

**ZAMBIA: A CASE STUDY ON PARLIAMENTARY
REFORMS IN THE COMMONWEALTH**

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An Obligatory Essay submitted to the School of Law of the University of Zambia in partial fulfilment of the requirements for the award of the Degree of Bachelor of Laws (LLB).

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NOVEMBER, 2004

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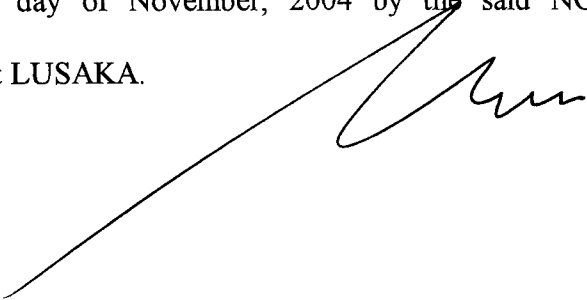
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DECLARATION

I, Ngosa Fidelis Bwalya Mumba, do hereby declare that this dissertation is my authentic work and that to the best of my knowledge information and belief, no similar piece of work has previously been produced at the University of Zambia or any other Institution for the award of a Bachelor of Laws Degree. All other works referred to in this dissertation have been duly acknowledged.

Made this 15th day of November, 2004 by the said NGOSA FIDELIS BWALYA MUMBA, at LUSAKA.



DEDICATION

This Essay is dedicated to my wife, Mubanga Kabungo Ngosa. The most ambitious and hard working woman I have ever had the fortune of knowing. Your life has been a challenge to me. Your resilience, unfaltering determination, endurance and ability to face challenges of life have simply been unequalled. You are my life's inspiration.

To my five children, Chikwanda, Bukata, Lubuto, Natasha and Chongwe. May you all take the Lord Jesus Christ as your foundation for all your future endeavours. Remember the thoughts God has towards you are thoughts of peace and not of evil to give you an expected end. He will grant the desires of your heart.

PREFACE

There are three arms of Governance: the executive, the judiciary and the legislature. The Constitution embodies the doctrine of separation of powers in order to enhance democracy, accountability and transparency and to uphold the rule of law. The Constitution clearly defines the composition, functions and powers of the main three organs of Government.

The powers as provided, follow basic principles underlying the doctrine of separation of powers which provides for effective checks and balances among the three organs of the state.

This essay discusses reform of the Zambian parliament. In other words what is the rationale for reforms. Parliamentary Institutions are dynamic. They require constant changes to nourish them and to improve their efficiency.

Movement toward reform by parliament is the result of renewed political will to reinforce the independence of each of these arms.

Chapter one of this Essay gives the historical development of the nation of Zambia, from the amalgamation of the two territories of North Western Rhodesia and North Eastern Rhodesia facilitated by the Northern Rhodesia order in council 1911, creating Northern Rhodesia as single entity (Nation) under the British South Africa Company (BSA Co) through indirect rule on behalf of the crown under a Royal Charter.

The chapter also contains the initial development or beginning of the Zambian parliament as an Advisory Council in 1918, leading to the establishing of the Legislative Council in 1924, thereby making the end of Indirect Company rule and ushering in direct rule of the protectorate by the crown.

The chapter further includes the appointment of the first Speaker of the Northern Rhodesia Legislative Council in place of the Governor. Mention is also made of the Federation of Rhodesia and Nyasaland including the emerging of African political activism leading to the independence of Northern Rhodesia called Zambia in 1964.

Chapter two discusses the first and second National Assemblies of 1964 to 1972. The chapter also refers to the holding of the National Referendum. The significance of Article 80(1) of the Single Party Constitution is stated as a safeguard measure i.e. to save the constitution from unnecessary amendments, deliberately put in the independence constitution by the imperial government.

The chapter further discusses parliament under one party rule with particular reference to the freedom of speech. In addition, the chapter discusses the relation between the Executive and the Legislature post 1991 Era (i.e. Third Republic) and the concept of separation of powers vis-à-vis the legislative function of parliament.

Chapter three discusses the National Assembly Reform and the five approved areas for reform. The Parliamentary Reform Committee is also discussed.

Chapter four discusses the comparative analysis of the Zambian parliament with that of the United Kingdom, Australia, Canada and Zimbabwe.

Chapter five starts with the conclusion of the Essay and ends with the recommendations.

NOVEMBER, 2004

NGOSA FIDELIS BWALYA MUMBA

ACKNOWLEDGEMENTS

I wish from my heart of hearts to sincerely acknowledge the cherished support and encouragement that I received from my wife, mother and indeed friend Mubanga Kabungo Ngosa. Honey, I want to thank you for providing a shoulder to lean on when I was weak and tired. You were there for me all the time. You reminded me that I was a man and not just a male. Thank you for helping me see success instead of failure. It is my prayer that the night of suffering that we have endured together, will translate into morning some day soon.

To Mrs. Justina Manyoma thank you for being available to type the Essay. Your patience is simply un imaginable. You put up with me on countless corrections.

To the staff at National Assembly especially those in the Research, Library and Journals departments your assistance made my work easier I can't say it enough to appreciate you.

To Mr. Mandalo the Principal Clerk Journals and my former History Teacher High School. Thank you for your wisdom and being a father figure in my life.

To Mr. Simon Kulusika, words are not enough to express my gratitude for taking on the huge task of supervising me. Thank you for being patient with me, and for your wise counsel. I shall forever be indebted to you.

I take full responsibility for errors in this work.

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ABSTRACT

With the re-introduction of Multi-partism in 1991, the National Assembly found it prudent to realign the functions of parliament with the demands of plural politics. Admittedly, the seventeen years of one party rule created some institutional limitations, which could only be addressed through the introduction of parliamentary reforms. The legacy of party supremacy in a one party participatory democracy flies into the teeth of the now entrenched doctrine of separation of powers in a multiparty democracy. The bringing on board of parliamentary reforms in this regard apparently enhances parliamentary scrutiny of the activities of the Executive and further enables the participation of citizens in the affairs of the country. This would undoubtedly bring about accountability, transparency and good governance in the Government system.

**ZAMBIA: A CASE STUDY ON PARLIAMENTARY REFORMS IN
THE COMMONWEALTH**

INTRODUCTION

The political history of present day Zambia dates back to 1880. This was the time when the British South Africa Company (BSA Co) entered the territory that was later called Northern Rhodesia. The company under the leadership of Cecil Rhodes was issued with the Royal Charter of Incorporation by the British Government¹, and this served as authority for the company's presence in the territory, on behalf of the Crown.

On the 27 June 1890², the Lochner concession was signed between the BSA Co. and Lewanika. Under the Charter, the company was authorized and empowered to hold, use and retain for the purpose of the company the full benefit of the concessions and agreements it had already acquired in so far as they were valid. The company was empowered to make ordinances which were subject to the approval of the Secretary of State. It was also empowered to carry on mining and other industries and to make concessions for mining and other rights.

As can be seen from page one above, the Charter conferred massive power or authority on the BSA Co. It was indeed a defacto Government on behalf of the British Government as an imperial power.

¹ Muna Ndulo: Mining Rights in Zambia, Page 23

² Ibid page 28

At this time Northern Rhodesia was administered as two separate entities namely North Western Rhodesia (NWR) and North Eastern Rhodesia (NER) as this was before the amalgamation of 1911.³ After the amalgamation of 1911 through the Northern Rhodesia Order in Council 1911 revoking both North Western and Eastern Rhodesia Orders in Council. The Company took charge of the whole territory in what is commonly referred to as company rule or indirect rule through an administrator of the company subject to ultimate British control.

Indirect rule or indeed company rule continued until 1st February, 1924 when company rule ended ushering in direct rule.⁴ Suffice to mention here that the British government assumed responsibility for the administration of the territory while the status of Northern Rhodesia became that of a Protectorate, a situation which obtained until 1 August 1953⁵ when the territory was made part of the ill-fated British Central African Federation which was dissolved in December 1963 and by 24 October, 1964, Northern Rhodesia became independent state of Zambia.⁶

The BSA Co. as the name suggests was not a government but indeed a company whose interest was first and foremost in the mineral resources of the territory and everything else was but secondary. As the demands of the administration of the territory were growing by the day it become apparent that some form of government administration needed to be put in place especially with the opening of the mines on the Copperbelt.

³ Mphanza P. Mvunga: Colonial Foundation of Zambia's land Tenure System, page 4

⁴ Northern Rhodesia Order in Council 1924

⁵ Federation of Rhodesia and Nyasaland Dissolution Order in Council 1963.

⁶ Muna Ndulo. Mining Rights in Zambia, page 2 (See Zambia Independence Order, 1964)

Admittedly, this led to the rise in the administration cost of the territory, hence the ending of control of the territory of the crown in 1924 by the BSA company.⁷

In considering the topic Zambia: A Case Study on Parliamentary Reforms in the Commonwealth the paper will answer the question why in the first place Zambia embarked on the long trail of reforming its parliament. The word parliament in this sense has been used in its ordinary meaning where it is synonymous with the word National Assembly. It is well appreciated that the word parliament in the real sense means the National Assembly together with the President or indeed the National Assembly when it is involved in its legislative process.

This paper will look at how far these reforms have been undertaken in view of other reforms undertaken in some Commonwealth countries. The paper will further look at how these undertaken reforms have impacted on the Zambian community.

The paper will look at the development of the Northern Rhodesia parliament from 1918 to 1964. The Zambian parliament from 1964 to 1972 commonly referred to as the first Multiparty parliament. The paper will further look at the one party parliament from 1973 to 1991 and from 1991 to date commonly referred to as the third Republic . A comparative study of parliamentary reforms in a number of commonwealth countries will be undertaken. The paper will end with the conclusion and recommendations. The paper will consider each of the five areas of reforms.

⁷ Alfred W. Chanda: Zambia: A case Study in Human Rights in the Commonwealth Africa, Ph.D Thesis, page 52

CHAPTER ONE

HISTORICAL DEVELOPMENTS

1.1. INTRODUCTION

Although the BSA Co. through the Royal Charter had the mandate to administer North Western Rhodesia and North Eastern Rhodesia, this was facilitated by relevant orders in Council creating the same territories. However, the Northern Rhodesia Order in Council 1911 brought about the amalgamation of the hitherto separate administered territories into a single territory called Northern Rhodesia. The said order in Council, legally authorized and empowered the BSA Co. to administer the territory on behalf of the British Crown. The Order in Council had provision for His Majesty's jurisdiction in Northern Rhodesia for the administration of justice, the raising of revenue and generally for the order, peace and good government of all persons there in.⁸ The Northern Rhodesia Order in Council 1911 and other relevant Orders were later replaced by the Northern Rhodesia Order in Council 1924.⁹ The period from 1911 to 1924, the BSA Co. governed Northern Rhodesia through what is commonly called as indirect rule. It should further be appreciated that in the period 1911 to 1918 Northern Rhodesia was without what may be called a legislative organ of state and quite understandably so as the territory was under company rule. The territory was administered through ordinances by way of Orders in Council.¹⁰

⁸ The Northern Rhodesia Order in Council 1924 Preamble

⁹ Ibid Section 2

¹⁰ The Northern Rhodesia Order in Council 1924 Preamble

However, at this time there were mounting demands from the European settlers for a responsible government to be created. In fact, the Northern Rhodesia Order in Council 1911 had a provision for the creation of the Advisory Council.¹¹

1.2. ADVISORY COUNCIL

The desire for a responsible Government by the white settlers culminated into the establishment of an Advisory Council in 1918¹² and this was a forerunner to the Legislative Council formed six years later.

