1961 No. 2314

RHODESIA AND NYASALAND FEDERATION

The Southern Rhodesia (Constitution) Order in Council, 1961

Made - - - - 6th December, 1961
Laid before Parliament 6th December, 1961
Coming into Operation
Sections 6 *to* 18 - *On a date to be appointed by the Governor under Section* 5
Remainder - - 7th December, 1961

1.11.62 - see 3782/Pt 3 fol 43E

At the Court of Saint James, the 6th day of December, 1961

Present,

Her Majesty Queen Elizabeth The Queen Mother
Her Royal Highness The Princess Margaret, Countess of Snowdon
Lord President **Lord John Hope**
Earl of Perth **Mr. Erroll**

Whereas Her Majesty, in pursuance of the Regency Acts, 1937 to 1953, was pleased, by Letters Patent dated the eighth day of November, 1961, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more them, that is to say, His Royal Highness Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness The Duke of Kent and Her Royal Highness The Princess Alexandra of Kent, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness Prince Philip, Duke of Edinburgh, and Her Royal Highness The Princess Alexandra of Kent while absent from the United Kingdom:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, Countess of Snowdon being authorized thereto by the said Letters Patent, and in pursuance of the powers conferred by the Southern Rhodesia (Constitution) Act, 1961(a), and otherwise, do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows:—

Grant of new Constitution.

1.—(1) Her Majesty hereby grants to Southern Rhodesia, subject to the provisions of this Order, the Constitution contained in the Annex to this Order (hereafter in this Order referred to as "the new Constitution") in substitution for the Southern Rhodesia Constitution Letters Patent, 1923(b), as amended from time to time (hereafter in this Order referred to as "the existing Constitution").

(a) 10 & 11 Eliz. 2. c. 2. (b) S.R & O. Rev. XXI, p. 371: 1923, p. 1078.

(2) The new Constitution shall not come into operation until a law has been enacted in accordance with the provisions of sections 2 and 3 of this Order and thereafter shall be brought into operation in the manner prescribed by sections 4 and 5 of this Order.

Power of the existing Legislative Assembly to amend the electoral law in regard to certain matters.

2.—(1) Notwithstanding any provision to the contrary contained in the existing Constitution, it shall be lawful for the Legislative Assembly constituted under the existing Constitution (hereafter in this Order referred to as "the existing Assembly") to pass a Bill amending the Electoral Act, 1951(a), in such manner as may be necessary or desirable—

(*a*) to provide that at the first general election held after the coming into force of the new Constitution, the qualifications for the franchise shall be those set out in the Second Schedule to such Constitution;

(*b*) to enable such general election to be held for the purpose of constituting a Legislative Assembly composed of sixty-five members elected from fifty constituencies and fifteen electoral districts delimited in the manner prescribed by Chapter III of the new Constitution;

(*c*) to make other necessary provision for the conduct of elections for members of the Legislative Assembly under the terms of the new Constitution.

(2) In particular, any such Bill as is mentioned in subsection (1) of this section shall, among other things, provide for the matters enumerated in section 3 of this Order and for the provisions of the Bill to be brought into operation at such time and in such manner as will facilitate the holding of a general election in conformity with the new Constitution immediately after it shall have been brought into force. Such Bill shall nevertheless provide that the provisions of the Electoral Act, 1951, the existing voters' rolls and the electoral districts in force at the date of the making of this Order shall continue to have effect for the purpose of any elections until the whole of the new Constitution is brought into force under the provisions of paragraph (*b*) of section 5 of this Order.

(3) The Governor shall not assent to any such Bill as is mentioned in subsections (1) and (2) of this section except in pursuance of instructions from Her Majesty given through a Secretary of State.

Matters for which provision is to be made by amendment of the Electoral Act, 1951.

3. The matters referred to in subsection (2) of section 2 of this Order are as follows:—

A. All such provision in relation to the registration of voters, the conduct of elections and otherwise as it is deemed necessary or desirable to make on account of the contemplated division of Southern Rhodesia into fifty constituencies and fifteen electoral districts in pursuance of the new Constitution.

B. The preparation and keeping of two rolls for each constituency and each electoral district to be known as an "A" Roll and a "B" Roll. The "A" Roll shall comprise registered voters who have the requisite educational and means qualifications under section 10 of the Electoral Act, 1951, together with such additional voters as are referred to in paragraph E of this section.

(a) Act No. 27 of 1951.

The "B" Roll shall comprise registered voters who have the requisite educational and means qualifications under section 11 of the Electoral Act, 1951, together with claimants who are registered as voters under the revised qualifications mentioned in paragraph F of this section.

C. Voters on the existing electoral rolls shall be placed on the "A" Rolls or "B" Rolls, as the case may be, for the appropriate constituency and electoral district as follows:—

(*a*) those who are registered at the date of the coming into operation of the Bill mentioned in Section 2 of this Order, under the provisions of Sections 8 and 10 of the Electoral Act, 1951, shall be placed on the "A" Rolls;

(*b*) those who are registered at the date of the coming into operation of the Bill mentioned in Section 2 of this Order, under the provisions of Section 11 of the Electoral Act, 1951, shall be placed on the "B" Rolls;

(*c*) those who are registered after the date of the coming into operation of the Bill mentioned in Section 2 of this Order shall be placed on the "A" Rolls or the "B" Rolls according to their qualifications.

D. For the manner of voting prescribed in subsection (4) of section 61 of the Electoral Act, 1951, there shall be substituted a provision that each voter shall vote for the candidate of his first preference and, where there are more than two candidates, may, if he so wishes, record in the prescribed manner a vote for the candidate of his second preference.

E. The educational and means qualifications for voters on an "A" Roll shall be those prescribed in section 10 of the Electoral Act, 1951, but duly appointed chiefs and headmen shall, by virtue of their office, be registered as voters on the "A" Roll.

F. The educational and means qualifications for voters on a "B" Roll shall be those prescribed in section 11 of the Electoral Act, 1951, with the following amendments, additions and modifications:—

(*a*) for the requirement that a claimant must have been in the *bona fide* receipt of income, salary or wages of not less than two hundred and forty pounds during each of the two years immediately preceding the date of his claim for registration there shall be substituted the requirement that a claimant must have been in the *bona fide* receipt of income, salary or wages at the rate of not less than two hundred and forty pounds per annum during the six months immediately preceding the date of his claim for registration or must be at such date the owner of immovable property in Southern Rhodesia valued at not less than four hundred and fifty pounds;

(*b*) for the requirement that a claimant must have been in the *bona fide* receipt of income, salary or wages of not less than one hundred and twenty pounds during each of the two years immediately preceding the date of his claim for registration, there shall be substituted the requirement that a claimant must have been in the *bona fide* receipt of income, salary or wages at the rate of not less than one hundred and twenty pounds per annum during the six months immediately preceding the date of his claim for registration, or must be at such date

the owner of immovable property in Southern Rhodesia valued at not less than two hundred and fifty pounds;

(*c*) a claimant who is over thirty years of age, who has an adequate knowledge of the English language and is able, in his own handwriting, to complete and sign the claim form in accordance with the provisions of the law, and who has been in the *bona fide* receipt of income, salary or wages at the rate of not less than one hundred and eighty pounds per annum during the six months immediately preceding the date of his claim for registration or who is at such date the owner of immovable property in Southern Rhodesia valued at not less than three hundred and fifty pounds, and is otherwise qualified under the Act, shall be entitled to be enrolled as a voter;

(*d*) a claimant who is over thirty years of age, who has an adequate knowledge of the English language and is able, in his own handwriting, to complete and sign the claim form in accordance with the provisions of the law, and in addition has completed a course of primary education of the standard prescribed in the Electoral Act, 1951 and has been in the *bona fide* receipt of income, salary or wages at the rate of not less than one hundred and twenty pounds per annum during the six months immediately preceding the date of his claim for registration or who is at such date the owner of immovable property in Southern Rhodesia valued at not less than two hundred and fifty pounds, and is otherwise qualified under the Act, shall be entitled to be enrolled as a voter;

(*e*) the term "owner" in relation to immovable property, shall, in the case of voters on a "B" Roll, include the person who has entered into an agreement of purchase in respect of the property which entitles him on fulfilment of the conditions of such agreement to have such property registered in his name in the Deeds Registry if, at the date of his claim for registration as a voter, such person has been in continuous occupation of such property for a period of not less than three years and is not in arrears with any instalments of the purchase price or has paid not less than ten per centum of the purchase price;

(*f*) every person who is recognised under customary law as the head of a kraal and who has a following of twenty or more heads of families shall, so long as he is so recognised and has such following, and if he has an adequate knowledge of the English language and is able, in his own handwriting, to complete and sign the claim form in accordance with the provisions of the law, be entitled to be enrolled as a voter on a "B" Roll;

(*g*) a minister of religion shall be deemed to have the requisite means qualification and shall be entitled to be enrolled as a voter on a "B" Roll. For the purposes of this paragraph, a minister of religion means a person who—

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

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

(iii) has undergone a period of not less than two years' full-time training in divinity in a theological college or seminary followed by a period of service as a minister of religion, if the aggregate of such training and service was not less than five years,

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

G. The following new provisions shall apply to the counting of votes:—

(*a*) where in any count for the election of a member for a constituency the total number of votes cast by voters on the "B" Roll exceeds one-fourth of the total number of votes cast by voters on the "A" Roll 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 votes cast by the "B" Roll voters (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-fourth of the total number of votes cast by the "A" Roll voters (any fraction of a vote in that one-fourth being disregarded) bears to the total number of votes cast by the "B" Roll voters;

(*b*) where in any count for the election of a member for an electoral district the total number of votes cast by voters on the "A" Roll exceeds one-fourth of the total number of votes cast by voters on the "B" Roll 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 votes cast by the "A" Roll voters (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-fourth of the total number of votes cast by the "B" Roll voters (any fraction of a vote in that one-fourth being disregarded) bears to the total number of votes cast by the "A" Roll voters.

H. Any necessary consequential amendments of the Electoral Act, 1951.

Delimitation of new constituencies and electoral districts.

4. After the date of the coming into force of the new qualifications for voters prescribed in section 3, the Governor shall allow such period of time (being not more than six or less than three months) to elapse as he may consider has afforded a sufficient opportunity for any persons possessing such new qualifications to claim registration as voters, and, thereafter, the Governor shall forthwith by proclamation with effect from a date appointed therein bring into force Chapter III of the new Constitution relating to the establishment of a Delimitation Commission and the division of Southern Rhodesia into fifty constituencies and fifteen electoral districts.

Dissolution of Legislative Assembly and commencement of new Constitution.

5. As soon as may be after the Governor has, in pursuance of section 40 of the new Constitution, proclaimed the names and boundaries of the constituencies and electoral districts as finally settled by the Delimitation Commission, the Governor shall, notwithstanding any of the provisions of the existing Constitution, by proclamation in the Gazette—

(*a*) dissolve the existing Assembly with effect from a stated date;

(*b*) declare that as from the same date (hereafter in this Order referred to as "the appointed day") the remainder of the new Constitution shall come into force; and

(*c*) appoint a date on which a general election shall be held for the purpose of electing a new Legislative Assembly composed in the manner prescribed in the new Constitution:

Provided that the date appointed for the holding of the general election shall not be later than two months after the date of the dissolution of the existing Assembly.

Convening of new Legislative Assembly.

6. In pursuance of subsection (1) of section 33 of the new Constitution, the Governor shall direct that the first session of the Legislative Assembly shall begin within two months of the date appointed for the holding of the general election.

Saving for existing laws.

7. All laws in force in Southern Rhodesia immediately prior to the appointed day shall, subject to the other provisions of this Order, remain in full force and effect on and after the appointed day subject to the exercise of any power to amend or repeal the same lawfully vested in the Legislature or other authority.

Adaptation of existing laws.

8.—(1) The Governor may, by order published in the Gazette, at any time within six months after the appointed day, provide that any existing law shall be read and construed with such adaptations and modifications as may appear to the Governor to be necessary for bringing the provisions of that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions; and any existing law shall have effect accordingly from such date as may be specified in the Order, not being a date earlier than the appointed day.

(2) In this section, "existing law" means a law in force immediately before the appointed day that was enacted by the Legislature of Southern Rhodesia and includes any instrument in force as aforesaid and made in exercise of a power conferred by any law of the Legislature of Southern Rhodesia.

(3) An order made under this section may be revoked or amended by a further order made under this section or, in relation to any law or instrument affected thereby, by the authority having power to repeal, revoke or amend that law or instrument.

Holders of public offices to continue.

9.—(1) Every person who immediately prior to the appointed day holds the office of Governor, Prime Minister, Minister, Judge of the High Court or any other public office constituted by or under the existing Constitution shall continue to hold the like office as if he had been appointed thereto under the corresponding provisions of the new Constitution.

(2) Any person who under the provisions of subsection (1) of this section holds any public office from the appointed day by virtue of having been the holder of that office immediately before that day shall

be deemed to have complied with the requirements of the new Constitution, or any other law in force in Southern Rhodesia, relating to the taking of oaths on appointment to such office.

First Governor's Council.

10. The persons who immediately prior to the appointed day are members of the Executive Council constituted under the existing Constitution shall be the first members of the Governor's Council established by section 44 of the new Constitution and shall be deemed to be appointed thereto and to hold office therein in accordance with the relevant provisions of the new Constitution. Any proceedings commenced in the Executive Council prior to the appointed day may be continued and completed in the Governor's Council.

The High Court.

11. The High Court of Southern Rhodesia constituted under the Southern Rhodesia Order in Council, 1898(a), shall continue to be the High Court of Southern Rhodesia for all purposes under the new Constitution.

Standing Orders of the new Assembly.

12. The Standing Orders of the existing Assembly in force immediately prior to the appointed day shall, subject to the provisions of the new Constitution, continue to be the Standing Orders of the Legislative Assembly, until otherwise provided by the Assembly.

Election of first members of the Constitutional Council.

13.—(1) Notwithstanding any of the provisions of Chapter VII of the new Constitution, the first members of the Constitutional Council shall be elected in the manner and for the period prescribed in this section of this Order.

(2) The Governor shall, in accordance with the provisions of subsection (1) of section 14 of this Order, by notice in the Gazette, convene, at a stated time and place, an interim Electoral College (hereinafter referred to as " the College ") which shall comprise the following persons :—

(*a*) The Chief Justice of the High Court of Southern Rhodesia as Chairman ;

(*b*) The Puisne Judges of the High Court ;

(*c*) Any retired judges of the High Court resident in Southern Rhodesia who are willing to act ; and

(*d*) The President of the Council of Chiefs.

(3) It shall be the duty of the Governor to prepare, with the approval of a Secretary of State, a list of thirty-three persons qualified as candidates and willing to stand for election as members of the Constitutional Council under the new Constitution and to submit the list to the College. Such list shall be so compiled that it contains the names of not less than three persons belonging to each of the categories of persons specified in section 73 of the new Constitution.

(4) The College shall elect by secret ballot six persons to be members of the Constitutional Council to hold office for six years and five persons to hold office for three years, subject always to the observance of the provisions of section 73 of the new Constitution regarding the composition of the Constitutional Council:

Provided that—

(*a*) no person shall be eligible for election unless his name appears on the list referred to in subsection (3) of this section and no candidate shall be declared elected unless he receives not less than two-thirds of the votes of the members of the College voting ;

(a) S.R. & O. 1898/1068 (Rev. XXI, p. 339: 1898, p. 385).

(*b*) the five members who are elected to hold office for three years shall include at least one European, one African and either one Asian or one member of the Coloured community.

(5) Subject to the observance of the other provisions of this section, the proceedings of the College (including the manner in which the secret ballot shall be conducted) shall be regulated by the Chairman in his discretion, save in so far as the College may see fit to decide any matter of procedure by resolution.

(6) If, in relation to the initial composition of the Council, the nomination of candidates or the election of members, any question shall arise as to the racial community to which any person shall be deemed to belong for the purposes of this section, the matter shall be referred to the Governor whose decision shall be final and not open to question in any court.

(7) Subject to the express provisions of this section, all the provisions of the new Constitution applicable to the election, tenure of office, ineligibility for re-election and the filling of casual vacancies shall apply to the members of the Constitutional Council elected by the interim Electoral College under this section as they apply to members elected by the Electoral College under the new Constitution.

Convening of interim Electoral College and first meeting of Constitutional Council.

14.—(1) The interim Electoral College shall be convened in pursuance of subsection (2) of section 13 of this Order on a date which shall be at least seven days prior to the day appointed for the holding of the general election in accordance with paragraph (*c*) of section 5 of this Order.

(2) The Chairman of the Constitutional Council shall not summon the Council in pursuance of the provisions of subsection (2) of section 88 of the new Constitution to hold its first meeting until after the date appointed by the Governor for the commencement of the first session of the Legislative Assembly in pursuance of section 6 of this Order.

Transitional provisions relating to the Board of Trustees of Tribal Trust Land.

15.—(1) All property, movable and immovable, of the Board of Trustees established under the existing Constitution (hereafter in this section referred to as "the former Board") shall on the appointed day vest in the Board of Trustees established under section 93 of the new Constitution (hereafter in this section referred to as "the new Board").

(2) The assets and liabilities of the former Board shall on the appointed day become the assets and liabilities of the new Board, and any fund administered by the former Board shall from the appointed day be administered by the new Board.

(3) The power vested by the existing Constitution in the former Board under sections 17 and 19 of the Native Reserves Forest Produce Act(a) and section 112 of the Water Act(b) shall be deemed to be transferred to and vested in the new Board with effect from the appointed day.

Saving of existing regulations relating to Native Reserves and application to Tribal Trust Land.

16. Any regulations made under subsections (2) and (4) of section 42 of the existing Constitution in force immediately prior to the appointed day shall, on and after the appointed day, apply to Tribal Trust Land and shall be deemed to be regulations made under section 101 of the new Constitution with the consent of the Board of Trustees.

