EXPLANATORY NOTE

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

This Order makes provision for the use and development of land, whether Crown Land, Native Reserve or Native Trust Land, in the Gwembe Administrative District of Northern Rhodesia in connexion with and consequent upon the construction of the Kariba dam.

1959 No. 105

The Northern Rhodesia (Legislative Council) Order in Council, 1959

Made - - - -	19*th January*, 1959
Laid before Parliament	23*rd January*, 1959
Coming into Operation	24*th January*, 1959

At the Court at Buckingham Palace, the 19th day of January, 1959

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred on Her by the Foreign Jurisdiction Act, 1890(a), and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Citation and commencement

1.—(1) This Order may be cited as the Northern Rhodesia (Legislative Council) Order in Council, 1959.

(2) This Order shall be published in the Gazette and shall come into operation on such day as the Governor may by proclamation in the Gazette appoint, which day shall not be earlier than the day when this Order is so published or than the day after that on which this Order is laid before both Houses of the Parliament of the United Kingdom.

Revocations and savings

2.—(1) The Northern Rhodesia (Legislative Council) Orders in Council, 1945 to 1954(b), the Northern Rhodesia (Legislative Council) (Validation of Membership) Order in Council, 1954(c), and the Northern Rhodesia (Electoral Provisions) Order in Council, 1958(d), are hereby revoked.

(2) Nothing in the foregoing subsection shall prejudice anything done under or by virtue of any of the instruments revoked thereby and in particular the continued operation of any Territorial law in force immediately before the commencement date.

(a) 53 & 54 Vict. c. 37.

(b) S.R. & O. 1945/620, S.I. 1948/340, 2064 (Rev. VIII, p. 163: 1945 I, p. 403; 1948 I, pp. 1344, 1348); S.I. 1953/1907, 1954/145, 482, 1376 (1953 II, p. 1514; 1954 II, pp. 1928, 1932, 1934).

(c) S.I. 1954/1375 (1954 II, p. 1935).

(d) S.I. 1958/1520 (1958 II, p. 2086).

(3) In the Legislative Council Ordinance, 1958(a), any reference to the said Order of 1958 shall be construed as a reference to this Order, and in section six of the said Ordinance any reference to the requisite means qualification for registration as an ordinary voter or, as the case may be, as a special voter shall be construed as a reference to the appropriate additional qualification specified in sub-paragraph (*e*) or (*f*) of paragraph 1 or sub-paragraph (*e*) of paragraph 2, as the case may require, of the First Schedule to this Order; and any reference in any Territorial law in force immediately before the commencement date to any provision of any of the instruments revoked by this Order which is re-enacted with or without modification in this Order shall be construed as a reference to the corresponding provision of this Order.

Interpretation

3.—(1) In this Order, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say—

"the commencement date" means the day appointed under subsection (2) of section one of this Order;

"the Council" means the Legislative Council of the Territory, and includes that Council as constituted at any time since the making of the Northern Rhodesia Order in Council, 1924(b), as well as that Council as constituted in accordance with this Order;

"Crown lands" means any land other than land forming part of a Native Reserve or of Native Trust Land;

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

"the Gazette" means the Northern Rhodesia Government Gazette;

"the Governor" means the Governor for the time being of Northern Rhodesia, and includes any person for the time being administering the government of the Territory and, to the extent to which any deputy to the Governor is authorised to act, that deputy;

"Her Majesty's dominions" includes the Federation and any territory under Her Majesty's protection or in which Her Majesty has for the time being jurisdiction;

"meeting", in relation to the Council, means all sittings of the Council held during a period beginning when the Council first meets after being summoned at any time and ending when the Council is next thereafter either adjourned sine die or prorogued or dissolved without having been prorogued;

"Native Reserve" has the same meaning as in the Northern Rhodesia (Crown Lands and Native Reserves) Orders in Council, 1928 to 1956(c);

"Native Trust Land" has the same meaning as in the Northern Rhodesia (Native Trust Land) Orders in Council, 1947 to 1954(d);

(a) No. 36 of 1958. (b) S.R. & O. 1924/324 (Rev. VIII, p. 154: 1924, p. 395).
(c) S.R. & O. 1928/246, 1936/1380, 1947/2214 (Rev. VIII, p. 173: 1928, p. 601; 1936 I, p. 936; 1947 I, p. 779), 1929/103, 651, 1931/167, 849, 1933/227, 488, 1937/760, 1943/76, 1947/194 (Rev. VIII, p. 182: 1929, pp. 457, 467; 1931, pp. 453, 458; 1933, pp. 824, 828; 1937, p. 809; 1943 I, p. 295; 1947 I, p. 778), 1929/1002, 1938/181 (Rev. VIII, p. 193: 1929, p. 468; 1938 I, p. 1309); S.I. 1950/1966, 1951/1168, 1955/1953, 1956/1892 (1950 II, p. 95; 1951 II, p. 96; 1955 II, p. 2211; 1956 II, p. 1990).
(d) S.R. & O. 1947/2214 (Rev. VIII, p. 201: 1947 I, p. 779), S.I. 1954/1142, 1374 (1954 II, pp. 1937, 1938).