The Advisory Council comprised five elected members out of which one represented the Europeans of the former North Western Rhodesia and one represented the Europeans of North Eastern Rhodesia.¹³ One may ask what real purpose did the Advisory Council serve? This is an important question given the background to its grand formation. All along the settlers wanted their voice heard hence the agitation for a responsible Government. It follows therefore, although the Advisory Council was not what may be said to be a panacea of the settlers problems, at least in the interim it provided the settlers with a limited voice in the territory's administration.¹⁴ A point to note here is that the Advisory Council had neither the legislative authority nor Executive authority because this was still vested in the Administrator of the British South Africa Company.

¹¹ The Northern Rhodesia Order in Council 1911 Article 13

¹² Ngona Mwelwa Chibesakunda: The Zambian parliament, page 20

¹³ Ibid page 20

¹⁴ Ibid page 20

The creation of the Council was not a transformation of the Northern Rhodesia Order in Council 1911, but rather an advancement in the implementation of the Constitutional arrangement embodied in the 1911 Order in Council. This was already provided for in the said order. The Council had no Legislative powers nor executive powers but its role was simply advisory to the Administrator. This is ably put in the summary of the proceedings of the First Advisory Council, held at Livingstone on 25th September, 1918.

The Council has been instituted as you know as an advisory Council to the Administrator and though it has no legislative or executive powers, you will be able to advise on any proposed legislation affecting European interests and not of too urgent nature and I shall be glad to consult you when ever possible and to have your advise on the more important regulations that may be needed under any proclamation.¹⁵

1.3. THE LEGISLATIVE COUNCIL

The cost effects of running the territory were having its toll on the company hence, the ceding control of the territory to the Crown in 1924. This act meant the territory was for the first time going to experience direct rule. However, the agitation by the white settlers for more political control in the Government of the territory continued, and this culminated into the establishment of the Legislative Council in 1924¹⁶, whose powers were to establish ordinances as may be necessary for the administration of justice, the raising of revenue and generally for the peace order and good governance of Northern Rhodesia where the Governor who had taken over from the company Administrator as

¹⁵ Northern Rhodesia Government Gazettee 1918

¹⁶ The Northern Rhodesia Order in Council 1924 Article 19

political Supremo was to have the negative voice in the making and passing of all such ordinances.¹⁷

The year 1924 is indeed a significant year in the political history of Northern Rhodesia as it, marked the end of company rule and also marked the beginning of "direct rule" by the British Government.¹⁸ Further the year also saw the establishment of the Legislative Council which was not a parliament as we understand parliament to be. This was aptly put by the first Governor of Northern Rhodesia Sir Herbert Stanley, in his speech at the opening of the first session on the 23rd May, 1924 in Livingstone the capital of the territory then.¹⁹

It is hardly necessary for me to emphasise that a council such as ours is not a parliament in the generally accepted sense of that term. It is constituted on a different basis which obviously places the Government in a position to exercise effective control.

As may be seen from the Governor's speech above the role of the Legislative Council was not different from that of its forerunner the advisory council. The same had more similarities than differences. It was an advisory institution to the Governor and it assisted in formulating laws, a similar role played by the Advisory Council.²⁰ One Sir Donald Cameron a white settler in Central Africa observed:

Though the Legislative Council was vested with something of parliament savour and tendencies (for a longtime) it remained more nearly a kin to an advisory body than to a responsible parliament.²¹

¹⁷ Ibid Article 20

¹⁸ Ibid (See Preamble and Articles 19 and 20)

¹⁹ The Northern Rhodesia Government Gazettee No. 214 Vol. XIV No. 9 Dated 31st May, 1924

²⁰ Ngona Mwelwa Chibesakunda: The Parliament of Zambia page 22

²¹ Ibid page 22

The primary function of Legislative council was to provide official and unofficial members with an opportunity to understand each others' views and work out a policy satisfactory to both the Government and those represented. This relationship was performed through the whole complex of relationships, formal and informal which it created.²²

The number of times the Legislative Council met depended on the amount of business it had to transact. Sometimes it met three or four times a year. It met to discuss the law and advised on what should be done to improve the country. More importantly, it met to discuss what may be called Government budget and expenditure (i.e. money to be collected and spent) in a year or per year. The Council's procedure was regulated by instruments of the Northern Rhodesia Constitution.²³

Although the Governor was explicit and candid in outlining the role of the Legislative Council in his maiden speech, (see in the introduction) the members of the Council viewed the Council as a form of parliament or indeed a parliament they asserted that:

The differences between parliament and the council are small and should not be emphasized. We are to all intents and purposes a parliament and likely to become a parliament.

This was the kind of attitude which characterized the discussions in the Legislative Council and it determined its development. While the Northern Rhodesia Order in

²² Ibid page 22

²³ Ibid page 22

Council birthed the Legislative Council, the Northern Rhodesia (Legislative Council) Order in Council was its enabling Act.²⁴

1.4. COMPOSITION OF THE LEGISLATIVE COUNCIL, 1924 – 1958

The first Legislative Council (parliament) meeting was held in Livingstone the first capital of the Northern Rhodesia on 23rd May, 1924.²⁵ It comprised the following:

- a). The President who was the Governor of the territory
- b). The nine official members who represented the Government and these were:
 - (i) the Chief Secretary
 - (ii) the Attorney General
 - (iii) the Financial Secretary
 - (iv) the Secretary for Native Affairs
 - (v) the Administrative Secretary
 - (vi) the Economic Secretary and three more officials nominated by the Governor namely:
 - (1) the Director of Development
 - (2) the Director of Medical Services; and
 - (3) the Director of Agriculture; and
- b). Five nominated members (ex-officio members).²⁶

All members belonged notably to the white settlers community, hence Native Affairs were rarely discussed during the early years of the Legislative Council.

²⁴ The Northern Rhodesia (Legislative Council) Order in Council 1924 Article 1

²⁵ The Gona Mwelwa Chibesakunda: Parliament of Zambia page 4

²⁶ Ngona Mwelwa Chibesakunda: The Parliament of Zambia page 23, Northern Rhodesia (Legislative Council) Order in Council 1924 Article 2 and 14.

1.5. AFRICAN REPRESENTATION IN THE COUNCIL

The composition of the second Legislative Council in 1926 remained the same as that of the first. However, this time around unofficial members had to be elected. Settler's interest were regarded to be more important than those of blacks as the Council remained an advisory body still. During the third Legislative Council the number of elected unofficial members increased to seven (7) in 1929 due to settler agitation for more representation in the Council.

However parity was reached due to pressure by settlers between officials and unofficial members after 1932. There were both eight (8) official and eight (8) unofficial members. An important point to note here is that as a result of increased pressure by the unofficial members a formidable backbench was in essence began which gradually influenced the policies of the British Government.²⁷

The Constitutional amendments of 1945 helped to increase the number of unofficial members of the Legislative Council over the official members. While eight (8) were elected unofficial representatives, five (5) more were nominated three (3) of whom represented African interests. At this time all members were whites. The Legislative Council sessions were by this time shifted to Lusaka at the Government Central offices (Secretariat Building). Lusaka had by 1935 become the capital of Northern Rhodesia.

The advocacy for participation in the running of their country, precipitated by political pressure led to the emergence of a group of new Africans. After a number of meetings

were held the same culminated into the formation of the African Representative Council which body eventually availed Africans the eligibility for membership of the Legislative Council in 1948. This position coupled with increased white settler population influenced constitutional changes to the Legislative Council. The Council comprised a bigger number of unofficial members with considerable power to influence decisions. The Council was no longer a rubber stamp. The Government could no longer make a law which the unofficial members did not approve.²⁸ As more and more political pressure was mounted by Africans further changes were made to the Legislative Council to suit the changing needs.

Another significant change came on 10th November 1948 with the appointment of the first Speaker Mr. Thomas S. Page MP by the Governor of Northern Rhodesia. This was a complete change from the previous practice where the Governor used to be the President of the Legislative Council.²⁹ Further changes were made to the 1948 and 1954 Legislative Councils, by increasing African representation.

1.6. LEGISLATIVE COUNCIL AFTER 1959

The Constitutional changes effected in 1959 following the recommendations of the Moffat resolutions of 1954 stressed the replacement of racial representation by a system under which all members of the Legislative Council would be elected by means of a common machinery providing for the first representation of all qualified voters in a geographical constituency. The Government was to be of responsible men who would

²⁷ Ngoni Mwelwa Chibesakunda: *The Parliament of Zambia* page 25

²⁸ *Ibid* page 26

look to the whole community and not to the sectional interests of their respective race. The resolutions further hoped that the constitution would encourage politics to develop on party as opposed to racial lines.³⁰

Despite the main objective of 1959 Constitution being non discriminational on racial lines but on party lines, Africans were still in the minority in the Legislative Council. For instance proposals made by the secretary for the Colonies Ian Macleod in February 1961 recommended an increase in the number of elected members and such nominated members as the Governor might appoint on instruction from the British Government all those members elected (15) would be from single member constituencies by upper roll voters, fifteen (15) from member constituencies by lower roll voters, and fifteen (15) from national constituencies by both rolls voting together.³¹

However, after the 1962 elections the tide changed in favour of United National Independence Party (UNIP) with 14 seats, the United Federal party (UFP) (a settler party) had 16 seats and the African National Congress ANC had 7 seats. Although the African National Congress held the balance of power the two African parties merged as a way of satisfying public opinion which weighed heavily against the ANC, to form a coalition government which lasted until January 1964, when the elections under the Northern Rhodesia (constitution) Order in Council 1963 were held and UNIP emerged as the winner in the Legislative Assembly and formed a majority Government.³²

²⁹ Legislative Council Debates 1948:2

³⁰ Ngona Mwelwa Chibesakunda: The Parliament of Zambia page 27

³¹ Ibid page 29

³² Ibid page 29

CONCLUSION

The Zambian Parliament has gone through a remarkable evolution from 1918 as an Advisory Council to the then Administrator of the British South African Company as a precursor to the Legislative Council of 1924 which in essence was fundamentally the same although the Legislative Council served its advisory role to the Governor. Both the Advisory Council and the Legislative Council passed Ordinances that enabled the administration of justice, the raising of revenue, and generally for the peace order and good government in the territory. While the Administrator served as President for the Advisory Council the Governor served as President of the Legislative Council from 1924 to 1948 when the first Speaker was appointed by the Governor. The Advisory Council 1918 and Legislative Council of 1924 were formed out of pressure from the white settlers who agitated for a responsible Government. The agitation continued in subsequent Legislative councils and this time round the cry of the white settlers was for more representation the basis being that they were the Goose that laid the egg and not the African.

However due to the political awareness of their rights that was slowly emerging the African quest for political participation in the Affairs of their country gradually yielded fruit as more and more Africans were allowed to participate as representatives in the Legislative Council leading to the first elections in 1959 and the subsequent elections in 1962 and 1963 when the fore taste of political emancipation was experience before the full emancipation in 1964.