(a) Laws of S. Rhodesia (Rev. Ed. 1939) Cap. 93.
(b) Laws of S. Rhodesia (Rev. Ed. 1939) Cap. 251.

Construction of laws consequent upon the amalgamation of the Native Reserves and the Special Native Area as Tribal Trust Land.

17.—(1) The Land Apportionment Act, 1941(a), shall on the appointed day cease to apply to the Special Native Area to which it applied before that day.

(2) Any law in force immediately prior to the appointed day which applied exclusively to Native Reserves shall on and after the appointed day apply to Tribal Trust Land and shall be read and construed accordingly.

(3) Where in any law in force immediately prior to the appointed day the term "Native Reserves" or "Special Native Area" occurs, such term shall on and after the appointed day be substituted by the term "Tribal Trust Land" and such law shall be read and construed accordingly.

Consolidated Revenue Fund.

18. The moneys standing, immediately prior to the appointed day, to the credit of the Consolidated Revenue Fund established under the existing Constitution shall be transferred to and become the Consolidated Revenue Fund established by section 113 of the new Constitution.

Interpretation.

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

"Act" means an Act of the Legislature of Southern Rhodesia;

"appointed day" shall have the meaning assigned to that expression by paragraph (*b*) of section 5 of this Order;

"The Council of Chiefs" means the Council of Chiefs of Southern Rhodesia established under the provisions of the Council of Chiefs and Provincial Assemblies Act, 1961(b);

"The Electoral Act, 1951," means the Electoral Act, 1951, as amended by the Electoral Amendment Act, 1953(c), the Electoral Amendment Act, 1957(d), the Electoral Amendment Act, 1958(e), and the Electoral Amendment Act, 1960(f).

"Gazette" means the Official Gazette of the Government of Southern Rhodesia;

"Governor" means the Governor of Southern Rhodesia and includes any person for the time being administering the government of Southern Rhodesia;

"Southern Rhodesia" means the Colony of Southern Rhodesia.

(2) Save where the context otherwise requires, a reference in this Order to "this Order" does not include a reference to the new Constitution.

(3) The Interpretation Act, 1889(g), shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

Commencement and publication.

20.—(1) This Order shall come into operation on the seventh day of December, 1961, except the provisions of sections 6 to 18 which shall come into operation on the appointed day.

(2) This Order and the Annex hereto shall be published in the Gazette.

Revocation.

21.—(1) Sections 8 and 9 of the Southern Rhodesia Constitution Letters Patent, 1923, are hereby revoked with effect from such date as the Governor may appoint in pursuance of the provisions of section 4 of this Order:

(a) Act No. 11 of 1941. (b) Act No. 58 of 1961. (c) Act No. 35 of 1953.
(d) Act No. 38 of 1957. (e) Act No. 13 of 1958. (f) Act No. 17 of 1960.
(g) 52 & 53 Vict. c. 63.

Provided that the division of Southern Rhodesia into electoral districts made under the said section 8 and in force on the date of the making of this Order shall remain in force until the dissolution of the existing Assembly.

(2) The Southern Rhodesia Constitution Letters Patent, 1923, and the Letters Patent dated the first day of September, 1923(a), constituting the Office of Governor of Southern Rhodesia are hereby revoked with effect from the appointed day.

(3) The revocation of the instruments mentioned in subsections (1) and (2) of this section shall be without prejudice to anything lawfully done thereunder.

Powers of Her Majesty.

22. Full power and authority is hereby reserved to Her Majesty, by Order in Council, to amend, add to or revoke this Order at any time prior to the appointed day and any Order in Council made by virtue of this section may vary or revoke any previous Order so made.

Citation.

23. This Order may be cited as the Southern Rhodesia (Constitution) Order in Council, 1961, and the Annex hereto may be cited separately as the Constitution of Southern Rhodesia, 1961.

W. G. Agnew.

ANNEX

THE CONSTITUTION OF SOUTHERN RHODESIA, 1961

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(a) S.R. & O. Rev. XXI, p. 402: 1923, p. 1096.

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THE CONSTITUTION OF SOUTHERN RHODESIA, 1961

CHAPTER I

THE GOVERNOR

The Governor.

1.—(1) There shall be a Governor in and over the Colony of Southern 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:

Provided that before any appointment is made under this subsection, the Prime Minister of Southern Rhodesia shall be consulted concerning the person to be appointed, but the question as to whether or not the Prime Minister of Southern Rhodesia has been so consulted shall not be enquired into in any court.

(2) Before entering on any of the duties of his office, the Governor shall cause his Commission to be read in the presence of the Chief Justice or some other Judge of the High Court and of such Ministers as can conveniently attend; and shall thereupon take before them the Oath of Allegiance and the Oath for the due execution of the office of Governor in the forms set out in the First Schedule, which oaths the said Chief Justice or other Judge is hereby required to administer.

Powers and duties of the Governor.

2. The Governor shall have such powers and duties as are conferred or imposed on him by or under this Constitution or any other law, and such other powers (not being powers to be exercised in his personal discretion) as Her Majesty may from time to time be pleased to assign to him. Subject to the provisions of this Constitution and of any law by which any such powers or duties are conferred or imposed, the Governor shall do and execute all things that belong to his office according to such Instructions, if any, as Her Majesty may from time to time see fit to give him:

Provided that the question whether or not the Governor has in any matter conformed to or observed any such Instructions shall not be enquired into in any court.

Acting Governor.

3.—(1) During any period when the office of Governor is vacant or the Governor is absent from Southern 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 such person as Her Majesty may appoint in that behalf by Commission under Her Sign Manual and Signet.

Provided that before any appointment is made under this subsection, the Prime Minister of Southern Rhodesia shall be consulted concerning the person to be appointed, but the question as to whether or not the Prime Minister of Southern Rhodesia has been so consulted shall not be enquired into in any court.

(2) Before assuming the functions of the office of Governor, any such person as aforesaid shall take the oaths directed by section 1 to be taken 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 them has notified him that he is about to resume or assume them.

(4) The Governor or any other person as aforesaid shall not, for the purposes of this section, be regarded as absent from Southern Rhodesia or as unable to perform the functions of the office of Governor at any time when there is a subsisting appointment of a deputy under section 4.

Deputy to Governor.

4.—(1) Whenever the Governor—

(*a*) has occasion to be absent from the seat of Government but not from Southern Rhodesia; or

(*b*) has occasion to be absent from Southern Rhodesia for a period which he has reason to believe will not exceed one month; or

(*c*) is suffering from an illness that he has reason to believe will be of short duration,

he may, by instrument under the public seal, appoint any person in Southern Rhodesia to be his deputy during such absence or illness, and in that capacity to perform on his behalf such of the functions of the office of Governor as may be specified in that instrument.

(2) The power 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 conform to and observe all instructions that the Governor may from time to time address to him:

Provided that the question whether or not a deputy has in any matter conformed to or observed any such instructions shall not be enquired into in any court.

(3) A person appointed as a deputy under this section shall hold the appointment for such period as may be specified in the instrument by which he is appointed, save that his appointment may be revoked at any time by Her Majesty or by the Governor.

Salary and allowances of Governor.

5.—(1) The Governor shall receive such salary and allowances (if any) as may from time to time be prescribed by a law of the Legislature.

(2) The salary and allowances payable to the Governor shall not be reduced during his continuance in the office of Governor and shall be charged on and paid out of the Consolidated Revenue Fund.

CHAPTER II

THE LEGISLATURE

PART I—COMPOSITION

The Legislature.

6. The Legislature of Southern Rhodesia shall consist of Her Majesty and a Legislative Assembly.

Legislative Assembly.

7.—(1) The Legislative Assembly for Southern Rhodesia shall consist of such persons as are qualified for election and are duly elected thereto in accordance with any law for the time being in force relating to the election of members to the Legislative Assembly.

(2) There shall be one member of the Legislative Assembly for each constituency and one for each electoral district established in accordance with the provisions of Chapter III of this Constitution.

The franchise.

8.—(1) Subject to the other provisions of this Constitution, a law of the Legislature may make provision with respect to the election of members to the Legislative Assembly, and, in particular, as to:—

(*a*) the qualifications and disqualifications for election as members;

(*b*) the qualifications and disqualifications for registration as a voter or for voting at elections;

(*c*) the registration of voters;

(*d*) the holding and conduct of elections;

(*e*) the definition and trial of offences relating to elections and the imposition of penalties therefor, including the disqualification for election of any person concerned in such offence;

(*f*) the hearing and disposal of election petitions.

(2) Any such law as is mentioned in subsection (1) of this section shall provide that claims for registration as voters may be made not less frequently than once in every year and that rolls of voters shall be prepared at least once in every year and be open to inspection by members of the public.

Restrictions on power of Legislature in respect of the franchise.

9.—(1) No Bill which, if enacted, would vary the qualifications or disqualifications of voters at elections for the Legislative Assembly shall be deemed to be passed by the Assembly unless at the final vote thereon it receives the affirmative votes of not less than two-thirds of the total membership of the Assembly, and no such Bill shall be presented to the Governor for assent unless it is accompanied by a certificate under the hand of the Speaker to that effect.

(2) Where any such Bill as is mentioned in subsection (1) of this section contains any provision which would, if enacted, have the effect of rendering ineligible for inclusion in the 'A' Roll or 'B' Roll, as the case may be, any person possessing the qualifications for that Roll set out in the Second Schedule, that Bill shall be dealt with in all respects as if it were a constitutional Bill to amend a specially entrenched provision of this Constitution within the meaning of section 107 and shall not be presented to the Governor for assent unless the requirements of either subsection (2) or (3) of section 110 have been complied with, in addition to those of subsection (1) of this section:

Provided that this subsection shall not apply to a provision of a Bill which, if enacted, would have the effect of rendering eligible for the 'A' Roll any person possessing the qualifications for the 'B' Roll set out in the Second Schedule.

(3) Nothing contained in subsection (1) or (2) of this section shall prevent the Governor, by proclamation in the Gazette, from varying any qualifications for the franchise which are expressed in any law of the Legislature in terms of money according to the ascertained increase or decrease in the purchasing power of money in Southern Rhodesia in pursuance of the powers conferred on the Governor under section 11B of the Electoral Act, 1951(a), as enacted by the Electoral Amendment Act, 1957(b), or any like provision amending or replacing the same. The said power of the Governor to vary by proclamation any monetary qualifications for the franchise contained in any law of the Legislature shall extend in like manner and to the same extent to such qualifications expressed in terms of money in the Second Schedule and such Schedule shall have effect subject to any such variation as the Governor may specify by proclamation from time to time in pursuance of such power:

Provided that any such variation shall not be deemed to be an amendment of any of the provisions of this Constitution for the purposes of Chapter IX.

(4) Any Bill which, if enacted, would have the effect of amending the provision in the electoral law of Southern Rhodesia in relation to the counting of votes set out in paragraph 10 of the Second Schedule shall be subject to the same procedure in all respects as if it were a constitutional Bill to amend a specially entrenched provision of this Constitution within the meaning of section 107. No such Bill shall be presented to the Governor for assent unless the Bill is accompanied by a certificate from the Speaker that at the final vote thereon it received the affirmative votes of not less than two-thirds of the total membership of the Assembly and unless the requirements of either subsection (2) or (3) of section 110 have been complied with.

(a) Act No. 27 of 1951. (b) Act No. 38 of 1957.

Election of Speaker.

10.—(1) When the Legislative Assembly first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be Speaker, and, whenever the office of Speaker is vacant otherwise than by reason of a dissolution, the Assembly shall not transact any other business until a person to fill that office has been elected.

(2) The Speaker may be elected, in such manner as the Assembly may from time to time decide, either from among the Members of the Assembly who are neither Ministers nor Parliamentary Secretaries or from among persons who are not Members of the Assembly:

Provided that a person who is not a Member of the Assembly shall not be elected Speaker unless, under the law for the time being in force, he possesses the qualifications and none of the disqualifications for election as a Member of the Assembly.

(3) Before a person who has been elected Speaker enters upon the duties of his office, he shall (unless he has already done so in accordance with the provisions of section 22) take and subscribe before the Assembly the Oath of Allegiance in the form set out in the First Schedule.

Tenure of office of Speaker.

11.—(1) The Speaker may at any time resign his office by announcing his resignation either in person to the Assembly or by writing under his hand addressed to the Clerk of the Legislative Assembly, and shall vacate his office—

(*a*) on the dissolution of the Assembly next following his election; or

(*b*) if he becomes a Minister or a Parliamentary Secretary; or

(*c*) in the case of a Speaker elected from among the Members of the Assembly, if he ceases to be a Member of the Assembly otherwise than by reason of a dissolution thereof or if, under the provisions of subsection (1) of section 15, he is required to cease to exercise any of his functions as a Member; or

(*d*) in the case of a Speaker elected from among persons who are not Members of the Assembly, if any circumstance arises that, if he had been elected to a seat in the Assembly, the provisions of paragraphs (*d*) to (*k*) of sub-section (1) of section 14 would apply to him, or would require him, by virtue of subsection (1) of section 15, to cease to exercise any of his functions as a Member.

(2) Any functions of the Speaker (whether authorised by law or otherwise) which require to be performed between a dissolution of the Assembly and the date when the Assembly first meets thereafter shall be performed by the person who was Speaker immediately before that dissolution unless he relinquishes those functions by notice in writing to the Governor or is for any reason unable to perform them, in which case those functions shall be performed by the Clerk of the Assembly or by some other person appointed by the Governor in that behalf.

Remuneration of Speaker.

12.—(1) The Speaker shall receive such salary and allowances as the Legislative Assembly may from time to time determine; such remuneration shall not be reduced during his continuance in office and shall be charged on and paid out of the Consolidated Revenue Fund.

(2) A person who has held the office of Speaker immediately prior to a dissolution shall continue to receive the salary and allowances of the Speaker until the Assembly meets after the dissolution or until he ceases sooner to perform the functions of the Speaker in the circumstances mentioned in subsection (2) of section 11.

Deputy Speaker.

13.—(1) When the Legislative Assembly first meets after any general election, it shall, as soon as practicable after the election of the Speaker, elect a Member of the Assembly, not being the Speaker or a Minister

or a Parliamentary Secretary, to be Deputy Speaker; and whenever the office of Deputy Speaker becomes vacant, otherwise than by reason of a dissolution, the Assembly shall, as soon as convenient, elect another such Member thereof to that office.

(2) The Deputy Speaker may at any time resign his office by writing under his hand addressed to the Clerk of the Assembly, and shall vacate his office—

(*a*) if he ceases to be a Member of the Assembly; or

(*b*) if he is required, under the provisions of subsection (1) of section 15, to cease to exercise any of his functions as a Member; or

(*c*) if he becomes a Minister or a Parliamentary Secretary; or

(*d*) if he is elected Speaker.

Tenure of seats of Members of Assembly.

14.—(1) The seat of a Member of the Legislative Assembly shall become vacant—

(*a*) upon the next dissolution of the Assembly after he has been elected;

(*b*) if he resigns his seat by writing under his hand addressed to the Speaker;

(*c*) if he is absent from twenty-one consecutive sittings during any session of the Legislative Assembly without the leave of the Assembly;

(*d*) if he ceases to be a British subject; or takes any oath or makes any declaration or acknowledgment of allegiance, obedience or adherence to any foreign Power or State; or does, concurs in or adopts any act done with the intention that he shall become a subject or citizen of any foreign Power or State;

(*e*) if he is adjudged or declared bankrupt or insolvent under any law in force in Southern Rhodesia;

(*f*) if he is, under any law in force in Southern Rhodesia, certified to be insane or otherwise adjudged to be of unsound mind or detained as a criminal lunatic;

(*g*) if he accepts any public office;

(*h*) if he ceases to be qualified for election to the Assembly under any law for the time being in force in Southern Rhodesia;

(*i*) if he becomes a Member of the Federal Assembly;

(*j*) if he accepts office as a Federal Minister temporarily without a seat in the Federal Assembly;

(*k*) in the circumstances set out in section 15.

(2) The resignation of a Member shall not become effective to render the seat of that Member vacant under the provisions of paragraph (*b*) of subsection (1) of this section in any case in which—

(*a*) proceedings are pending in respect of that Member's election if it is alleged that illegal or corrupt practices took place at such election; or

(*b*) proceedings in the Assembly are contemplated or pending in respect of that Member's conduct in or as a Member of the Assembly,

unless the Assembly by resolution accepts the resignation.

(3) For the purposes of paragraph (*g*) of subsection (1) of this section, a person shall not be deemed to have accepted a public office by reason of—

(*a*) accepting appointment as a Minister, Parliamentary Secretary, Speaker or Deputy Speaker;

(*b*) being an officer or member of any of the defence forces of the Federation whose services in peace time are not wholly in the employ of the Federation;

(*c*) being an officer or a member of the reserve forces of the British South Africa Police whose services are not wholly in the employ of the Government of Southern Rhodesia;

(*d*) holding any such office for which no remuneration is paid other than payment by way of travelling or subsistence allowances or out-of-pocket expenses.

Members sentenced to death or to imprisonment.

15.—(1) In the event of a Member of the Legislative Assembly being convicted of a criminal offence and being sentenced by a court in any part of Her Majesty's dominions or in South Africa to death or imprisonment (by whatever name called) for a term of six months or more, such Member shall cease forthwith to exercise his functions or to be entitled to any remuneration as a Member and, subject to the other provisions of this section, his seat shall become vacant at the expiration of thirty days from the date of such sentence.

(2) When during the said period of thirty days, an application for a free pardon is made or an appeal is filed, the question whether the Member is to vacate his seat shall not be determined until the final disposal of such application or appeal, whereupon the Member shall forthwith vacate his seat unless—

(*a*) he is granted a free pardon ; or

(*b*) his conviction is set aside ; or

(*c*) his sentence is reduced to a term of imprisonment of less than six months ; or

(*d*) a punishment other than imprisonment is substituted.