" prescribed ", in relation to any of the purposes of any provision of this Order, means for the time being prescribed for those or corresponding purposes by or under any Territorial law ;

" public office " means any office of emolument under the Crown in the Territory ;

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

" session ", in relation to the Council, means a period beginning when the Council first meets after a general election of the elected members thereof or after a prorogation thereof and ending when the Council is next thereafter either prorogued or dissolved without having been prorogued ;

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

" Territorial law " means any law for the time being in force which was made by virtue of this Order or was in force immediately before the commencement date by virtue of any instrument revoked by this Order ;

" the Territory " means Northern Rhodesia as defined by article five of the Northern Rhodesia Order in Council, 1924 ;

" the Western, Central and Southern Provinces " means those parts of the Territory which immediately before the commencement date were for the time being so defined by a proclamation made by the Governor under paragraph (1) of article thirteen of the Northern Rhodesia Order in Council, 1924, as amended by the Northern Rhodesia Order in Council, 1949(a) ;

and any reference to the Chief Secretary to the Government, the Attorney-General, the Minister of Finance or the Minister of Native Affairs, as the case may be, shall be construed as including a reference to any person for the time being discharging the functions of that office.

(2) Subject to the foregoing subsection and save where the context otherwise requires, the Interpretation Act, 1889(b), shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

PART II

THE LEGISLATIVE COUNCIL

Composition of the Council

4. There shall be a Legislative Council in and for the Territory which shall consist of a Speaker and, subject to section twelve of this Order, thirty members made up as follows, that is to say—

(*a*) four ex officio members, who shall consist of the Chief Secretary to the Government, the Attorney-General, the Minister of Finance and the Minister of Native Affairs ;

(*b*) twenty-two elected members elected by persons registered under Territorial law for the purposes of elections to the Council provided for by this section either as ordinary or as special voters

(a) S.I. 1949/1054 (1949 I, p. 1858). (b) 52 & 53 Vict. c. 63.

and returned for the following constituencies, each of which shall return one member, that is to say—

(i) twelve ordinary constituencies which shall together comprise all Crown lands in the Western, Central and Southern Provinces (other than such of those lands, if any, as may be prescribed) and any prescribed adjoining area of any Native Reserve or Native Trust Land ;

(ii) six special constituencies which shall together comprise all parts of the Territory not for the time being included in the ordinary constituencies ;

(iii) two reserved African constituencies which shall together comprise all parts of the Territory for the time being included in the ordinary constituencies ; and

(iv) two reserved European constituencies which shall together comprise all parts of the Territory for the time being included in the special constituencies ;

(*c*) four nominated members appointed by the Governor acting, subject to section ten of this Order, in his discretion, of whom—

(i) two (in this Order separately referred to as " nominated official members ") shall be appointed from among persons holding offices of emolument under the Crown in the Territory ; and

(ii) two (in this Order separately referred to as " nominated unofficial members ") shall be appointed from among persons who do not hold any office of emolument under the Crown.

The Speaker

5.—(1) The Speaker shall be appointed by the Governor by instrument under the public seal of the Territory in pursuance of Her Majesty's instructions given through a Secretary of State and, subject to the two next following subsections, shall hold office subject to Her Majesty's pleasure for such period as may be specified in the instrument by which he is appointed and shall not vacate his office by reason only of a dissolution of the Council.

(2) A person shall not be appointed as Speaker if he is the holder of any office of emolument under the Crown or is a member of the Council, and shall vacate the office of Speaker if he is appointed to such an office of emolument or if he accepts nomination as a candidate for election to, or accepts appointment as a member of, the Council.

(3) The Speaker may at any time resign his office by notice in writing under his hand addressed to the Governor, and upon the receipt by the Governor of such a notice of resignation the office of Speaker shall become vacant.

