for any business of the Government of Northern Rhodesia, including the administration of any department of government.

Parliamentary Secretaries.

18.—(1) The Governor, acting in his discretion, may by instrument under the public seal appoint Parliamentary Secretaries from among the members of the Legislative Council, who shall assist Ministers in their duties.

(2) Subject to subsection (3) of this section, a Parliamentary Secretary shall hold office as such during the Governor's pleasure.

(3) A Parliamentary Secretary shall vacate his office—

(*a*) at such time or in such circumstances as may be specified in the instrument by which he is appointed ; or

(*b*) if he ceases to be a member of the Legislative Council.

Leave of absence.

19. The Governor, acting in his discretion, may grant leave of absence from his duties to any Minister and to any Parliamentary Secretary.

PART III

THE LEGISLATIVE COUNCIL

Legislative Council.

20.—(1) There shall be a Legislative Council for Northern Rhodesia.

(2) The members of the Legislative Council shall be—

(*a*) a Speaker ;

(*b*) the ex-officio members of the Executive Council ;

(*c*) such elected members as may be elected in accordance with the provisions of Part IV of this Constitution ;

(*d*) such nominated members as may be appointed by the Governor by instrument under the public seal in pursuance of instructions given to him by Her Majesty through a Secretary of State ; and

(*e*) such temporary members as may be appointed under section 27 of this Constitution.

Speaker.

21.—(1) The Speaker shall be appointed by the Governor by instrument under the public seal in pursuance of instructions given to the Governor by Her Majesty through a Secretary of State from among persons who do not hold any public office and are not appointed members of the Executive Council or Parliamentary Secretaries.

(2) The Speaker shall hold office as such during Her Majesty's pleasure and shall not vacate his office by reason only of a dissolution of the Legislative Council ; but he shall vacate his office—

(*a*) at such time or in such circumstances as may be specified in the instrument by which he is appointed ;

(*b*) if, with his consent, he is nominated as a candidate for election to the Council; or

(*c*) if he is appointed to a public office or to be a Minister or a Parliamentary Secretary.

(3) The Governor, acting in his discretion, may grant the Speaker leave of absence from his duties.

(4) There shall be charged upon the revenues of Northern Rhodesia and paid thereout to the Speaker such salary and allowances as the Governor, acting in his discretion, may by order prescribe.

Acting Speaker.

22. The Governor, acting in his discretion, may by instrument under the public seal appoint a person who is not a Minister or a Parliamentary Secretary to act as Speaker during any period when the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office; and the provisions of this Constitution (other than sections 20 (1) and 21 (2) (*c*) of this Constitution) shall apply in relation to that person as they apply in relation to the Speaker.

Qualifications for elected members.

23.—(1) Subject to the provisions of section 24 of this Constitution, a person shall be qualified to be elected as an elected member of the Legislative Council if, and shall not be qualified to be so elected unless, he—

(*a*) is qualified for registration as a voter and is so registered; and

(*b*) satisfies the appropriate authority that he can speak, write and understand English well enough to take an active part in the proceedings of the Council.

(2) For the purpose of subsection (1) of this section—

(*a*) a person shall be deemed to have the required knowledge of English if—

(i) English is his native tongue;

(ii) he has completed a full course of primary education of the prescribed standard; or

(iii) he has been a member of the Legislative Council of Northern Rhodesia (whether established under this Constitution or otherwise);

(*b*) "the appropriate authority" means the returning officer for the constituency in which the candidate seeks election or, if the returning officer decides that the candidate does not possess the qualification required by that subsection and the candidate appeals against the decision in such manner as may be prescribed, the Speaker.

(3) A person shall be qualified to be elected a member of the Legislative Council—

(*a*) for a higher franchise constituency, only if he is registered as a voter under the higher franchise;

(*b*) for a lower franchise constituency, only if he is registered as a voter under the higher franchise or the lower franchise;

(*c*) for a national constituency, only if he is registered as a voter under the higher franchise or under the lower franchise and—

(i) in the case of the seat of a member representing that constituency that is reserved, by virtue of the provisions of section 34 of this Constitution, for Europeans, he is a European ; or

(ii) in the case of a seat of a member representing that constituency that is reserved by virtue of the provisions of section 34 of this Constitution for Africans, he is an African ; and

(*d*) for the special national constituency, only if he is registered as a voter for the purpose of returning to the Council the member for that constituency.

Disqualifications for elected and nominated members.

24.—(1) No person shall be qualified to be elected or appointed a member of the Legislative Council who—

(*a*) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state ;

(*b*) has been adjudged or otherwise declared bankrupt or insolvent under any law in force in any part of the Commonwealth, in the Republic of Ireland or in South Africa and has not been discharged or has made a composition with his creditors and has not paid his debts in full ;

(*c*) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Northern Rhodesia or is detained as a criminal lunatic under any such law ;

(*d*) is under sentence of death imposed on him by a court in any part of the Commonwealth, in the Republic of Ireland or in South Africa or is under a sentence of imprisonment (by whatever name called) imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court ;

(*e*) is detained under a detention order, or is subject to a restriction order, under any law for the time being in force in Northern Rhodesia ; or

(*f*) is disqualified for election or appointment, as the case may be, as a member of the Council or for registration as a voter under any law for the time being in force in Northern Rhodesia relating to offences connected with elections.

(2) No person who is, or is a partner in a firm that is, or is a director or manager of a company that is, a party to any contract with the Government of Northern Rhodesia or of the Federation for or on account of the service of the public within Northern Rhodesia for which the consideration exceeds one hundred pounds shall be qualified to be elected or appointed a member of the Legislative Council unless—

(*a*) in the case of an elected member, he has within one month before the day of the election at which he is a candidate published in the English language in the Gazette and in a newspaper circulating in the constituency for which he is a candidate a notice setting out the nature of such contract and his interest, or the interest of any such firm or company, therein ; or

(*b*) in the case of a nominated member, he has, before his appointment, disclosed to the Governor the nature of that contract and the interest that he, or as the case may be, that firm or company, has therein.

(3) No person shall be qualified to be elected a member of the Legislative Council who—

(*a*) subject to the provisions of this Part of this Constitution, holds or is acting in, any public office ; or

(*b*) holds, or is acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.

Tenure of office of elected and nominated members.

25.—(1) Subject to the provisions of this Constitution, a nominated member of the Legislative Council shall hold his seat in the Council during the Governor's pleasure.

(2) The seat of an elected member or a nominated member of the Legislative Council shall become vacant—

(*a*) upon a dissolution of the Council ;

(*b*) if he becomes a member of the Federal Assembly ;

(*c*) if, being an elected member, he resigns his seat by writing under his hand addressed to the Speaker ;

(*d*) if, being an elected member, he is appointed as a nominated member of the Council or, being a nominated member, he is, with his consent, nominated as a candidate in any election of a member of the Council ;

(*e*) if he is appointed to the office of Speaker ;

(*f*) if he has been absent from two consecutive meetings of the Council and has not, before the expiration of the second of those meetings, obtained permission for his absence from either of those meetings from the Speaker, in the case of an elected member, or the Governor, in the case of a nominated member ;

(*g*) if he, any firm in which he is a partner or any company of which he is a director or manager becomes a party to such a contract as is mentioned in section 24 (2) of this Constitution unless—

(i) before or as soon as practicable after he, the firm or the company becomes a party to that contract he discloses to the Speaker, in the case of an elected member, or the Governor, in the case of a nominated member, the interest that he, the firm or the company has in that contract ; and

(ii) he is exempted from vacating his seat under this paragraph by the Speaker, in the case of an elected member, or the Governor, in the case of a nominated member ;

(*h*) if any circumstances arise that, if he were not a member of the Legislative Council, would cause him to be disqualified for election or, as the case may be, appointment thereto by virtue of section 24 (1) (*a*), (*b*), (*c*) or (*f*) or 24 (3) of this Constitution ; or

(*i*) in the circumstances mentioned in section 26 of this Constitution.

(3) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

(4) The Speaker shall report to the Legislative Council every case in which he grants a permission or exemption under subsection (1) (*f*) or (*g*) of this section.

Vacation of seats upon sentence etc.

26.—(1) Subject to the provisions of this section, if a member of the Legislative Council—

(*a*) is sentenced by a court in any part of the Commonwealth, in the Republic of Ireland or in South Africa to death or imprisonment (by whatever name called) for a term exceeding six months; or

(*b*) is detained under a detention order, or is subject to a restriction order, under any law for the time being in force in Northern Rhodesia,

he shall forthwith cease to perform his functions as a member and to be entitled to such remuneration (if any) as may otherwise be payable to him as such and his seat in the Council shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence or the detention order or restriction order, as the case may be, so however that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval of the Council signified by resolution.