CHAPTER TWO

2.1. THE FIRST AND SECOND NATIONAL ASSEMBLIES 1964 TO 1972

INTRODUCTION

Zambia has been a constitutional democracy from her attainment of independence in 1964 as opposed to a parliamentary democracy. A constitutional democracy advocates supremacy of the constitution³³, while parliamentary democracy advocates supremacy of parliament as in the United Kingdom, where parliament exercises supreme control over all branches of government.³⁴

The ideal situation in a constitutional democracy is that the doctrine of separation of powers must be seen to be upheld, while in a parliamentary democracy there is not and never has been a strict separation of powers as the case is with the English Constitution in the sense that the legislative, executive and judiciary powers are assigned respectively to different organs nor have checks and balances between them been devised as a result of theoretic analysis. The development of Great Britain's public institutions has been mainly empirical. The crown has always been an element in the exercise of all three kinds of powers.³⁵

³³ Constitution of Zambia Chapter One Article 1(3)

³⁴ O. Hood Phillips: Constitutional and Administrative Law Sixth edition page 27

³⁵ Ibid page 31

To what extent has the Zambian Parliament exercised its legislative function in relation to this concept of separation of powers which is a fundamental attribute of representative and constitutional government.³⁶ This chapter will attempt to answer this question.

a). **First National Assembly 1964 to 1968**

Although Zambia had become independent, many laws were still the old laws that needed to be amended or repealed altogether e.g. racial discrimination laws. As expected many bills were presented to the House and the same were debated and passed. Some of the new laws were intended to foster economic development in the young Republic as well as safeguard people's liberties³⁷ the Executive enjoyed a cordial relationship with parliament this time round.

b). **The Second National Assembly 1968 to 1972**

Following the successful Presidential and General Elections of 1968 the Second National Assembly was born in which UNIP still emerged as winner, but with increased seats from the Africa National Congress (ANC) from 10 to 23 as a formidable opposition, shattering UNIP's belief of establishing a one party state through the ballot box by paralyzing and wiping out the opposition. The only method that was now available to introduce one party rule was by legislation but this too was legally impossible given the referendum

³⁶ Professor Bizerk J. Phiri, Chikomeni J. Banda, Godfrey H. N. Haantobolo: Protecting the Reputation and Standing of the Institution of parliament and parliamentarians, a study of perceptions realities and reforms in Zambia page 12

³⁷ Ibid page 14

section in the Independence Constitution, hence the holding of the referendum³⁸ in which the Government got (88 percent "Yes" vote as against (12) percent "No" vote.³⁹

2.2. THE SIGNIFICANCE OF AMENDMENT OF SECTION 80 (1) OF THE INDEPENDENCE CONSTITUTION

Section 80(1) was a safeguard measure that the imperial Government deliberately put in the independence constitution to save it from unnecessary amendments by successful Governments of Independent Zambia. However by the results of the referendum parliament had been empowered to amend the constitution without calling for a referendum.⁴⁰ True to this, Article 80(1) of the Constitution of Zambia Act says:⁴¹

Subject to the provision of this Article parliament may alter this constitution or the constitution of Zambia Act, 1973.

In consequence of this amendment the Zambian parliament hence became a supreme law marking body assuming power to alter the constitution with no due regard to alternative views expressed by the ordinary citizens of Zambia⁴² and this status quo has survived successful parliaments to date, through the use of party caucuses and lobbying on the floor of the House. This has contributed to the weakening of the operations of parliament of Zambia such that any Government Bill no matter how controversial would be assured of safe passage in the House. This is exemplified by evocation of the power under the Public Order Act 1993, the Constitution of Zambia (Amendment) Bill 1996 and National

³⁸ Section 80(1) of Chapter One (Independence Constitution)

³⁹ Professor Bizerk J. Phiri, Chikomani J. Banda, Godfrey H. N. Haantobolo: Protecting the Reputation and Standing of the Institution of parliament and parliamentarians, a study of perceptions realities and reforms in Zambia page 14

⁴⁰ Ibid page 14

⁴¹ Act No 27 of 1973

⁴² Muna B. Ndulo and Robbert B. Kent: Constitution of Zambia, ZLJ Vol. 30, 1998 page 1

Assembly Bill No 17/96.⁴³ President Kaunda with the ruling party UNIP took advantage of this amendment given their majority in parliament to effect change from multiparty democracy to one party participatory democracy,⁴⁴ in amending the Constitution⁴⁵ through the recommendations of the Chona Constitutional Review Commission under the Enquiries Act of 1967.⁴⁶ From 1973 to 1991 Zambia became a one party state.

2.3. OPERATION OF PARLIAMENT UNDER ONE PARTY RULE

Freedom of Speech

During the One Party rule from 1973 to 1991 parliament was subservient to the party United National Independence Party (UNIP) and this was clearly manifested in President Kenneth David Kaunda's speech to the UNIP National Council on December 12, 1972 he said:

Parliament is not an opposition device to the party itself or other party institutions. Under our system I regard parliament as a Committee of the National Council charged with the responsibility of enacting laws of this country.⁴⁷

Furthermore, the principle of collective responsibility precluded ministers and other Government officials from criticizing the Government in the National Assembly. Undoubtedly this undermined the freedom of speech, amongst members of parliament, two thirds of whom held government jobs, as Members of Central Committee (MCCs),

⁴³ Ngoni Mwelwa Chibesakunda: *The Parliament of Zambia* page 51; Muna B. Ndulo and Robert B. Kent: *Constitutional of Zambia*, ZLJ Vol 30, 1998 page 1.

⁴⁴ *Times of Zambia* 25th February 1972

⁴⁵ *The Constitution (Amendment No. 5) Bill 72*

⁴⁶ *Statutory Instrument No. 46 of 1972*

⁴⁷ Alfred W. Chanda: *Zambia: A Case Study in Human Rights in Commonwealth Africa*, Ph.D. Thesis page 442

Governors, Cabinet Ministers, Ministers of State etc.⁴⁸ This state of affairs reduced the House to a mere rubber stamp in its Legislative functions.

2.4. THE RELATION BETWEEN THE EXECUTIVE AND THE LEGISLATURE POST 1991 ERA (THIRD REPUBLIC)

Separation of Powers

Following the defeat of Dr. Kenneth David Kaunda President of UNIP by President FTJ Chiluba of the Movement for Multiparty Democracy (MMD) in the October 1991 multiparty elections, the new government made a commitment to depart from the practice of derogation of the principle of separation of powers and checks and balances a normal occurrence during the one party state system of Government in Zambia.⁴⁹ MMD has been the ruling party since the reversion of Zambia to multiparty system of government in 1991. Suffice to mention that in all three parliaments namely 1991, 1996 and 2001 the MMD has enjoyed its majority in the House.

In 1991, MMD had 133 seats while UNIP had a paltry 25 seats. In 1996 UNIP as an opposition party boycotted both the Presidential and General elections hence allowing a de facto one party parliament from 1996 to 2001. The boycott by UNIP of the 1996 Presidential and General elections was necessitated by the amendment to the 1991 Zambian Constitution prior to the election aimed at preventing Dr. K. D. Kaunda the UNIP President from contesting the Republican presidency by passing a discriminatory

⁴⁸ Ibid page 442

⁴⁹ Professor Bizerk J. Phiri, Chikomeni J. Banda, Godfrey H. N. Haantobolo: Protecting the Reputation and Standing of the Institution of Parliament and Parliamentarians, A Study of Perceptions Realities and Reforms in Zambia page 20

citizenship clause,⁵⁰ in the constitution and this lowered the reputation and capacity of the Zambian Legislature to pass fair laws. Once again parliament was used as in the one party system of government by the executive due to its majority to pass unjust laws. In other words despite the change from one party state to multiparty state the Zambian parliament remained a rubber stamp i.e. to fulfill the master's voice in this case the Executive. The relevant clause reads as follows:

A person shall be qualified to be candidate for election as president if:

- (a) he is a Zambian citizen;
- (b) both his parents are Zambians by birth or descent;
- (c) he has attained the age of thirty five years

The results of the 2001 presidential and general elections left the MMD Government with only a slender majority in parliament above the United Party for National Development (UPND).⁵¹ In view of this Mwanawasa has had to look for ways and means of enlarging his majority in parliament, hence the appointing of opposition members of parliament to Ministerial positions,⁵² and these are bound by collective responsibility although they are from the opposition. The majority status of the ruling party both in the Second and Third Republics has been used in a subtle way as a means to an end thereby disregarding the doctrine of separation of powers.⁵³

⁵⁰ Article 34(3) and 8 of the Constitution of Zambia (Amendment) Act No. 18 of 1996

⁵¹ Electoral Commission of Zambia Parliamentary Elections 2001 Provision results MMD 490,680 (27.48%) UPND 416,236 (23.31%), See also Appendix IV

⁵² Sunday Mail Vol 9 No 6 February 9, 2003

CONCLUSION

The doctrine of separation of powers has not worked as per peoples' expectation in Zambia both in the Second Republic under one party rule system of government as well as the Third Republic under multipartism. Each subsequent government has tended to abuse its majority position in parliament as a tool of oppression of peoples feelings. An example of this is the Income Tax (Amendment) Act of 2004 which the Labour Movement vehemently opposed but Government passed it against all odds because of its sheer majority in parliament.⁵⁴

⁵³ O. Hood Phillips: Constitutional and Administrative Law, Sixth edition Paul Jackson page 14

⁵⁴ Times of Zambia no 11953 Saturday February 7, 2004 (Budget Speech by Finance Minister Ngande Magande) (This Act has increased the tax bands from 30 to 40 i.e. the more you earn the more you pay i.e. Pay As You Earn PAYE)

CHAPTER THREE

3.1. NATIONAL ASSEMBLY REFORM

INTRODUCTION

It is trite that in a liberal democracy, the National Assembly is one of the democratic institutions expected to provide citizen's control over the actions and policies of a government. Against that background, the National Assembly must take measures and appreciable steps needful to promote the standards of good governance. Needless to say that these are core values upon which democracy is founded. Admittedly, the National Assembly as a people's house must play a leading role in providing that control. The reforms identified by the National Assembly have the potential to make it more effective and responsible to the people it is designed to represent.⁵⁵

3.2. THE FIVE APPROVED AREAS FOR REFORM

- Member Constituency Relations
- Legislative Process
- Committee System
- Administration
- Support Services

It should be noted at the outset that creating a more effective Legislature is not by itself, a justification for reform. However, Reforms must support broader democratic values. At the centre of Parliament reform effort in Zambia are the following core democratic values:⁵⁶

⁵⁵ James P. Ketterer, Henry C. Ngaba, Sr. Auxilia Ponga, John B. Sheffer II: Reform of the National Assembly of Zambia: Agenda for a 21st Century Parliament: Report to the National Assembly of Zambia from the State University of New York Supported by the USAID.

⁵⁶ Ibid page 5

- Legitimacy – The national Assembly must be seen as legitimate by the citizenry and the other branches of Government;
- Accountability – In order to sustain the Legitimacy of the National Assembly it must be clearly accountable to the citizenry and, as part of that process other branches of Government;
- Autonomy – In order to develop and maintain separation of power, the National Assembly must be free from inappropriate control manipulation or interference from other branches of government or undue pressure from other elements in society;
- Transparency – The activities of the National Assembly must be open to the citizenry;
- Effectiveness – The national Assembly must carry out its activities in an effective and legal manner.

It is a fact worth noting that the very fact that the Zambian National Assembly decided to undertake some reform is sufficient realisation that the obtaining state in which it is somewhat incapacitated, to more fully exercise its constitutionally mandated functions by providing oversight of government operations, better representing all Zambians, integrating public comment into the legislative process and allowing for more staff and support services for individual members of parliament so that they are better able to carry out their duties without reliance on the executive

agencies. Reform therefore comes in as a panacea to the incapacity, so that the National Assembly does not only become responsible but responsive and effective parliament.

3.3. PARLIAMENTARY REFORM COMMITTEE

The Parliamentary Reform Committee was appointed on 3rd February 1999 by then Mr. Speaker. The committee has been central to the effort in strengthening the capacity of the National Assembly in doing very important work in continuing reform effort. Reform is an evolutionary process requiring continuous work and evaluation.

It is the role of the National Assembly to continue efforts to increase the transparency of the legislative process, allow additional public input into the policy making process and allow itself to more effectively respond to compelling needs of the Zambian people.

The goal of the current reform effort is to analyse current procedures and structures which act as roadblocks to a more responsive component and cost effective parliament.⁵⁷ Below are the five areas of reform and brief relevant comments.⁵⁸

A. MEMBER CONSTITUENCY RELATIONS

The most important aspects of this area of reform are:

- (i). Establishment of Constituency offices
- (ii). Parliamentary communication/outreach; and
- (iii). Capacity to deliver constituency services.