(3) Where as a consequence of the final disposal of the Member's application or appeal, his conviction or sentence is varied in any manner specified in paragraphs (*a*) to (*d*) of subsection (2) of this section, the Member shall not vacate his seat (unless he has previously resigned) but shall be entitled to resume his functions as a Member and to receive remuneration as such for the period during which he ceased to exercise his functions as a Member by reason of the other provisions of this section.

(4) For the purposes of this section—

(*a*) two or more sentences 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 ;

(*b*) two or more terms of imprisonment that are required to be served concurrently shall be regarded as a single term of imprisonment for the period of the longest of such terms ;

(*c*) a person shall be regarded as sentenced notwithstanding that the execution of the sentence or any part thereof has been suspended ;

(*d*) no account shall be taken of any sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

Unqualified persons sitting or voting.

16. Any person who sits or votes in the Legislative Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so, shall be liable to a penalty of twenty pounds for each day on which he so sits or votes. Such penalty shall be recoverable by the Crown for the benefit of the Consolidated Revenue Fund by civil action.

Notification of vacancies.

17.—(1) Whenever a vacancy occurs in the Legislative Assembly from any cause, other than as the result of an election petition, the Speaker shall, upon a resolution of the Assembly declaring such vacancy, inform the Governor thereof.

(2) If such vacancy occurs when the Legislative Assembly is not meeting, the Speaker (or in the case of the death, incapacity or absence from Southern Rhodesia of the Speaker, the Clerk of the Assembly) shall, on a certificate under the hands of two Members of the Assembly, stating that such vacancy has occurred and the cause thereof, inform the Governor.

(3) The Governor on receiving such information shall without delay cause the necessary steps to be taken for filling such vacancy in accordance with the law for the time being in force relating to the election of members to the Legislative Assembly.

Validity of proceedings.

18. Subject to the provisions of section 24, the Legislative Assembly shall not be disqualified for the transaction of business by reason of any vacancy among the Members thereof, including any vacancy not filled when the Assembly is reconstituted at any time; and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Assembly or otherwise took part in the proceedings.

General elections.

19. A general election shall be held within such period, not exceeding four months, after any dissolution of the Legislative Assembly as the Governor may, by proclamation in the Gazette, prescribe.

PART 2—GENERAL POWERS AND PROCEDURE

Power to make laws.

20.—(1) The Legislature shall have power to make laws (to be entitled "Acts") for the peace, order and good government of Southern Rhodesia.

(2) The powers of the Legislature shall extend to the making of laws having extra-territorial operation.

Standing Orders.

21. Subject to the provisions of this Constitution, the Legislative Assembly may make Standing Orders with respect to the regulation and orderly conduct of its proceedings and the despatch of business and for the passing, intituling and numbering of Bills and for the presentation of Bills to the Governor for assent.

Oath of Allegiance.

22. No Member of the Legislative Assembly shall be permitted to take part in the proceedings thereof (other than proceedings necessary for the purpose of this section) until he has taken and subscribed before the Assembly the Oath of Allegiance in the form set out in the First Schedule to this Constitution:

Provided that the election of a Speaker may take place before the Members of the Assembly have taken and subscribed such Oath.

Presiding in Assembly.

23. The Speaker, or in his absence the Deputy Speaker, or in their absence a Member of the Legislative Assembly (not being a Minister or Parliamentary Secretary) elected by the Assembly, shall preside at each sitting of the Assembly.

Quorum in Assembly.

24. If objection is taken by any Member present that there are present (besides the Speaker or other Member presiding) fewer than ten Members and, after such interval as may be prescribed in the Standing Orders, the Speaker or other Member presiding ascertains that the number of Members present is still less than ten, he shall thereupon adjourn the Assembly.

Voting in Assembly.

25.—(1) Save as otherwise provided in this Constitution, all questions proposed for decision in the Legislative Assembly shall be determined by a majority of the votes of the Members present and voting; and if, upon any question before the Assembly, the votes of the Members are equally divided, the motion shall be lost.

(2) The Speaker and the Deputy Speaker or other Member when presiding shall not have an original or a casting vote.

Privileges of Assembly and Members.

26. Subject to the other provisions of this Constitution, a law of the Legislature may make provision to determine and regulate the privileges, immunities and powers of the Legislative Assembly and its Members.

Staff of Assembly.

27.—(1) There shall be a Clerk of the Legislative Assembly and such number of other staff as the Speaker, subject to any wishes expressed by the Assembly, may from time to time consider necessary.

(2) The appointment of the Clerk of the Legislative Assembly shall be subject to the prior approval of the Assembly and the person appointed shall not be removable from office except in pursuance of a resolution of the Assembly.

(3) The staff of the Assembly shall be appointed by the Speaker on terms of service approved from time to time by the Assembly. The persons so appointed shall be deemed to be holders of public offices but shall not form part of the civil service of the Government of Southern Rhodesia.

PART 3—PROCEDURE IN REGARD TO BILLS, ETC.

Introduction of Bills.

28.—(1) Subject to the provisions of this Constitution and of the Standing Orders of the Legislative Assembly, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly, and the same shall be debated and disposed of according to the Standing Orders of the Assembly.

(2) Except on the recommendation of the Governor signified by a Minister, the Assembly shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the Speaker, makes provision for any of the following purposes, that is to say, for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other public funds of Southern Rhodesia or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Southern Rhodesia or for authorising the making or raising of any loan;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the Speaker, is that provision should be made for any of the purposes aforesaid; or

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

Assent to Bills.

29.—(1) No Bill shall become law until—

(*a*) the Governor has assented thereto in Her Majesty's name and on Her Majesty's behalf and has signed it in token of such assent; or

(*b*) in the case of a Bill which under the other provisions of this Constitution is required to be reserved, Her Majesty has given Her assent thereto and the Governor has notified the same by proclamation in the Gazette.

(2) A Bill shall be presented to the Governor for assent when it has been duly passed by the Legislative Assembly, subject always to compliance with any other requirements of this Constitution that apply to such Bill.

(3) When a Bill is presented to the Governor for assent he shall declare either—

(*a*) that he assents or refuses assent thereto; or

(*b*) in the case of a Bill which under the other provisions of this Constitution is required to be reserved (but in no other case) that he reserves the Bill for the signification of Her Majesty's pleasure.

(4) In every Bill presented to the Governor for assent, the words of enactment shall be as follows:—

"Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Southern Rhodesia".

Further provisions relating to the enactment of Bills.

30.—(1) The Governor shall reserve for the signification of Her Majesty's pleasure any Bill to which the provisions of paragraph (*b*) of subsection (2) of section 107 and subsection (3) of section 110 apply but shall not so reserve any other Bill.

(2) Where under this Constitution there is a provision that a Bill of any specified description shall not be presented to the Governor for assent unless it is accompanied by a prescribed certificate or Address, the Governor shall not assent to or reserve any such Bill unless it is so accompanied by a certificate or Address which conforms to such requirement.

(3) A law assented to by the Governor shall come into operation on the date of its publication in the Gazette or on such other date as may be specified in or under that or some other law.

(4) A Bill reserved for the signification of Her Majesty's pleasure shall, if Her Majesty has given Her assent thereto, come into operation on the date on which the proclamation of the Governor is published signifying Her assent thereto or on such other date as may be specified in or under that or some other law.

Enrolment of Acts.

31.—(1) As soon as may be after any Bill has been assented to by the Governor, or in the case of a reserved Bill, by Her Majesty, the Clerk of the Legislative Assembly shall cause a fair copy of the Act, duly authenticated by the signature of the Governor and the public seal, to be enrolled on record in the Office of the Registrar of the High Court and such copy shall be conclusive evidence of the provisions of such Act.

(2) Notwithstanding the provisions of subsection (1) of this section, a law of the Legislature may provide that a revised edition of the laws in force on any specified date shall be compiled and published and that, upon publication, the laws therein printed shall in all courts of justice and for all purposes whatever be the sole and authentic version of such laws and be conclusive evidence thereof. The Governor shall cause a duly authenticated copy of any such revised edition of the laws to be deposited in the Office of the Registrar of the High Court.

(3) The validity of any Act of the Legislature or of any revised edition of the laws shall not depend upon the enrolment or deposit thereof under the provisions of this section.

Power of disallowance in respect of certain laws.

32.—(1) Any law of the Legislature which has been assented to by the Governor and which appears to Her Majesty's Government in the United Kingdom—

(*a*) to alter to the injury of stockholders any of the undertakings given by the Government of Southern Rhodesia at the time of issue of any Southern Rhodesia Government stock registered under the Colonial Stock Act, 1877(a), or any Act amending or replacing the same; or

(*b*) to involve a departure from the original contract in respect of any such stock; or

(*c*) to be inconsistent with any obligation imposed on Her Majesty in relation to Southern Rhodesia by any treaty, convention, agreement or arrangement relating to any country or international or similar organisation,

may be disallowed by Her Majesty within six months from the date of the Governor's assent thereto.

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

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

(4) In this section "Southern Rhodesia Government stock" means stock forming any part of the public debt of Southern Rhodesia.

(a) 40 & 41 Vict. c. 59. (b) 52 & 53 Vict. c. 63.

PART 4—SUMMONING, PROROGATION AND DISSOLUTION

Sessions of Assembly.

33.—(1) Subject to the provisions of this section, the sessions of the Legislative Assembly shall be held in such place and shall begin at such time as the Governor may direct by proclamation in the Gazette.

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

Prorogation and dissolution.

34.—(1) The Governor may at any time, by proclamation in the Gazette, prorogue the Legislative Assembly.

(2) The Governor, acting in his discretion in the manner prescribed by section 45, may at any time, by proclamation in the Gazette, dissolve the Legislative Assembly.

(3) The Governor shall dissolve the Legislative Assembly at the expiration of five years from the date when the Legislative Assembly first meets after any general election unless it has been sooner dissolved.

CHAPTER III

DELIMITATION OF CONSTITUENCIES AND ELECTORAL DISTRICTS

Interpretation of Chapter III.

35. In this Chapter, unless the context otherwise requires—

"'A' roll of voters" means an "A" Roll prepared and kept under the electoral law in accordance with the provisions of the Second Schedule and includes any roll which may replace it under the electoral law for the time being in force, whether described in such law as an "A" Roll or by any other such distinguishing expression;

"'B' roll of voters" means a "B" Roll prepared and kept under the electoral law in accordance with the provisions of the Second Schedule and includes any roll which may replace it under the electoral law for the time being in force, whether described in such law as a "B" Roll or by any other such distinguishing expression;

"rural constituency" means a constituency in which the majority of the voters are not resident in an urban area;

"urban area" means an area under the jurisdiction of a municipal council or a town management board or such other area as the Governor may, by reason of the density of the population therein, declare, by notice in the Gazette, to be an urban area for the purposes of this Chapter and the provisions of any such notice shall have effect as if they were enacted in this section but shall not be deemed to be an amendment of any of the provisions of this Constitution for the purposes of Chapter IX.

Appointment of Delimitation Commission.

36.—(1) From time to time, as may be required for the purposes of this Chapter, the Governor shall appoint a Delimitation Commission which shall comprise the Chief Justice as Chairman and two other persons nominated by the Chief Justice as members:

Provided that a person shall not be qualified for appointment to the Delimitation Commission if he is a Member of the Legislative Assembly.

(2) If, after the appointment of the Commission and before the Commission's report to the Governor is completed, the Chief Justice or any member is for any reason unable to continue to act, the Governor shall in the case of the Chief Justice appoint some other Judge of the High Court to be Chairman or, in the case of a member, appoint as a member some other person nominated by the Chairman.

(3) Where, in regard to any matter, the members of the Commission are not unanimous, the view of the majority shall prevail.

Number of constituencies and electoral districts.

37.—(1) For the purpose of electing the Members of the Legislative Assembly, the whole of Southern Rhodesia shall be divided into fifty constituencies and also into fifteen electoral districts, the limits of which shall be determined, from time to time, by the Delimitation Commission in accordance with the provisions of this Chapter.

(2) Of the fifty constituencies, not less than eighteen shall be rural constituencies.

Delimitation of constituencies and electoral districts.

38.—(1) The boundaries of the constituencies shall be such that, at the time of delimitation, there are in each such constituency as nearly as may be an equal number of voters who are registered on the "A" roll of voters.

(2) The boundaries of the electoral districts shall be such that, at the time of delimitation, there are in each such electoral district as nearly as may be an equal number of voters who are registered on the "B" roll of voters.

(3) In dividing Southern Rhodesia into constituencies and electoral districts in pursuance of subsections (1) and (2) of this section, the Delimitation Commission shall, in respect of any area, give due consideration to—

(*a*) its physical features;

(*b*) the means of communication within the area;

(*c*) the geographical distribution of registered voters;

(*d*) any community of interest as between voters; and

(*e*) existing electoral boundaries,

and whenever it appears necessary to do so in order to give effect to the provisions of subsection (2) of section 37 or of this subsection, the Commission may depart from the requirements of subsections (1) and (2) of this section, but in no case to any greater extent than fifteen per centum more or less than an equal number of registered voters on the "A" Roll in a constituency or on the "B" Roll in an electoral district respectively.

Report to the Governor.

39.—(1) The Delimitation Commission shall submit to the Governor a report comprising—

(*a*) a list of constituencies and electoral districts delimited by the Commission, with the names assigned to each and a description of their boundaries;

(*b*) a map or maps showing the constituencies and electoral districts into which Southern Rhodesia has been divided by the Commission;

(*c*) any further information or particulars which the Commission considers necessary.

(2) The Governor may refer back to the Commission for its further consideration and final decision, any matter arising out of the Commission's report.

(3) If there shall appear to be any discrepancy between the description of the boundaries of any constituency or electoral district and the said map or maps, the description shall prevail.

Proclamation of constituencies and electoral districts.

40. From time to time when the Delimitation Commission has completed its report, the Governor shall, by proclamation in the Gazette, declare the names and boundaries of the constituencies and electoral districts as finally settled by the Commission to be the constituencies and electoral

districts of Southern Rhodesia which shall have effect for the purposes of the next and any subsequent general election held after the date of such proclamation.

Convening of the Delimitation Commission.

41. A Delimitation Commission shall be convened by the Governor for the purposes of this Chapter at five yearly intervals:

Provided that a Delimitation Commission may be convened before the expiration of any five yearly period if it appears to the Governor necessary to do so having regard to any substantial change in the distribution of registered voters within Southern Rhodesia.

CHAPTER IV

EXECUTIVE POWERS

Executive powers.

42. The executive authority of Southern Rhodesia is vested in Her Majesty and may be exercised on Her Majesty's behalf by the Governor or such other persons as may be authorised in that behalf by the Governor or by any law of the Legislature.

Ministers.

43.—(1) The Governor, acting in his discretion in the manner prescribed by section 45, shall appoint a Prime Minister and, on the advice of the Prime Minister, shall appoint other Ministers of the Government not exceeding eleven in number and may assign functions to such Ministers, including the administration of any department of government. Any person so appointed shall hold office during Her Majesty's pleasure:

Provided that—

(*a*) a person who holds office as a Minister of the Government for any period of four consecutive months without also being a Member of the Legislative Assembly shall cease to be a Minister at the expiration of that period unless that period expires at a time when the Assembly is dissolved in which case he shall cease to be a Minister on the date when the Assembly first meets after the dissolution, unless he is elected as a Member of the Assembly at the general election following such dissolution;

(*b*) a person who holds office as a Minister and who is at no time while holding that office also a Member of the Legislative Assembly shall be ineligible for reappointment as such a Minister before the Assembly is next dissolved after he ceases to hold that office, unless in the meantime he has become a Member of that Assembly;

(*c*) a person shall not hold office at the same time both as a Minister of the Government and as a Minister of the Federal Government;

(*d*) a Minister may at any time by notice in writing addressed to the Governor resign his office.

(2) Any person appointed under this section shall before entering upon his office take before the Governor or some person authorised by the Governor in that behalf Oaths of Allegiance and for the due execution of his office in the forms set out in the First Schedule.

The Governor's Council.

44.—(1) To advise the Governor in the government of Southern Rhodesia, there shall be a Governor's Council consisting of the Prime Minister and such other persons, being Ministers, as the Governor, on the advice of the Prime Minister, may from time to time appoint.

(2) A member of the Governor's Council shall hold office during Her Majesty's pleasure:

Provided that—

(*a*) he shall cease to hold office if he ceases to be a Minister;

(*b*) he may, at any time, by notice in writing addressed to the Governor, resign his office.

(3) Any person appointed under this section shall, before entering upon his office, take before the Governor or some person authorised by the Governor in that behalf, the Oath of a member of the Governor's Council in the form set out in the First Schedule.

Exercise of the Governor's functions.

45.—(1) In the exercise of his functions, the Governor shall act in accordance with the advice of the Governor's Council or the appropriate Minister, as the case may require, except where under this Constitution or any other law, he is required to act in accordance with the advice of any other person or authority:

Provided that the Governor shall act in accordance with his own discretion—

(*a*) in the exercise of the power of dissolving the Legislative Assembly conferred on him by subsection (2) of section 34; and

(*b*) in the appointment of a Prime Minister in pursuance of subsection (1) of section 43,

but in such cases the Governor shall observe the constitutional conventions which apply to the exercise of similar powers by Her Majesty in the United Kingdom.

(2) Where the Governor is required to act in accordance with his own discretion or the advice of any specified person or authority, a court shall not, in any case, enquire into any of the following questions or matters:—

(*a*) on whose advice the Governor acted;

(*b*) whether any advice was tendered or acted on;

(*c*) the nature of any advice tendered;

(*d*) the corresponding constitutional conventions in the United Kingdom or whether they were observed.

(3) The reference in subsection (1) of this section to the functions of the Governor shall be construed as meaning his powers and duties in the exercise of the executive authority of Southern Rhodesia and to any other powers and duties conferred or imposed on him as Governor by or under this Constitution or any other law.