(2) If at any time before the member vacates his seat—

(*a*) he is granted a free pardon or his conviction is set aside or his sentence is set aside or varied so that he is no longer under sentence of death or imprisonment for a term exceeding six months; or

(*b*) the detention order or restriction order, as the case may be, is revoked,

his seat in the Legislative Council shall not become vacant under the provisions of this section and he may again perform his functions as a member and be paid any remuneration to which he ceased to be entitled when he ceased to perform his functions as a member.

(3) For the purposes of this section two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Temporary members of Legislative Council.

27.—(1) Whenever a nominated member of the Legislative Council is absent from Northern Rhodesia or is for any reason unable to perform his functions as a member the Governor may by instrument under the public seal appoint a person qualified for appointment as a nominated member to be temporarily a member of the Council.

(2) A person appointed under this section to be temporarily a member of the Legislative Council shall hold his seat in the Council during the Governor's pleasure.

(3) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

Determination of questions as to membership of Legislative Council.

28.—(1) Any question whether a person has become an elected member of the Legislative Council or whether an elected member of the Legislative Council has vacated his seat therein shall be determined by the High Court.

(2) Any question whether a person has become a nominated member of the Legislative Council or whether a nominated member of the Council has vacated his seat therein shall be determined by the Governor, acting in his discretion.

(3) A law enacted under this Constitution may make provision with respect to the persons who may apply for the determination of any question under this section, the circumstances and manner in which and the conditions on which any such application may be made and the powers, practice and procedure of the High Court in relation to any such application in respect of an elected member of the Council.

Interpretation.

29.—(1) A person shall not be treated as holding, or acting in, a public office for the purposes of this Part of this Constitution—

(*a*) if he is on leave of absence pending relinquishment of a public office;

(*b*) by reason only that he—

(i) is receiving any remuneration or allowances from the revenues of Northern Rhodesia as a Minister, a Parliamentary Secretary or a member of the Legislative Council;

(ii) is receiving a pension or other like allowance from the Crown;

(iii) is an officer of Her Majesty's forces on retired or half pay;

(iv) is a member of the defence forces of the Federation whose services are not wholly employed by the Federation or a member of the Northern Rhodesia Police Reserve or of any of the reserves of Her Majesty's forces or, for the duration of any war in which Her Majesty is engaged, of any of Her Majesty's forces;

(v) is a Chief or a Native Authority or a member of a Native Authority;

(vi) is receiving travelling or subsistence allowances or refunds of out-of-pocket expenses.

(2) If it is provided in any law for the time being in force in Northern Rhodesia that an office shall not be a public office for all or any of the purposes of this Part of this Constitution, the provisions of this Part shall have effect accordingly.

(3) References in this Part of this Constitution to a sentence of imprisonment shall be construed as including a sentence of imprisonment the execution of which is suspended but not as including a sentence of imprisonment imposed in default of the payment of a fine.

PART IV

ELECTIONS OF MEMBERS OF LEGISLATIVE COUNCIL

Division of Northern Rhodesia into constituencies.

30.—(1) For the purposes of the election of the elected members of the Legislative Council the whole of Northern Rhodesia shall—

(*a*) be divided into fifteen higher franchise constituencies;

(*b*) be divided into fifteen lower franchise constituencies;

(*c*) be divided into seven national constituencies ; and

(*d*) form one special national constituency.

(2) Subject to the provisions of this Part of this Constitution, the boundaries of the higher franchise constituencies, the lower franchise constituencies and the national constituencies shall be delimited from time to time by a Delimitation Commission appointed in accordance with the provisions of this Part.

(3) Whenever the boundaries of constituencies are delimited by a Delimitation Commission, the Commission shall designate four national constituencies as constituencies that shall each return one European member and one African member to the Legislative Council.

(4) In the exercise of its functions under this section a Delimitation Commission shall comply with the provisions set out in schedule 2 to this Constitution.

Appointment of Delimitation Commission.

31.—(1) The Governor, acting in his discretion, shall, not later than five years after the coming into operation of this Constitution and thereafter at intervals of not more than five years, appoint a Delimitation Commission, which shall consist of a chairman and two other members of whom one shall be a European and one shall be an African.

(2) A person shall not be qualified for appointment as chairman of a Delimitation Commission unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland or a court having jurisdiction in appeals from such a court.

(3) A person shall not be qualified for appointment as a member of a Delimitation Commission if he is a member of the Legislative Council or of the Federal Assembly.

(4) If, after the appointment of a Delimitation Commission and before a proclamation of constituencies delimited by the Commission has been made under section 33 of this Constitution, the office of the chairman or any other member of the Commission falls vacant or the holder of the office is unable for any reason to discharge his functions as a member of the Commission, the Governor, acting in his discretion, may appoint another person qualified for appointment to be a member of the Commission.

(5) Before appointing any person to be a member of a Delimitation Commission under this section the Governor shall consult the Chief Justice.

(6) When any matter falls to be determined by a Delimitation Commission and the members of the Commission are not unanimous with respect to that matter, the decision of any two members of the Commission shall be the decision of the Commission.

Report of Commission.

32.—(1) Whenever a Delimitation Commission has been appointed, the Commission shall as soon as practicable submit to the Governor a report which shall include—

(*a*) a list of the constituencies delimited by the Commission and a description of the boundaries of those constituencies ;

(*b*) a map or maps showing the constituencies so described ;

(*c*) the recommendation of the Commission as to the name by which each constituency shall be known; and

(*d*) the designation by the Commission of four national constituencies that shall each return one European member and one African member to the Legislative Council.

(2) The Governor, acting in his discretion, may refer back to the Commission for its further consideration any matter arising out of the Commission's report and the Commission shall either confirm or amend its findings with respect to the matter so referred.

Govenor to proclaim constituencies.

33.—(1) As soon as practicable after the submission of the report of the Delimitation Commission and, if any matter has been referred back to the Commission, the submission of the Commission's decision on that matter, the Governor shall by proclamation in the Gazette—

(*a*) declare the boundaries of the constituencies as delimited by the Commission;

(*b*) assign to each constituency the name by which it shall be known:

Provided that in assigning a name to a constituency the Governor shall not be obliged to act in accordance with the recommendation of the Commission;

(*c*) declare the four national constituencies designated by the Commission under section 32 (1) (*d*) of this Constitution to be constituencies that shall return one European and one African member to the Legislative Council;

(*d*) divide Northern Rhodesia into electoral areas and assign to each electoral area the name by which it shall be known:

Provided that each electoral area shall be coterminous with a constituency and no electoral area shall be traversed by the boundary of any constituency.

(2) If there shall be any discrepancy between the written description of the boundaries of a constituency contained in the report of the Commission and the delimitation of the boundaries of that constituency on a map included in the report the written description shall prevail.

(3) Any proclamation made under this section shall come into force at the next dissolution of the Legislative Council after it is made.

Distribution of seats of elected members.

34.—(1) Of the elected members of the Legislative Council—

(*a*) one shall be elected to represent each higher franchise constituency by voters registered under the higher franchise in every electoral area that is within or coterminous with that constituency;

(*b*) one shall be elected to represent each lower franchise constituency by voters registered under the lower franchise in every electoral area that is within or coterminous with that constituency;

(*c*) two shall be elected to represent each national constituency by the voters registered under the higher franchise or under the

lower franchise in every electoral area that is within or coterminous with that constituency who are—

(i) Europeans;

(ii) Africans; or

(iii) coloured persons who have declared, in the manner prescribed, that they wish to vote for the purposes of returning members for the national constituencies; and

(*d*) one shall be elected to represent the special national constituency by the voters registered in Northern Rhodesia under the higher franchise or under the lower franchise who are—

(i) Asian; or

(ii) coloured persons who have not declared, in the manner prescribed, that they wish to vote for the purposes of returning members for the national constituencies.

(2) Where a declaration is made under section 33 (1) (*c*) of this Constitution in respect of a national constituency, the seat in the Legislative Council of one member representing that constituency shall be reserved for a European and of one such member shall be reserved for an African.

Classes of voters.

35. For the purposes of the election of members of the Legislative Council, there shall be two classes of voters, that is to say, voters qualified and registered under the higher franchise and voters qualified and registered under the lower franchise.

Qualifications of voters.