⁵⁷ Ibid page 5

⁵⁸ Ibid pages 3-16

The justification for these aspects are that constituency offices with appropriate staff offer both members of parliament and constituents an official place to exchange ideas and information vital to carrying out the representative function of an elected member. Secondly a well-informed electorate is an important component of any health stable democracy. In addition members who create close ties to the various groups, organisations and individuals in his or her constituency are most likely to thrive as policy makers and elected official. Communications and outreach efforts are an effective and important way of both disseminating and receiving information. Thirdly effectively representing the interests and problems of constituents and constituent groups often requires the day to day efforts involved in assisting constituents.⁵⁹ Among approved recommendations under this are:

- (i). Each member of parliament should have an office located within his or her constituency.
- (ii). Possibilities should be explored for collaboration with local government or other organisations on staff and equipment so that cost considerations do not prohibit opening of offices in timely fashion.
- (iii). Each member of parliament should be allowed to hire a constituency staff member of his or her own choosing. The staff should have strong interpersonal and organisational skills to carryout the needs of the job. Overall the member of parliament should be granted full authority to hire and

⁵⁹ Approved Recommendations on Reforms in the Zambian Parliament, November 200

fire at will for this position to avoid undermining the members interests in the constituency.

B. LEGISLATIVE PROCESS

Under this area of reform the basic aspects are:

- (i). Bill Submissions
- (ii). Standing Orders Committee
- (iii). Transparency
- (iv). Bill Drafting Resources
- (v). Increased Role in the Budget Process
- (vi). Legislative foresight and oversight and;
- (vii). Time and Schedule Management

The justification underlying these aspects are that the National Assembly's ability to assert its autonomy and independence in the governing process is severely impaired by the financial and logistical obstacles to introducing Legislation originating from an individual member of parliament. Secondly the Standing Orders Committee is a key link between the Executive and the National Assembly and its members heavily weighted towards the Executive. Thirdly, in order for the National Assembly to best serve the functions of active representation of citizens views in the policy making process the legislative process must be open, consultative and deliberative. Non of these goals is possible without an increase in transparency regarding this crucial Legislative function.

A professional bill drafting capacity allows legislators ideas and concepts to be put into proper legislative language and form. Clear accurate drafts of bills in order for legislation to fully reflect the bill sponsors intent. The capacity to draft its own legislation in a competent and confidential manner without reliance on the Executive strengthens the independence and power of the Legislature. This is particularly

important if private members or Parliamentary bills are to become a key component in the National Assembly's legislative process.

Fifthly, the passage of the annual budget is clearly one of the most important parts of the legislative process and the role of the National Assembly in that process is currently severely limited by several factors, including political alignments, procedures, analytical deficiencies and constitutional constraints. Sixthly, in the increasing complex framework of public policy formation and implementation oversight functions are critical to the effective and competent discharge of legislative responsibilities. "Legislative oversight" is the investigatory, monitoring and evaluation role of the parliament pertaining to scrutiny of both previously passed legislation and programs implemented by the government.

Seventhly, as workloads and responsibilities increase it becomes increasingly important for the National Assembly to manage its time through improved processes and structures as effectively and efficiently as possible.

Among approved recommendations under this are:

- (i). Members of parliament should be allowed to submit bills during each session of the National Assembly at no cost to them as individuals.
- (ii). In order curb increased cost associated with bill drafting and other costs and to avoid a potential proliferation of bills, each member of parliament should be limited to a number to be determined by the National Assembly rules. The

National Assembly should be cautious in its exercise of its rules not to impinge on the ability of the member to carryout his or her constitutional responsibilities.

- (iii). Private Member's Bills to be renamed "Parliamentary bills." The word private is misleading as it implies such bills do not pertain of public busibess.
- (iv). The limitation the numbers of days that parliamentary bills may be considered should be eliminated.

C. COMMITTEE SYSTEM

Under this area of reform the aspects which require attention are:

- (i). Public meetings
- (ii). Committee oversight
- (iii). Enhance Committee Role in Policy Development/Proactive Policy formulation
- (iv). Enhance Committee Outreach and;
- (v). Enhance, identify and create facilities for committee work.

The justification for these reform aspects are that in order to enhance member civil society links public input in the policy making process, transparency and consequent credibility of the National Assembly Committee meetings must be open, deliberative and participatory. The committee system has further been reformed by adopting departmentary related committee system thereby allowing enhanced oversight of related government ministries.

Among approved recommendations under this are:

- (i). All committee meetings should be open to the public except for certain meetings held in camera – only in rare cases. For maximum public information, open meetings should include committee meetings considering the ratification of Executive appointments.
- (ii). When considering issues of substantial National interest committee meetings should be broadcast on television and/or radio.
- (iii). All legislation should be sent to the appropriate committee as a regular part of the legislative process after the first reading. It is at this point that detailed policy analysis and discussions should be carried out and outside testimony solicited.
- (iv). As a regular part of the budget process committees should examine, discuss and hold hearings on the proposed budget of the Ministry that committee oversees.
- (v). Committee Members and Staff should carryout regular information visits to related departments in order to familiarise themselves with department operations, structures, staff and policy priorities.

D. ADMINISTRATION OF THE NATIONAL ASSEMBLY

Reforms under this area involve staff issues:

- (i). All committee meetings should be open to the public except for certain meetings held in camera – only in rare cases. For maximum public information, open meetings should include committee meetings considering the ratification of Executive appointments.
- (ii). When considering issues of substantial National interest committee meetings should be broadcast on television and/or radio.
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D. ADMINISTRATION OF THE NATIONAL ASSEMBLY

Reforms under this area involve staff issues:

The justification for this is that the Legislature cannot function effectively without qualified staff. The organisational structure has been recognised as being cardinal notwithstanding the fact that there are qualified staff.

Among approved recommendations under this area are:

- (i). Additional staff with specified qualifications should recruited i.e. enomists, Lawyers, Agriculturalists etc, in view of a wide array of policy issues that National Assembly deals with.
- (ii). Staff should be recruited in a fair and transparent way to avoid recruiting unqualified personnel.
- (iii). The National Assembly should create recruiting links with Universities including the development undergraduate internship programmes and graduate residential fellowship programmes to assist in the recruitment and development of qualified new staff members.
- (iv). A full review of organisational structure and staffing levels should be carried out for the National Assembly, based on the new objectives stemming from its reform effort namely.
 - Recruiting of new staff
 - Re-deployment and retraining of existing staff
 - Re-grading of some positions with Organisational Structure
 - Re-training of some staff
 - Abolishment of some departments, sections or positions.

E. SUPPORT SERVICES TO PARLIAMENT AND ITS MEMBERS

This area of reform involves enhancing Research and Information Systems capabilities.

The justification here is that Information Systems are important to the operation of an active and effective legislature. This will enable the Legislature operate in a timely and efficient manner i.e. to facilitate Management functions, help parliament perform its Legislative duties and address specific needs of members of staff.

Among approved recommendations under this area are:

- (i). A comprehensive Management Information System should be installed.
- (ii). A comprehensive Legislative Information System should be developed and installed this system should include the following components in a data base storage and retrieval system:
 - Constitutional and Legislative documents
 - Legislative debates
 - Bill Status – identify bills considered and action taken on them.
 - Budget Information System – description of yearly budget of each Ministry in line item form. Identification of revenue by source and expenditure by purpose and geographic distribution and issue briefs.
- (iii). An Information System for members of staff should be installed.

- (iv). The above Information System and databases should be installed, maintained and coordinated by an Information Technology Centre as detailed in creation of an Information Technology Centre for the National Assembly of Zambia.

CONCLUSION

It cannot be over emphasised that parliamentary reform as an ideal undoubtedly facilitates genuine interaction between various institutions the people and Government in order to promote sustainable human development. At the very least a reformed parliament will better represent its constituencies effectively analyse public policies and last but not the least function as a forum for productive debate and make good laws, and not forgetting its traditional role of providing checks and balances on the other organs of government particularly the Executive.

CHAPTER FOUR

4.1. COMPARATIVE ANALYSIS OF THE ZAMBIAN PARLIAMENT WITH THAT OF UNITED KINGDOM, AUSTRALIA, CANADA AND ZIMBABWE

INTRODUCTION

While Zambia and Zimbabwe operate a Unicameral system of parliament, United Kingdom (U.K) Australia and Canada operate a bicameral Legislature. It is important also to note that of the six countries here being discussed only United Kingdom has parliamentary democracy the rest have constitutional democracy.

In the United Kingdom the two Houses of parliament or chambers are the House of commons and the House of Lords. On the other hand Australia has the House of Representatives and the Senate, Canada has the House of Commons and the Senate. In discussing parliamentary reforms in the above countries emphasis will be on committee system. It is important to note further that U.K, Australia and Canada all have two party system in their Legislatures, (although in the U.K Liberal Democrats have emerged) while there are a multiple of parties in the political systems of Zambia, Zimbabwe and indeed South Africa. In that sense the Legislatures of these countries cannot be said to be of any fixed number of parties.

4.2. THE COMMITTEE SYSTEM

A. Historical Background of the Role of Parliament

Bigot summarised the liberal conception of parliament in 1867 when he credited it with at least four roles. First he conceived parliament to have a scrutiny and review role. This involved watching and checking Ministers of the crown. Second, he held

parliament to have an expressive role by which he meant that all opinions widely held in the community were entitled to be aired publicly before this forum. Third, he credited it with a teaching role, parliament should contribute to public learning. Last, he envisaged parliament as a source of intelligence about public opinion, it should be the authoritative forum for the registration of political claims.⁶⁰

B. The United Kingdom - Today

On 25 June 1979 Mr. St. John – Stevas, as leader of the House of Commons, moved a motion to set up a new structure of twelve – later fourteen – departmentally select committees to replace most of the existing select committees of the House of Commons. He said:

Today is I believe a crucial day in the life of the House of Commons. After years of discussion and debate we are embarking on a series of changes that could constitute the most important parliamentary reforms of the century.⁶¹

The proposals that the government are placing before the House are intended to address the balance of power between parliament and the executive, to enable the House of Commons to do more effectively the job it has been elected to do.⁶²

This debate was followed by implementation of many of the 1979 Procedure Committee Proposals.⁶³ Mr. St. John – Steva's claims for the changes he was introducing were certainly ambitious but those changes could hardly be described as novel as he himself acknowledged, they were evolutionary rather than revolutionary.

⁶⁰ Ian Marsh: Papers on Parliament No. 11 March 1991: The Committee system of the U.K. House of Commons: Recent Developments and their Implications for Australia page 7.

⁶¹ Gavin Drewry: The New Select Committees (Priscilla Baines: History and Rationale of the 1979 Reforms) page 13.

⁶² Ian Marsh: Papers on Parliament No. 11, March 1991: The Committee System of the U.K. House of Commons: Recent Developments and their implications for Australia page 12.

⁶³ Ibid page 12

(i). Committee Structure Scope and Working Methods

The most feature of the Committee System established in 1979 was its structure. In place of the old subject matter and expenditure committees, parliament acquired a committee system that 'shadowed' each major department of state. Further, in covering the activity of these departments, committees were not constrained in any way. Thus parliament acquired the potential to shadow policy making within government in all its phases. In addition committees were established for the life of parliament. This continuity allowed organisational solidarity to develop, collective committee learning about departments and policy areas to accumulate, and coherent enquiry patterns to be crafted.

(ii). Departmentally Related Select Committees

The fourteen departmentally related select committees of the House of Commons were first set up towards the end of 1979 to the dissolution of parliament in May 1983.⁶⁴ After some initial delay, by 1988 all but one of the select Committees had been re-established following the 1987 General Elections.⁶⁵ The current position is that there are still fourteen (14) departmentally related select committees in the House of Commons of the United Kingdom, namely:

(a). The Agriculture Committee

Agriculture seems a relatively self contained area of policy and administration and it was for this reason that it was selected for one of the experiments of the 'crossman

⁶⁴ Gavin Drewry: *The new select committees* second edition page 1.