Parliamentary Secretaries.

46.—(1) The Governor, acting on the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the Members of the Legislative Assembly to assist Ministers in the discharge of their functions.

(2) A Parliamentary Secretary shall be appointed to hold office during Her Majesty's pleasure:

Provided that—

(*a*) a Parliamentary Secretary shall vacate his office on ceasing to be a Member of the Assembly;

(*b*) a Parliamentary Secretary may at any time by notice in writing addressed to the Governor resign his office.

Appointment etc. of officers.

47. The Governor may, in the name of and on behalf of Her Majesty, constitute such offices for Southern Rhodesia as may lawfully be constituted by Her Majesty, and, subject to the provisions of this Constitution and of any other law for the time being in force in Southern Rhodesia, the Governor may likewise—

(*a*) make appointments, to be held during pleasure, to any office so constituted; and

(*b*) dismiss any person so appointed or take such other disciplinary action in relation to him as the Governor may think fit.

Disposal of land.

48.—(1) The Governor may in the name of and on behalf of Her Majesty make and execute under the public seal grants and dispositions of any land or other immovable property within Southern Rhodesia which may be lawfully granted or disposed of by Her Majesty.

(2) Nothing herein contained shall prevent any law of the Legislature from authorising any Minister or public officer to sign any document, permit or other instrument relating to the grant or disposition of any such land or property and to affix the public seal to any such document, permit or other instrument.

Prerogative of mercy.

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

(*a*) grant to any person concerned in or convicted of any offence to which this section applies a pardon, either free or subject to lawful conditions; or

(*b*) grant to any person a respite, either indefinite or for a specified period, from the execution of any sentence passed on that person for such an offence; or

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

(*d*) remit the whole or part of any sentence passed for such an offence or any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

(2) The offences to which this section applies are offences against any law in force in Southern Rhodesia other than a law of the Federal Legislature.

CHAPTER V

THE JUDICATURE

Constitution of the High Court.

50.—(1) There shall be a High Court in and for Southern Rhodesia which shall be a court of record with full jurisdiction, civil and criminal, over all persons and over all matters within Southern Rhodesia.

(2) The High Court shall comprise judges consisting of a Chief Justice and such puisne judges as may from time to time be appointed.

(3) A person shall not be qualified for appointment as a judge of the High Court unless—

(*a*) he is or has been a judge of a superior court in a country in which the common law is Roman-Dutch and English is an official language; or

(*b*) he is, and has been for not less than ten years, qualified to practise as an advocate in Southern Rhodesia or in a country in which the common law is Roman-Dutch and English is an official language.

(4) In computing, for the purpose of paragraph (*b*) of subsection (3) of this section, the period during which any person has been qualified to practise as an advocate, any period during which he has held judicial office after having so qualified shall be included.

(5) 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 authorised by the Governor in that behalf, the Oath of Allegiance and the Judicial Oath in the forms set out in the First Schedule.

Appointment of judges.

51.—(1) The Chief Justice shall be a person qualified for appointment under the provisions of subsection (3) of section 50 and shall be appointed by the Governor, on the advice of the Prime Minister, by instrument under the public seal.

(2) Whenever it is proposed to appoint to the office of Chief Justice a person who does not hold the office of puisne judge, the Prime Minister shall, before tendering advice to the Governor under the preceding subsection, consult the person holding the office of Chief Justice (or, if the office is then vacant, the person who has last vacated it) and the puisne judges:

Provided that the Prime Minister shall not be obliged to consult the person holding the office of Chief Justice or who last vacated it, if by reason of infirmity of body or mind of that person or for any other reason it is impracticable to do so.

(3) The puisne judges of the High Court shall be persons qualified for appointment under the provisions of subsection (3) of section 50 and shall be appointed by the Governor, on the advice of the Prime Minister and with the agreement of the Chief Justice, by instrument under the public seal.

Acting judges.

52.—(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, the Governor may, on the advice of the Prime Minister, appoint as acting Chief Justice one of the puisne judges or some other person qualified under subsection (3) of section 50 for appointment as a judge.

(2) If the office of a puisne judge of the High Court is vacant, or if any such judge is appointed to act as Chief Justice, or is for any reason unable to perform the functions of his office, or if the services of an additional judge are required for a limited period, the Governor, on the advice of the Prime Minister and with the agreement of the Chief Justice or the acting Chief Justice, as the case may be, may appoint a person qualified under subsection (3) of section 50 for appointment as a judge, to act as a judge of the High Court.

(3) A person not holding the office of puisne judge who is appointed to act as Chief Justice and any person who is appointed to act as a puisne judge under this section shall, subject to the provisions of section 54, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor on the advice of the Prime Minister, subject, in the case of an acting puisne judge, to the agreement of the Chief Justice:

Provided that any person mentioned in this subsection may resign his acting office at any time by writing under his hand addressed to the Governor.

(4) Any person appointed to act as a judge under the provisions of this section 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 proceeding heard by him while he was so acting.

Tenure of office of judges.

53.—(1) Subject to the provisions of section 54, each judge of the High Court shall retire when he attains the age of sixty-five years, unless he elects to retire on attaining the age of seventy years. Such election shall be subject to the submission to and acceptance by the Governor of a medical report as to the judge's mental and physical fitness so to continue in office:

Provided that the provisions of this subsection shall not apply to any person referred to in subsection (3) of section 52 who is appointed to act as Chief Justice or as a puisne judge.

(2) A judge of the High Court may at any time resign his office by writing under his hand addressed to the Governor.

(3) The office of a judge of the High Court shall not, without his consent, be abolished during his tenure of office.

(4) Nothing done by a judge of the High Court shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

Removal of judges.

54.—(1) A judge of the High Court may be removed from office by the Governor by order under the public seal 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 so removed unless the question of the removal of that judge from office has been referred to an independent tribunal and that tribunal has recommended that the judge be removed from office for inability as aforesaid or misbehaviour.

(2) If the Prime Minister (in the case of the Chief Justice), or the Chief Justice (in the case of any other judge), advises the Governor 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 appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Governor from among persons who have held office as a judge of the High Court or who hold or have held office as a judge of a superior court of the United Kingdom or of a country in which the common law is Roman-Dutch and English is an official language;

(*b*) that tribunal shall inquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether or not that judge should be removed; and

(*c*) if the tribunal recommends that the judge be removed, the Governor shall act as provided in subsection (1) of this section.

(3) The provisions of the Commissions of Inquiry Act, 1941(a), or any other law substituted for the same shall apply, *mutatis mutandis*, in relation to a tribunal appointed under subsection (2) of this section as they apply to commissioners appointed under that Act, and for that purpose those provisions shall have effect as if they formed part of this Constitution:

Provided that a law which amends, adds to or repeals or is substituted for any such provision shall not be deemed to be an amendment of any of the provisions of this Constitution for the purposes of Chapter IX.

(4) If the question of removing a judge of the High Court from office has been referred to a tribunal under subsection (2) of this section, the Governor, acting in accordance with the advice of the Prime Minister (in the case of the Chief Justice) or of the Chief Justice (in the case of any other judge), 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 if the tribunal does not recommend to the Governor that the judge be removed from office.

(5) Nothing in this section contained shall affect the power of the Governor to revoke the appointment of an acting judge in accordance with the provisions of subsection (3) of section 52.

Remuneration of the judges.

55.—(1) The judges of the High Court shall receive such remuneration as shall from time to time be prescribed by a law of the Legislature.

(2) The remuneration payable to a judge shall not be reduced during his continuance in office and shall be charged on and paid out of the Consolidated Revenue Fund.

Law to be administered.

56. Subject to the provisions of any law for the time being in force in Southern Rhodesia relating to the application of customary law, the law to be administered by the High Court and by any courts in Southern Rhodesia subordinate to the High Court shall be the law in force in the Colony of the Cape of Good Hope on the tenth day of June, 1891, as modified by subsequent legislation having in Southern Rhodesia the force of law.

CHAPTER VI

THE DECLARATION OF RIGHTS

Whereas it is desirable to ensure that every person in Southern Rhodesia enjoys the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, tribe, place of origin, political opinions, colour or creed, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely—

(a) Act No. 4 of 1941.

(*a*) life, liberty, security of the person, the enjoyment of property and the protection of the law;

(*b*) freedom of conscience, of expression, and of assembly and association; and

(*c*) respect for his private and family life,

the following provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to the limitations of that protection contained in those provisions.

Protection of right to life.

57.—(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

(*a*) for the defence of any person from violence or for the defence of property;

(*b*) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(*c*) for the purpose of suppressing a riot, insurrection or mutiny or of dispersing an unlawful gathering; or

(*d*) in order to prevent the commission by that person of a criminal offence;

or if he dies as the result of a lawful act of war.

(3) It shall be sufficient justification for the purposes of subsection (2) of this section in any case to which that subsection applies if it is shown that the force used did not exceed that which might lawfully have been used in the circumstances of that case under the law in force immediately before the appointed day.

Protection of right to personal liberty.

58.—(1) No person shall be deprived of his personal liberty save as may be authorised by law.

(2) No law shall authorise any person to be deprived of his liberty save in the following cases, that is to say—

(*a*) in consequence of his unfitness to plead to a criminal charge;

(*b*) in execution of the sentence or order of a court, whether in Southern Rhodesia or elsewhere, in respect of a criminal offence of which he has been convicted;

(*c*) in execution of the order of a court of record in Southern Rhodesia punishing him for contempt of that court or of a court inferior to it;

(*d*) in execution of the order of a court made in order to secure the fulfilment of an obligation imposed on him by law (including any African customary law);

(*e*) for the purpose of bringing him before a court in execution of the order of a court or an officer of a court;

(*f*) upon reasonable suspicion of his having committed or being about to commit a criminal offence;

(*g*) under the order of a court or with the consent of his parent or guardian, for the purpose of his education or welfare during a period beginning before he attains the age of twenty-one years and ending not later than the date when he attains the age of twenty-three years;

(*h*) for the purpose of preventing the spread of an infectious or contagious disease;

(*i*) if he is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care, treatment or rehabilitation or the protection of the community;

(*j*) for the purpose of preventing the unlawful entry of that person into Southern Rhodesia, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Southern Rhodesia, or the taking of proceedings relating thereto;

(*k*) to such extent as may be necessary for the execution of a lawful order requiring that person to remain within a specified area within Southern Rhodesia or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable—

(i) for the taking of proceedings against that person relating to the making of such an order; or

(ii) for restraining that person during any visit which he is permitted to make to any part of Southern Rhodesia in which, in consequence of such an order, his presence would otherwise be unlawful.

(3) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language which he understands, of the reasons for his arrest or detention.

(4) Any person who is arrested or detained—

(*a*) for the purpose of bringing him before a court in execution of the order of a court or an officer of a court; or

(*b*) upon reasonable suspicion of his having committed or being about to commit a criminal offence,

and who is not released shall be brought without undue delay before a court; and if any person arrested or detained as mentioned in paragraph (*b*) of this subsection is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(5) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

Protection from slavery and forced labour.

59.—(1) No person shall be held in slavery or servitude or required to perform forced labour.

(2) For the purposes of this section, the expression "forced labour" does not include—

(*a*) any labour required in consequence of the sentence or order of a court;

(*b*) labour required of any person while he is lawfully detained which though not required in consequence of the sentence or order of a court—

(i) is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained; or

(ii) if he is detained for the purpose of his care, treatment, rehabilitation, education or welfare, is reasonably required for that purpose;

(*c*) any labour required of a person who is a member of any naval, military or air force, or who is otherwise subject to any disciplinary law in pursuance of his duties as a member of that force or under that law, or any labour required of any person by virtue of a written law in lieu of service as a member of such a force;

(*d*) any labour required by virtue of a written law during a period of public emergency or in the event of any other emergency or calamity which threatens the life or well-being of any section of the community; or

(*e*) any labour which forms part of normal communal or other civic obligations.

Protection from inhuman treatment.

60.—(1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) No treatment reasonably justifiable in the circumstances of the case to prevent the escape from custody of a person who has been lawfully detained shall be held to be in contravention of this section on the ground that it is degrading.

(3) Nothing contained in or done under the authority of any written law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the doing of anything by way of punishment or other treatment which might lawfully have been so done in Southern Rhodesia immediately before the appointed day.

Protection from deprivation of property.

61.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the conditions hereinafter mentioned are satisfied.

(2) The conditions referred to in the foregoing subsection are that—

(*a*) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of that or other property in such a manner as to promote the benefit of the public generally or of the inhabitants generally of a particular area; and

(*b*) provision is made by a written law applicable to that taking of possession or acquisition—

(i) for the payment of proper compensation within a reasonable time; and

(ii) securing to any person claiming to have an interest in or right over the property a right of access to a court or other adjudicating authority for the determination of his interest or right, if any, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining payment of that compensation within a reasonable time.

(3) If, in any proceedings by virtue of section 71, it is alleged that the condition specified in paragraph (*a*) of subsection (2) of this section is not satisfied and a certificate in writing is produced to the court signed by a Minister of the Government of Southern Rhodesia (or, if the certificate states that the taking of possession or acquisition is on behalf of the Federal Government, by a Minister of that Government) that in the opinion of that Minister the taking of possession or acquisition is necessary on such of the grounds mentioned in the said paragraph (*a*) as is specified in the certificate, it shall be deemed to be so necessary unless the court decides as the result of hearing the complainant that, in the circumstances of the case, it would not be reasonable to accept without proof to the satisfaction of the court the necessity of the taking of possession or acquisition on the grounds stated in the certificate.

(4) Nothing in this section shall be construed as affecting the making or operation of any law so far as it provides for the taking of possession of, or the acquisition of any interest in or right over, property—

(*a*) in satisfaction of any tax, rate or due;

(*b*) by way of penalty for breach of any law (including any African customary law) whether under civil process or after conviction of an offence;

(*c*) upon the attempted removal of the property in question out of or into Southern Rhodesia in contravention of any law;

(*d*) as an incident of a contract (including a lease or mortgage) or of a title deed to land;

(*e*) for the purpose of its administration, care or custody on behalf and for the benefit of the person entitled to the beneficial interest therein;

(*f*) by way of the vesting of enemy property, or for the purpose of the administration of such property;

(*g*) as an incident of—

(i) a composition in insolvency accepted or agreed to by a majority in number of creditors who have proved claims and by a number of creditors whose proved claims represent in value more than fifty per centum of the total value of proved claims; or

(ii) a deed of assignment entered into by a debtor with his creditors;

(*h*) in the execution of judgments or orders of courts;

(*i*) by reason of the property in question being in a dangerous state or prejudicial to the health or safety of human beings, animals or plants;

(*j*) in consequence of any law with respect to the limitation of actions, acquisitive prescription or derelict land;

(*k*) as a condition in connection with the granting of permission for the utilisation of that or other property in any particular manner;

(*l*) for the purpose of, or in connection with, the prospecting for or exploitation of minerals belonging to the Crown on terms which provide for the respective interests of the persons affected;

(*m*) in pursuance of provision for the marketing of property of that description in the common interests of the various persons otherwise entitled to dispose of that property;

(*n*) by way of the taking of a sample for the purposes of any law;

(*o*) by way of the acquisition of the shares, or a class of shares, in a body corporate on terms agreed to by the holders of not less than nine-tenths in value of those shares or that class thereof;

(*p*) where the property consists of an animal, upon its being found trespassing or straying;

(*q*) for so long only as may be necessary for the purpose of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon—

(i) of work for the purpose of the conservation of natural resources of any description; or

(ii) of agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable and lawful excuse refused or failed, to carry out.

(5) Nothing in this section shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate in which no moneys are invested other than moneys provided by the Legislature.

Protection for privacy of home and other property.

62.—(1) Except with his own consent or by way of parental discipline, no person shall be subjected to the search of his person or to entry into or the search of his dwelling-house.

(2) Nothing contained in, and nothing reasonably done under the authority of, any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is necessary—

(*a*) for the enforcement of the law in a case where there are reasonable grounds to suspect that a criminal offence has been, is being, or is about to be committed by the person or in the dwelling-house in question, or that a person who has committed a criminal offence, or evidence relating to such an offence, is to be found in that dwelling-house;

(*b*) otherwise in the interests of defence, public safety, public order, public morality, public health or town and country planning;

(*c*) to enable any public authority or any body corporate established directly by law to enter the dwelling-house in question in order to carry out work connected with any property of that authority or body which is lawfully in that dwelling-house;

(*d*) for the purpose of the valuation of the dwelling-house in question in connection with any tax, rate or due; or

(*e*) for the purpose of protecting the rights and freedoms of other persons.

(3) If, in any proceedings by virtue of section 71, it is alleged that anything contained in or done under the authority of any law is inconsistent with or in contravention of subsection (1) of this section and a certificate in writing is produced to the court signed by a Minister of the Government of Southern Rhodesia that in the opinion of that Minister the law in question is necessary on such of the grounds mentioned in subsection (2) of this section as is specified in the certificate, that law shall be deemed to be so necessary unless the court decides as the result of hearing the complainant that, in a society which has a proper respect for the rights and freedoms of the individual, the necessity of that law on the grounds specified in the certificate cannot reasonably be accepted without proof to the satisfaction of the court.

Provisions to secure protection of law.