36.—(1) Subject to the provisions of this section, a person shall be qualified for registration as a voter under the higher franchise or as a voter under the lower franchise, as the case may be, if, and shall not be qualified to be so registered unless—

(*a*) he is a citizen of the United Kingdom and Colonies or of the Federation or is a British protected person by virtue of his connection with Northern Rhodesia;

(*b*) he has attained the age of twenty-one years;

(*c*) he has been resident in the Federation for any continuous period of two years;

(*d*) he is able to complete in his own handwriting, in English and without assistance, such form of application for registration as may be prescribed or, if he is unable so to do by reason only of some physical incapacity—

(i) is determined in such manner as may be prescribed to have an adequate knowledge of the English language; or

(ii) if no such manner of determination has been prescribed, has sufficient knowledge of the English language to give the necessary instructions for the completion of that form on his behalf by the registering officer:

Provided that a person who possesses any of the qualifications specified in sub-paragraphs (*d*) to (*n*) inclusive of paragraph 2 of schedule 3 to this Constitution shall, for the purposes of registration as a voter under the lower franchise, be deemed to possess the qualifications required by this paragraph if he is able,

without assistance, to complete in his own handwriting the prescribed form of application for registration in any of the following languages, that is to say, Bemba, Nyanja, Lozi, Tonga, Lunda, Lovale, Gujerati or Urdu or, if he is unable so to do by reason only of some physical incapacity, is determined in such manner as may be prescribed to have an adequate knowledge of one of the said languages or, if no such manner of determination has been prescribed, has a sufficient knowledge of one of the said languages to give the necessary instructions for the completion of that form on his behalf by the registering officer;

(*e*) if it is so prescribed, he has made a declaration of allegiance to Her Majesty in such form and manner as may be prescribed; and

(*f*) he is not disqualified for registration as a voter under the provisions of subsection (4) of this section.

(2) A person shall be qualified for registration as a voter under the higher franchise if he possesses, in addition to the qualifications required by subsection (1) of this section, the qualifications specified in paragraph 1 of schedule 3 to this Constitution.

(3) A person shall be qualified for registration as a voter under the lower franchise if he possesses, in addition to the qualifications required by subsection (1) of this section, the qualifications specified in paragraph 2 of schedule 3 to this Constitution:

Provided that no person shall be qualified for registration as a voter under the lower franchise if he is qualified for registration as a voter under the higher franchise.

(4) No person shall be qualified to be registered as a voter under the higher franchise or as a voter under the lower franchise who—

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

(*b*) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Northern Rhodesia or is detained as a criminal lunatic under any such law; or

(*c*) is disqualified for registration as a voter under any law for the time being in force in Northern Rhodesia relating to offences connected with elections.

(5) Any person who, being then duly qualified, was registered immediately before the commencement of this Constitution as a voter under the provisions of the Northern Rhodesia (Electoral Provisions) Order in Council 1962 shall be deemed thereafter to possess the qualifications required by paragraphs (*a*) to (*e*) of subsection (1) of this section.

(6) Any person who, being then duly qualified, was registered immediately before the commencement of this Constitution as a voter under the provisions of the Northern Rhodesia (Electoral Provisions) Order in Council 1962 or who, being then duly qualified, has at any time registered as a voter under this Part of this Constitution shall, if so registered under the higher franchise, be deemed thereafter to possess the qualifications required by subsection (2) of this section or, if so registered under the lower franchise, be deemed thereafter to possess the qualifications required by subsection (3) of this section.

Electoral registers.

37.—(1) There shall be a register of voters for each electoral area.

(2) Any person who has fulfilled such conditions relating to residence in an electoral area as may be prescribed and who considers that he

is qualified for registration as a voter may apply to be so registered in that electoral area.

(3) When an Asian or a coloured person applies for registration as a voter he shall state that he is an Asian or a coloured person, as the case may be.

(4) When any coloured person applies for registration as a voter in an electoral area and that person does not wish to vote for the purpose of returning to the Legislative Council the member from the special national constituency, he may declare that he wishes to vote for the purposes of returning to the Legislative Council members to represent the national constituency in which that electoral area is included, in which case he shall elect whether, for the purposes of section 38 of this Constitution, he wishes his vote to be counted among the votes of the voters who are Europeans or to be counted among the votes of the voters who are Africans:

Provided that—

(*a*) a coloured person who has no European ancestry may not elect to have his vote counted among the votes of the voters who are Europeans; and

(*b*) a coloured person who has no African ancestry may not elect to have his vote counted among the votes of the voters who are Africans.

(5) No person shall be registered as a voter in more than one electoral area.

(6) Every registered voter who is an Asian or who, being a coloured person, has not declared that he wishes to vote for the purpose of returning to the Legislative Council the members to represent one of the national constituencies shall be distinguished in the register of voters for the electoral area in which he is so registered in such manner as may be prescribed.

(7) Every registered voter who is a coloured person and who has declared that he wishes to vote for the purpose of returning to the Legislative Council the members to represent one of the national constituencies shall be distinguished in the register of voters for the electoral area in which he is so registered in such manner as may be prescribed so as to show whether, for the purposes of section 38 of this Constitution, his vote should be counted among the votes of the voters who are Europeans or among the votes of the voters who are Africans.

(8) Subject to the provisions of this Constitution, a person who is registered as a voter in an electoral area shall, unless disqualified, be entitled to vote at elections in that electoral area in such manner as may be prescribed:

Provided that no person who is under sentence of death imposed on him by a court in any part of the Commonwealth, in the Republic of Ireland or in South Africa or is serving a sentence of imprisonment (by whatever name called) imposed on him by such a court or substituted by a competent authority for some sentence imposed on him by such a court or is detained under a detention order under any law for the time being in force in Northern Rhodesia shall be entitled to vote.

(9) Any question whether the vote of a person (other than a coloured person) who is registered as a voter should be counted as

that of a European or as that of an African, as the case may be, shall be determined before that person casts his vote by such officer as may be prescribed and the decision of that officer shall be conclusive.

National constituency elections.

38.—(1) In a contested election the candidate, qualified in accordance with the provisions of this Constitution for election to the seat to which that election relates, who receives the highest percentage of valid votes cast in the election shall be elected:

Provided that—

(*a*) in a contested election to fill two seats in the Legislative Council of members to represent a national constituency (not being a constituency in respect of which a declaration has been made under section 33 (1) (*c*) of this Constitution) the two candidates so qualified who receive the two highest percentages of valid votes (including the votes required by paragraph (*b*) of this proviso) shall be elected;

(*b*) no candidate shall be elected unless the votes he receives include—

(i) votes from one tenth of the European voters casting valid votes in the election and votes from one tenth of the African voters casting valid votes in the election; and

(ii) votes from one fifth of the persons registered under the higher franchise and casting valid votes in the election or votes from one fifth of the persons registered under the lower franchise and casting valid votes in the election; and

(*c*) where there is an equality of votes between candidates who, but for such equality, would be elected under the provisions of this section, such candidate shall be elected as is chosen by lot in such manner as may be prescribed.

(2) In a contested election to fill two seats in the Legislative Council to represent a national constituency the votes cast by a voter shall be void unless that voter votes for two candidates, of whom (in the case of a constituency in respect of which a declaration has been made under section 33 (1) (*c*) of this Constitution) one is a European and one is an African.

(3) If, as a result of a contested election, no candidate is elected to any vacant seat because no candidate has received the votes required by subsection (1) of this section, a further election shall be held for the purpose of filling that seat and if as a result of the further election no candidate is elected to that seat because no candidate has received the votes so required, the seat shall remain vacant until the next dissolution of the Legislative Council.

(4) For the purposes of this section—

(*a*) the percentage of votes received by a candidate shall be determined as follows—

(i) the number of valid votes received by the candidate cast by voters registered under the higher franchise shall be multiplied by one hundred and the resulting figure divided by the number of voters registered under that franchise and casting valid votes in that election;

(ii) the number of valid votes received by the candidate cast by voters registered under the lower franchise shall be multiplied by one hundred and the resulting figure divided by

the number of voters registered under that franchise and casting valid votes in that election;

(iii) the sum of the amounts ascertained under sub-paragraph (i) and sub-paragraph (ii) of this paragraph shall be divided by two;

(*b*) a coloured person who is recorded in the register of voters as having elected to have his vote counted amongst those of the European voters shall be reckoned as a European voter and a coloured person who is recorded in the register of voters as having elected to have his vote counted amongst those of the African voters shall be reckoned as an African voter.

(5) In this section "contested election" means an election for the purpose of electing a member of the Legislative Council to represent a national constituency at which the taking of a poll is prescribed.

Law as to elections.

39. Subject to the provisions of this Constitution, a law enacted under this Constitution may provide for the election of elected members of the Legislative Council and in particular (without prejudice to the generality of the foregoing power) for—

(*a*) the registration of voters, the manner in which persons may apply for registration and matters incidental thereto;

(*b*) the ascertainment of the qualifications of candidates for election and of voters;

(*c*) the determination of any question whether any person is entitled to be registered as a voter or as a member of a particular class of voters;

(*d*) the holding of elections;

(*e*) the definition and trial of offences connected with elections and the imposition of penalties therefor, including disqualification from membership of the Council or from registration as a voter or from voting at elections, of any person concerned in any such offence.

Interpretation.