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

Qualifications for election as elected member

6. A person shall not be qualified to be elected as an elected member at any election—

(*a*) for an ordinary constituency, unless he is registered as an ordinary voter ;

(*b*) for a special constituency, unless—

(i) he is registered either as an ordinary voter or as a special voter ; and

(ii) he has obtained the signature or mark of each of not less than two-thirds of the chiefs for the time being recognised under the Native Authority Ordinance (a) or the Barotse Native Authority Ordinance (b), or under any Territorial law amending or replacing either of those Ordinances, as native authorities for areas contained within the constituency concerned, being a signature or mark given not earlier than ninety days before the day prescribed for the nomination of candidates at that election, to a certificate (which shall be irrevocable and, if so prescribed, in the prescribed form) that the chief has no objection to that person standing for election to the Council;

(*c*) for a reserved African constituency, unless he is an African and is registered as an ordinary voter; or

(*d*) for a reserved European constituency, unless he is a European and is registered as an ordinary voter,

nor shall he be so qualified for any description of constituency if a residence qualification is prescribed for a candidate for such a constituency in addition to that required for his registration as an ordinary or, as the case may be, special voter and he does not possess that additional qualification.

Qualifications for registration as voter at elections

7.—(1) Subject to subsection (3) of this section, a person shall not be qualified for registration as a voter in any constituency, whether as an ordinary voter or as a special voter, 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 the Territory; and

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

(*c*) he has the prescribed residence qualification; and

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

(i) is determined in the prescribed manner 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; and

(*e*) if so required by Territorial law, he has taken in the prescribed form and manner an oath or affirmation of allegiance to Her Majesty.

(2) Subject to subsections (3) and (5) of this section, a person shall not be qualified for registration as an ordinary voter for any constituency unless he possesses one of the additional qualifications specified in Part I of the First Schedule to this Order.

(3) Subsections (1) and (2) of this section shall not apply to any person who, immediately before the commencement date, was registered as a voter for the purpose of elections to the Legislative Council provided for by the Northern Rhodesia (Legislative Council) Orders in Council, 1945 to 1954.

(a) Laws of Northern Rhodesia, Vol. 5, c. 157.
(b) Laws of Northern Rhodesia, Vol. 5, c. 159.

(4) Subject to subsection (5) of this section a person shall not be qualified for registration as a special voter for any constituency unless—

(*a*) he possesses one of the additional qualifications specified in Part II of the First Schedule to this Order; and

(*b*) he does not possess any of the additional qualifications specified in Part I of that Schedule; and

(*c*) either his application for registration is made before the end of the fourth period referred to in the said Part II or he has previously been so registered for that or some other constituency;

and any person registered as a special voter for any constituency who becomes the possessor of any of the additional qualifications specified in the said Part I and who applies in the prescribed manner to be registered as an ordinary voter for that constituency shall thereupon be registered accordingly and his registration as a special voter shall be cancelled.

(5) Any person who has at any time been registered for the purpose of elections to the Council provided for by this Order as an ordinary voter or a special voter for any constituency shall not be removed from, or refused registration on, the register of ordinary or, as the case may be, special voters for that or any other constituency by reason only of the fact that he does not for the time being possess any of the additional qualifications specified in Part I or, as the case may be, Part II of the First Schedule to this Order.

Adjustment of special votes in certain circumstances

8.—(1) Where, in any election of a member for an ordinary constituency or a reserved European constituency, the total number of special votes counted exceeds one-third of the total number of ordinary votes counted (any fraction of a vote in that one-third being disregarded), then, except for the purpose of determining whether or not any of the candidates should forfeit his deposit, each candidate shall be treated as having received such number of special votes (any fraction of a vote being disregarded) as bears the same proportion to the number of such votes actually received by that candidate as the said one-third bears to the said total number of special votes.

(2) In this section, the expressions "special votes" and "ordinary votes" mean votes cast by special voters or, as the case may be, ordinary voters.

Election of elected members

9. Subject to the provisions of this Part of this Order, and without prejudice to any other power in that behalf by virtue of any provision of this Order, all matters relating to the election of elected members, including—

(*a*) the delimitation of the constituencies provided for by section four of this Order and the division of those constituencies for any purpose connected with such elections;

(*b*) the imposition of disqualifications for registration as a voter and of disqualifications additional thereto for election as an elected member;

(*c*) the ascertainment of the qualification or disqualification of any person for any purpose connected with such elections;

(*d*) the circumstances in which an elected member shall vacate his seat; and

(*e*) the determination of any question whether any person has been validly elected as an elected member or whether any such member has vacated his seat,

shall be regulated by Territorial law ; but, subject to any disqualification imposed by virtue of paragraph (*b*) of this section and to compliance with the requirements of any such law with respect to the matters referred to in paragraph (*c*) of this section, any person not for the time being disqualified therefor by section seven of this Order shall be entitled to be registered as an ordinary voter or a special voter, as may be appropriate.