63.—(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence—

(*a*) shall be presumed to be innocent until he is proved or has pleaded guilty;

(*b*) shall be informed as soon as reasonably practicable, in a language which he understands and in detail, of the nature of the offence charged;

(*c*) shall be given adequate time and facilities for the preparation of his defence;

(*d*) shall be permitted to defend himself in person or, at his own expense, by a legal representative of his own choice;

(*e*) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before any court,

and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before that court on the same conditions as those applying to witnesses called by the prosecution; and

(*f*) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge;

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission which did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence which is severer in degree or description than the maximum penalty which might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he has been tried by a competent court for a criminal offence upon a good indictment, summons or charge upon which a valid judgment could be entered and either convicted or acquitted on the merits in fact or in law and not on a technicality, shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save—

(*a*) where a conviction and sentence of a court subordinate to the High Court are set aside on appeal or review on the ground that evidence was admitted which should not have been admitted or that evidence was rejected which should have been admitted or on the ground of any other irregularity or defect in the procedure; or

(*b*) otherwise upon the order of a superior court in the case of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(9) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(10) Nothing in subsection (9) of this section shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

(*a*) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory civil proceedings; or

(*b*) may be empowered by law so to do in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of twenty-one years or the protection of the private lives of persons concerned in the proceedings;

and notwithstanding anything in the said subsection (9) or in subsection (3) of this section, if in any proceedings before such a court or other adjudicating authority as is referred to in subsection (1) or (8) of this section (including any proceedings by virtue of section 71) a certificate in writing is produced to the court or other authority signed by a Minister of the Government of Southern Rhodesia (or, if the proceedings relate to anything done on behalf of the Federal Government, by a Minister of that Government) that it would not be in the public interest for any matter to be publicly disclosed, the court or other authority shall make arrangements for evidence relating to that matter to be heard in camera and shall take such other action as may be necessary or expedient to prevent the disclosure of that matter.

(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

(*a*) paragraph (*a*) of subsection (2) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(*b*) paragraph (*e*) of the said subsection (2) to the extent that the law in question imposes conditions which must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;

(*c*) subsection (5) of this section to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the appropriate disciplinary law, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law;

(*d*) subsection (7) of this section to the extent that the law in question authorises the cross-examination or recall of any person being tried for a criminal offence after he has been called as a witness with his own consent.

(12) In this section, the expression "legal representative" means a person entitled to practise in Southern Rhodesia as an advocate or, except in relation to proceedings before a court in which an attorney has no right of audience, as an attorney.

Protection of freedom of conscience.

64.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, that is to say, freedom of thought and of religion, freedom to change his religion or belief, and freedom, whether alone or in community with others, and whether in public or in private, to manifest and propagate his religion or belief through worship, teaching, practice and observance.

(2) Except with his own consent (or, if he is a minor, the consent of his guardian) no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

(3) No religious community or denomination shall be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination.

(4) Nothing contained in, and nothing reasonably done under the authority of, any law shall be held to be inconsistent with or in contraven-

tion of subsection (1) of this section to the extent that the law in question makes provision which is necessary—

(*a*) in the interests of defence, public safety, public order, public morality or public health ; or

(*b*) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of other persons.

(5) If, in any proceedings by virtue of section 71, it is alleged that anything contained in or done under the authority of any law is inconsistent with or in contravention of subsection (1) of this section and a certificate in writing is produced to the court signed by a Minister of the Government of Southern Rhodesia that in the opinion of that Minister the law in question is necessary on such of the grounds mentioned in subsection (4) of this section as is specified in the certificate, that law shall be deemed to be so necessary unless the court decides as the result of hearing the complainant that, in a society which has a proper respect for the rights and freedoms of the individual, the necessity of that law on the grounds specified in the certificate cannot reasonably be accepted without proof to the satisfaction of the court.

Protection of freedom of expression.

65.—(1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

(2) Nothing contained in, and nothing reasonably done under the authority of, any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that the law in question makes provision—

(*a*) which is necessary—

(i) in the interests of defence, public safety, public order, public morality or public health ; or

(ii) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainments ; or

(iii) in the case of correspondence, for the purpose of preventing the unlawful despatch therewith of other matter ; or

(*b*) which imposes restrictions upon public officers which are necessary in the public interest.

(3) If, in any proceedings by virtue of section 71, it is alleged that anything contained in or done under the authority of any law is inconsistent with or in contravention of subsection (1) of this section and a certificate in writing is produced to the court signed by a Minister of the Government of Southern Rhodesia that in the opinion of that Minister the law in question is necessary on such of the grounds mentioned in paragraph (*a*) of subsection (2) of this section as is specified in the certificate or, as the case may be, any restrictions imposed by the law in question upon public officers are necessary in the public interest, that law or, as the case may be, those restrictions shall be deemed to be so necessary unless the court decides as the result of hearing the complainant that, in a society which has a proper respect for the rights and freedoms of the individual, the necessity of that law on the grounds specified in the certificate or, as the case may be, the necessity of those restrictions cannot be reasonably accepted without proof to the satisfaction of the court.

Protection of freedom of assembly and association.

66.—(1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests.

(2) Nothing contained in, and nothing reasonably done under the authority of, any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that the law in question makes provision—

(*a*) which is necessary—

(i) in the interests of defence, public safety, public order, public morality or public health ; or

(ii) for the purpose of protecting the rights and freedoms of other persons ; or

(*b*) which imposes restrictions upon public officers which are necessary in the public interest.

(3) If, in any proceedings by virtue of section 71, it is alleged that anything contained in or done under the authority of any law is inconsistent with or in contravention of subsection (1) of this section and a certificate in writing is produced to the court signed by a Minister of the Government of Southern Rhodesia that in the opinion of the Minister the law in question is necessary on such of the grounds mentioned in paragraph (*a*) of subsection (2) of this section as is specified in the certificate or, as the case may be, that any restrictions imposed by that law upon public officers are necessary in the public interest, that law or, as the case may be, those restrictions shall be deemed to be so necessary unless the court decides as a result of hearing the complainant that in a society which has a proper respect for the rights and freedoms of the individual, the necessity of that law on the grounds specified in the certificate or, as the case may be, the necessity of those restrictions cannot reasonably be accepted without proof to the satisfaction of the court.

Protection from discrimination by written laws.

67.—(1) No written law shall contain any discriminatory provision.

(2) For the purposes of this section a provision shall be regarded as discriminatory if by or as an inevitable consequence of that provision persons of a particular description by race, tribe, colour or creed are prejudiced—

(*a*) by being subjected to a condition, restriction or disability to which persons of another such description are not made subject ; or

(*b*) by the according to persons of another such description of a privilege or advantage which is not accorded to persons of the first-mentioned description,

and the imposition of that condition, restriction, or disability or the according of that privilege or advantage is wholly or mainly attributable to the description by race, tribe, colour or creed of the persons concerned.

(3) Subsection (1) of this section shall not apply to any law to the extent that it relates to any of the following matters, that is to say:—

(*a*) any matter such as is mentioned in any of paragraphs (*a*) to (*f*) of the definition of a Money Bill contained in section 83 ;

(*b*) adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law ;

(*c*) the application in the case of Africans of a particular race or tribe indigenous to Southern Rhodesia of their customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons ;

(*d*) restrictions on entry into or employment in Southern Rhodesia or on the acquisition of, or of interests in or rights over, immovable property

in Southern Rhodesia, or on the enjoyment of services provided out of Southern Rhodesian public funds, in the case of persons who are neither citizens of the Federation by virtue of their connection with, nor regarded by virtue of a written law as permanently resident in, Southern Rhodesia;

(*e*) qualifications (not being qualifications by way of race, tribe, colour or creed) for service as a public officer or as a member of a disciplined force or for the service of any public authority or of any body corporate established directly by a law,

or to the extent that it makes provision with respect to persons of a particular description relating to a matter in the case of which the Federal Legislature has legislated with respect to persons of other descriptions but not that description or has, or is entitled to assume, exclusive power so to legislate.

(4) Subsection (1) of this section shall not apply to any law to the extent that it makes provision whereby persons of a particular description are subjected to any condition, restriction or disability or are accorded any privilege or advantage which, having regard to such of the following matters as are relevant to the circumstances of the case, that is to say:—

(*a*) the nature of the condition, restriction, disability, privilege or advantage, as the case may be;

(*b*) any special circumstances appertaining to persons of that or any other description;

(*c*) the stage of social or economic development for the time being reached by the various descriptions of persons affected; and

(*d*) the state for the time being of the economy of Southern Rhodesia,

is reasonably justifiable either in the interests of Southern Rhodesia as a whole or in order to secure the protection, in an equitable manner as between the various descriptions of persons affected, of their respective interests:

Provided that this subsection shall not apply to the extent that the law in question results in the laws with respect to the matter in question affording greater difference of treatment of different descriptions of persons than immediately before the date of the making of the law in question.

(5) No provision which is held by virtue of paragraph (*b*) or (*e*) of subsection (2) of section 62, subsection (4) of section 64, subsection (2) of section 65 or subsection (2) of section 66, not to be inconsistent with the said section 62, 64, 65, or 66, as the case may be, shall be held to contravene subsection (1) of this section.

Protection from discriminatory action.

68.—(1) No person acting by virtue of any written law in the capacity of a public officer or officer of any public authority shall perform any executive or administrative act in such a manner that any person of a particular description by race, tribe, colour or creed is prejudiced—

(*a*) by being subjected to a condition, restriction or disability to which a person of another such description is not made subject; or

(*b*) by the according to a person of another such description of a privilege or advantage which is not accorded to that person,

where the imposition of that condition, restriction or disability or the according of that privilege or advantage is wholly or mainly attributable to the description by race, colour or creed of the persons concerned.

(2) Subsection (1) of this section shall not apply to anything which—

(*a*) is expressly or by necessary implication authorised to be done by any law to which subsection (3), (4) or (5) of section 67 applies; or

(*b*) is done under the authority of any other law in such circumstances that, if the doing of that thing in those circumstances had been expressly or by necessary implication authorised by that law, subsection (4) of the said section 67 would have applied thereto.

(3) Nothing in this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court vested in any person by or under this Constitution or any other law.

Saving for periods of public emergency.

69.—(1) Nothing contained in any law shall be held to be inconsistent with or in contravention of any of the following provisions of this Chapter, that is to say, section 58, 61, 62, 63 (other than subsection (4) thereof) 64, 65, 66, 67 or 68 to the extent that the law in question makes provision with respect to the taking during any period of public emergency of action for the purpose of dealing with any situation arising during that period; and nothing done by any person under the authority of any such law shall be held to be in contravention of any of the said provisions unless it is shown that the action taken exceeded anything which, having due regard to the circumstances prevailing at the time, could reasonably have been thought to be required for the purpose of dealing with the situation in question.

(2) If any person who is lawfully detained only by virtue of such a law as is mentioned in subsection (1) of this section so requests at any time during the period of that detention not earlier than twelve months after he last made such a request during that period, his case shall be submitted to a tribunal for their recommendations concerning the necessity or expediency of continuing his detention but, unless it is otherwise provided by law, the authority by whom the detention was ordered shall not be obliged to act in accordance with any such recommendations.

(3) Any such tribunal as aforesaid shall be established by law and include among its members at least one person who holds or has held high judicial office in Southern Rhodesia or elsewhere or who is an advocate or attorney of the High Court of not less than seven years' standing.

Other special savings.

70.—(1) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of any of the provisions of sections 57 to 68—

(*a*) if the law in question was one with respect to which the requirements of section 107 were applicable and were complied with; or

(*b*) if the law in question was in force immediately before the appointed day and has continued in force at all times since that day; or

(*c*) in the case of a written law, to the extent that it repeals and re-enacts any provision which has been contained in a written law at all times since immediately before that day.

(2) In relation to any person who is a member of a disciplined force (including any visiting force which is lawfully present in Southern Rhodesia) or who is otherwise subject to a disciplinary law, nothing contained in or done under the authority of the appropriate disciplinary law shall be held to be inconsistent with or in contravention of any of the provisions of the said sections 57 to 68 other than section 59 or 60.

(3) For the avoidance of doubt it is hereby declared that nothing contained in or done under the authority of any Federal law shall be held to be inconsistent with or in contravention of any of the provisions of the said sections 57 to 68.

Enforcement of Declaration of Rights.

71.—(1) If any person alleges that any of the provisions of sections 57 to 68 has been or is being contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, but subject to subsection (3) of this section, that person may apply to the High Court for redress.

(2) If in any proceedings in any court subordinate to the High Court any question arises as to the contravention of any of the provisions of the said sections 57 to 68, the person presiding in that court may, and if so requested by any party to the proceedings shall, refer the question to the High Court, so, however, that he shall not be required to comply with any such request which in his opinion is merely frivolous or vexatious.

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(3) Where in any proceedings such as are mentioned in subsection (2) of this section any such question as is therein mentioned is not referred to the High Court, then, without prejudice to the right to raise that question on any appeal from the determination of the court in those proceedings, no application for the determination of that question shall lie to the High Court under subsection (1) of this section.

(4) Subject to the provisions of article 53 of the Federal Constitution, the High Court shall have original jurisdiction—

(*a*) to hear and determine any application made by any person in pursuance of subsection (1) of this section; and

(*b*) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (2) thereof,

and for the purposes of that jurisdiction or of the determination on such an appeal as is mentioned in subsection (3) of this section of any question such as is therein mentioned, the High Court may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of the said sections 57 to 68 to the protection of which the person concerned is entitled:

Provided that the court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(5) Any person aggrieved by any determination of the High Court under this section may appeal therefrom to Her Majesty in Council:

Provided that—

(*a*) this subsection shall not have effect during any period during which the Federal Constitution provides for an appeal from any determination of the High Court under this section to the Federal Supreme Court;

(*b*) no appeal shall lie by virtue of this subsection from any determination that any application, or the raising of any question, is merely frivolous or vexatious.

(6) Where any person—

(*a*) makes an application to the High Court under subsection (1) of this section with respect to, or to a provision contained in, a written law and that law or provision is one in the case of which the Constitutional Council has made an adverse report; or

(*b*) raises any question with respect to such a law or provision which is referred to the High Court in pursuance of subsection (2) of this section; or

(*c*) appeals from the determination of the High Court on any such application or reference with respect to such a law or provision,

then, if he obtains from the Constitutional Council a certificate in writing that in the opinion of the Council the application, question or appeal, as the case may be, constitutes a proper and suitable test case for determining the validity of that law or provision, any costs certified by the court determining the application, question or appeal, as the case may be, as having been reasonably incurred by that person in connection therewith shall be refunded to that person by the Constitutional Council; and any sums required by that Council for the purposes of this subsection shall be charged on and paid out of the Consolidated Revenue Fund.

(7) If in any proceedings by virtue of this section, it falls to be determined whether any law is inconsistent with any of the provisions of the said sections 57 to 68, the Attorney-General shall be entitled to be heard by the court on that question and if in any such proceedings any law is determined by the court to be so inconsistent, then, whether or not he has exercised his right to be heard in those proceedings, the Attorney-General

shall have the like right with respect to an appeal from that determination as if he had been a party to the proceedings.

(8) Where any provision of any law is held by a competent court to be inconsistent with any of the provisions of the said sections 57 to 68, any person detained in custody under that provision shall be entitled as of right to make an application to a competent superior court for the purpose of questioning the validity of his further detention, notwithstanding that he may have previously appealed against his conviction or sentence or that any time prescribed for the filing of such an appeal may have expired.

(9) A law of the Legislature may make provision with respect to the practice and procedure of the High Court for the purposes of this section and may confer upon that court such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.

(10) Rules of court making provision with respect to the practice and procedure of the High Court for the purposes of this section may be made by the person or authority for the time being having power to make rules of court with respect to the practice and procedure of that court generally.

Interpretation of Declaration of Rights.

72.—(1) In this Chapter, save where the context otherwise requires, the following expressions have the following meanings respectively, that is to say—

"African customary law" means the customary law of Africans of a particular race or tribe indigenous to Southern Rhodesia;

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law in Southern Rhodesia other than a court established under a disciplinary law;

"disciplinary law" means a written law providing for the regulation of the discipline—

(*a*) of any disciplined force; or

(*b*) of persons serving prison sentences;

"disciplined force" means—

(*a*) a naval, military or air force; or

(*b*) a police force; or

(*c*) a prison service; or

(*d*) any other body established for public purposes by a written law providing for the regulation of the discipline of that body and declared by that law to be a disciplinary force for the purposes of this Chapter;

"law" means—

(*a*) any provision of any law passed by the Legislature of Southern Rhodesia;

(*b*) any provision of any instrument having the force of law made in the exercise of a power conferred by that Legislature;

(*c*) any unwritten law in force in Southern Rhodesia other than African customary law,

and "lawful" and "lawfully" shall be construed accordingly;

"member" in relation to a disciplined force, includes any person who, under a written law relating to the discipline of that force, is subject to that discipline;

"parental discipline" includes school or other quasi-parental discipline.

(2) In this Chapter, the expression "period of public emergency" means—

(*a*) any period during which Her Majesty is at war and the period immediately following thereon until such date as may be declared by the Governor by proclamation as the end of the period of public emergency caused by that war; or

(*b*) any period not exceeding three months during which a state of emergency is declared to exist in Southern Rhodesia or in any part thereof by virtue of a proclamation issued in terms of any law for the time being in force relating to emergency powers, the reasons for the issue thereof having been communicated to the Legislative Assembly as soon as possible after the issue thereof, or by virtue of a further proclamation so issued on a resolution of the Assembly; or

(*c*) any period with respect to which the Assembly have passed a resolution declaring such a period to have existed from such date as may be specified in the resolution, which may be a date before that of the passing of the resolution;

and a period of emergency declared by a resolution under paragraph (*c*) of this subsection shall end on the expiration of the period of three months beginning with the date of the passing of the resolution or on such earlier date as may be specified in the resolution, but may be extended from time to time for a further period not exceeding three months, or may be terminated at any time, by a further resolution of the Assembly.

(3) Any proclamation or resolution under subsection (2) of this section declaring a period of public emergency to be terminated and any resolution under that subsection extending such a period may provide for the termination or extension of the period either for all purposes or for such purposes only as may be specified in the proclamation or resolution.

CHAPTER VII

THE CONSTITUTIONAL COUNCIL

PART 1—COMPOSITION

Establishment of Constitutional Council.