40. In this Part of this Constitution "coloured person" means a person who is not ordinarily accepted as either a European, an African or an Asian.

PART V

LEGISLATION AND PROCEDURE IN LEGISLATIVE COUNCIL

Power to make laws.

41. Without prejudice to the power of Her Majesty in Council to do so and subject to the provisions of this Constitution, the Governor, with the advice and consent of the Legislative Council, may make laws for the peace, order and good government of Northern Rhodesia.

Royal Instructions.

42. Subject to the provisions of this Constitution, the Governor and the Legislative 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 Her Majesty's Sign Manual and Signet that may from time to time be addressed to the Governor in that behalf.

Rules and orders of Legislative Council.

43. Subject to the provisions of this Constitution and of any Instructions under Her Majesty's Sign Manual and Signet, the Legislative Council may from time to time make, amend and revoke rules

and orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, intituling and numbering of bills, and the presentation thereof to the Governor for assent; but no such rules and orders shall have effect until they have been approved by the Governor, acting in his discretion.

Oath or affirmation of allegiance.

44.—(1) Subject to subsection (2) of this section, no member of the Legislative Council shall be permitted to take part in any proceedings of the Council (other than proceedings necessary for the purpose of this section) until he has made before the Council an oath or affirmation of allegiance in the form set out in schedule 1 to this Constitution.

(2) If, between the time when a person becomes a member of the Legislative Council and the time when the Council next sits thereafter, a sitting takes place of any committee of the Council of which that person is a member, he may, in order to enable him to attend the sitting and take part in the proceedings of the committee, make and subscribe the oath or affirmation of allegiance before a judge of the High Court instead of before the Council; and the making and subscription of the oath or affirmation before a judge under this subsection shall be reported forthwith by the judge to the Council through the Speaker.

Presiding in Legislative Council.

45. There shall preside at any sitting of the Legislative Council the Speaker or, in his absence, such member of the Council (not being a Minister or a Parliamentary Secretary) as may be elected by the Council to preside at that sitting.

Quorum.

46.—(1) A quorum of the Legislative Council shall consist of ten persons besides the person presiding at the sitting.

(2) If at any sitting of the Legislative Council any member who is present draws the attention of the person presiding at the sitting to the absence of a quorum and, after such interval as may be prescribed in the rules and orders of the Council, the person presiding at the sitting ascertains that a quorum of the Council is still not present, the Council shall be adjourned.

(3) If, at any sitting of the Legislative Council it appears to the person presiding that a quorum of the Council is not present when the votes of the members on any question proposed for decision are counted, the voting on that question shall be invalid, that question shall stand over until the next sitting of the Council and the attention of the person presiding shall be deemed to have been drawn to the absence of a quorum for the purpose of subsection (2) of this section.

Power to transact business notwithstanding any vacancies.

47. The Legislative Council shall not be disqualified for the transaction of business by reason of any vacancy among the members of the Council, including any vacancy unfilled when the Council sits for the first time after a dissolution thereof; and any proceedings in the Council shall be valid notwithstanding that some person not entitled to do so took part in those proceedings.

Voting.

48.—(1) Save as otherwise provided in this Constitution, all questions proposed for decision in the Legislative Council shall be determined by a majority of votes of the members present and voting.

(2) The Speaker shall not have an original vote but if upon any question before the Legislative Council the votes are equally divided, he shall have and exercise a casting vote.

(3) Any member of the Legislative Council other than the Speaker shall, when presiding in the Council, retain his original vote and shall also have and exercise a casting vote.

Penalty for sitting or voting in Legislative Council when unqualified.

49.—(1) Any person who sits or votes in the Legislative Council or in any committee thereof knowing, or having reasonable grounds for knowing, that he is not entitled to do so shall be liable to a penalty not exceeding twenty-five pounds for every day upon which he so sits or votes.

(2) Any penalty under this section shall be recoverable by civil action in the High Court at the suit of the Attorney-General.

Governor may address Legislative Council.

50. The Governor, acting in his discretion, may attend and address the Legislative Council at any time.

Official language.

51. The official language of the Legislative Council shall be English.

Introduction of Bills etc.

52.—(1) Subject to the provisions of this Constitution and to the rules and orders of the Legislative Council, any member may introduce any bill or propose any motion for debate in, or may present any petition to, the Council and the bill, motion or petition shall be debated and disposed of according to the rules and orders of the Council.

(2) Except upon the recommendation of the Governor, the Legislative Council shall not—

(*a*) proceed upon any bill (including any amendment to a bill) that in the opinion of the person presiding in the Council makes provision for any of the following purposes:—

(i) for imposing or increasing any tax;

(ii) for imposing or increasing any charge on the revenues or other funds of Northern Rhodesia or for altering any such charge otherwise than by reducing it; or

(iii) for compounding or reducing any debt due to Northern Rhodesia;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Council, would be to make provision for any of the purposes aforesaid; or

(*c*) receive any petition that, in the opinion of the person presiding in the Council, requests that provision be made for any of the purposes aforesaid.

Bills and motions affecting public service.

53.—(1) If the Speaker, any member presiding in his absence or the Attorney-General informs the Legislative Council or any committee thereof that in his opinion a bill or motion before the Council or, as the case may be, a committee thereof would effect an alteration in the salary, allowances or conditions of service (including leave, passages and promotion) of any public officer or in the law, regulations, or practice governing the payment of pensions, gratuities or other like benefits to any public officer or former public officer or his widow, children, dependants or personal representatives then—

(*a*) no further proceedings shall be taken upon that bill or motion by the Council or any committee thereof except with the consent of the Governor; and

(*b*) where, in the case of a motion other than a motion for the amendment of a bill, the Governor consents and the motion is passed, it shall not come into effect—

(i) before the expiration of the period of seven days beginning with the date of its passing; or

(ii) if within that period the Governor certifies by writing under his hand that he considers it would cause any public officer or former public officer, or the widow, children, dependants or personal representatives of any public officer or former public officer to be adversely affected, unless and until it has been approved by a Secretary of State.

(2) If in the opinion of the Governor any bill presented to him for assent would effect such an alteration as is described in subsection (1) of this section and would have the effect mentioned in paragraph (*b*) (ii) of that subsection he shall reserve the bill for the signification of Her Majesty's pleasure.

(3) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

Governor's reserved powers.

54.—(1) If the Governor considers that it is expedient in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of Northern Rhodesia as a territory within the Commonwealth and all matters pertaining to the creation or abolition of any public office or to the appointment, salary or other conditions of service of any public officer) that any bill introduced, or any motion proposed in the Legislative Council should have effect then if the Council fail to pass the bill or to carry the motion within such time and in such form as the Governor considers reasonable and expedient, the Governor may, at any time he thinks fit and notwithstanding any rules and orders of the Council, declare that the bill or motion shall have effect as if it had been passed or carried by the Council either in the form in which it was introduced or proposed or with such amendments as the Governor thinks fit that have been moved or proposed in the Council, including any committee thereof; and the bill or motion shall have effect as if it had been so passed or carried and the provisions of this Constitution and in particular the provisions relating to assent to bills and disallowance of laws, shall have effect accordingly.

(2) For the purposes of subsection (1) of this section, any reference to a motion or amendment proposed shall be construed as including a reference to any motion or amendment of which notice has been duly given in accordance with any rules and orders of the Council.

(3) The Governor shall forthwith report to a Secretary of State every case in which he makes any declaration under this section and his reasons therefor.

(4) If any member of the Legislative Council objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting and, if he furnishes a copy of that statement and

requests the Governor to do so, the Governor shall, as soon as is practicable, forward a copy to a Secretary of State.

(5) Any declaration made under this section other than a declaration relating to a bill may be revoked by a Secretary of State and the Governor shall cause notice of the revocation to be published in the Gazette; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and section 38 (2) of the Interpretation Act 1889(a) shall apply to the revocation as it applies to the repeal of an Act of Parliament.

(6) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

Assent to bills.

55.—(1) When a bill has been passed by the Legislative Council it shall be presented to the Governor who shall thereupon, acting in his discretion, either—

(*a*) in Her Majesty's name and on Her Majesty's behalf—

(i) himself assent to the bill and sign the bill in token thereof; or

(ii) himself declare that assent is withheld from the bill; or

(*b*) reserve the bill for the signification of Her Majesty's pleasure.

(2) When a bill has been reserved for the signification of Her Majesty's pleasure and Her Majesty is pleased to assent thereto, that assent shall be given through a Secretary of State.

(3) A bill passed by the Legislative Council shall become a law—

(*a*) if the bill is assented to by the Governor on the day when that assent is given;

(*b*) if the bill is reserved for the signification of Her Majesty's pleasure and is assented to by Her Majesty, on the day when the Governor signifies that assent by proclamation in the Gazette,

but in either case that law shall not come into operation before the day on which it is published in the Gazette, without prejudice, however, to any provisions of that law or any other law postponing its operation or giving it retrospective effect.