⁶⁵ *Ibid* note to Second Edition

era' of specialised committees in the mid 1960s.⁶⁶ It is essential to an understanding of the work of the agriculture committee to be aware of the underlying complexities. It is important to note here that the remit of the department is not confined to agriculture nor does it have a Monopoly of agricultural policy making and administration. It is the Ministry of Agriculture Food and Fisheries (MAFF). In agricultural matters MAFF shares responsibilities with Welsh and Scottish and Northern Ireland Offices.⁶⁷

(b). The Defence Committee

Although formerly established like the other new committees, towards the end of November 1979, the Defence Committee was heir to a slightly longer tradition. It was the direct successor to the Defence and External Affairs Sub-Committee of the Expenditure Committee which operated from 1971 to 1979.⁶⁸

(c). The Education, Science and Arts Committee

The lineage of the Education, Science and Arts Committee can be traced back through the Education, Arts and Home Office Sub-Committee of the former Expenditure Committee to two of the old 'Crossman Committees' – the select committee on Education and Science and the much longer lived Science and Technology Committee. The former Education, Arts and Home Office Sub-Committee had an enormously wide remit and the decision in 1979 to plump for departmental committees appeared to solve this problem.

⁶⁶ Gavin Drewry: *The New Select Committees* Second Edition page 57.

⁶⁷ *Ibid* page 57

⁶⁸ *Ibid* page 72

(d). The Employment Committee

Ostensibly the select Committee on Employment has a very wide remit: It is concerned with all aspects of employment in the British economy. But in the four years after November 1979 when the committee was set up, it was not so much employment and its attendant problems which claimed a major part of the committee's attention as unemployment and all its effects. Unemployment as an economic, social and political problem provided the context within which the committee pursued its enquiries and sought to establish some definition of its purposes and principle interests.⁶⁹

(e). The Energy Committee

The Energy Committee worked conscientiously and quietly on a carefully selected range of issues. In terms of its out put, number of meetings and overall workload it ranks slightly better than the average for all fourteen departmental select committees.⁷⁰

(f). The Environment Committee

When it was set up in November 1979, to examine the expenditure, administration and policy of the departments of the Environment and associated public bodies and similar matters within the responsibilities of the Secretary of State for Northern Ireland. The new Committee was not lacking in scope. Housing and Local Government the principal responsibilities of the department are the concern of all

⁶⁹ Ibid page 110

⁷⁰ Ibid page 127

members many of whom have recent experience in Local Government and maintain close contact with these issues in their constituencies.⁷¹

(g). The Foreign Affairs Committee (FAC)

The committee was set up in 1979, precisely on 25 June, to examine the expenditure, administration and policy of the Foreign and Commonwealth office and of associated public bodies.⁷²

(h). The Home Affairs Committee

The Home Office began life in 1782 as the by-product of a re-organisation of the functions of the Secretaries of State most of whose preoccupation in those days lay in overseas matters. As M. Jourdain might have been startled to discover all that is not foreign affairs is home affairs; and all that is not home affairs is foreign affairs.⁷³

(i). The Industry and Trade Committee

‘The bland leading the bland.’ That description by one inside observer, in the context of the inquiry into Rolls Royce, in 1982, was considered by several of those involved to be an appropriate comment both upon the Government and upon the committee. The latter had simply underlined the importance of collaboration in expensive and high risk projects and being as efficient and competitive as the company’s American rivals, yet at the same time the testimony of the Chairman of Rolls Royce before the Committee on 28 April 1982 had been a notable advance on the earlier sessions held in February.⁷⁴

⁷¹ Ibid page 146

⁷² Ibid page 165

⁷³ Ibid page 182

⁷⁴ Ibid page 218

(j). **The Scottish Affairs Committee**

In 1979 Scotland was a major concern to the British politicians. After a stormy passage in the House of Commons, the devolution legislation to set up an assembly and executive in Edinburgh was put to a referendum of the Scottish people while a small majority of voters endorsed the Scotland Act the requirement that 40% of the Electorate should vote 'yes' was not met. The select Committee on Scottish Affairs was finally nominated on 26 November, 1979. Its main function is to consider Scottish Affairs, because Scotland is a distinctive part of British political system.⁷⁵

(k). **The Social Services Committee**

Most of departmental committees established in 1979 can be regarded as linear successors of the specialised Sub-Committees of the former Expenditure Committee although the links are sometimes very tenuous. However there are three specific links with the former Sub-Committees of Social Services and Employment. Firstly both had the same Chairman – Mrs. Renee Short, second Nicholas Winton both active members of the new committee had also served on the Expenditure Sub-Committee. Third, as its first inquiry, the newly created Social Services Committee chose to complete the last inquiry of its predecessor perinatal and neonatal mortality.⁷⁶

(l). **The Transport Committee**

This committee was not a headline – hunting committee but rather shunned the limelight. It worked hard to produce agreed reports in an area which is highly politically controversial but without stirring up political controversy. This Committee

⁷⁵ Ibid page 224

⁷⁶ Ibid page 241

ventured into new areas and in that sense can be said to have set pace and whatever it perceived as important has indeed happened⁷⁷

(m). **Treasury and Civil Service Committee**

The Treasury and Civil Service Committee Established in 1979 was not an entirely new piece of parliamentary machinery. It inherited some of the members (and ex-members) and specialist advisors of its immediate predecessor, the General Sub-Committee of the Expenditure Committee and made full use of these continuities to follow and develop many of the themes that the General Sub-Committee had opened.

(n). **The Welsh Affairs Committee**

The Welsh Affairs Committee (WAC) unlike most of the new select committees, did not arise simply from a concern to redress the balance between the House of Commons and the executive. Devolution or to be more precise its failure in the March 1979 referendum was the more compelling reason.

4.3. HISTORICAL BACKGROUND AND GROWTH OF PARLIAMENTARY COMMITTEES IN ZAMBIA

Following Zambia's attainment of independence on 24th October, 1964 a number of constitutional changes took place and among them and one of the most important was the enactment of Act 29 of 1972 giving legislative effect to the formation of one party state.⁷⁸ This change brought about increased responsibilities on the House necessitating the enlargement of the House from 80 members in January 1965 to 110 in 1968 and to 136 including the speaker in August 1973. More committees were created as problems increased in the country. Prior to independence a number of

⁷⁷ Ibid page 254

⁷⁸ Ng'ona Mwelwa Chibesakunda: The Parliament of Zambia page 94

committees were abolished and new ones created.⁷⁹ It is sufficient to note here that from 1964 to date parliamentary committees have seen change and this has continued under the reform process. The need to reform the Committee system at the National Assembly of Zambia was not born out of a mere desire for reform but out of the question whether or not the Zambian parliament was performing its constitutionally mandated functions effectively and properly. 'Effectively' in this regard denotes efficiently without confusing, wasted time and wasted effort. Similarly 'properly' means democratically doing things in away suited to the sensibilities of men and women in a society where human dignity, people's freedoms, rights and liberties and privileges are well safe guarded.

The following is a brief overview of the new Committee System in the Zambian parliament.

Sessional and Select Committees

Committees are smaller portions of the House itself. They all operate within defined and specific reference, dealing mostly with matters or questions which would not be practical for the House to deal with as a whole. In the Zambian National Assembly, both Select Committees and Sessional Committees or now departmental Committees adopt the same procedure and practice. Sessional Committees as the name suggests or departmental Committees last for one year i.e. the life of that particular session. Select or Ad-hoc Committees last up to the end of purpose or appointment. Committees are often referred to as small parliaments. Departmentally related

⁷⁹ Ibid page 95

Committees examine Bills and also examine how Government is being run and how it is spending money.

Select Ad-hoc Committees are appointed by the House whenever there is need to deal with specific or urgent issues e.g. scrutinizing presidential appointments before members of parliament consider and agree to ratify them in the House.⁸⁰

4.4. CATEGORIES OF COMMITTEES IN THE ZAMBIAN PARLIAMENT (SESSIONAL COMMITTEES)

There are three categories of Committees,⁸¹ namely:

1. General Purposes Committee
2. House Keeping Committees
3. Departmentally-Related Committees (DRCs)

A. General Purposes (Sessional Committees)

Four Committees fall under this category and their role of operation is not confined to any specific Ministry.

1. Public Account Committee
2. Estimates Committee
3. Committee on Delegated Legislation
4. Committee on Government Assurances

B. House Keeping Committees (Sessional Committees)

There are three Committees under this category and their purposes is to continue servicing the House as efficiently as expected.

⁸⁰ Research Department: Parliament of Zambia a brief structure and activities page 15

⁸¹ Ibid page 15

1. Standing Orders Committee
2. Committee on Privileges, Absences and Support Services; and
3. Reforms and Modernisation Committee.

C. Departmentally Related Committee

The philosophy behind the reforms of the Committee System was based on the premise that the previous system had a number of limitations hindering the holding of the Executives accountability to parliament difficult in accordance with the rules and principles of democratic governance.⁸² Hence the introduction of Departmentally-Related Committees (DRCs). The rationale for the introduction of DRCs was to ensure that a parliamentally Committee directly oversees the activities of each and every government Ministry or department with regard to Government policies and programmes. As a consequence, eleven Departmentally Related Committees were created and the same came into operation in February 1999.⁸³

1. Committee on Health, Community Development and Social Services - This Committee oversees the activities of Ministry of Health, Community Development and Social Services.
2. Committee on Information and Broadcasting Services – The Committee oversees the activities of Ministry of Information and Broadcasting Services.

⁸² Ng'ona Mwelwa Chibesakunda: The Parliament of Zambia page 118

⁸³ Ibid page 118

3. Committee on National Security and Foreign Affairs – This Committee oversees the activities of the Ministry of Defence, Home Affairs and Foreign Affairs.
4. Committee on Education, Science and Technology – This Committee oversees the Ministries of Education, Science and Technology and Vocation Training.
4. Committee on Local Government Housing and Chiefs Affairs – This Committee oversees activities of the Ministry Local Government and Housing.
5. Committee on Agriculture and Lands – This Committee oversees the Ministries of Agriculture Food and Fisheries and Lands.
6. Committee on Economic Affairs and Labour – This Committee oversees the activities of the Ministries of Finance and Economic Development, Commerce Trade and Industry, Mines and Mineral Development, and Labour and Social Security.
7. Committee on Communication, Transport Works and Supply – This Committee oversees the activities of the Ministries of Communications and Transport Works and Supply.
8. Committee on Energy, Environment and Tourism – This Committee oversees the activities of the Ministries of Energy and Water Development; Environment and Natural Resources and Tourism.

9. Committee on Legal Affairs, Governance, Human Rights and Gender Matters
– This Committee oversees the activities of Ministry of Justice; Department of Gender in Development at Cabinet Office.

10. Committee on Sport, Youth and Child Affairs – This Committee oversees the activities of Ministry of Sport, Youth and Child Development and the since abolished State House Vendors Desk.

4.5. SELECT COMMITTEES

It is important to note that the meaning conveyed of the use of the term Select Committee is not the same in all Legislatures in a number of Commonwealth countries owing to the initiated reforms undertaken in those countries in the last twenty years. In that regard the parliamentally scene, has witnessed an emergence of a 'new brand' of Committees commonly referred to as Select, Subject, Departmental or Portfolio Committees. The names of these Committees differ from one Commonwealth parliament to another. In Zambia they are referred to as departmentally related committees. Greater scrutiny of Government activities has precipitated the emergency of these Committees, in as far as the Zambian situation is concerned.