Disqualification for appointment as nominated member

10.—(1) A person shall be disqualified for appointment as a nominated member, whether official or unofficial, if he—

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

(*b*) has been adjudged or otherwise declared bankrupt or insolvent under any law in force in any part of Her Majesty's dominions and has not been discharged or rehabilitated, or has had a composition order made against him under a Territorial law and has not fully complied with that order ; or

(*c*) not having received a free pardon in respect of the offence for which he was sentenced, is under sentence of death, or is serving or has within the immediately preceding five years completed the serving of, a sentence of imprisonment (by whatever name called) of not less than six months imposed in any part of Her Majesty's dominions, or is under, or has within the said five years been awarded, such a sentence of imprisonment the execution of which has been suspended ; or

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

(*e*) is disqualified under a Territorial law for election as an elected member by reason of being concerned in any offence relating to elections.

(2) A person shall be disqualified for appointment as a nominated unofficial member if he is, or is a partner in a firm which is, or is a director or manager of a company which is, a party to any contract with the Government of the Territory or of the Federation for or on account of the public service within the Territory for which the consideration exceeds one hundred pounds, and has not disclosed to the Governor the nature of that contract and the interest which he or, as the case may be, that firm or company has therein.

Appointment of, and tenure etc., of seats by, nominated members

11.—(1) Any appointment of a person to be a nominated member shall be made by instrument under the public seal of the Territory and, subject to the next following subsection, such a member shall hold office during the Governor's pleasure ; and the Governor shall, by writing under his hand, notify the Speaker of every appointment of a person as a nominated official member or, as the case may be, nominated unofficial member.

(2) A nominated member shall vacate his seat—

(*a*) on a dissolution of the Council ; or

(*b*) on the acceptance by the Governor of the member's resignation of his seat tendered to the Governor in writing under the member's hand ; or

(*c*) 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 that absence both from the Governor and either from the Speaker or, at a time when the office of Speaker was vacant or the Speaker was unable to perform the functions of his office, from the first in precedence of the members of the Council then present at the seat of the Government of the Territory ; or

(*d*) in the case of a nominated official member, if he ceases to hold any office of emolument under the Crown in the Territory ; or

(*e*) in the case of a nominated unofficial member, if he is appointed permanently to any office of emolument under the Crown ; or

(*f*) in the case of a nominated unofficial member, if he, or any firm in which he is a partner, or any company of which he is a director or manager, becomes a party to any contract such as is mentioned in subsection (2) of section ten of this Order, unless—

(i) before, or as soon as practicable after, he or, as the case may be, the firm or company becomes a party to that contract he discloses to the Governor the nature of the contract and the interest which he or, as the case may be, the firm or company has therein ; and

(ii) it appears to the Governor that in the circumstances it is just to exempt the member from vacating his seat under this paragraph ; or

(*g*) if any circumstances arise which, if he were not a member of the Council, would cause him to be disqualified for appointment as a nominated member under subsection (1) of the said section ten,

but if for the time being qualified in accordance with this Part of this Order shall be eligible for re-appointment at any time.

(3) If a nominated unofficial member is appointed temporarily to any office of emolument under the Crown or is appointed to act in any such office, he shall not sit or vote in the Council or any committee thereof so long as he continues to hold or to act in that office.

(4) The Governor may by instrument under the public seal of the Territory declare any nominated member to be incapable of discharging his functions as a member of the Council, and thereupon that member shall not sit or vote in the Council or any committee thereof until he is declared in the like manner to be again capable of discharging those functions.

(5) If at any time it appears to the Speaker that any nominated member has vacated his seat under subsection (2) of this section, he shall so inform the Governor.

(6) Subject to the provisions of this Part of this Order, any question whether any person has been validly appointed as a nominated member or whether any such member has vacated his seat shall be referred to and determined by the Governor.

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

Temporary members of Council

12.—(1) Where for the time being—

(*a*) one of the ex officio members is administering the government of the Territory ; or

(*b*) the functions of the offices qualifying for ex officio membership of the Council are being discharged by less than four persons ; or

(*c*) a nominated official member is discharging the functions of any of the said offices ; or

(*d*) the seat of a nominated member is vacant otherwise than by reason of a dissolution of the Council ; or

(*e*) a nominated member is unable to sit or vote in the Council in consequence of a declaration under subsection (4) of section eleven of this Order ; or

(*f*) a nominated member is absent from the Territory ; or

(*g*) a nominated unofficial member is unable to sit or vote in the Council by virtue of subsection (3) of the said section eleven,

the Governor may make up any deficiency caused thereby in the number of members available to sit in the Council and its committees by appointing a person as a temporary member of the Council.