Restriction of powers of legislature.

56. Nothing in this Part of the Constitution shall empower the Governor and the Legislative Council to enact any provision of law that is inconsistent with any obligation imposed upon Her Majesty's Government by any written agreement affecting Northern Rhodesia or any rights exercisable in Northern Rhodesia, being an agreement in which Her Majesty's Government have declared that they regard themselves as responsible for the carrying out of that Agreement by the Government for the time being of Northern Rhodesia.

Commencement of certain laws in Barotseland Protectorate.

57.—(1) No law or instrument to which this section applies shall come into operation in the Barotseland Protectorate unless the Litunga and Council signifies that he consents to its having effect in the Protectorate.

(2) For the purposes of this section the consent of the Litunga and Council shall be signified by writing under his hand and whenever such consent has been given in relation to any law or instrument, notification of the consent shall be published in the Gazette.

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

(3) This section applies to any law made by the Governor and the Legislative Council after the commencement of this Constitution, and any instrument having the force of law made in pursuance of any such law, that is inconsistent with any of the provisions of the relevant agreements, including in particular (without prejudice to the generality of the foregoing) the provisions of the relevant agreements relating to the following matters within the Barotseland Protectorate:—

(*a*) land;

(*b*) the Barotse Native Government;

(*c*) the Barotse Native Courts;

(*d*) the registration of persons;

(*e*) collective punishment;

(*f*) forests;

(*g*) the control of bush fires;

(*h*) the control of game;

(*i*) fishing; and

(*j*) the supply of native beer.

(4) In this section "the relevant agreements" means—

(*a*) the concessions mentioned in section 80 of this Constitution;

(*b*) the agreements made in 1924, with the approval of a Secretary of State, between the Governor of Northern Rhodesia of the one part and Yeta Paramount Chief of Barotseland of the other part;

(*c*) the agreement dated 29th April 1954 between Her Majesty of the one part and Mwanawina III Paramount Chief of the Barotseland Protectorate of the other part;

and where any agreement or concession referred to in paragraph (*a*), (*b*) or (*c*) of this subsection has been amended or replaced by any other agreement to which Her Majesty or the Governor, acting with the approval of a Secretary of State, is a party, the reference shall be construed as a reference to the concession or agreement as amended or replaced.

Disallowance of laws.

58.—(1) Any law assented to by the Governor may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty the Governor shall cause notice of the disallowance to be published in the Gazette and the law shall be annulled with effect from the date of the publication of the notice.

(3) Section 38 (2) of the Interpretation Act 1889 shall apply to the annulment of any law under this section as it applies to the repeal of an Act of Parliament, save that any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Privileges of Legislative Council and its members.

59. A law enacted under this Constitution may determine and regulate the privileges, immunities and powers of the Legislative Council and its members but no privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland or the members thereof.

Sessions.

60. The sessions of the Legislative Council shall be held at such places and begin at such times as the Governor may from time to

time by proclamation in the Gazette appoint; but a period of twelve months shall not elapse between the date when the Council last sat in one session and the date appointed for its first sitting in the next session.

Prorogation and dissolution.

61.—(1) The Governor, acting in his discretion, may at any time by proclamation published in the Gazette prorogue or dissolve the Legislative Council.

(2) The Governor shall dissolve the Legislative Council at the expiration of five years from the date when the Council first meets after any general election if it is not sooner dissolved.

General elections.

62. There shall be a general election at such time within three months after every dissolution of the Legislative Council, as the Governor, acting in his discretion, may by proclamation in the Gazette appoint.

PART VI

THE HIGH COURT

High Court.

63.—(1) There shall be a High Court for Northern Rhodesia which shall be a superior court of record with such jurisdiction and powers as may be prescribed by any law for the time being in force in Northern Rhodesia.

(2) Subject to the provisions of this Constitution, the judges of the High Court shall be a Chief Justice and such number of puisne judges as may from time to time be prescribed by Her Majesty by instructions given to the Governor through a Secretary of State.

(3) The High Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of a judge of that court.

Appointment of judges.

64.—(1) The Chief Justice and the puisne judges of the High Court shall be appointed by the Governor by instrument under the public seal in pursuance of instructions given to him by Her Majesty through a Secretary of State.

(2) A person shall not be qualified to be appointed a judge of the High Court unless—

(*a*) he is, or has been, a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland or a court having jurisdiction in appeals from any such court; or

(*b*) he is qualified to practise as an advocate in any such court and has been qualified for not less than five years to practise as an advocate or solicitor in such a court.

(3) For the purposes of subsection (2) of this section a person shall be treated as qualified to practise as an advocate or solicitor in any such court during any period in which, after becoming so qualified, he holds or acts in any office the holder of which is precluded from so practising, being an office under the Government of, or connected with a court in, some part of the Commonwealth or the Republic of Ireland.

(4) A judge of the High Court shall not enter upon the duties of his office unless he has taken before the Governor or some person authorized by the Governor in that behalf, the oaths or affirmations

of allegiance and for the due execution of his office in the forms set out in schedule 1 to this Constitution.

Tenure of office of judges.

65.—(1) Subject to the provisions of section 66 of this Constitution, a judge of the High Court shall hold office until he attains the age of sixty-two years:

Provided that a judge may, notwithstanding that he has attained that age, continue to sit as such for the purpose of giving judgment or otherwise in relation to proceedings that were heard by him before he attained that age.

(2) No office of judge of the High Court shall be abolished while there is a substantive holder of the office.

Removal of judges.

66.—(1) A judge of the High Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be removed except in accordance with the provisions of this section.

(2) A judge of the High Court shall be removed from office by the Governor by order under the public seal if the question of removing him from office has, at the request of the Governor made in pursuance of subsection (3) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act 1833(a) or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or misbehaviour.

(3) If the Governor considers that the question of removing a judge of the High Court from office for inability as aforesaid or misbehaviour ought to be investigated, then—

(*a*) the Governor shall by order under the public seal (which he may vary or revoke by another such order) appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Governor from among persons who hold or have held office as judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland or a court having jurisdiction in appeals from any such court;

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether he should request that the question of removing the judge from office should be referred by Her Majesty to the Judicial Committee; and

(*c*) if the tribunal so recommends, the Governor shall request that the question should be referred accordingly.

(4) Subject to the provisions of subsection (3) of this section the provisions of the Commissions of Inquiry Ordinace(b) shall apply in relation to a tribunal appointed by an order made under that subsection as if the tribunal were commissioners appointed by a commission issued under the Ordinance, and references in the Ordinance to commissioners and a commission shall be construed accordingly.

(5) If the question of removing a judge of the High Court from office has been referred to a tribunal under subsection (3) of this

(a) 3 & 4 Will. 4. c. 41.
(b) Revised Laws of Northern Rhodesia, Chapter 34.

section the Governor may suspend the judge from performing the functions of his office and any such suspension may at any time be revoked by the Governor and shall in any case cease to have effect—

(*a*) if the tribunal recommends to the Governor that he should not request that the question of removing the judge from office should be referred by Her Majesty to the Judicial Committee; or

(*b*) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(6) The powers conferred on the Governor by this section shall be exercised by him in his discretion.

Acting judges.

67.—(1) If the office of Chief Justice is vacant or if the Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the Chief Justice has resumed those functions, as the case may be, those functions shall be performed by such one of the puisne judges or such other person qualified for appointment as a judge of the High Court as the Governor, acting in his discretion, may appoint for that purpose:

Provided that a person may be so appointed notwithstanding that he has attained the age of sixty-two years.

(2) If the office of a puisne judge is vacant or if a puisne judge is appointed to act as a Chief Justice or is for any reason unable to perform the functions of his office, or if the Governor, after consultation with the Chief Justice, is satisfied that the state of business in the High Court requires that the number of judges of that Court should be temporarily increased, the Governor, acting in his discretion after consultation with the Chief Justice, may appoint a person qualified for appointment as a judge of the High Court to act as a puisne judge:

Provided that a person may be so appointed notwithstanding that he has attained the age of sixty-two years.

(3) A person appointed under the provisions of this section to perform the functions of Chief Justice or to act as a puisne judge shall, subject to the provisions of section 66 of this Constitution (other than subsection (1)), continue to act for the period of his appointment or, if no such period has been specified, until the Governor, acting in his discretion and, in the case of a person appointed to act as a puisne judge, after consultation with the Chief Justice, revokes his appointment:

Provided that any such person may, notwithstanding that the period of his appointment has expired or his appointment has been revoked, sit as a judge for the purpose of giving judgment or otherwise in relation to any proceedings heard by him while he was so acting.

Remuneration of judges.