As said above the principle behind the formation of these Committees is that each government ministry or department should be represented by a committee of parliament⁸⁴ (i.e. Departmentally Related Committees). This is undoubtedly a good

⁸⁴ Ibid page 109

innovation and it will ensure that every area of public administration is scrutinised by parliament. In the Zambian context however, this category of committees are not referred to as Select Committees as the position is in the United Kingdom and South Africa.

Select Committees are ad-hoc Committees created as the need arises for a specific purpose and thus have a more limited life which may or may not be specified in their terms of reference. A Select Committee ceases to exist once it has carried out its investigations and presented its final report. For example a Parliamentary Select Committee was appointed to scrutinize the appointment of the Director General of Anti Corruption Commission (ACC) during the third session of the Ninth National Assembly,⁸⁵ pursuant to the provisions of the Anti Corruption Commission Act.⁸⁶

Another Parliamentary Select Committee was appointed to scrutinise the appointment of the Chairperson of the Permanent Human Rights Commission (PHRC) including the Vice Chairperson, and the Commissioners during the third session of the Ninth National Assembly.⁸⁷

A further distinguishing feature of Zambian Select Committee depending on their terms of reference may consist of backbenchers only or may comprise members from the front middle and backbenches of the House. These Select Committees have

⁸⁵ Report of Parliamentary Select Committee appointed to Scrutinise the appointment of Mr. Nixon Mabvuto Banda to serve as Director General of Anti Corruption Commission appointed on 19th May, 2004 printed by the National Assembly of Zambia.

⁸⁶ Section 16(1) of the ACC Act No. 42 of 1996 of the Laws of Zambia

⁸⁷ Report of Parliamentary Select Committee appointed to scrutinise the appointment of Chairperson, Vice Chairperson and Commissioners of the Permanent Human Rights Commission appointed on 11th March, 2004. Mr. Mumba Malila as Chairperson, Mrs. Pixie M. K Yangailo as Vice Chairperson, Mr. Alfred M. Sakala as Commissioner, Mr. Henry M. Katowola as Commissioner, Pastor Godfrida Sumaili as Commissioner and Mr. Kenneth Maduma as Commissioner.

power under the National Assembly power and privileges Act Chapter 12,⁸⁸ to order any person to appear before it, and to give evidence or produce any paper, book, record or document in possession under the control of such person.

In further reforming the Committee System of the Zambian parliament, now members of the public are allowed to attend meetings – debates in the chamber without necessarily abiding by a code of dress as well as in Committee rooms during committee sittings, (whether Sessional or Select) except for House Keeping Committees. This is in accordance with Standing Order 124 of 1998. The same Order has now allowed Departmental, General Purposes and Select Committees to invite submissions from members of the public and interested persons and institutions.⁸⁹ This is a classic example of implemented reforms so far.

Experience in Other Commonwealth Countries

Departmentally related Committees do exist in the House of Commons in Canada, the LOK Sabha in India, in the Australian House of representatives. Nearer to home similar Committee Systems exist in the parliaments of Zimbabwe and South Africa. Ghana, the first African country to get independence and has experienced disruptions in its democratic process due to military coups has established an elaborate and effective Committee System since the reintroduction of democratic governance.

⁸⁸ Sections 13, 14 and 20 Chapter 12 of the Laws of Zambia.

⁸⁹ Standing Order 124(2) on the scrutiny of appointment of Mr. Nixon Mabvuto Banda as Director General of ACC, Submissions were invited from Transparency International Zambia, Integrity Foundation Zambia and Law Association of Zambia (LAZ).

On the appointment of Mr. Mumba Malila as Chairperson Permanent Human Rights Commission submissions were invited from Inter Africa Network for Human Rights and Development (Afronet) and Law Association of Zambia (LAZ).

1. AUSTRALIA

In 1987, when the House of Representatives restructured its Committee Systems, a number of subject – Specific Committees were appointed in addition to the eight General Purpose Committees. Resolutions of appointment usually direct Standing Committees, in selecting particular matters for investigation to take account of the investigations of other parliamentary committees to avoid duplication.⁹⁰

(i). *Implications for Australia*

The most widely accepted basis for an extended role of Committees arises from those who believe parliaments capacity for scrutiny and review of administrative activity needs to be refurbished. In the United Kingdom a broad coalition of Tory and Labour members of parliament united behind the notion that parliaments scrutiny and review powers needed to be extended. It is not impossible to imagine a similar coalition emerging in Australia.

Assuming however, intellectual support for the notion of further parliamentary reform a fundamental issue arises because of the relative sizes of the Houses in Australia's Federal Parliament. Whereas the House of Commons has in excess of 600 members, Australia's House of Representatives has just over 100 members. With a ministry of some thirty members the members available for service on Committees in the House of Representatives is extremely limited. This suggests the Senate as the location for more extended Committee activity.⁹¹ The distinctive features of the new British Committee System, indeed what makes it a strong system in embryo, arises from the

⁹⁰ Internal Memorandum by the Clerk of the National Assembly (DRAFT) on reforming the current parliamentary Committee System for consideration by the Standing Orders Committee page 8

⁹¹ Ian March: The Committee System of the U.K. House of Commons: Recent Developments and their implications for Australia page 44.

structure established in 1979. This permits continuous and systematic shadowing of the major activities of government.

The British Committees cover all major departments of state. Their purview parallels that of Ministers and departments. The Committees are clothed with independent powers to initiate enquiries and to summon witnesses. In addition they have reasonable budgets although minuscule by comparison with those of the United States or German Committees to recruit staff, specialist assistance and travel to take evidence on site. These are all essential elements of a strong system of Committees.

The 1978 – 1979 report on the Structure of Committees and the subsequent procedures reports on the budget and legislative processes suggest avenues for enquiry by Committees in Australia.⁹²

The development of the role of parliament has advanced significantly in the United Kingdom in recent years. Lesser developments have also occurred in New Zealand, and Canada. There has been relatively much less attention to the role of parliament in Australia.⁹³

2. CANADA

In 1980s the Canadian House of Commons introduced reforms which saw the establishment of 18 departmentally related committees to scrutinise every aspect of government administration. The Committees have broad authority to carry out studies

⁹² Ibid page 44

⁹³ Ibid page 45

and other related work arising out of their review of ministerial activities and to report their advice on various matters of policy to the House.⁹⁴

3. ZIMBABWE

Committees in the Zimbabwean Parliament are categorised as follows:⁹⁵

(a). **Select Sessional Committees.**

(i). *Watchdog Committee*

These Committees acquire, scrutinise and try to control expenditure.

The first category of Watchdog Committee include the following:

Committee on Parastatal and State Investments, Committee on Government Assurances and Committee on the Public Accounts.

(ii). *Departmental Committees*

In 1989 the Standing Rules and Orders Committee approved the recommendation to establish Departmental Committees where by ministries with related functions were placed in four groups. It was envisaged that the following Departmental Committees would be capable of carrying out enquiries in at least sixteen government ministries in any session which would be a marked improvement on previous parliaments.

-Departmental Committees on Finance, Economics and Development Ministries.

-Departmental Committee on service ministries

-Departmental Committee on Technical Ministries.

⁹⁴ Internal Memorandum by the Clerk of the National Assembly (DRAFT) on reforming the current Parliamentary Committee System for consideration by the Standing Orders Committee, Page 8

⁹⁵ Ibid page 10

-Departmental Committee on Security Ministries.

(b). House Keeping Committees

Twelve Committees exist in this category and are concerned with the administration of parliament itself.

CONCLUSION

In a parliamentary democracy, parliament oversees government administration and its activities to detailed scrutiny. This is one of the important functions of parliament. The reform process of the Zambian parliament has not escaped the inclusion of that function. As with so many systems the committees in the Zambian parliament modelled on the West Minister are hybrids, their structure and formal trappings are essentially British, yet their activities reveal definite influences from other leading parliaments in the Commonwealth while certain of their features are unique to Zambia.

CHAPTER FIVE

5.0. CONCLUSION

The Zambian Parliament as an Institution has existed since 1924 when the first sitting of the Northern Rhodesia Parliament took place on the 23rd of May, 1924, in Livingstone the first capital of Northern Rhodesia.⁹⁷

Members of parliament are elected for a five year term. There are one hundred and fifty parliamentary constituencies where those aspiring to be members of parliament stand for elections. In addition to the one hundred and fifty elected members of parliament, the Republican President nominates eight members.⁹⁸ The total number of members of parliament is therefore one hundred and fifty eight (158).⁹⁹

The speaker of the National Assembly is elected from among Zambians who qualify to be elected to parliament but are not members of parliament. Once elected speaker, one also becomes a member of parliament.¹⁰⁰

While the Legislative Council (Legico) was considered by the blacks as a settler forum to perpetuate white supremacy in the protectorate, this scenario gradually changed with the on set of trade unionism which was used as a vehicle for black political activism which saw the registration of the first black political party, thereby opening a door to black representation in the National Assembly. Suffice to mention

⁹⁷ The Zambian Parliament Page 4

⁹⁸ Article 68(1) of Chapter 1 (The Constitution of Zambia) of the Laws of Zambia

⁹⁹ Ibid page 5

¹⁰⁰ The Parliament of Zambia: A brief Account of its Structure and Activities page 7

here that a number of changes took place in terms of representation by both blacks and whites in the Legislative Council prior to independence in 1964.

From 1964 to 1991 the period spanning the first and Second and Third Republics respectively, the National Assembly further experienced some changes i.e. in terms of increased number of constituencies vis-à-vis the increased number of Members of Parliament. It should be noted that the said changes were isolated and piecemeal. However, in 1991 Zambia reverted to multipartism for the second time thereby repealing Article 4 of the Single Party Constitution.¹⁰¹

Notwithstanding the above, the need for reforms at the National Assembly of Zambia has been a major preoccupation of many members of parliament and the public who have made suggestions to redress what has been seen as the growing imbalance between the increasing power of the Executive from the time Zambia attained her independence in 1964 and the increasing ineffectiveness of the Zambian Parliament to scrutinise the activities of the Executive to their satisfaction. Admittedly, the rationale for reforms at the National Assembly arises from the need to ensure that the Zambian Parliament is optimally performing its constitutionally mandated functions in order to enhance democracy and good governance.

5.1. RECOMMENDATIONS

Parliamentary Committees have been in existence in Zambia as far back as pre-independence era. Under any parliamentary democracy of government, parliament oversees government administration and subjects its activities to detailed scrutiny on

¹⁰¹ Zambia's Single Party Constitution of 1973 i.e. Chapter One of the Laws

behalf of the electorate. These must conduct surveillance on defined areas of government administration.

During interviews conducted with a number of different categories of members of staff at the national Assembly as well as some members of parliament from both the Government and the Opposition, it was observed that the reforms in this area are well appreciated. However, the following sentiments were expressed. The said Departmentally Related Committees DRCs have no power to impose any sanctions on any ministry found wanting or indeed Government department. The duty of the DRCs is merely to compile a report and report to the whole House which report if adopted by the House then the Government is required to report to the whole House through An Action Taken Report (A.T.R) within 60 days.¹⁰²

It was further discovered that the Government can choose to abuse this process due to its majority numbers in parliament i.e. either to reject the Committee Report or adopt it. Where the report is adopted if the implementation is one requiring funding, here again Government would frustrate the work of the committee by the usual story of lack of funding as the national Assembly is funded like any other Government Ministry or department i.e. when and if money is available, as the National Assembly does not enjoy preferential funding.

The Select Committees, in the UK which are DRCs in Zambia are adequately funded and conduct on the spot checks on the relevant Government departments hence the

¹⁰² See Action Taken Report on the Parliamentary Committee Report on Energy, Environment and Tourism where Government accepted recommendations of the Committee page 5.

surveillance has effect. Committees in Zambia are not individually and directly funded but the funding is given to parliament as a whole.