(2) Sections ten and eleven of this Order shall apply in relation to a temporary member—

(*a*) where the deficiency being made up is in the number of nominated unofficial members, in like manner as they apply in relation to a nominated unofficial member ;

(*b*) in any other case, in like manner as they apply in relation to a nominated official member ;

and, without prejudice to subsections (1) and (2) of the said section eleven, the appointment of any person as a temporary member shall cease to have effect when the Governor informs that person that the deficiency which was the occasion for his appointment has ceased to exist.

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

Persons not to be treated as holding offices of emolument under Crown

13. A person shall not be treated as holding an office of emolument under the Crown for the purposes of this Part of this Order—

(*a*) if he is on leave of absence pending relinquishment of such an office ; or

(*b*) by reason of—

(i) being in receipt of any remuneration or allowances from the general revenue of the Territory as a member of the Executive Council of the Territory or as the Speaker or a member of the Legislative Council of the Territory ; or

(ii) being in receipt of a pension or other like allowance from the Crown ; or

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

(iv) being an officer or member of any of the defence forces of the Federation whose services are not wholly employed by the Federation, or 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 may for the time being be engaged, of any of Her Majesty's forces ; or

(*c*) subject to any Territorial law, by reason of the holding of any office in the service or appointment of the Crown, or the performance of any functions on behalf of the Crown, if the only payments he receives in respect of that office or those functions are by way of travelling or subsistence allowances or a refund of out-of-pocket expenses; or

(*d*) for such of all or any of the purposes of this Part of this Order as may be prescribed, by reason of holding any other office which may be prescribed.

PART III

LEGISLATION IN THE TERRITORY AND PROCEDURE IN THE COUNCIL

Power to make laws

14. Without prejudice to the power of Her Majesty in Council so to do, and subject to the provisions of this Order and of the Federation of Rhodesia and Nyasaland (Constitution) Order in Council, 1953(a), as for the time being in force, the Governor, with the advice and consent of the Council, shall have power to make laws for the peace, order and good government of the Territory.

Royal instructions

15. Subject to the provisions of this Order, the Governor and the Council shall, in the transaction of business and the passing of laws, conform as nearly as may be to the directions contained in any instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf; but no Territorial law shall be invalid by reason only of a failure to comply with any such instructions.

Native laws to be respected

16. All Territorial laws shall respect any native laws or customs by which the civil relations of any chiefs, tribes or populations under Her Majesty's protection are for the time being regulated, except so far as the Governor is satisfied that those laws or customs are opposed to justice or morality or are not compatible with the due exercise of Her Majesty's power and jurisdiction.

Oath or affirmation of allegiance

17.—(1) Except for the purpose of enabling this subsection to be complied with, and subject to the next following subsection, no member of the Council shall sit or vote therein or in any committee thereof until he has made and subscribed before the Council, in the form set out in the Second Schedule to this Order, an oath (or, if in legal proceedings he might lawfully make an affirmation instead of an oath, an affirmation) of allegiance.

(2) If, between the time when a person becomes a member of the 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 said oath or affirmation before a judge of the High Court of the Territory instead of before the Council; and the making and subscription of any oath or affirmation before a judge under this subsection shall be reported forthwith by the judge to the Council through the Speaker.

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

Precedence of members

18.—(1) The members of the Council shall take precedence after the Speaker as Her Majesty may specially assign or, in default of such assignment, as follows, that is to say—

(*a*) first, members who are also members of the Executive Council of the Territory according to their precedence in that Council;

(*b*) secondly, the remaining members of the Council according to the length of time during which they have been continuously members of the Council, persons who have been continuously members for the same length of time taking precedence according to the alphabetical order of their surnames.

(2) For the purposes of paragraph (*b*) of the foregoing subsection—

(*a*) any person elected or appointed to the Council at a time when the Council is dissolved shall be deemed to be a member of the Council by virtue of that election or appointment as from the commencement of the first sitting of the Council thereafter; and

(*b*) in ascertaining the period for which any person has been continuously a member of the Council, any period during which the Council was dissolved shall be disregarded.

Procedure in Council

19.—(1) At any sitting of the Council, the Speaker, or, in his absence, either such member of the Council as the Governor acting in his discretion may appoint or, in the absence of that member or in default of any such appointment, the first in precedence of the members of the Council present at the sitting, shall preside.

(2) The Governor shall have the right to address the Council at any time when he shall think fit.

(3) The official language of the Council shall be English.

(4) If at any sitting of the Council any member who is present draws the attention of the person presiding at the sitting to the fact that less than seven members are present apart from any member presiding and, after such interval, if any, as may be provided for by Standing Orders of the Council, the person presiding is satisfied that there are less than that number of members so present, the Council shall be adjourned.