68.—(1) There shall be charged upon the revenues of Northern Rhodesia and paid thereout to judges of the High Court and to any person appointed to act as a judge of that court such salaries and allowances as the Governor, acting in his discretion, may by order prescribe.

(2) The salary of a judge of the High Court or of any person appointed to act as a judge of that court or his terms of service,

other than allowances shall not be altered to his disadvantage during his continuance in office.

PART VII

THE HOUSE OF CHIEFS

Composition of House of Chiefs.

69.—(1) There shall be a House of Chiefs for Northern Rhodesia.

(2) The members of the House of Chiefs shall be—

(*a*) not more than four Chiefs representing the Barotseland Protectorate, who shall be appointed by the Litunga and Council; and

(*b*) twenty-two Chiefs representing Provinces:

Provided that no Chief shall be qualified to be a member of the House if he is a member of the Legislative Council or the Federal Assembly.

(3) A person appointed President of the House of Chiefs in accordance with regulations made under section 72 of this Constitution who is not a member of the House shall be deemed to be a member.

(4) Subject to the provisions of subsection (5) of this section, a member of the House of Chiefs shall hold office as such during the Governor's pleasure.

(5) A member of the House of Chiefs shall vacate his seat in the House—

(*a*) at the expiration of three years from the date of his selection or appointment;

(*b*) if he ceases to be a Chief;

(*c*) if any other circumstances arise that would cause him to be disqualified for selection or appointment thereto; or

(*d*) if he resigns his seat by writing under his hand addressed to the President of the House.

(6) In this section "Province" does not include any Province comprising all or part of the Barotseland Protectorate.

Functions of House of Chiefs.

70.—(1) The House of Chiefs may consider and discuss—

(*a*) any bill introduced into or proposed to be introduced into the Legislative Council that is referred to the House by the Governor; or

(*b*) any other matter referred to the House for its consideration by the Governor or approved by the Governor for consideration by the House,

and may submit resolutions on any such bill or other matter to the Governor, which the Governor shall cause to be laid before the Legislative Council.

(2) In the exercise of the powers conferred by this section the Governor shall act in his discretion.

Meetings of House of Chiefs.

71. The House of Chiefs shall meet at such times and such places as the Governor, acting in his discretion, may appoint.

Regulations relating to House of Chiefs.

72.—(1) Subject to the provisions of this Constitution, the Governor, acting in his discretion, may by regulation provide for all or any of the following matters—

(*a*) the selection of Chiefs to be members of the House of Chiefs representing Provinces;

(*b*) the appointment or election of a President and Vice-President of the House and the appointment and tenure of office of a Clerk and other officers of the House;

(*c*) the remuneration of the President, Vice-President and other members of the House;

(*d*) the regulation and orderly conduct of the proceedings of the House;

(*e*) the definition and trial of offences relating to the selection of members of the House and the imposition of penalties therefor;

(*f*) the determination of any question whether a person has been selected or appointed as a member of the House or whether the seat of any member has become vacant;

(*g*) the application to the House and the members of the House of any of the provisions of any law for the time being in force in Northern Rhodesia relating to the privileges and immunities of the Legislative Council and the members thereof; and

(*h*) the taking by members of the House of an oath or affirmation of allegiance.

(2) Regulations made under this section in respect of the selection of members of the House of Chiefs to represent Provinces shall make provision under which—

(*a*) each Province shall be represented by such number of Chiefs (not being less than one) as may be prescribed in such regulations;

(*b*) the Chiefs representing Provinces shall be selected by the Chiefs recognised under the Native Authority Ordinance(a) in respect of any area in that Province at an election in which the votes are cast in such manner as not to disclose how any particular voter voted.

Attendance of Governor and Ministers at House of Chiefs.

73.—(1) The Governor, acting in his discretion, may attend and address the House of Chiefs.

(2) A Minister or his representative may attend the proceedings of the House of Chiefs for the purposes of any responsibility assigned to him in accordance with section 17 of this Constitution and may take part in the proceedings of the House as if he were a member of the House:

Provided that he shall not be entitled to vote in the House or any of its committees.

PART VIII

THE PUBLIC SERVICE

Governor's powers to constitute and appoint to offices.

74.—(1) Subject to the provisions of any law for the time being in force in Northern Rhodesia, the Governor, acting in his discretion and in the name and on behalf of Her Majesty—

(*a*) may constitute such offices as may lawfully be constituted by Her Majesty and may abolish any office so constituted; and

(*b*) may make appointments (including appointments on promotion and transfer) to any office so constituted.

(2) A person appointed to an office constituted under this section shall, unless it is otherwise provided by law, hold office during Her Majesty's pleasure.

(a) Revised Laws of Northern Rhodesia, Chapter 157.

Dismissal and suspension of public officers.

75. Subject to the provisions of any law for the time being in force in Northern Rhodesia, the Governor, acting in his discretion, may, for cause shown to his satisfaction, dismiss any public officer or suspend him from performing the functions of his office or take such other disciplinary action as may seem to be desirable.

Public Service and Police Service Commissions.

76.—(1) There shall be a Public Service Commission and a Police Service Commission, each of which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission and the Police Service Commission shall be appointed by the Governor and shall hold office on such terms and conditions as the Governor may by regulation prescribe.

(3) A person shall not be qualified to be a member of the Public Service Commission or the Police Service Commission if he is a member of the Legislative Council.

(4) The Governor may refer any matter relating to the exercise of his powers under section 74 (1) (*b*) or section 75 of this Constitution to the Public Service Commission or, in the case of an office in the Northern Rhodesia Police Force or an officer in that Force, to the Police Service Commission, for their advice.

(5) It shall be the duty of a Commission to which a matter is referred under this section to advise the Governor thereon but the Governor shall not be obliged to act in accordance with the advice given to him by the Commission.

(6) The powers of the Governor under this section shall be exercised by him in his discretion.

PART IX

MISCELLANEOUS

Division of Northern Rhodesia into Provinces and Districts.

77.—(1) The Governor may by proclamation in the Gazette divide Northern Rhodesia into Provinces, or divide Provinces into Districts, in such manner and with such subdivisions as may be convenient for the purposes of administration, describing the boundaries thereof and assigning names thereto.

(2) Any question whether any place is within any Province or District shall be determined by the Governor, acting in his discretion.

Concurrent appointments and reappointments.

78.—(1) Whenever a substantive holder of an office established by or under this Constitution is on leave of absence pending relinquishment of his office—

(*a*) another person may be appointed substantively to that office; and

(*b*) that person shall, for the purpose of any function attached to that office, be deemed to be the sole holder of that office.

(2) Where any person has vacated any office established by this Constitution, he may, if qualified, again be appointed or elected to that office in accordance with the provisions of this Constitution.

Resignations.

79.—(1) Any person who is appointed to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it was addressed

in accordance with the provisions of this Constitution or by any person authorised by that person or authority to receive it.

Protection of rights of Litunga and people of Barotseland Protectorate.

80.—(1) It shall not be lawful for any purpose whatever, except with the consent of the Litunga of the Barotseland Protectorate and with the approval of a Secretary of State, to alienate from the Litunga and the people of the Protectorate any part of the Protectorate.

(2) All rights of whatsoever kind reserved to or for the benefit of natives by the concessions from Lewanika Paramount Chief of Barotseland to the British South Africa Company dated 17th October 1900 and 11th August 1909 respectively, as approved by a Secretary of State and as varied from time to time by any agreement to which Her Majesty or the Governor with the approval of a Secretary of State is a party, shall continue to have full force and effect.

(3) No court other than a court recognized under the Barotse Native Courts Ordinance(a) shall have any original or appellate jurisdiction in respect of land rights in the Barotseland Protectorate that are governed by Barotse law and custom:

Provided that nothing in this subsection shall be construed as limiting the jurisdiction and powers of the High Court in relation to prerogative writs or prerogative orders.

Interpretation.

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

"Chief" means—

(*a*) the Litunga of the Barotseland Protectorate;

(*b*) an African who is recognized by the Litunga and Council to be a member of a ruling tribal family in the Protectorate and who, on the advice of the Resident Commissioner, is recognized by the Governor to be of chiefly status in the Protectorate; or

(*c*) an African who is recognized by the Governor under the provisions of the Native Authority Ordinance as a Paramount Chief, Senior Chief, Chief or Sub-Chief or an African who is appointed a Deputy Chief under that Ordinance;

"the Federation" means the Federation of Rhodesia and Nyasaland;

"the Federal Assembly" means the Federal Assembly of the Federation;

"the Gazette" means the Northern Rhodesia Government Gazette;

"the Litunga and Council" means the Litunga of the Barotseland Protectorate after consultation with his Council as constituted by Barotse custom but not necessarily in such Council assembled;

"meeting" in relation to the Legislative Council means all sittings of the Council held during a period beginning 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;

"Northern Rhodesia" means the territory that, immediately before the commencement of this Constitution, was known as Northern Rhodesia;

"prescribed" in relation to any of the purposes of any provision of this Constitution means for the time being prescribed for those purposes by a law enacted under this Constitution;

(a) Laws of Northern Rhodesia, Chapter 160.