73. There shall be established a body for Southern Rhodesia to be known as the Constitutional Council which shall consist of a Chairman and eleven elected members including at least—

(*a*) two Europeans;

(*b*) two Africans;

(*c*) one Asian;

(*d*) one person belonging to the Coloured community; and

(*e*) two persons, each of whom shall be either an advocate or attorney of the High Court of Southern Rhodesia of not less than ten years' standing.

Appointment and qualifications of the Chairman of the Constitutional Council.

74.—(1) The Chairman of the Constitutional Council shall be appointed by instrument under the public seal by the Governor on the advice of the Chief Justice who shall first consult the puisne judges.

(2) No person shall be eligible for appointment as Chairman of the Council unless he is a citizen of Rhodesia and Nyasaland and—

(*a*) has been a judge of the High Court of Southern Rhodesia or of the Federal Supreme Court or of a superior court of a country in which the common law is Roman-Dutch and English is an official language; or

(*b*) is an advocate or attorney of the High Court of Southern Rhodesia of not less than fifteen years' standing and has retired from, or is not in, practice as such.

(3) Unless he shall sooner resign by writing addressed to the Governor, the Chairman of the Council shall, subject to the provisions of subsection (4) of this section, hold office for a period of seven years and shall not be eligible for re-appointment.

(4) The Chairman of the Council may be removed from office by the Governor by order under the public seal 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 so removed except in accordance with the procedure prescribed by section 54 as if he were holding office as Chief Justice of the High Court of Southern Rhodesia.

Election and term of office of members of the Constitutional Council.

75.—(1) The eleven members of the Constitutional Council shall be elected from time to time in accordance with the provisions of this section and sections 80 and 81.

(2) Unless he shall sooner vacate his seat under the provisions of subsection (2) of section 77, a member of the Council shall, subject to the provisions of subsection (4) of this section, hold office for a period of six years and shall not be eligible for re-election.

(3) Elections for membership of the Constitutional Council shall take place at intervals of three years and the periodical changes in the composition of the Council shall be so arranged that five members shall complete their term of office at one triennial election and six members shall complete their term of office at the next following triennial election.

(4) Casual vacancies shall be filled as they occur by election in accordance with the provisions of sections 80 and 81. The term of office of any person who is elected to fill a casual vacancy in the membership of the Council shall expire on the date on which the term of office of the member whom he replaces would have expired and such person shall not be eligible for re-election.

Qualifications for members.

76. No person shall be eligible to be elected a member of the Constitutional Council unless—

(*a*) he is of the age of thirty-five years or over; and

(*b*) he is a citizen of Rhodesia and Nyasaland; and

(*c*) he has resided in Southern Rhodesia for a period of not less than ten out of the fifteen years immediately prior to his election.

Disqualifications of members.

77.—(1) A person shall be disqualified for election as a member of the Constitutional Council, who—

(*a*) within five years prior to his election, is or has been a Member of the Legislative Assembly or the Federal Assembly, or is or has been a candidate for election thereto; or

(*b*) is an undischarged bankrupt or insolvent under any law in force in Southern Rhodesia; or

(*c*) is, under any law in force in Southern Rhodesia, certified to be insane or otherwise adjudged to be of unsound mind or detained as a criminal lunatic; or

(*d*) is under a sentence of death or imprisonment (whether or not he is at the material time serving such sentence of imprisonment); or

(*e*) holds any public office or is a member, or is in the employment of any public or local authority; or

(*f*) has previously held office as Chairman or member of the Constitutional Council.

(2) The seat of a member of the Constitutional Council shall become vacant—

(*a*) if he resigns his seat by writing addressed to the Chairman;

(*b*) if he is absent from five consecutive meetings of the Council without the leave of the Chairman;

(*c*) if any circumstances arise that, if he were a member of the Legislative Assembly, his seat would become vacant in pursuance of paragraphs (*d*), (*e*), (*f*), (*i*), or (*j*) of subsection (1) of section 14;

(*d*) if he accepts any public office or becomes a member of or is employed by any public or local authority;

(*e*) if he becomes a candidate for election to the Legislative Assembly or the Federal Assembly;

(*f*) if he is removed from office under the provisions of section 79.

(3) The provisions of section 15 relating to the vacation of his seat by a member of the Legislative Assembly on being convicted for a criminal offence and sentenced to death or to a term of imprisonment of six months or more and the requirement that he shall cease forthwith to exercise his functions as a Member shall apply *mutatis mutandis* to members of the Constitutional Council.

(4) The office of Chief shall not be deemed to be a public office for the purposes of this section.

(5) If it shall be provided by any law of the Legislature that any specified body shall or shall not be deemed to be a public or local authority for the purposes of this section, this section shall have effect as if that law were enacted herein:

Provided that such law or any amendment of any such law shall not be deemed to be an amendment of any of the provisions of this Constitution for the purposes of Chapter IX.

Oaths of Allegiance and secrecy.

78. Before any person who has been appointed Chairman or elected a member of the Constitutional Council enters upon the duties of his office, he shall take and subscribe before a judge of the High Court, the Oaths of Allegiance and of secrecy in the forms set out in the First Schedule.

Removal of members.

79.—(1) If the Governor has reason to believe that a member of the Constitutional Council has disclosed, without the authority of the Chairman, any proceedings of the Council to any person who is not a member of the Council or has in any other manner acted improperly in his capacity as a member of the Council, the Governor shall cause the matter to be enquired into under the provisions of the Commissions of Inquiry Act, 1941, or any other law hereafter replacing the same and may thereupon by order under his hand suspend such member from the exercise of his functions as a member of the Council, pending the decision of the Governor on the findings of the Commission of Inquiry.

(2) After inquiring into the matter, the Commission of Inquiry shall recommend to the Governor whether or not such member should be removed from office, and in the event of the Commission so recommending (but not otherwise), the Governor shall by order under the public seal remove the member from the Council.

(3) In the case of a member of the Council who is an advocate or attorney, improper conduct for the purposes of this section shall be deemed to include any conduct which gives, or might give, rise to any conflict between the duties or interests of a person as a member of the Council and the duties or interests of such person in his professional capacity as an advocate or as an attorney personally or as a member of a firm of attorneys.

Composition of the Electoral College.

80.—(1) For the periodical election of members of the Constitutional Council at three yearly intervals and the filling of casual vacancies as they occur, there shall be assembled, as occasion may require, a body which shall be known as the Electoral College comprising:—

(*a*) The Chairman and members for the time being of the Constitutional Council;

(*b*) The puisne judges of the High Court of Southern Rhodesia;

(*c*) Any retired judges of the High Court who are resident in Southern Rhodesia and are willing to act;

(*d*) The President of the Council of Chiefs;

(*e*) Any former Chairman or member of the Constitutional Council who is resident in Southern Rhodesia and willing to act, excluding any such person removed from office under the provisions of sections 74 or 79 or whose seat became vacant under the provisions of subsection (3) of section 77.

(2) No person shall participate in the proceedings of the Electoral College as a member thereof when an election takes place in which such person is a candidate.

(3) All elections by the Electoral College shall be conducted by secret ballot.

Procedure of Electoral College.

81.—(1) Within such time as may be prescribed—

(*a*) before the term of office of any members of the Constitutional Council expires by effluxion of time under the provisions of subsection (2) of section 75; or

(*b*) after a casual vacancy in the membership of the Council occurs,

the Governor shall by notice in the Gazette summon the Electoral College to assemble at such time and place as the Governor may appoint for the purpose of conducting such elections for membership of the Constitutional Council as may be specified in the notice:

Provided that where a casual vacancy occurs within six months before a triennial election, it shall not be necessary to hold an election to fill that vacancy until the triennial election unless, at the request of the Chairman of the Council, the Governor otherwise decides.

(2) The Chairman of the Constitutional Council or, in his absence, the Deputy Chairman, shall preside over the proceedings of the Electoral College but shall not be entitled to vote.

(3) Subject to the provisions of this Constitution, the Governor may make rules to regulate the proceedings of the Electoral College; without prejudice to the generality of the foregoing, such rules may, in particular, prescribe a quorum of the College and the method of conducting elections.

(4) It shall be the duty of the Constitutional Council to submit to the Electoral College, within such time prior to the meeting of the Electoral College as may be prescribed, at least two names of duly qualified persons as candidates for each vacancy in the membership of the Council to be filled by the College at that meeting.

(5) In addition to the nominations made by the Constitutional Council, the Chief Justice, if he thinks fit after consultation with the puisne judges, may, in the prescribed manner, submit to the Electoral College the names of any other duly qualified persons as additional candidates for election for each or any vacancy to be filled.

(6) The Electoral College shall proceed, in the prescribed manner and subject to the requirements of section 73, to elect such number of persons as members of the Constitutional Council as are necessary to fill the vacancies specified in the notice convening the College. No person shall be eligible for election unless he has been nominated in accordance with the provisions of this section and no candidate shall be declared elected unless he receives not less than two-thirds of the votes of the members of the Electoral College voting. If after a ballot has been taken for a particular vacancy, no candidate has obtained two-thirds of the votes of the members of the College voting, the Chairman may direct that further ballots shall be taken either until a candidate has secured the necessary number of votes or the Chairman is satisfied that no useful purpose will be served by continuing the ballot at that time. In the latter case, it shall be the duty of the Chairman to adjourn the meeting of the College for the purpose of securing further nominations for the vacancy in question under the provisions of subsections (4) and (5) of this section, whereupon the Electoral College shall resume its sitting and proceed to elect a candidate to fill such vacancy.

(7) The Chairman of the College shall report to the Governor the names and descriptions of the candidates duly elected as members of the Constitutional Council stating the date on which each member shall commence his tenure of office and the Governor shall cause such information to be published in the Gazette.

Remuneration of members of the Council and other expenses.

82.—(1) The Chairman and members of the Constitutional Council shall receive such remuneration as may from time to time be determined by a law of the Legislature.

(2) The remuneration of any person as the Chairman or as a member of the Council shall not be reduced during his continuance in office and shall be charged on and paid out of the Consolidated Revenue Fund.

PART 2—FUNCTIONS OF THE CONSTITUTIONAL COUNCIL

Interpretation.

83. For the purposes of sections 84 to 89—

"adverse report" means a report of the Constitutional Council stating that, in the opinion of the Council, some specified provision of a law is, or some specified provision of a Bill would be, if enacted, inconsistent with the Declaration of Rights;

"inconsistent with the Declaration of Rights" means inconsistent with or in contravention of any provision contained in sections 57 to 68 of Chapter VI;

"Money Bill" means a public Bill which contains only provisions dealing with all or any of the following matters, namely—

(*a*) the imposition, repeal, remission, alteration or regulation of taxation;

(*b*) the imposition, for the payment of debt or other financial purposes, of charges on the Consolidated Revenue Fund or any other public funds or on moneys provided by the Legislature, or the variation or repeal of any such charges;

(*c*) the grant of money to the Crown or to any authority or person, or the variation or revocation of any such grant;

(*d*) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;

(*e*) the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan;

(*f*) subordinate matters which are ancillary or incidental to any of the foregoing matters;

"sitting day" means any date on which the Legislative Assembly meets;

"statutory instrument" means any proclamation, rule, regulation, by-law, order, notice or other instrument having the force of law, made by the Governor, or any other person or body under the authority of any Act of the Legislature for the time being in force.

Functions of the Council in respect of Bills.

84.—(1) Immediately after any Bill to which this section applies has been given a final reading and passed by the Legislative Assembly and before it is presented to the Governor for assent, the Speaker shall cause an authenticated copy of the Bill to be submitted to the Constitutional Council and the date on which it is sent to be recorded in the Journal of the Assembly.

(2) The Council shall consider the Bill and within thirty days of such date, shall make a report addressed to the Governor and to the Speaker stating whether or not in the opinion of the Council any and if so, which provision of the Bill would, if enacted, be inconsistent with the Declaration of Rights.

(3) Whenever after the receipt of an adverse report of the Constitutional Council, the Bill to which it relates is amended by the Legislative Assembly,

the Speaker shall cause the Bill in its amended form to be submitted again to the Council in the manner prescribed by subsections (1) and (2) of this section.

(4) On the application of the Chairman of the Constitutional Council, the Speaker may extend, as he thinks fit, the period of thirty days prescribed by subsection (2) of this section, where he considers it proper to do so on account of the length or complexity of any Bill or the number of matters for the time being under consideration by the Council or for any other sufficient reason. Any extension of time so granted shall be recorded in the Journal of the Legislative Assembly.

(5) The Speaker shall cause every report received by him from the Constitutional Council in pursuance of subsection (2) of this section to be laid before the Legislative Assembly without undue delay. Where the Speaker receives no such report on a Bill within the time prescribed by subsection (2), or any extension thereof granted under subsection (4), that fact shall be recorded in the Journal of the Assembly and thereupon it shall be conclusively presumed that the Council is of the opinion that no provision of that Bill would, if enacted, be inconsistent with the Declaration of Rights.

(6) No Bill to which this section applies shall be presented to the Governor for assent unless it is accompanied by a certificate under the hand of the Speaker which shall state that—

(*a*) in the opinion of the Constitutional Council no provision of the Bill would, if enacted, be inconsistent with the Declaration of Rights ; or

(*b*) no report having been received from the Constitutional Council within the time prescribed or any extension thereof granted by the Speaker, the Constitutional Council is presumed to be of the opinion that no provision of the Bill would, if enacted, be inconsistent with the Declaration of Rights ; or

(*c*) notwithstanding the opinion of the Constitutional Council that some specified provision of the Bill would, if enacted, be inconsistent with the Declaration of Rights, a motion for its presentation to the Governor for assent has been passed either—

(i) by the affirmative vote of not less than two-thirds of the total membership of the Assembly ; or

(ii) by the affirmative vote of the Assembly taken on a stated day, being not less than six months after the date on which the Bill, as originally passed by the Assembly, was first sent to the Constitutional Council for the purpose of making a report in pursuance of subsection (1) of this section :

Provided that sub-paragraph (ii) of this paragraph shall not apply to any Bill which under the provisions of this Constitution is not deemed to be passed by the Legislative Assembly unless at the final vote thereon in the Assembly it receives the affirmative votes of not less than two-thirds of the total membership of the Assembly.

(7) Where, at the date that the Legislative Assembly is prorogued, either—

(*a*) no report on a Bill has been received from the Constitutional Council and the time for making a report has not expired ; or

(*b*) an adverse report on a Bill has been received,

and in consequence such Bill cannot be presented to the Governor for assent and will accordingly lapse, then nevertheless, such Bill may (unless the Assembly is dissolved between the date of that prorogation and the commencement of the next ensuing session of the Assembly) be revived by order of the Assembly during its next ensuing session at the stage which it had reached in the preceding session and thereupon may be proceeded with accordingly and, in such case, the period of six months referred to in paragraph (*c*) (ii) of subsection (6), if applicable to the Bill in question, shall run as if the Assembly had not been prorogued.

(8) The provisions of this section shall not apply to—

(i) a Money Bill ;

(ii) a Bill certified by the Prime Minister under the provisions of section 85 to be so urgent that it is not in the public interest to delay its enactment;

(iii) a Bill which amends, adds to or repeals any specially entrenched provision of the Constitution within the meaning of section 107 or which under the provisions of the Constitution is made subject to the same procedure as if it were such a Bill.

(9) A Bill shall be deemed to be a Money Bill if the Speaker certifies in writing that, in his opinion, it is a Bill to which the definition of "Money Bill" contained in section 83 of this Constitution applies. No Money Bill shall be presented to the Governor for assent, unless it is accompanied by the Speaker's certificate which shall be conclusive for all purposes and shall not be open to question in any court.

Functions of the Council in regard to Bills enacted on a certificate of urgency.

85.—(1) If, after a Bill has been given a final reading by the Legislative Assembly, and before it is submitted to the Constitutional Council in pursuance of section 84, the Prime Minister certifies by writing under his hand that the Bill is so urgent that it is not in the public interest to delay its enactment, the provisions of section 84 shall not apply to that Bill and, if it be presented to the Governor with the said certificate of the Prime Minister, it shall be lawful for the Governor to assent forthwith to the Bill.

(2) Where the Governor assents to a Bill on the grounds of urgency in pursuance of the provisions of subsection (1) of this section, it shall nevertheless be the duty of the Speaker to cause an authenticated copy of the Act to be sent as soon as may be to the Constitutional Council. The Council shall thereupon consider the Act and within such time as may be prescribed shall make a report to the Governor and the Speaker stating whether or not, in the opinion of the Council, any and if so, which provision of the Act is inconsistent with the Declaration of Rights. The Speaker shall cause any such report to be laid before the Assembly without undue delay.

Functions of the Council in regard to statutory instruments.

86.—(1) Every statutory instrument shall be published in the Gazette and thereupon an authenticated copy thereof shall be transmitted by the prescribed authority in the prescribed manner to the Constitutional Council within such period of the date of the coming into force of the statutory instrument as may be prescribed.

(2) The Council shall thereupon consider such statutory instrument and within such time as may be prescribed shall make a report to the Speaker and to the prescribed authority, stating whether or not, in the opinion of the Council, any and if so, which provision of the statutory instrument is inconsistent with the Declaration of Rights.

(3) The Speaker shall cause every report of the Constitutional Council on a statutory instrument, to be laid before the Legislative Assembly on the next sitting day after receiving the Council's report.

(4) Where an adverse report in respect of any provision of a statutory instrument is presented to the Assembly in pursuance of subsection (3) of this section, then, on the twenty-first sitting day after the presentation of that report, unless prior to that day either—

(*a*) that provision has been revoked or amended by the authority empowered to revoke or amend it; or

(*b*) the Assembly has passed a resolution confirming that provision,

the Governor shall cause to be published in the Gazette a notice that the provision in question is annulled as from that day, and thereupon the like consequences shall ensue as if the provision in question had been revoked as from that day by the authority empowered to revoke it.