1. It is therefore recommended that the National Assembly should not be funded at the convenience of the Executive.

2. It is further recommended that the National Assembly should not be funded monthly but rather it should be funded quarterly to allow it plan its work properly. The control of funding to the National Assembly conflicts with the well entrenched practice and Doctrine of separation of powers. As controlling the National Assembly through funding puts it in a subservient position to the Executive arm of Government contrary to the Constitution.¹⁰³

During the said interviews with the above mentioned categories of people everyone expressed concern at the way successful Governments including the present have cunningly used parliamentary majority to achieve their desired goals from the National Assembly. Recently the Amendment Bill of the Local Government Act to increase tenure of Councillors from 3 to 5 years was defeated in the House forcing the Government to withdraw the said Bill and in the process the President called for a caucus meeting at State House where the Movement for Multiparty Democracy (MMD) members of parliament were told to support the Bill or resign from MMD and join perceived popular parties; and consequently when the said Bill was reintroduced in the House the same went through all the stages with only little and ineffective decent from

¹⁰³ Article 1(4) of the Constitution of Zambia Chapter one of the Laws, stipulates constitutional supremacy.

the minority opposition members.¹⁰⁴ The present Government in its quest to maintain majority status in the House, through the president using the so called Executive powers supposedly given to him by the present constitution, appointed ministers and deputy ministers from among opposition members of parliament.¹⁰⁵

In terms of voting, these Ministers from the opposition although still members of the opposition are bound by collective responsibility to vote with Government. In numerical terms the Government has an edge over the opposition.

3. It is therefore recommended that the Constitution must stipulate the so called Executive powers (see Article 33(2) of Cap One) of the president to avoid the sitting president circumverting the constitution at will and hiding behind an unclear article.
4. It is further recommended that if providing perimeters to Executive powers is not possible, the constitution must state clearly that the president can only appoint ministers and deputy ministers from among members of parliament of the ruling party as this will prevent "political prostitution" by members of parliament thereby strengthening democracy in the House with a strong opposition. Strong sentiments were expressed also through interviews with different categories of Zambians among them were the academicians at the

¹⁰⁴ The Post, Thursday 5 August, 2004, Volume 2849 "Levy dares rebel MMD MPs to resign"

¹⁰⁵ Article 46(2) of Cap 1 of the Constitution provides that the President shall appoint Ministers from among Members of Parliament. This Article is very generalised as the MPs can be from the opposition. Legally the President decision was correct.

University of Zambia, villagers of Chibombo area, Marketeers of Lusaka, people in the high density and low density areas of Lusaka, non governmental organisations championing democracy that since what is called Executive powers of the president is not defined it leaves the incumbent to do anything legal apart from 'changing a man into a woman'.

5. It is recommended therefore that let the constitution further state what the president can't do as leaving the interpretation of Executive powers to the president gives him too much unfettered discretion which is a double edged sword (i.e. depending on who is at State House this power can either be misused or indeed used for good purpose).¹⁰⁶

Further, on the Legislative process interviews were conducted in the rural areas of Zambia specifically Central Province i.e. the rural part of Kapiri Mposhi District called Mkonchi Kakwelesa, Likumbi and Chibwe areas as to whether they were aware of any reform in the area of Legislative process. The answer was that they did not even know their member of parliament who according to them should have sensitised them.¹⁰⁷ Some members of parliament interviewed from both the opposition and ruling party as well stated that the whole process of reform lacked enough publicity and that the so called sensitisation meetings were held in provincial centres and a number of seminars were held with members of parliament. One member of parliament talked of some programmes having been aired on Zambia National

¹⁰⁶ Nearly every one interviewed applauded former president Chiluba for the good use of Executive Powers to order the sale of both Government pool houses and council houses etc.

¹⁰⁷ The Member of Parliament for Mkushi South Constituency is Honourable Chambeshi currently Minister of Science and Technology

Broadcasting Corporation (ZNBC). The ignorance about National Assembly Reforms was also demonstrated by both Senior and just Lecturers in nearly all schools at UNZA apart from the School of Law and the Department of Political Science.

6. It is recommended that some sensitisation on the general populace be embarked on by the National Assembly through all public media both print and electronic as well as public meetings not only in urban areas but rural areas as well and in all institutions of learning i.e. primary and secondary schools and tertiary institutions. It is further recommended that the National Assembly should make use of the community Radio Stations. The sensitisation should also be translated into the seven major vernacular languages through the Government printer.

If this is done, parliament will be brought nearer to the people in accordance with the purpose of reform in this area as the citizens will know what they can participate in. Indeed, information is power. Once again this will not be realised as long as funding to the National Assembly is Executive controlled.

The Opposition members of parliament interviewed complained of the cost component regarding private members Bills. They lamented that it is unthinkable that a member of parliament should be made to foot the bill. They complained that lack of funding by government of private members bills is deliberate to avoid progressive laws.

7. It is recommended that while Government may not fund every private members bill (to be renamed parliamentary Bill) a mechanism should be put in place to fund progressive private members bills from the very beginning to the end of the process. The words Private Member's Bill conveys a message that the bill is personal. Hence the need for the change of name. The cost of the said legislation will be borne from the general revenue. While it is appreciated that reform in constituency offices in relation to member constituency relations now spearheaded by PACT Zambia as the Coordinating Organisation of all donor funds, and Administration of the National Assembly and Support to parliament and its members are necessary, and achievable from interviews conducted, it was observed that these reforms are a pie in the sky as long as Government controlled the funding to National Assembly.

8. It is recommended that for the reforms of the National Assembly to be fully realised the National Assembly should be autonomous with power to control its own budget without the Executive controlling the funding to the National Assembly.

BIBLIOGRAPHY

Ndulo M, **Mining Rights in Zambia** (Lusaka, Kenneth Kaunda Foundation, 1987)

Chibesakunda N. M, **The Parliament of Zambia** (Lusaka, National Assembly, Venus Stationery 2001).

Mvunga M. P, **Colonial Foundation of Zambia's Land Tenure System** (Lusaka, Kenneth Kaunda Foundation, 1980)

Chanda A. W, **Zambia: A Case Study in Human Rights in the Commonwealth Africa** (A Thesis Submitted to Yale Law Faculty in Partial Satisfaction of the Requirements for the JSD Degree, New Haven Connecticut USA, 1992.

Phillips O. H, **Constitutional and Administrative Law** Sixth edition (London: Sweet and Maxwell Limited, 1986)

Phiri B. J (Professor), Banda C. J Haantobolo G. H. N, **Protecting the Reputation and Standing of the Institution of Parliamentarians, a Study of Perceptions Realities and Reforms in Zambia**, Lusaka, National Assembly July, 2003.

Ndulo M. B. and Kent B. R, **Constitution of Zambia ZLJ Volume 30**. Lusaka UNZA Press, 1998.

Drewry G, **The New Select Committees**, Second Edition, London: Clarendon Press
Oxford 1989.

The Research Department, **The Parliament of Zambia a Brief Account of
Structure and Activities**, Lusaka, New Horizon Printing Press, 2004

Research Department, **The Zambian Parliament**, National Assembly Lusaka, Nexus
(Z) Ltd 1999.

ARTICLES AND REPORTS

Electoral Commission of Zambia Parliamentary Elections Provision Results – 2001.

Ketterer J. P, Ngoba H. C, Ponga A. (Sr.) Sheffer II J. B, Reform of the National Assembly of Zambia: Agenda for 21st Century Parliament: Report to the National Assembly of Zambia from State University of New York Supported by USAID November, 1999.

Approved Recommendations on Reform in Zambian Parliament November, 2000.

Report of Parliamentary Select Committee appointed to Scrutinize the appointment of Director General of Anti-Corruption Commission.

The National Assembly of Zambia, Lusaka 2004.

Report of Parliamentary Committee appointed to scrutinise the appointment of the Chairperson, Vice Chairperson and Commissioners of the Permanent Human Rights Commission, National Assembly of Zambia, Lusaka. 2004.

Internal Memorandum of the Clerk of the National Assembly of Zambia on reforming the current parliamentary committee system for consideration by the Standing Orders Committee.

Action taken Report on the Parliamentary Committee on Energy Environment and Tourism, Government Printer, Lusaka – 2002.

Marsh I, Paper on Parliament No. 11 March 1991; The Committee System of the United Kingdom House of Commons: Recent Developments and their Implications on Australia.

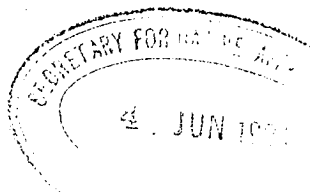
NEWSPAPERS

The Post Volume 2849, Thursday 5 August, 2004.

The Times of Zambia, Volume 11953 Saturday February 7, 2004

The Sunday Mail Volume 6 February 9, 2003

The Times of Zambia 25th February, 1972.



Northern Rhodesia Government Gazette

PUBLISHED BY AUTHORITY

No. 2141

Livingstone, Saturday, 31st May, 1924.

[Vol. XIV, No. 9.]

LEGISLATIVE COUNCIL OF NORTHERN RHODESIA.

Speech delivered by His Excellency the Governor at the opening of the
first Session on the 23rd May, 1924.

HONOURABLE MEMBERS OF THE LEGISLATIVE COUNCIL:

I have much pleasure in bidding you welcome at this the first Session of the first Legislative Council of Northern Rhodesia.

The occasion is one of no little interest to all inhabitants of the Territory, and I am confident that you would wish me to preface my remarks with an expression of our gratitude to His Majesty the King and to His Majesty's Government for the decision of the Crown to assume direct responsibility for the administration of this country, and for the constitutional provisions in which effect has been given to that decision. Under those provisions this Council has been called into being and is entrusted with the power and the duty "to establish such Ordinances as may be necessary for the administration of justice, the raising of revenue, and generally for the peace, order and good government of Northern Rhodesia."

The task which lies before us will not be free from difficulties and perplexities. To most of us membership of a legislative body is a new experience, and it may take some time before we grow accustomed to the procedure appropriate to our opportunities and our limitations. But of this I am sure, that we shall all approach our task in a spirit of mutual goodwill and helpfulness, firmly resolved each to contribute the best of which he is capable towards our common purpose of serving and promoting the interests of our Territory. And I, whose privilege it will be to preside over your deliberations, have no fear that in the conduct of our proceedings I shall not be accorded all the support and all the forbearance of which I may stand in need.

It is hardly necessary for me to emphasize that a Council such as ours is not a Parliament in the generally accepted sense of that term. It is constituted on a different basis, which obviously places the Government in a position to exercise effective control. But I desire to assure the unofficial members that the Government will be very willing to meet any request of theirs for any information which can properly be given, and very ready to consider any views or wishes which they may express. The Government invites and will welcome their fullest participation in the business of the Council.

Our constitution contemplates the replacement of nominated unofficial members by elected unofficial members when legislative provision for their election has been made. I believe that public opinion generally would desire such legislation to be passed as soon as may reasonably be practicable. That also is the wish of the Government. A measure of this nature, however, involves details requiring very careful consideration, and during the short time which has elapsed since I took office, it has not been possible to prepare an Electoral Bill for submission to the Council at the present Session. I hope that, when the Council meets for its second Session, the Government will be in a position to introduce such a Bill. It would be premature now to attempt a forecast of its eventual provisions, but there is one point which, to my knowledge, is exercising many minds, and it may perhaps be helpful if on that point I take this opportunity of saying that the Government, as at present advised, is in favour of the division of the Territory into five electoral districts.

as the business of the Council at this first session concerned, the most important item will be the passing of the necessary financial legislation. The Estimates of Revenue and Expenditure for the current financial year will be laid before you. These Estimates were prepared by the late Administration at short notice under circumstances of considerable difficulty. Nothing was done here at the time as to the form of Government which was to be introduced on the 1st of April, in accordance with the requirements consequential upon the coming into effect of the constitutional changes. The Estimates for the current year could only be prepared on the basis of an assumption of the continuance of the conditions then existing, and the date on which they were required to be submitted to His Majesty's Government, several of the items from outlying districts had not yet been received. The Estimates were considered in London, and certain items were amended or inserted there to provide for such previously unknown factors as the Governor's Establishment, the appointment of a Secretary for Native Affairs and other details into which I need not enter now. After these changes had been made, the Estimates were approved by His Majesty's Government and will be submitted to the Council accordingly.