(5) Subject to the last foregoing subsection, the Council may transact any business notwithstanding any vacancy in the office of Speaker or 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 therein shall be valid notwithstanding that some person not entitled to do so sat or voted in the Council or otherwise took part in those proceedings.

(6) Subject to the provisions of this Order and to any Standing Orders of the Council, any member may introduce any Bill or propose any motion for debate in, or present any petition to, the Council.

(7) Subject to the next following subsection, all questions proposed for decision in the Council shall be determined by a majority of votes of the members present and voting.

(8) The Speaker shall not vote unless there is an equality of votes; but in the case of an equality of votes the Speaker shall have and exercise a casting vote or, if the Speaker is absent, the person presiding in his absence shall have and exercise a casting vote in addition to his vote as a member.

(9) Subject to the provisions of this Order and to any such instructions as are mentioned in section fifteen thereof, the Council may from time to time by resolution make Standing Orders with respect to the regulation and orderly conduct of its business and proceedings and the despatch of business, and for the passing, intituling and numbering of Bills and the presentation of Bills to the Governor for assent, and amend or revoke any such Standing Order for the time being in force; but no such resolution shall have effect unless and until it has been approved by the Governor acting in his discretion; and until amended or revoked under this subsection the Standing Orders of the Council in force immediately before the commencement date shall continue in force subject to such modifications and adaptations, if any, as the Governor acting in his discretion may direct.

Privileges, etc. of Council

20. The privileges, immunities and powers of the Council and of the Speaker, members and committees thereof and the remuneration and allowances, if any, to be paid to the Speaker or members shall be such as may be prescribed, so, however, that the said privileges, immunities or powers shall not exceed those for the time being held or enjoyed by the Commons House of Parliament of the United Kingdom or the Speaker, members or committees thereof, as the case may be.

Penalty for sitting or voting in Council when unqualified

21.—(1) Any person who sits or votes in the Council or any committee thereof knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds for each day on which he so sits or votes.

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

Bills, motions or petitions affecting public revenue or funds

22. If the Speaker or any member presiding in the absence of the Speaker informs the Council or any committee thereof that in his opinion a Bill, motion or petition before the Council or, as the case may be, committee contains proposals which would involve the imposition or alteration of a charge on, or the making or alteration of any disposition of, any public revenue or public funds of the Territory or the imposition, alteration or repeal of a rate, tax or duty, no further proceedings on that Bill, motion or petition shall be taken in the Council or any committee thereof except on the recommendation or with the consent of the Governor.

Bills or motions affecting public service

23.—(1) If either the Speaker or any member presiding in the absence of the Speaker or the Attorney-General informs the Council or any committee thereof that in his opinion a Bill or motion before the Council or, as the case may be, committee 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 or practice governing the payment of pensions, gratuities or other like benefits to or in respect of any public officer or former public officer, 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, which shall not be withheld if in the opinion of

the Governor the alteration would not result in any public officer or former public officer, or the widow, children, dependants or personal representatives of any public officer or former public officer, being affected prejudicially ; and

(*b*) where, in the case of such a motion as aforesaid, other than a motion for the amendment of a Bill, the Governor consents as aforesaid 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 result as aforesaid, 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 mentioned in the foregoing subsection which would result as mentioned in paragraph (*a*) of that subsection, he shall reserve that Bill for the signification of Her Majesty's pleasure.

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

Governor's reserved powers

24.—(1) If, in the case of any Bill introduced or motion proposed in the Council, the Governor considers it expedient in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Territory as a component part of 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 the Bill or motion should be passed, then, if the Council fails to pass it within such time and in such form as the Governor may think reasonable and expedient, the Governor may at any time in his discretion, and notwithstanding anything in this Order or in any Standing Orders of the Council, declare that the Bill or motion shall have effect as if it had been passed by the Council either in the form in which it was introduced or proposed or with such of any amendments made or proposed in the Council or any committee thereof as the Governor may think fit ; and thereupon the Bill or motion shall have effect as if it had been so passed and, in the case of a Bill, sections twenty-five and twenty-six of this Order shall apply accordingly ; and for the purposes of this subsection any reference therein 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 Standing Orders of the Council.

(2) The Governor shall report forthwith to a Secretary of State every case in which he makes a declaration under this section and his reasons for so doing.

(3) If any member of the 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 objecting, and if he furnishes the Governor with an additional copy of the statement the Governor shall forward that additional copy as soon as may be to a Secretary of State.