(5) Any authority empowered to make a statutory instrument may, if it sees fit, submit to the Constitutional Council a draft of any such instrument it proposes to make and the Council shall consider the same and shall inform that authority whether or not, in the opinion of the Council, any and if so, which provision of the instrument would, if made,

be inconsistent with the Declaration of Rights, but nothing herein contained shall relieve such authority from complying with the other requirements of this section when the statutory instrument is published in the Gazette.

Powers of Constitutional Council in regard to legislation in force on the appointed day.

87. The Constitutional Council may examine any Act or statutory instrument in force on the appointed day and may make a report in regard to any provision of any such Act or instrument which, in the opinion of the Council, would be inconsistent with the Declaration of Rights if such Declaration applied thereto. The Council shall send such report to the Governor and to the Speaker and the Speaker shall cause such report to be laid before the Legislative Assembly without undue delay. In the case of a report on a statutory instrument made by an authority other than the Governor, the Governor shall cause a copy of the report to be sent to that authority.

PART 3—PROCEDURE

Duties of Chairman.

88.—(1) The Chairman of the Constitutional Council shall appoint, from among the members of the Council from time to time, a Deputy Chairman who shall carry out the duties of Chairman on any occasion or for any purpose when, for any reason, the Chairman is unable to act.

(2) The Constitutional Council shall meet on the summons of the Chairman.

(3) The Chairman, if present, shall preside at all meetings of the Council. Whenever the office of Chairman is vacant or the Chairman for any reason is unable to attend, the Deputy Chairman shall preside and, in his absence, some other member of the Council shall be elected by the Council to act as Chairman.

(4) If, in relation to the composition of the Council, the nomination of candidates for election or the election of members, any question shall arise as to the racial community to which any person shall be deemed to belong for the purposes of this Chapter, the matter shall be referred to the Chairman of the Constitutional Council, whose decision shall be final and not open to question in any court.

Procedure of the Constitutional Council.

89.—(1) The Council shall not transact any business unless a quorum is present; the quorum shall be seven members including the Chairman or member presiding.

(2) Any decision of the Council shall be made by a majority of the votes of the members voting.

(3) The Chairman or member presiding shall have an original vote and, in the case of an equality of votes, shall have and exercise a casting vote in addition to his original vote.

(4) The proceedings of the Council shall be conducted in private and the Council shall not be entitled to hear objectors or to examine witnesses in regard to any Bill or law which is being considered by the Council in pursuance of the provisions of this Constitution.

(5) In reporting the opinion of the Council to the Legislative Assembly, the Council shall state—

(*a*) either that the report is unanimous or the number of votes for and against it;

(*b*) in the case of an adverse report, the grounds on which the Council have reached their conclusion; but it shall not be competent to the Council to propose or recommend amendments to the Act, Bill or statutory instrument in question.

(6) Subject to the provisions of subsection (1) of this section, the Council shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof; and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do

so took part in those proceedings, or that the composition of the Council at any particular time was not in accordance with the requirements of paragraphs (*a*) to (*e*) of section 73.

(7) Subject to the provisions of this Constitution, the Council may make rules with respect to the regulation and conduct of its proceedings and the despatch of business but no such rules shall have effect until they have been approved by the Governor.

(8) The Constitutional Council, the Chairman and members thereof shall have the same immunities and privileges *mutatis mutandis* as the Legislative Assembly and the Members thereof.

Supplementary provisions regarding procedure.

90.—(1) The Legislative Assembly may make Standing Orders to provide for the consideration by the Assembly of the reports of the Constitutional Council and for any subsequent proceedings thereon and, in particular, to provide for the return of a Bill to the Assembly and any subsequent procedure thereon, notwithstanding that such Bill may have previously been given a final reading and passed by the Assembly.

(2) The Governor may make rules for the conduct of business between the Constitutional Council and the Legislative Assembly and any authority empowered to make statutory instruments, for providing for any matters which are required to be prescribed, and generally for carrying out the purposes of this Chapter.

Annual Report.

91. Once in every year it shall be the duty of the Constitutional Council to compile and present to the Governor a report of the work of the Council during the preceding twelve months including a statement of any moneys expended in litigation under the provisions of subsection (6) of section 71. The Governor shall cause such report to be laid before the Legislative Assembly without undue delay.

CHAPTER VIII

LAND

Interpretation of Chapter VIII.

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

"Board of Trustees" means the Board of Trustees established under section 93;

"Tribal Trust Land" means all land in Southern Rhodesia which on the appointed day comprises the Native Reserves described in The Southern Rhodesia Constitution Letters Patent, 1923(a) and the Special Native Area established under the Land Apportionment Act, 1941(b), and all other land which may hereafter be added thereto by law for the use and occupation of tribesmen;

"tribesman" means a person who, under tribal law and custom, is recognised as a member of a community under the control or leadership of a chief appointed and holding office under the law for the time being governing the appointment of chiefs.

(2) It is hereby declared that for the purpose of the definition of Tribal Trust Land contained in subsection (1) of this section, the expression "Special Native Area" does not include any land within such Area which, prior to the appointed day, was under the provisions of section 12 of the Land Apportionment Act, 1941, set aside for the establishment of townships, villages or business centres.

Establishment of the Board of Trustees and vesting of Tribal Trust Land therein.

93.—(1) There shall be a Board of Trustees which shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and, subject to the provisions of this Chapter, to do all such acts and things as corporate bodies may lawfully do.

(a) S.R. & O. Rev. XX, p. 371: 1923, p. 1078. (b) Act No. 11 of 1941.

(2) All Tribal Trust Land is hereby vested in the Board of Trustees for the sole and exclusive use and occupation of tribesmen subject to any previously acquired rights subsisting on the appointed day and the Board of Trustees shall not be entitled to dispose of any such land or any right or interest therein save in accordance with the provisions of this Chapter:

Provided that, subject to any previously acquired rights subsisting on the appointed day under the mining laws of Southern Rhodesia, the dominium in and the right of searching and mining for and disposing of all minerals, mineral oils and natural gases shall vest in the Governor.

(3) The Governor shall as soon as may be after the appointed day, by notice in the Gazette, publish a description of the land vested in the Board, and may from time to time thereafter in like manner amend such description for the purpose of—

(*a*) more clearly describing such land ; or

(*b*) correcting any error in such description ; or

(*c*) changing the name or other designation of any such land ; or

(*d*) correctly reflecting any alteration in the area of the Tribal Trust Land in pursuance of any of the provisions of this Chapter,

and may in like manner republish a description of such land with any such amendments.

Composition and procedure of the Board of Trustees.

94.—(1) The Board of Trustees shall consist of a Chairman, who shall be the person for the time being holding the office of Chief Justice of the High Court, and five other members of whom—

(*a*) one shall be a Chief appointed by the Council of Chiefs ;

(*b*) one shall be the person for the time being holding the office of Chairman of the Natural Resources Board of Southern Rhodesia, or, if that body ceases to exist and is not replaced by a similar body, a person experienced in the development and conservation of natural resources, appointed by the Governor ;

(*c*) one shall be a person experienced in financial matters, appointed by the Governor ;

(*d*) one shall be a person experienced in African agriculture, appointed by the Governor ; and

(*e*) one shall be a person experienced in local government in tribal areas, appointed by the Governor.

(2) Any member of the Board of Trustees who is appointed under the provisions of subsection (1) of this section shall hold office for a period of five years unless he shall sooner resign by writing under his hand addressed to the Chairman. At the expiration of his period of appointment any such member shall be eligible for re-appointment.

(3) Whenever through illness, absence or other cause the Chairman of the Board is precluded from exercising his functions on the Board, the person for the time being acting as Chief Justice or the senior puisne judge of the High Court shall act as Chairman of the Board.

(4) Whenever through illness, absence or other cause any other member of the Board is precluded from exercising his functions on the Board, the Governor may appoint some other suitable and qualified person to act for such member on the Board.

(5) In the case of an equality of votes, the Chairman shall have a casting vote. Subject to this, the Board may regulate its own proceedings.

Responsibilities in relation to Tribal Trust Land.

95.—(1) The Board of Trustees shall be responsible in their capacity as trustees for ensuring that the Tribal Trust Land is used and occupied in accordance with the provisions of subsection (2) of section 93.

(2) The Government of Southern Rhodesia shall be responsible, subject to the provisions of this Chapter, for providing and controlling the services required for the administration of Tribal Trust Land and for securing the proper development thereof in the interests of the tribesmen living thereon.

Occupation of Tribal Trust Land.

96. No person other than a tribesman shall occupy any portion of the Tribal Trust Land except—

(*a*) in the exercise of any previously acquired right subsisting on the appointed day ; or

(*b*) in accordance with an agreement entered into with the Board of Trustees or with regulations made under section 101 for any of the following purposes:—

(i) the administrative purposes of the Government of Southern Rhodesia or of the Federal Government ;

(ii) religious or educational purposes in the interests of tribesmen ;

(iii) hospitals, clinics, or other establishments for the benefit of tribesmen ;

(iv) cemeteries or burial grounds ;

(v) the exercise of rights granted in respect of forest produce or other natural resources of the Tribal Trust Land ;

(vi) the exercise of rights granted by the Governor under the mining laws of Southern Rhodesia for the time being in force ;

(vii) hotels or other similar establishments for the convenience of travellers ;

(viii) any other purpose which the Board of Trustees considers to be in the interests of tribesmen, or in the public interest.

Exchange of Land.

97. The Board of Trustees may exchange land contained within the Tribal Trust Land for Crown land situated elsewhere on such terms and conditions as may be agreed upon by the Governor and the Board of Trustees, provided such exchange is, in the opinion of the Board of Trustees, in the public interest. Such terms and conditions shall include provision for the assigning of alternative land to any tribesman who is dispossessed of his land and for the payment to him of any sum of money necessary to compensate him for his removal and in respect of any permanent improvements made on the land from which he is removed.

Tribal Trust Land required for public purposes.

98.—(1) Whenever the Governor shall certify to the Board of Trustees that any Tribal Trust Land is required for the purpose of mineral development, for defence purposes or for the improvement of communications or for any other public purpose, the Governor may, with the consent of the Board of Trustees, by order declare that as from such date as may be specified such land shall cease to vest in the Board of Trustees as part of the Tribal Trust Land and shall thereafter become part of the Crown land of Southern Rhodesia.

(2) Any tribesman dispossessed of his right to occupy such land shall be assigned alternative land so far as is reasonable and practicable. If alternative land is not available he shall be paid a sum of money necessary to compensate him for his removal and in addition compensation shall be paid to the Board of Trustees for the benefit of the tribesmen in the area concerned. In either case he shall receive proper compensation in respect of any permanent improvements made on the land of which he is dispossessed.

(3) Land assigned to a tribesman as compensation under this section shall be situated in as convenient a position as possible and shall be sufficient and suitable for his agricultural and pastoral requirements, containing as far as possible a fair and equitable proportion of springs or permanent water and being in all respects, as far as possible, as suitable for his requirements as the land which he leaves.

Irrigation schemes.

99.—(1) The Governor, with the consent of the Board of Trustees, may cause an investigation to be made into a scheme for the irrigation of any portion of the Tribal Trust Land for the benefit of tribesmen, including a scheme for the irrigation of such land in combination with other land.

(2) If the Board of Trustees is satisfied that any such scheme would be for the benefit of tribesmen and that it is necessary to provide security for the expenditure of the moneys required for the carrying out of the scheme by way of mortgage of the land concerned, the Board of Trustees may issue a certificate to that effect.

(3) The Governor on receipt of such a certificate may by order declare that as from such date as may be specified such portion of the Tribal Trust Land as is described in the certificate shall cease to vest in the Board of Trustees as part of the Tribal Trust Land and shall thereafter become part of the Crown land of Southern Rhodesia, for the purpose of a grant of freehold title to the person undertaking the scheme.

(4) It shall be a condition of every such grant that the occupation of the land is reserved exclusively for tribesmen. The terms and conditions of such occupation shall be subject to the approval of the Governor and may provide for the lease or individual freehold tenure of the land concerned or such other form of occupation as the Governor may consider appropriate.

Conversion of Tribal Trust Land into freehold tenure.

100. Where the Board of Trustees, after making such enquiries as it deems necessary and after consultation with the Chief concerned, is satisfied that—

(*a*) it is the general wish of the tribesmen living in any substantial area of Tribal Trust Land that the rights of the tribesmen living in such area should be converted into individual freehold ownership; and

(*b*) to give effect to such wish would be in the general interests of the tribesmen,

the Board may, after giving due consideration to the interests of other tribesmen who might be affected, take the necessary steps to give effect to such wish of the tribesmen. In such case the Governor, with the consent of the Board of Trustees, may by order declare that as from such date as may be specified such area of land shall cease to vest in the Board of Trustees as part of the Tribal Trust Land and thereafter shall become part of the Crown land of Southern Rhodesia for the purpose of making grants of individual freehold title to the persons concerned, subject to such limitations regarding the future alienation or disposal of the land in question as may be prescribed by a law of the Legislature under sub-paragraph (iii) of paragraph (*b*) of subsection (1) of section 102.

Regulations.

101. The Governor, with the consent of the Board of Trustees, may make regulations—

(*a*) prescribing the terms and conditions on which tribesmen may be permitted for special reasons or in special circumstances to occupy any specified portion of the Tribal Trust Land on the basis of a lease;

(*b*) for the control of all moneys received from rents charged and fees and other charges imposed under any agreement made with the Board of Trustees or under any regulation made under this section, and the application of such moneys in the interests of the tribesmen;

(*c*) for the purposes of section 96 or 100;

(*d*) prescribing penalties for a contravention of or a failure to comply with any regulation made under this section.

Powers of the Legislature in regard to land.

102.—(1) In relation to Tribal Trust Land, a law of the Legislature may—

(*a*) make provision whereby any area of Tribal Trust Land which has under any law in force been set aside for the establishment, with the consent of the Board of Trustees, of a township, village or business centre for the use of and occupation by tribesmen—

(i) shall at such time as may be prescribed by or under the law cease to be part of the Tribal Trust Land and become vested in the Governor; and

(ii) shall upon becoming vested in the Governor be made available for purchase or lease as if it were part of the Native Purchase Area as defined in the Land Apportionment Act, 1941;

(*b*) provide for—

(i) the carrying out of a land survey in respect of any such land;

(ii) any matter necessary for, or incidental to, the implementation of section 99;

(iii) the implementation of any application acceded to in terms of section 100 and the further alienation or disposal of the land concerned;

(iv) further land to be added to the Tribal Trust Land.

(2) A law of the Legislature may—

(*a*) withdraw from the operation of the Land Apportionment Act, 1941, any land which is set aside under any law for national parks, afforestation purposes, non-hunting areas, game reserves or similar purposes;

(*b*) withdraw from the operation of the Land Apportionment Act, 1941, any land which under that Act is not reserved for or restricted to ownership or occupation by a specified class of persons;

(*c*) prescribe the conditions subject to which the ownership or occupation of land shall cease to be restricted to persons who belong to any specified class of persons under the Land Apportionment Act, 1941, and prescribe different provisions in respect of land which is comprised within the area of a local authority, village, scheme area under the Town and Country Planning Act, 1945(a), or other settled area, and other land, and may withdraw such land from the operation of the Land Apportionment Act, 1941;

(*d*) provide for further land to be added to the Native Purchase Area as defined in the Land Apportionment Act, 1941, subject to the limitation that the total acreage of land in such Area shall not exceed in acreage the aggregate of the acreage of the Native Purchase Area and the Tribal Trust Land as at the appointed day;

(*e*) provide for further land to be added to the European Area as defined in the Land Apportionment Act, 1941, subject to the limitation that the total acreage of land in such Area shall not exceed the total acreage of such land as at the appointed day;

(*f*) provide for the withdrawal from the operation of the Land Apportionment Act, 1941, of any land other than Crown land, at the request or with the consent of the owner;

(*g*) subject to the provisions of this Chapter, amend or repeal the Land Apportionment Act, 1941.

(a) Act No. 19 of 1945.

Limitation on the enactment of certain Bills affecting land.

103. Any Bill containing any provision which, if enacted, would have the effect of—

(*a*) varying the terms of the trust in regard to Tribal Trust Land; or

(*b*) diminishing the powers or functions of the Board in respect of the Board's responsibilities in relation to the matters contained in sections 96 to 101; or

(*c*) imposing any racial limitation on the ownership or occupation of any land in Southern Rhodesia which is more restrictive than any such limitation in the Land Apportionment Act, 1941, in force immediately prior to the appointed day,

shall be subject to the same procedure in all respects as if it were a constitutional Bill to amend a specially entrenched provision of this Constitution within the meaning of section 107. No such Bill shall be presented to the Governor for assent unless the Bill is accompanied by a certificate from the Speaker that at the final vote thereon it received the affirmative votes of not less than two-thirds of the total membership of the Assembly and unless the requirements of either subsection (2) or (3) of section 110 have been complied with.

General saving.

104.—(1) Nothing in this Chapter shall derogate from the general powers of the Legislature to make laws for the peace, order and good government of Southern Rhodesia either generally or in relation to land, including Tribal Trust Land.

(2) Nothing contained in any law passed in pursuance of the provisions of section 102 and nothing done in accordance with the provisions of this Chapter or any such law shall be held to be inconsistent with the provisions of sections 67 and 68.

CHAPTER IX

AMENDMENT OF THE CONSTITUTION

General power to amend the Constitution.

105. Subject to compliance with the other provisions of this Constitution, a law of the Legislature may amend, add to or repeal any of the provisions of this Constitution other than those mentioned in section 111:

Provided that no Act of the Legislature shall be deemed to amend, add to or repeal any provision of this Constitution unless it does so in express terms.

Constitutional Bills to require two-thirds majority.

106. No constitutional Bill shall be deemed to be passed by the Legislative Assembly unless at the final vote thereon in the Assembly it receives the affirmative votes of not less than two-thirds of the total membership of the Assembly.

Constitutional Bills relating to specially entrenched provisions.

