13. TOGOLAND

[*See* also Northern Territories—Gold Coast, p. 1859 above, and GOLD COAST COLONY AND ASHANTI, p. 2067 below.]

The Togoland under United Kingdom Trusteeship Order in Council, 1949

1949 No. 1997

Made - - - - 28*th October*, 1949
Laid before Parliament 31*st October*, 1949
Coming into Operation *On a date to be notified in the Gold Coast Gazette in accordance with Section 2.*

At the Court at Buckingham Palace, the 28th day of October, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas on the twentieth day of July, 1922, His Majesty accepted a Mandate from the League of Nations in respect of Togoland as defined in this Order (hereinafter referred to as "Togoland"):

And Whereas by the Togoland under British Mandate Order in Council, 1923(a), as amended by the Togoland under British Mandate Order, 1932(b), and the Togoland under British Mandate Order in Council, 1934(c), provision is made for the administration and government of Togoland:

And Whereas Article 75 of the United Nations Charter signed at San Francisco on the 26th June, 1945, provides for the establishment of an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements:

And Whereas His Majesty has indicated His desire to place Togoland under the said international trusteeship system:

And Whereas in accordance with Articles 75 and 77 of the said Charter, the placing of a territory under the international trusteeship system is to be effected by means of a Trusteeship Agreement:

And Whereas on the 13th December, 1946, the General Assembly of the United Nations by means of a Trusteeship Agreement (hereinafter referred to in this Order as "the Trusteeship Agreement") approved the terms of trusteeship for Togoland:

(a) S.R. & O. 1923 (No. 1284) p. 330. (b) S.R. & O. 1932 (No. 126) p. 521.
(c) S.R. & O. 1934 (No. 1477) I, p. 659.

And Whereas under Article 2 of the said Trusteeship Agreement His Majesty is designated as the Administering Authority for Togoland, the responsibility for the administration of which is undertaken by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland:

And Whereas it is provided by Article 5 of the said Trusteeship Agreement that the Administering Authority shall have full powers of legislation, administration and jurisdiction in Togoland, and shall, subject as therein mentioned, administer Togoland as an integral part of His territory, and shall be entitled to constitute Togoland into a customs, fiscal or administrative union or federation with adjacent territories under His sovereignty or control, and to establish common services between such territories and Togoland where such measures are not inconsistent with the basic objectives of the international trusteeship system and with the terms of the Trusteeship Agreement:

And Whereas Togoland is adjacent to the Gold Coast Colony and the Northern Territories of the Gold Coast and it is expedient that it shall, subject to the terms of the said Trusteeship Agreement, be administered as hereinafter provided, and shall be constituted into a customs, fiscal and administrative union with the adjacent territories aforesaid:

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

Interpretation.

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

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

"the Colony" means the Gold Coast Colony as from time to time defined by Order of His Majesty in Council;

"the existing Orders" means the Orders in Council mentioned in the Schedule to this Order;

"the Gazette" means the official Gazette of the Gold Coast;

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

"the Northern Section" means the Northern Section of Togoland under United Kingdom Trusteeship as defined in this Order;

"the Protectorate" means the Protectorate of the Northern Territories of the Gold Coast;

"Secretary of State" means one of His Majesty's Principal Secretaries of State;

"the Southern Section" means the Southern Section of Togoland under the United Kingdom Trusteeship as defined in this Order;

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

"Togoland" means Togoland under the United Kingdom Trusteeship as defined in this Order.

(2) The Interpretation Act, 1889(a), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Short title and commencement.

2. This Order may be cited as the Togoland under United Kingdom Trusteeship Order in Council, 1949, and shall come into operation on a date to be fixed by the Governor by Notice in the Gazette.

Revocation.

3.—(1) The existing Orders are hereby revoked but without prejudice to any appointment lawfully made, or to any other thing lawfully done, thereunder.

(2) The continued operation of any law in force in Togoland immediately before the appointed day shall not be affected by reason only of the revocation of the existing Orders.

Limits of Togoland.

4. Togoland under United Kingdom Trusteeship consists of that part of the territory known as Togoland in respect of which His Majesty was designated as the Administering Authority under the Trusteeship Agreement, namely, that part thereof which lies to the west of the boundary line defined by the Franco-British Declaration of the 10th July, 1919, as delimited and modified by the Protocol of the 21st October, 1929, executed by the Commissioners appointed in the execution of Article 2 (1) of the said Declaration.

Northern and Southern Sections of Togoland.

5.—(1) Togoland shall be divided into two Sections, to be named the Northern Section and the Southern Section respectively.

(2) The boundary line between the said two Sections shall be the following:—

From the point on the east bank of the Volta where the Tapa division on the north meets the Bowiri division on the south the said line follows the tribal boundary between the said division in an easterly direction until it meets the point where the boundary between the Tapa and Wora Wora divisions meets the boundary between the Tapa and Bowiri divisions; thence it follows the boundary between the Tapa division on the west and the Wora Wora division on the east in a northerly direction until it meets the point where the boundary of the Apai and Tapa divisions meets the boundary between the Tapa and Wora Wora divisions; thence it follows the boundary between the Apai division on the west and the Wora Wora division on the east in a northerly and north-easterly direction until it meets the point where the boundary between the Apai and Delo Lolo (Ntribu) divisions meets the boundary between the Tapa and Wora Wora divisions; thence it follows the boundary between the Delo Lolo (Ntribu) division on the north and the Wora Wora division on the south in an easterly direction until it meets the point where the boundary between the Wora Wora and Guamen divisions meets the boundary between the Delo Lolo (Ntribu) and the Wora Wora divisions; thence it follows the boundary between the Delo Lolo (Ntribu) division on the north and the Guamen division on the south in an easterly direction till it reaches the Anglo-French Frontier as defined in the Declaration and Protocol which are referred to in Section 4 of this Order.