(4) Any declaration 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 any such revocation to be published in the Gazette; and from the date of the publication of that notice any motion which had effect by virtue of the declaration revoked shall cease to have effect and the provisions of subsection (2) of section thirty-eight of the Interpretation Act, 1889, shall apply to the revocation as they apply to the repeal of an Act of Parliament.

Assent to or lapse of Bills

25.—(1) When a Bill has been passed by the Council, it shall be presented to the Governor who, except in the case of a Bill which he is required by subsection (2) of section twenty-three of this Order or by the next following subsection to reserve for the signification of Her Majesty's pleasure, and subject to any instructions such as are mentioned in section fifteen of this Order, shall thereupon 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) The Governor shall reserve for the signification of Her Majesty's pleasure any Bill—

(*a*) whereby natives are subjected or made liable to any conditions, disabilities or restrictions to which persons of European descent are not also subjected or made liable, other than conditions, disabilities or restrictions in respect of the supply of arms, ammunition or liquor; or

(*b*) which alters the arrangements relating to the collection and allocation of mining revenues in force immediately before the commencement date or which imposes any special rate, tax or duty on minerals in or under land within the Territory; or

(*c*) which authorises the construction of any new railway; or

(*d*) which determines or regulates the privileges, immunities or powers of the Council or of the Speaker, members or committees thereof,

unless he has been authorised by a Secretary of State to assent thereto or the Bill contains a clause suspending the operation thereof until the signification in the Territory of Her Majesty's pleasure thereon.

(3) 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.

(4) A Bill passed by the Council shall become a law—

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

(*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, without prejudice to any provision thereof or of any other Territorial law whereby it is to come into operation on a later date, shall not come into operation before the day on which it is published in the Gazette.

(5) A Bill passed by the Council shall lapse on the declaration by the Governor that assent is withheld therefrom.

Disallowance of laws

26.—(1) Her Majesty may through a Secretary of State disallow any Territorial law assented to by the Governor, and any law so disallowed shall be annulled with effect from the day on which the Governor gives notice of the disallowance by proclamation in the Gazette.

(2) On the annulment of any law under this section, 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, but save as provided in the foregoing provisions of this section the provisions of subsection (2) of section thirty-eight of the Interpretation Act, 1889, shall apply to the annulment as they apply to the repeal of an Act of Parliament.

Sessions of Council

27. The first session of the Council to begin after the commencement date shall begin not later than six months after that date; and thereafter twelve months shall not intervene between the last sitting of the Council in one session and the date appointed for its first sitting in the next session; and, subject to the provisions of this Order, the sessions of the Council shall be held at such place and begin at such time on such date as the Governor may from time to time by proclamation in the Gazette appoint.

Dissolution and prorogation of Council

28. The Governor may at any time in his discretion by proclamation prorogue or dissolve the Council and, unless it has been sooner dissolved, shall dissolve it at the expiration of five years from the date when it first meets after any general election of the elected members thereof.

General elections

29. A general election of the elected members of the Council shall be held within such period not exceeding three months after any dissolution of the Council as the Governor may by proclamation in the Gazette appoint.

W. G. Agnew.

SCHEDULES

FIRST SCHEDULE

ADDITIONAL QUALIFICATIONS REQUIRED FOR REGISTRATION AS VOTER

PART I

ORDINARY VOTERS

1. Subject to Part III of this Schedule, the additional qualifications required for registration as an ordinary voter are that the person applying therefor either—

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

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

(*c*) has completed a 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; or

(*d*) has attended 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; or

(*e*) is a minister of religion of a prescribed class, or a member of a prescribed class of a prescribed religious body; or

(*f*) is a chief of a prescribed class; or

(*g*) 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.

PART II

SPECIAL VOTERS

2. Subject to Part III of this Schedule, the additional qualifications required for registration as a special voter are that the person applying therefor either—

(*a*) has an income qualification of not less than—

(i) if the application is made during the first period, one hundred and fifty pounds;

(ii) if the application is made during the second period, three hundred pounds;

(iii) if the application is made during the third period, four hundred and fifty pounds;

(iv) if the application is made during the fourth period, six hundred pounds; or

(*b*) has a property qualification of not less than—

(i) if the application is made during the first period, five hundred pounds;

(ii) if the application is made during the second period, seven hundred and fifty pounds;

(iii) if the application is made during the third period, one thousand pounds;

(iv) if the application is made during the fourth period, twelve hundred and fifty pounds; or

(*c*) has attended the first two years of a course of secondary education of the prescribed standard, or possesses any prescribed alternative educational qualifications, and in either case—

(i) if the application is made during the first period, has an income qualification of not less than one hundred and twenty pounds;

(ii) if the application is made during the second period, has either an income qualification of not less than one hundred and fifty pounds or a property qualification of not less than five hundred pounds;