"public office" means any office of emolument in the public service;

"public officer" means the holder of any public office and includes any person appointed to act in any such office;

"public service" means the service of the Crown in respect of the Government of Northern Rhodesia;

"session" in relation to the Legislative Council means a period beginning when the Council first meets after the coming into effect of Part III of this Constitution or after its prorogation or dissolution at any time and ending when the Council is next thereafter either prorogued or dissolved without having been prorogued;

"sitting" in relation to the Legislative Council means a period during which the Council is sitting continuously without adjournment and includes any period during which the Council is in committee.

(2) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office includes, to the extent of his authority, any person who is for the time being authorized to perform the functions of that office.

(3) The provisions of this Constitution shall have effect subject to the provisions of the Federation of Rhodesia and Nyasaland (Constitution) Order in Council 1953(a) and shall be construed accordingly.

(4) The Interpretation Act 1889 shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament of the United Kingdom.

SCHEDULE 1 TO THE CONSTITUTION

Sections 1, 14, 44 and 64.

FORMS OF OATHS AND AFFIRMATIONS

1. *Oath of Allegiance*

I, ..., swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

2. *Affirmation of Allegiance*

I, ..., solemnly and sincerely affirm, that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

3. *Oath for the due execution of office of Governor*

I, ..., swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of Governor. So help me God.

4. *Affirmation for the due execution of office of Governor*

I, ..., solemnly and sincerely affirm that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of Governor.

5. *Oath for the due execution of the office of Minister*

I, ..., being chosen and admitted of Her Majesty's Executive Council for Northern Rhodesia swear that I will to the best of my judgment at all times when thereto required freely give my counsel or advice to the Governor for the time being for the good management of

(a) S.I. 1953/1199 (1953 II, p. 1804).

the public affairs of Northern Rhodesia and that except with the authority of His Excellency the Governor I will not directly or indirectly reveal the business or proceedings of the Council or the nature or contents of any document communicated to me as a Minister or any matter coming to my knowledge in my capacity as a Minister but that in all things I will be a true and faithful Councillor.
So help me God.

6. *Affirmation for the due execution of office of Minister*

I, ..., being chosen and admitted of Her Majesty's Executive Council for Northern Rhodesia solemnly and sincerely affirm that I will to the best of my judgment at all times when thereto required freely give my counsel or advice to the Governor for the time being for the good management of the public affairs of Northern Rhodesia and that except with the authority of His Excellency the Governor I will not directly or indirectly reveal the business or proceedings of the Council or the nature or contents of any document communicated to me as a Minister or any matter coming to my knowledge in my capacity as a Minister but that in all things I will be a true and faithful Councillor.

7. *Oath for the due execution of office of judge*

I, ..., swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of ..... and will do right to all manner of people after the laws and usages of Northern Rhodesia, without fear or favour, affection or illwill. So help me God.

8. *Affirmation for the due execution of office of judge*

I, ..., solemnly and sincerely affirm that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of ..... and will do right to all manner of people after the laws and usages of Northern Rhodesia, without fear or favour, affection or illwill.

Section 30.

SCHEDULE 2 TO THE CONSTITUTION

RULES FOR THE DELIMITATION AND DESIGNATION OF CONSTITUENCIES

1. Subject to paragraph 2 of this schedule—

(*a*) the boundaries of each higher franchise constituency shall be such that the number of voters registered under the higher franchise included in that constituency is as nearly equal to the electoral quota as is reasonably practicable;

(*b*) the boundaries of each lower franchise constituency shall be such that the number of adult African inhabitants thereof as estimated by the Delimitation Commission is as nearly equal to the population quota as is reasonably practicable;

(*c*) the boundaries of each national constituency shall be such that—

(i) the ratio between the number of voters registered under the higher franchise included in that constituency and the number of voters registered under the lower franchise included in that constituency is as near to the average ratio as is reasonably practicable; and

(ii) the total number of voters (whether voters registered under the higher franchise or under the lower franchise) included in that constituency is equal to not less than one tenth of the number of all the voters registered (whether under the higher franchise or the lower franchise) throughout Northern Rhodesia.

2. The number of voters or inhabitants, as the case may be, included in a constituency may be greater or less than the electoral quota or the population quota, and the ratio between the number of voters registered under the higher franchise and under the lower franchise greater or less

than the average ratio, in order to take account of means of communication, geographical features, the distribution of population and administrative boundaries:

Provided that—

(*a*) the number of voters registered under the higher franchise in a higher franchise constituency shall not be greater or less than the electoral quota—

(i) in the case of an urban constituency, by a number equal to more than one quarter of that quota;

(ii) in the case of a rural constituency, by a number equal to more than one third of that quota;

(*b*) the number of adult African inhabitants in a lower franchise constituency as estimated by the Delimitation Commission shall not be greater or less than the population quota—

(i) in the case of an urban constituency, by a number equal to more than one quarter of that quota;

(ii) in the case of a rural constituency, by a number equal to more than one third of that quota.

3. The Commission shall apply the provisions of paragraphs 1 and 2 of this schedule so as to ensure that in the case of a lower franchise constituency neither the whole nor any part of the Barotseland Protectorate is included with any other part of Northern Rhodesia.

4. Every higher franchise rural constituency shall be coterminous with a lower franchise constituency or shall consist of two or more complete lower franchise constituencies.

5. Every lower franchise urban constituency shall be coterminous with a higher franchise constituency or shall consist of two or more complete higher franchise constituencies.

6. Every national constituency shall consist of two or more complete constituencies as delimited in accordance with section 30 (1) (*a*) and (*b*) of this Constitution.

7. Every constituency shall comprise a single area of territory:

Provided that a constituency may comprise two separate areas of territory where one of those areas is bounded in part by the northern boundary of the Katanga pedicle and the other area is bounded in part by the southern boundary of the Katanga pedicle.

8. The four national constituencies in which the ratio between the number of voters registered under the higher franchise included in the constituency and the number of voters registered under the lower franchise included in the constituency is greater or less than the average ratio by the smallest amount shall be designated as constituencies that shall return one European member and one African member.

9.—(1) In this schedule—

"average ratio" means the proportion which the total number of voters registered under the higher franchise throughout Northern Rhodesia bears to the total number of voters registered under the lower franchise throughout Northern Rhodesia;

"electoral quota" means the number obtained by dividing the total number of voters registered under the higher franchise throughout Northern Rhodesia by fifteen;

"the Katanga pedicle" means all that part of the Province of Katanga of the Republic of the Congo that lies to the south east of a line drawn between the westernmost point of Kilwa Island in the Kawambwa District of Northern Rhodesia and boundary pillar number 29 on the boundary of the Solwezi District of Northern Rhodesia;

"population quota" means the number obtained by dividing the number of adult African inhabitants of Northern Rhodesia, as ascertained from the latest official statistics of the population of Northern Rhodesia compiled by the Government of Northern Rhodesia, by fifteen;

"rural constituency" means a constituency that is not an urban constituency;

"urban constituency" means a constituency that has within its boundaries the whole or any part of any area declared to be a municipality under the Municipality Corporation Ordinance(a) or of the township of Mabuzuka.

(2) For the purposes of this schedule the number of voters registered under the higher franchise or under the lower franchise shall be the number so registered on such date as the Governor may prescribe by notice in the Gazette.

Section 36.

SCHEDULE 3 TO THE CONSTITUTION

ADDITIONAL QUALIFICATIONS FOR VOTERS

Additional qualifications for voters registered under the higher franchise

1. Subject to paragraphs 3 to 8 of this schedule, the additional qualifications required for registration as a voter under the higher franchise are that the person applying therefor either—

(*a*) has an income qualification of not less than seven hundred and twenty pounds;

(*b*) has a property qualification of not less than fifteen hundred pounds;

(*c*) has completed a full course of primary education of the prescribed standard or possesses any prescribed alternative educational qualifications, and in either case has either—

(i) an income qualification of not less than four hundred and eighty pounds; or

(ii) a property qualification of not less than one thousand pounds;

(*d*) has completed the first four years of a course of secondary education of the prescribed standard or possesses any prescribed alternative educational qualifications and in either case has either—

(i) an income qualification of not less than three hundred pounds; or

(ii) a property qualification of not less than five hundred pounds;

(*e*) is a Chief;

(*f*) is a Tribal Councillor;

(*g*) is a member of a Native Authority or a member of a Native Court;

(*h*) is a member of a Municipal Council or a member of a Township Management Board or a member of an Area Housing Board;

(*i*) is a minister of religion;

(*j*) is a member of a prescribed religious body or order who has attended the first two years of a course of secondary education of the prescribed standard or possesses any prescribed alternative educational qualification;

(*k*) is a university graduate;

(*l*) is the holder of a Certificate of Honour or a decoration for gallantry or other award from Her Majesty;

(a) Revised Laws of Northern Rhodesia, Chapter 119.