(3) The following divisions are in the Northern Section: Tapa, Apai, and Delo Lolo (Ntribu); and the following divisions are in the Southern Section: Bowiri, Wora Wora, and Guamen.

(4) The Governor may, by Proclamation, with the approval of a Secretary of State vary the boundary line laid down in subsection (2) as also the terms of subsection (3) of this Section.

Administration of Togoland.

6. Subject to the terms of the Trusteeship Agreement, the Northern Section shall be administered as if it formed part of the Protectorate; and, subject as aforesaid, and subject also to the provisions of Section 10 of this Order, the Southern Section shall be administered as if it formed part of the Colony.

Laws applicable in the Northern Section.

7. So far as the same may be applicable, the law for the time being in force in the Protectorate shall, as from the date of the commencement of this Order, apply to and be the law in force in the Northern Section, but it shall be lawful for the Governor, from time to time, by Ordinance to modify or amend any provision contained in such law in its application to the Northern Section or to exclude any such provision from application thereto and the Governor shall have full power by Ordinance to make all such provision as may from time to time be necessary for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of the Northern Section: Provided always that, should any such law so applied as aforesaid or any Ordinance enacted by the Governor as aforesaid be repugnant to any provision of the terms of the Trusteeship Agreement, such law or Ordinance shall to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative: Provided further that no law in force in the Protectorate at the date of the commencement of this Order, the application of which is expressly or by necessary implication restricted to the Protectorate, shall apply to the Northern Section by reason only of the provisions of this section.

Laws applicable in the Southern Section.

8. So far as the same may be applicable, the law for the time being in force in the Colony shall, as from the date of the commencement of this Order, apply to and be the law in force in the Southern Section, but it shall be lawful for the Governor, from time to time, by Ordinance to modify or amend any provision contained in such law in its application to the Southern Section, or to exclude any such provision from application thereto, and the Governor shall have full power by Ordinance to make all such provision as may from time to time be necessary for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of the Southern Section: Provided always that, should any such law so applied as aforesaid, or any Ordinance enacted by the Governor as aforesaid be repugnant to any provision of the terms of the Trusteeship Agreement, such law or Ordinance shall to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative: Provided further that no law in force in the Colony at the date of the commencement of this Order, the application of which is expressly or by necessary implication restricted to the Colony, shall apply to the Southern Section by reason only of the provisions of this section.

Jurisdiction of the Supreme Court of the Gold Coast in Northern and Southern Sections.

9.—(1) The Supreme Court of the Gold Coast shall have and exercise throughout the Northern Section the like jurisdiction as it has and exercises in the Protectorate, and as if the Northern Section formed part of the Protectorate; and shall have and exercise throughout the Southern Section the like jurisdiction as it has and exercises in the Colony and as if the Southern Section formed part of the Colony.

Chief Commissioner's Court of the Protectorate.

(2) The jurisdiction of the Chief Commissioner's Court of the Protectorate shall extend throughout the Northern Section.

Governor in exercising powers to follow provisions of Orders in Council and Instructions relating to the Protectorate or Togoland.

10. In the exercise of the powers and authorities hereby conferred upon him, the Governor shall follow the provisions of the Northern Territories Order in Council, 1934(a), or of any Order or Orders amending the same, and of any other Order in Council relating to the Protectorate or to Togoland, and of any Instructions relating to the Protectorate which he may have received or any other Instructions relating to the Protectorate or Togoland which he may receive from time to time from His Majesty or through a Secretary of State, and in any Order in Council or Instructions relating to the Protectorate and in force at the date of the commencement of this Order, the expression "Northern Territories of the Gold Coast" or "Northern Territories" shall be deemed, so far as may be necessary or appropriate for the purposes of this Order, to include Togoland under United Kingdom Trusteeship.

Power to revoke or amend this Order.

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

E. C. E. Leadbitter.

SCHEDULE

Existing Orders in Council making provision for the administration of Togoland under British Mandate

1. The Togoland under British Mandate Order in Council, 1923(b).
2. The Togoland under British Mandate Order, 1932(c).
3. The Togoland under British Mandate Order in Council, 1934(d).

EXPLANATORY NOTE

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

This Order, which is consequential upon the making of the Trusteeship Agreement for Togoland, repeals and replaces, in substantially the same terms, the provisions of the Togoland under British Mandate Order in Council, 1923, as subsequently amended.

(a) S.R. & O. 1934 (No. 1476) I, p. 653.
(b) S.R. & O. 1923 (No. 1284) p. 330.
(c) S.R. & O. 1932 (No. 126) p. 521.
(d) S.R. & O. 1934 (No. 1477) I, p. 659.