(iii) if the application is made during the third period, has either an income qualification of not less than two hundred pounds or a property qualification of not less than five hundred pounds;

(iv) if the application is made during the fourth period, has either an income qualification of not less than two hundred and fifty pounds or a property qualification of not less than five hundred pounds; or

(*d*) if the application is made after the end of the first period, has completed a course of primary education of the prescribed standard, or possesses any prescribed alternative educational qualifications, and in either case—

(i) if the application is made during the second period, has either an income qualification of not less than two hundred and ten pounds or a property qualification of not less than six hundred pounds;

(ii) if the application is made during the third period, has either an income qualification of not less than three hundred pounds or a property qualification of not less than seven hundred and fifty pounds;

(iii) if the application is made during the fourth period, has either an income qualification of not less than three hundred and ninety pounds or a property qualification of not less than nine hundred pounds; or

(*e*) is a member of a prescribed class of village headmen, tribal councillors or pensioners; or

(*f*) 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.

3. References in paragraph 2 of this Schedule to the first, second, third or fourth period, as the case may be, shall be construed as references to the period beginning in the case of the first period with the commencement date or in any other case with the end of the immediately preceding period and ending with the end of such day as the Governor may by proclamation in the Gazette appoint for the purpose, being a day not earlier than one month nor later than two months after the date of the proclamation; and the Governor shall not appoint a day for the ending of any of the said periods unless he is satisfied that the total number of special voters for the time being registered in the Territory is not less than the total number of ordinary voters for the time being so registered, but subject to his being so satisfied shall appoint the following day or the earliest day thereafter which it is feasible to appoint, that is to say—

(*a*) in the case of the first period, the thirty-first day of December, nineteen hundred and sixty-one;

(*b*) in the case of the second period, the day falling three years after the day appointed for the ending of the first period;

(*c*) in the case of the third and fourth periods respectively, the day falling two years after the day appointed for the ending of the second or, as the case may be, third period.

Part III

General

4. A person shall be treated for the purposes of Part I or II of this Schedule as having an income qualification of a particular amount if, and only if, during each of the two years immediately preceding his application for registration 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 which 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 which, 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.

5. A person shall be treated for the purposes of the said Part I or II 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.

6. In paragraph 5 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.

7. For the purposes of paragraph 5 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;

(*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.

8. Where a man is married under a system permitting of polygamy and has more than one wife, only the wife to whom he has been married for the longest 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 deemed to be his wife for the purposes of sub-paragraph (*g*) of paragraph 1 or sub-paragraph (*f*) of paragraph 2 of this Schedule.

9. If at any time the Governor is satisfied that, since the commencement date or the date of the last proclamation such as is hereinafter mentioned, whichever of those dates is the later, the purchasing power in the Territory of the currency of the Federation has decreased or increased to an extent equivalent to not less than ten per cent. of that purchasing power at the commencement date, he may by proclamation in the Gazette direct that, as from such date not earlier than one month nor later than two

months after the date of the proclamation as may be specified therein, Parts I and II of this Schedule shall have effect—

(*a*) as if for the sums of money specified therein there were substituted such amounts as may be respectively specified in relation thereto in the direction, being amounts equal to the sums specified in the said Parts I and II as originally enacted increased or, as the case may be, reduced by ten per cent. for every complete ten per cent. by which the Governor is satisfied that the said purchasing power is for the time being less or, as the case may be, greater than it was at the commencement date; or

(*b*) where a proclamation made by virtue of sub-paragraph (*a*) of this paragraph is for the time being in force and the Governor is satisfied that the said purchasing power is for the time being the same as, or less than ten per cent. less or greater than, it was at the commencement date, as if no proclamation had ever been made by virtue of the said sub-paragraph (*a*),

and on the date so specified in any such direction any previous proclamation under this paragraph shall cease to have effect; and the provisions of this Schedule shall have effect subject to any such direction for the time being in force.

SECOND SCHEDULE

OATH OR AFFIRMATION OF ALLEGIANCE

1. *Form of oath of allegiance.*

I, ..., do 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. *Form of affirmation of allegiance.*

I, ..., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her heirs and successors, according to law.

EXPLANATORY NOTE

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

Part II of this Order makes provision for a Legislative Council for Northern Rhodesia consisting of a Speaker, four ex officio members, twenty-two elected members, two nominated official members and two nominated unofficial members. It also makes provision with respect to the constituencies for which the elected members are to be returned and prescribes qualifications for registration as an ordinary or special voter for the purpose of electing those members. Part III of the Order reproduces with minor amendments the effect of the existing provisions with respect to the powers and procedure of the Council.