(*m*) is the holder of a letter of exemption issued under the African Exemption Ordinance(a) before 1st July 1961 ;

(*n*) is a pensioner ;

(*o*) has an income qualification of not less than three hundred pounds and has been in the service of the same employer or in the service of the same firm or business for a continuous period of ten years immediately preceding the date of his application for registration as a voter :

Provided that service under the Government of Northern Rhodesia, the Government of the Federation or a Native Authority shall be regarded as service under the same employer ; or

(*p*) is the wife of a person who for the time being possesses any of the qualifications specified in the foregoing sub-paragraphs of this paragraph.

Additional qualifications for voters registered under the lower franchise

2. Subject to paragraphs 3 to 8 of this schedule, the additional qualifications required for registration as a voter under the lower franchise are that the person applying therefor either—

(*a*) has an income qualification of not less than one hundred and twenty pounds ;

(*b*) has a property qualification of not less than two hundred and fifty pounds ;

(*c*) is the wife of a person who for the time being possesses either of the qualifications specified in sub-paragraph (*a*) or sub-paragraph (*b*) of this paragraph ;

(*d*) is a Tribal Councillor ;

(*e*) is a member of a Native Authority or a member of a Native Court ;

(*f*) is a member of a Municipal Council or a member of a Township Management Board or a member of an Area Housing Board ;

(*g*) is a Headman ;

(*h*) is a pensioner ;

(*i*) is an ex-serviceman ;

(*j*) is a person who has been registered as an Individual or Peasant Farmer or as an Improved Farmer for the two years immediately preceding his application for registration as a voter ;

(*k*) is a member of a prescribed religious body or order ;

(*l*) is the holder of a Certificate of Honour or a decoration for gallantry or other award from Her Majesty ;

(*m*) is the holder of a letter of exemption issued under the African Exemption Ordinance before 1st July 1961 ; or

(*n*) is the wife of a person who, for the time being, possesses any of the qualifications specified in sub-paragraphs (*d*) to (*m*) inclusive of this paragraph.

Interpretation

3. A person shall be treated for the purposes of this schedule as having an income qualification of a particular amount if, and only if, during the twelve months immediately preceding his application for registration as

(a) Revised Laws of Northern Rhodesia, Chapter 2.

a voter he has been in bona-fide receipt in his own right of an income of that amount; and in the computation of income—

(*a*) the value of any board or lodging that is provided for an employee by virtue of his employment and in respect of which he is not liable for any payment or deduction from his wages and any money that by virtue of his employment is paid to any employee in respect of his board or lodging shall be included; and

(*b*) in relation to any income resulting from a trade, business, undertaking, profession or calling, regard shall be had only to net income.

4. A person shall be treated for the purposes of this schedule as having a property qualification of a particular amount if, and only if, at the date of his application for registration he is the owner of immovable property within the Territory of that amount in value.

5. In paragraph 4 of this schedule the expression "owner" means—

(*a*) a holder in fee simple;

(*b*) a lessee in occupation under a lease of which the unexpired term is not less than ten years; or

(*c*) in relation to developed land forming part of a Native Reserve or Native Trust Land, an African who is the holder of that land under native law and custom:

Provided that—

(i) where any property is held in trust for any person, that person shall be deemed to be the owner thereof to the extent of his beneficial interest therein;

(ii) where any property is beneficially owned by two or more persons as joint tenants, they shall be deemed to own it in equal undivided shares;

(iii) where any property is owned by two or more persons in undivided shares, each of them shall be deemed to be the owner thereof to the extent of his share therein; and

(iv) a mortgagor in possession shall be deemed to be the owner of the property mortgaged.

6. For the purposes of paragraph 4 of this schedule the value of any immovable property shall be taken to be—

(*a*) in the case of property held in fee simple, the amount which the property, free of all encumbrances, would realise if at the date of the owner's application for registration as a voter it were sold in the open market by a willing seller to a willing buyer;

(*b*) in the case of leasehold property, either—

(i) the value of the property under the foregoing sub-paragraph if it were held in fee simple by the lessee; or

(ii) a sum equal to one-hundredth part of that value for each year of the lease unexpired at the date of the lessee's application for registration as a voter,

whichever is the less; and

(*c*) in the case of developed land forming part of a Native Reserve or Native Trust Land, the value assessed in the prescribed manner of any buildings erected on and any prescribed improvements effected to that land.

7. For the purposes of this schedule—

"a Territory" means Southern Rhodesia, Northern Rhodesia or Nyasaland;

"ex-serviceman" means a person who has served in the armed forces of the Crown on active service, as defined in the Army Act 1955(a), or for a minimum period of six years, is no longer so serving and was not discharged for misconduct;

"headman" means a person who is a headman, recognized by his chief, of a registered village;

"member of an Area Housing Board" means a person who has been appointed, elected or nominated to be a member of a Board constituted under or by virtue of the provisions of the Urban African Housing Ordinance(b) and who is, and has been for not less than twelve months immediately preceding the date of his application for registration as a voter, such a member;

"member of a Municipal Council" means a person who has been elected, nominated or appointed to be a member of a City or Municipal Council and who is, and has been for not less than twelve months immediately preceding the date of his application for registration as a voter, such a member;

"member of a Native Authority" means—

(*a*) in respect of a Native Authority in the Barotseland Protectorate, a person who is and has been for the twelve months immediately preceding the date of his application for registration as a voter, a member of the Saa-Sikalo or of a District Kuta and who is not of chiefly status;

(*b*) in respect of any other Native Authority, a person who has a right to attend, speak and vote in a Native Authority Council and whose name has consistently appeared in the list of members as shown in the minutes of the meetings of the Council kept for the twelve months immediately preceding the date of his application for registration as a voter or a person certified by a Provincial Commissioner as being a member of a Native Authority for the said period of twelve months.

"member of a Native Court" means a person who is certified by the Resident Commissioner of the Barotseland Protectorate or a Provincial Commissioner as being a member of a Native Court for the twelve months immediately preceding the date of his application for registration as a voter;

"member of a Township Management Board" means a person who has been elected or appointed to be a member of a Board of Management of a Township or of a Mine Township and who is, and has been for not less than twelve months immediately preceding the date of his application for registration as a voter, such a member;

"member of a prescribed religious body or order" means a person who at the date of his application for registration as a voter follows, and for any period or periods amounting in all to four years prior to such date has followed, no other profession, trade or calling and who does not receive and has not received during any of the said period or periods amounting to four years any earned income other than that received by him directly as a member of such body or order;

"minister of religion" means a person who is ordained or appointed as a minister of religion and who follows no profession, trade or calling other than that of a minister of religion, receives no earned income other than that received by him directly as a minister of religion and who—

(*a*) has obtained a university degree in divinity; or

(a) 3 & 4 Eliz. 2. c. 18.
(b) Laws of Northern Rhodesia, Chapter 234.

(*b*) has undergone a period of not less than three years' full-time training in divinity in a theological training college or seminary; or

(*c*) has undergone a period of not less than two years' full-time training in divinity in a theological training college or seminary followed by a period of not less than one year's service in the capacity for which he has been trained;

"pensioner" means a person who is at the date of his application for registration as a voter in receipt of a monthly or annual pension, or who has received a gratuity which in either case has been earned after not less than fifteen years' service with the same employer or in the same firm or business:

Provided that service under the Government of Northern Rhodesia, the Government of the Federation or a Native Authority shall be regarded as service under the same employer;

"Tribal Councillor" means—

(*a*) a Hereditary Councillor; or

(*b*) a Departmental Councillor to a Native Authority whose appointment as such has been approved by a Provincial Commissioner;

"university graduate" means a person who—

(*a*) holds a degree from a university in the United Kingdom or in the Republic of Ireland or from such other university as the Governor may from time to time approve in writing; or

(*b*) holds a professional or other qualification which the Governor may from time to time approve in writing as being equivalent to a degree awarded by a university in the United Kingdom.

8. Where a man is married under a system permitting polygamy and has more than one wife, only the wife to whom he has been married for the longer period or, if the system under which he is married recognises any other wife to be the senior wife, only that other wife shall be treated as his wife for the purpose of paragraph 1 (*p*) and paragraph 2 (*c*) and (*n*) of this schedule.

EXPLANATORY NOTE

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

This Order provides a new constitution for Northern Rhodesia.