107.—(1) For the purposes of this Constitution, all the provisions thereof enumerated in the Third Schedule shall be specially entrenched provisions of the Constitution together with any other provision which may hereafter be declared by any future amendment of the Constitution to be such a provision.

(2) Any constitutional Bill which contains any provision for amending, adding to or repealing any specially entrenched provision of the Constitution and which is passed by the Legislative Assembly in accordance with the requirements of section 106, shall not become law unless either—

(*a*) such provision is approved in a referendum by a majority of those voting in each of the four principal racial groups in Southern Rhodesia in accordance with the provisions of section 108 of this Constitution; or

(*b*) an Address is presented to the Governor praying him to submit the Bill to Her Majesty for assent in pursuance of section 109.

Approval of a constitutional Bill by referendum.

108.—(1) When a constitutional Bill to which subsection (2) of section 107 applies has been passed by the Legislative Assembly in accordance with section 106, the Bill or every such provision thereof as amends, adds to or repeals any of the specially entrenched provisions may be submitted for the opinion of those entitled to vote thereon by means of a referendum held in accordance with the provisions of this section.

(2) Those entitled to vote in a referendum shall be those persons who, at the material time, are duly registered voters for the purpose of voting in any election for members of the Legislative Assembly:

Provided that, until such time as there are 50,000 or more registered African voters, every African who—

(*a*) is a citizen of Rhodesia and Nysaland; and

(*b*) is ordinarily resident in Southern Rhodesia; and

(*c*) is of the age of twenty-one years or over; and

(*d*) has completed a course of primary education of the standard prescribed by or under the law for the time being in force relating to the election of members to the Legislative Assembly,

shall be entitled to vote in a referendum.

(3) Subject to the other provisions of this Constitution, a law of the Legislature may make provision for carrying out a referendum in pursuance of this section:

Provided always that, without prejudice to the generality of the foregoing, any such law shall make provision for—

(*a*) the manner in which a constitutional Bill shall be submitted to those who are entitled to vote in the referendum;

(*b*) the method by which the votes of those persons entitled to vote are to be cast and counted so as to ascertain how many such persons approve and how many such persons do not approve of the Bill or any specified provisions of it in each of the four principal racial communities in Southern Rhodesia, that is to say, the European, African, Asian and Coloured communities; and

(*c*) a prescribed officer to be appointed to conduct the referendum who shall certify the result thereof in writing to the Speaker.

(4) Any law of the Legislature under this section relating to the conduct of a referendum may empower any specified person or persons to decide the racial community to which any person shall be deemed to belong for the purposes of such referendum and may provide that the decision of such person or persons shall be final and not open to question in any court.

(5) Where a Bill or any provision of a Bill is submitted to a referendum, such Bill or provision, as the case may be, shall not be deemed to be approved for the purposes of paragraph (*a*) of subsection (2) of section 107, unless a majority of those voting in each of the four main racial communities enumerated in the proviso to subsection (3) of this section vote in favour of such Bill or provision, as the case may be.

Address to the Governor in lieu of a referendum.

109. Where, in the case of a constitutional Bill to which the provisions of subsection (2) of section 107 apply, the Legislative Assembly, by the affirmative votes of not less than two-thirds of the total membership of the Assembly, passes a motion to present an Address to the Governor praying him to submit the Bill to Her Majesty for assent, it shall not be necessary to submit the Bill or any provision of it to a referendum under the provisions of section 108, but instead the Bill may be submitted forthwith to the Governor in accordance with the provisions of section 110:

Provided that a motion for an Address under the provisions of this section may be moved only by a Minister of the Government after the Governor in pursuance of Instructions from Her Majesty has signified to the Assembly that Her Majesty has consented to the moving thereof.

Submission of constitutional Bills for Assent.

110.—(1) No constitutional Bill shall be submitted to the Governor for assent unless it is accompanied by a certificate under the hand of the Speaker that at the final vote thereon in the Legislative Assembly the Bill received the affirmative votes of not less than two-thirds of the total membership of the Assembly.

(2) A constitutional Bill to which subsection (2) of section 107 applies and which has been approved in a referendum within the meaning of subsection (5) of section 108 shall not be presented to the Governor for assent unless, in addition, it is accompanied by a certificate addressed to the Speaker to that effect under the hand of the officer appointed to conduct the referendum.

(3) A constitutional Bill to which subsection (2) of section 107 applies that has not been submitted to a referendum shall not be presented to the Governor for assent unless in addition to the certificate referred to in subsection (1) of this section, it is accompanied by an Address from the Legislative Assembly in terms of section 109 and also by a certificate under the hand of the Speaker that the motion for the Address was passed by the affirmative votes of not less than two-thirds of the total membership of the Assembly after signification to the Assembly that Her Majesty had consented to the moving thereof.

Clauses relating to the powers of Her Majesty and the Governor.

111. Full power and authority is hereby reserved to Her Majesty by Order in Council to amend, add to or revoke the provisions of sections 1, 2, 3, 5, 6, 29, 32, 42, 49 and this section, and any Order in Council made by virtue of this section may vary or revoke any previous Order so made:

Provided that the power and authority herein reserved to Her Majesty shall not be exercised for the purpose of amending this section or adding to it a reference to any section of this Constitution not included in this section on the appointed day.

CHAPTER X

MISCELLANEOUS PROVISIONS

PART 1—GENERAL

The English language.

112. The English language shall be the only official language of Southern Rhodesia.

The Consolidated Revenue Fund.

113.—(1) All taxes, imposts, rates, duties and all other revenues of the Crown from whatever source arising (not being monies which are required by law to be paid into a separate fund) and the proceeds of all loans raised by the Government of Southern Rhodesia shall form one Consolidated Revenue Fund.

(2) The costs, charges and expenses incidental to the collection and management of the Fund shall form the first charge thereon.

(3) No money shall be withdrawn from the Consolidated Revenue Fund except to meet expenditure which is charged on the Fund by this Constitution or by any law of the Legislature or where the issue of monies has been authorised under an Appropriation Act and the Governor has issued a warrant in respect thereof directed to the Minister responsible for finance:

Provided that a law of the Legislature may provide for making monies available in advance of appropriation by the Legislature for the purpose of meeting unforeseen expenditure or to cover any period not exceeding four months between the end of a financial year and the coming into force of the law authorising the appropriation for the next following year.

Pensions and gratuities of public officers.

114.—(1) A person holding public office, whether he shall have been appointed thereto before or after the coming into force of this section, shall be entitled to have his claim to pension or gratuity or that of his wife or dependants governed by the law in force at the time of his appointment

or, at the election of the holder of the office, by any law substituted for the same and which is in force at the date that the right to such pension or gratuity has accrued.

(2) All pensions and gratuities, whether granted before or after the coming into force of this section in accordance with any law for the time being in force to persons holding any public office or to their wives or dependants, shall be charged upon and paid out of the Consolidated Revenue Fund.

Legal force of the Constitution.

115.—(1) Any provision of any Act (or of any instrument having the effect of law made under the authority thereof) enacted on or after the appointed day which is inconsistent with any provision of this Constitution shall be invalid to the extent of the inconsistency.

(2) Subsection (1) of this section shall not apply—

(*a*) to any provision of an Act with respect to which the requirements of both sections 106 and 107 were applicable and have been complied with; or

(*b*) except in so far as it is inconsistent with any specially entrenched provision referred to in the Third Schedule, to any provision of any Act amending, adding to or repealing this Constitution with respect to which the requirements of section 106 were applicable and have been complied with.

PART 2—INTERPRETATION

Interpretation of terms.

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

"Act" means a law enacted by the Legislature of Southern Rhodesia;

"appointed day" means the day appointed by the Governor in pursuance of paragraph (*b*) of section 5 of the Order to which this Constitution is the Annex;

"constitutional Bill" means a Bill which, when enacted, would have the effect of amending, adding to or repealing any of the provisions of this Constitution;

"Council of Chiefs" means the Council of Chiefs of Southern Rhodesia established under the provisions of the Council of Chiefs and Provincial Assemblies Act, 1961(a), or any Act amending or replacing the same or such other body representative of the Chiefs of Southern Rhodesia as may from time to time be established by a law of the Legislature;

"Federal" means appertaining to the Federation of Rhodesia and Nyasaland;

"Federation" means the Federation of Rhodesia and Nyasaland;

"Gazette" means the Official Gazette of the Government of Southern Rhodesia;

"Governor" means the person appointed to be the Governor of the Colony of Southern Rhodesia, and includes any Acting Governor and, in so far as he is authorised to act, any Deputy to the Governor;

"public office" means, save as may otherwise be expressly provided by law, any paid office in the service of the Crown in right of Southern Rhodesia;

"public officer" means the holder of any public office;

"session" means the sittings of the Legislative Assembly commencing when the Assembly first meets after a prorogation or dissolution at any time and terminating when the Assembly is next prorogued or dissolved without being prorogued;

(a) Act No. 58 of 1961.

"sitting" means a period during which the Legislative Assembly is sitting continuously without adjournment, including any period during which the Assembly is in Committee;

"Southern Rhodesia" means the Colony of Southern Rhodesia;

"the Speaker" means the Speaker of the Legislative Assembly and includes the Deputy Speaker or any other Member of the Assembly when presiding or acting for the Speaker in his absence, or when for any other reason he is unable to act.

(2) Any reference in this Constitution to a section, Chapter or Schedule shall, unless the context otherwise requires, be read and construed as a reference to a section, Chapter or Schedule, as the case may be, of this Constitution.

Supplementary provisions as to interpretation.

117.—(1) The provisions of this Constitution shall be read and construed subject always to the express provisions of the Rhodesia and Nyasaland (Constitution) Order in Council, 1953(a), as amended from time to time, in so far as that Order relates to the peace, order and good government of Southern Rhodesia as a Territory of the Federation of Rhodesia and Nyasaland.

(2) References in this Constitution to Her Majesty's dominions shall be construed as if they were references to all countries and territories within the Commonwealth.

(3) Where any person is required by this Constitution to take an oath he shall be permitted if he so wishes to comply with that requirement by making an affirmation and in any such case, the forms of oath set out in the First Schedule shall be varied by—

(*a*) the substitution for the word "swear" of the expression "solemnly and sincerely affirm and declare"; and

(*b*) the deletion of the words "So help me God".

(4) Any reference in this Constitution to the holder of any office by terms designating his office, shall be construed as including any person for the time being lawfully performing the duties of that office.

(5) For the purposes of this Constitution, no person shall be deemed to be holding a public office by reason only of the fact that he is in receipt of a pension, half pay, retired pay or any other like allowance in respect of service in a public office.

(6) If it shall be provided by any law of the Legislature that any office shall or shall not be a public office for the purposes of this Constitution or any specified provision thereof, this Constitution or that provision shall have effect as if that law were enacted herein:

Provided that such law or any amendment of any such law shall not be deemed to be an amendment of any of the provisions of this Constitution for the purposes of Chapter IX.

(7) Any reference in this Constitution to the passage of a motion by the affirmative votes of not less than two-thirds of the total membership of the Legislative Assembly shall, when the total number of seats in the Assembly is sixty-five, be interpreted to mean that there shall be not less than forty-four votes in favour of the motion in question.

(8) Save as is in this Constitution otherwise provided or required by the context, the Interpretation Act, 1889, as in force on the appointed day, shall apply for the interpretation of this Constitution as it applies for the interpretation of an Act of Parliament:

Provided that, unless the context otherwise requires, the Interpretation Act of Southern Rhodesia(b), for the time being in force shall apply for the interpretation of any rules, regulations or other subsidiary legislation made

(a) S.I. 1953/1199 (1953 II, p. 1804).
(b) Laws of Southern Rhodesia (Rev. Ed. 1939) Cap. 1.

by the Governor or other authority in Southern Rhodesia in the exercise of any power to make rules, regulations or other subsidiary legislation conferred by this Constitution.

Sections 1 (2), 3 (2), 10 (3), 22, 43 (2), 44 (3), 50 (5), 78, 117 (3).

FIRST SCHEDULE

FORMS OF OATHS

1. *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. *Oath for the due execution of office*

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

3. *Oath of a Member of the Governor's Council.*

I, ..., being chosen and admitted to the Governor's Council of Southern Rhodesia, do swear that I will, to the best of my judgment, at all times when thereto required, freely give my counsel and advice to the Governor of Southern Rhodesia for the good management of the public affairs of Southern Rhodesia, that I will not, directly or indirectly, reveal such matters as shall be debated in the Governor's Council and committed to my secrecy, but that I will in all things be a true and faithful member thereof. So help me God.

4. *Judicial Oath.*

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

5. *Oath of Secrecy of the Chairman of the Constitutional Council.*

I, ..., do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of Chairman of the Constitutional Council of Southern Rhodesia and that I will not, directly or indirectly, reveal or give any member of the Council authority to reveal any matter debated in the Council unless I am satisfied that to do so will not be contrary to the public interest. So help me God.

6. *Oath of Secrecy of a Member of the Constitutional Council.*

I, ..., do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, as a member of the Constitutional Council of Southern Rhodesia and that I will not, directly or indirectly, reveal any matter debated in the Constitutional Council save in so far as I am expressly authorised by the Chairman of the said Council so to do. So help me God.

Section 9 (2), (3) and (4).

SECOND SCHEDULE

THE FRANCHISE

1. Two electoral rolls to be known as an "A" Roll and a "B" Roll shall be prepared and kept for each constituency and each electoral district.

2. The "A" Roll shall comprise registered voters who have the appropriate qualifications for such roll described in paragraphs 5, 6 and 8 of this Schedule.

3. The "B" Roll shall comprise registered voters who have the appropriate qualifications for such roll described in paragraphs 5, 6, 7 and 8 of this Schedule.

4. No person shall be registered on both an "A" Roll and a "B" Roll and no person who has the qualifications for registration on an "A" Roll shall be registered on a "B" Roll.

5. The following requirements shall be common to both an "A" Roll and a "B" Roll.

(*a*) *Citizenship:* Citizen of Rhodesia and Nyasaland.

(*b*) *Age:* 21 years or over.

(*c*) *Residence:* Two years' continuous residence in the Federation and three months' residence in the constituency and electoral district concerned immediately preceding application for enrolment.

(*d*) *Language:* Adequate knowledge of the English language and ability to complete and sign the prescribed form for registration (except in the case of duly appointed Chiefs and Headmen).

6. The following additional qualifications respectively shall be required:—

"A" Roll

(*a*) Income of not less than £720 during each of two years preceding date of claim for enrolment, or ownership of immovable property of value of not less than £1,500.

OR

(*b*) (i) Income of not less than £480 during each of two years preceding date of claim for enrolment, or ownership of immovable property of value of not less than £1,000; and

(ii) completion of a course of primary education of prescribed standard.

OR

(*c*) (i) Income of not less than £300 during each of two years preceding date of claim for enrolment, or ownership of immovable property of value of not less than £500; and

(ii) four years' Secondary education of prescribed standard.

OR

(*d*) Appointment to the office of Chief or Headman.

"B" Roll

(*a*) Income at the rate of not less than £240 per annum during the six months preceding date of claim for enrolment, or ownership of immovable property of value of not less than £450.

OR

(*b*) (i) Income at the rate of not less than £120 per annum during the six months preceding date of claim for enrolment, or ownership of immovable property of value of not less than £250; and

(ii) two years' secondary education of prescribed standard.

OR

(*c*) Persons over 30 years of age with—

(i) Income at the rate of not less than £120 per annum during the six months preceding the date of claim for enrolment or ownership of immovable property of value of not less than £250; and

(ii) completion of a course of primary education of a prescribed standard.

OR

(*d*) Persons over 30 years of age with—

Income at the rate of not less than £180 per annum during the six months preceding the date of claim for enrolment, or ownership of immovable property of value of not less than £350.

OR

(*e*) All kraal heads with a following of 20 or more heads of families.

OR

(*f*) Ministers of Religion.

7. For the purpose of the "B" Roll, "ownership", in relation to immovable property, includes a person who has entered into an agreement of purchase of immovable property, which entitles him (on fulfilment of the conditions of the purchase agreement) to the ownership of that property, provided that such person has been in continuous occupation of such property for a period of not less than three years and is not in arrears with any instalments of the purchase price, or has paid 10 per centum of the purchase price.

8. A married woman shall be deemed to have the same means qualification as her husband if she has in her own right no means qualification, except that, in the case of a man married under a polygamous system, only the wife to whom he has been married for the longest period may be deemed to have the same qualification as her husband.

9. There shall be no limit on the number of persons who are entitled to be registered as voters.

10. The following provisions shall apply to the counting of votes:—

(1) Where in any count for the election of a member for a constituency the total number of votes cast by voters on the "B" Roll exceeds one-fourth of the total number of votes cast by voters on the "A" Roll 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 votes cast by the "B" Roll voters (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-fourth of the total number of votes cast by the "A" Roll voters (any fraction of a vote in that one-fourth being disregarded) bears to the total number of votes cast by the "B" Roll voters;

(2) Where in any count for the election of a member for an electoral district the total number of votes cast by voters on the "A" Roll exceeds one-fourth of the total number of votes cast by voters on the "B" Roll 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 votes cast by the "A" Roll voters (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-fourth of the total number of votes cast by the "B" Roll voters (any fraction of a vote in that one-fourth being disregarded) bears to the total number of votes cast by the "A" Roll voters.

Section 107 (1).

THIRD SCHEDULE

SPECIALLY ENTRENCHED PROVISIONS

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	80		115
	82		
	83	Second Schedule	The whole
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	86 (1), (2), (3) and (4)		
	87		

EXPLANATORY NOTE

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

In pursuance of the Southern Rhodesia (Constitution) Act, 1961, Southern Rhodesia is granted by this Order a new Constitution, which is contained in the Annex to the Order, to replace the Constitution granted in 1923.

It makes provision for the future government of Southern Rhodesia in the manner set out in three Papers presented to Parliament in the course of the present year (Cmnd. 1291, 1399 and 1400).

The Order also contains preliminary and transitional provisions.