I will observe that the estimated expenditure is considerably in excess of the estimated revenue, and you may be aware, from a statement made in the House of Lords by the Parliamentary Under-Secretary of State for the Colonies, that His Majesty's Government are providing a loan grant-in-aid of £138,000, which includes a sum of £40,000 for the necessary working cash balance. It covers also a presumably recurring item of £10,000 in respect of certain pension payments arising out of the Great War. It is to be hoped that in future years our demands upon the heavily-burdened British taxpayer may be appreciably reduced, and we must use every endeavour to hasten the advent of the day when we can meet our liabilities out of our own resources. I believe we have sufficient confidence in our country and our people to regard that end as within our possibilities at a very distant date, especially if fortune favours the matter of mineral development; but for the purposes of our budgets we cannot take into account contingencies which have not yet been realised, and it is incumbent upon the Government and the Legislative Council to conduct our affairs with the strictest regard to the possible economy consistent with our obligations towards the requirements of good administration. You know full well that there are many purposes upon which expenditure is greatly to be desired, and I need not say that, within the limits of our resources, these purposes will be kept in mind.

It is proposed to confine the legislation of this session to measures which have either stood over from previous years or are regarded as urgently needed. It is not thought that any of them are likely to prove especially contentious. They include—

A Bill to provide for the levying of Income Tax at certain rates and generally under the conditions hitherto in force;

A Bill to impose an export duty on the tobacco grown in Nyorika tobacco, with a view to enabling the Government to recover from the exporters certain payments which have to be made to other Administrations in respect of Excise duty not leviable in this Territory;

A Bill empowering the Government to make regulations in the interests of our Cotton industry;

Two Bills extending the application of certain Imperial Acts to this Territory;

A Bill dealing with certain Agreements made by the late Administration in respect of the pension rights of some of its officers, and a Bill making a small amendment in the law governing Police Pensions;

A Bill dealing with certain Postal matters;

A Bill in regard to vehicles using public roads, and a Bill amending in one particular the Public Roads Regulations.

A Bill conferring judicial powers on the Judge of the High Court for the purposes of such enquiries into native affairs as he may be called upon to undertake under the provisions of the Northern Rhodesia Order in Council 1924;

A Bill amending the Magistrates' Courts Proclamation in respect of affiliation orders;

and Bills making certain minor amendments in the laws governing licences and stamps, mining and patents.

Any necessary explanation of these Bills will in each case be given upon the motion for the Second reading.

Proposed Standing Rules and Orders will be submitted for your consideration at our meeting this afternoon. They are based mainly on the models of the Rules and Orders of the late Legislative Council of Southern Rhodesia and the Legislative Council of Nyasaland, but with a few modifications which seemed suitable to our own local conditions. Subject to the concurrence of the Council, I would suggest that, should these Rules and Orders be adopted, our experience of them during the present Session would probably enable us to decide whether they need amplification or amendment, in which event a revised version could be prepared for submission to the Council at the next Session.

I have not been in the Territory long enough to venture upon any general statement in regard to our present economic position and prospects. I hope, before the Council meets again, to be able to visit several of the up-country districts and to acquaint myself, so far as possible, with local circumstances on the spot. I should like, however, to say at once how sincerely we sympathise with the people, European and native, in the neighbourhood of Fort Jameson who are unavoidably suffering loss and grave inconvenience through the unfortunate outbreak of East Coast Fever in that area. We sympathise also with our friends and neighbours in the South whom a similar misfortune has befallen. The Government will not, of course, relax any vigilance or any precautionary measures which may be necessary to prevent the introduction of infection into that large portion of our country which happily is free from the disease; but, subject always to this requirement, the Government will endeavour to interfere as little as possible with the legitimate trade of other territories.

In a territory such as ours the interests of the natives are not only a sacred trust to the European population, but also a consideration of the greatest importance in all, or nearly all, our administrative and legislative dispositions. I have no doubt that you are fully conscious of your duty and your responsibility in this respect, and I think you would wish me to acknowledge the loyalty and good conduct of the natives. I fear that, owing to a partial failure of this season's crops, many natives will be exposed to serious privations. The Government will do what it can towards affording some measure of relief where distress is most acute, but of course our power and our resources are limited.

We are now at the beginning of a new chapter in the history of Northern Rhodesia. We look forward to the future with all the self-reliance and fearlessness of good Rhodesians. We look back upon the past with gratitude to the British South Africa Company and its officers for their splendid work in helping the people of the Territory to prepare the heritage to which we have succeeded. It rests with us to show ourselves worthy of the confidence with which we have been honoured by our King.

In His Majesty's name, I now declare this Session of the Legislative Council open, and I pray that in our labours we may be sustained by the guidance and blessing of Almighty God.

Northern Rhodesia.

COMMISSION appointing Herbert James Stanley, Esquire, C.M.G., to be Governor and Commander-in-Chief of Northern Rhodesia.

Dated 27th February, 1924.

GEORGE R.I.

George the Fifth, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India: To Our Trusty and Well-beloved Herbert James Stanley, Esquire, Companion of Our Most Distinguished Order of Saint Michael and Saint George, Greeting.

WE do hereby appoint you, the said Herbert James Stanley, to be, during Our pleasure, Our Governor and Commander-in-Chief in and over the Territory of Northern Rhodesia, with all the powers, rights, privileges, and advantages to that Office belonging or appertaining.

II. And We do hereby authorise, empower, and command you to exercise and perform all and singular the powers and directions contained in the Northern Rhodesia Order in Council, 1924, and the Northern Rhodesia (Legislative Council) Order in Council, 1924, or in any Order in Council adding to, amending, or substituted for the said Orders in Council, according to such Orders and Instructions as may have been received, or as you may hereafter receive from Us.

III. And We do hereby command all and singular Our Officers and loving subjects in the said Territory, and all other persons to whom Our aforesaid Orders in Council extend, to take due notice hereof, and to give their ready obedience accordingly.

Given at Our Court at Saint James's, this Twenty-seventh day of February, 1924, in the Fourteenth Year of Our Reign.

By His Majesty's Command,

J. H. THOMAS.

Northern Rhodesia.

THE NORTHERN RHODESIA ORDER IN COUNCIL, 1924.

At the Court at Buckingham Palace,

THE 20TH DAY OF FEBRUARY, 1924.

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS the territories of Africa known as Northern Rhodesia are under the protection of His Majesty the King:

AND WHEREAS by Treaty, grant, usage, sufferance, and other lawful means, His Majesty has power and jurisdiction in Northern Rhodesia:

AND WHEREAS by an Order of His Majesty in Council bearing date the fourth day of May, 1911, and entitled "The Northern Rhodesia Order in Council 1911" provision was made for the exercise of His Majesty's jurisdiction in Northern Rhodesia, for the administration of justice, the raising of revenue, and generally for the peace, order and good government of all persons therein:

AND WHEREAS the said Order has been amended or added to by divers other Orders of His Majesty in Council:

AND WHEREAS it is expedient that a Governor should be appointed for Northern Rhodesia (hereinafter also referred to as "the Territory") and that there should be an Executive Council and also a Legislative Council in and for the said Territory, and generally that further and other provision should be made for the peace, order and good government of the said Territory:

NOW, THEREFORE, His Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890, 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:—

1. This Order may be cited as "The Northern Rhodesia Order in Council, 1924."

2. The Northern Rhodesia Order in Council, 1911, and the other Orders in Council specified in the Schedule hereto are hereby revoked as and from the commencement of this Order, but without prejudice to anything lawfully done thereunder.

3. In this Order, unless the subject or context otherwise requires,—

"His Majesty" includes His Majesty's heirs and successors;

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

"High Commissioner" means His Majesty's High Commissioner for the time being for South Africa;

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"Governor" means the Governor and Commander-in-Chief for the time being of Northern Rhodesia and includes every person for the time being administering the government of the said Territory ;

"High Court" means the High Court of Northern Rhodesia ;

"Senior Judge" means the senior or sole Judge of the High Court, and includes a person acting as senior or sole Judge ;

"Magistrate" means a Magistrate or Assistant Magistrate and includes an Acting Magistrate or Acting Assistant Magistrate ;

"Gazette" means any official Gazette published within the limits of this Order by authority of the Governor ;

"Person" includes Corporation ;

The plural includes the singular, the singular the plural, and the masculine the feminine.

(1) Where this Order or any Ordinance confers a power or imposes a duty, then, a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

Interpretation.

(2) Where this Order or any Ordinance confers a power or imposes a duty on the holder of an office, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being or by a person duly appointed to act for him.

(3) Where this Order or any Ordinance confers a power to make rules, regulations, or orders, then, unless a contrary intention appears, the power shall be construed as including power to make, exercise, or enforce such rules, regulations, or orders, and to amend, alter, or rescind, revoke, amend or vary the rules, regulations, or orders.

(4) Expressions defined in this Order shall have the same respective meanings in any other Order, rules or regulations made under this Order, unless a contrary intention appears.

The limits of this Order are the parts of Africa bounded by Southern Rhodesia, Northern Rhodesia, West Africa, Portuguese West Africa, the Belgian Congo, the Tanganyika Territory, Nyasaland, and Portuguese East Africa. The Territory within the limits of this Order shall be known as Northern Rhodesia.

Limits of Order.

ADMINISTRATION.

In place of the Administrator for whose appointment provision is made by the Northern Rhodesia Order in Council, 1911, there shall be a Governor and Commander-in-Chief for the time being in and over Northern Rhodesia, and appointments to the said Office shall be made by Commission under His Majesty's Sign Manual and Signet.

Office of Governor constituted.

The said Governor and Commander-in-Chief (hereinafter called the Governor) is hereby authorised, empowered and commanded to exercise on His Majesty's behalf all such powers and jurisdiction as His Majesty at any time before or after the passing of this Order had or may have within the said Territory, and to do and execute all things that may be necessary to his said Office, according to the tenour of any Orders in Council relating to the said Territory, and of such Commission as may be issued to him under His Majesty's Sign Manual and Signet, and according to such instructions as may from time to time be given to him under His Majesty's Sign Manual and Signet, or by Order in Council, or by His Majesty through one of His Majesty's Principal Secretaries of State, and to such laws as may from time to time be made or shall hereafter be in force in the Territory.

Governor's powers and authorities.

Every person appointed to fill the office of Governor shall, with all due solemnity, before entering on any of the duties of his office, cause the Commission appointing him to be read and published in the presence of a Judge of the High Court, or, if there be no Judge of the said Court who is able to attend, in the presence of such other His Majesty's Officers in the Territory as can conveniently attend, which being done, he shall then and there take before him or them the Oath of Allegiance in the form provided in the Act passed in the Session holden in the Thirty-first and Thirty-second years of the reign of Her Majesty Queen Victoria, intituled "An Act to amend the Law relating to Oaths"; and likewise the usual oath for the due execution of the office of Governor and for the due and impartial administration of Justice, which oaths the said person, or some other of His Majesty's Officers then present, is hereby required to administer.

Publication of Governor's Commission.

Oaths to be taken by Governor.

In the event of the Governor having occasion at any time to be temporarily absent for a short period from the seat of Government, or, in the exercise or discharge of any powers or duties conferred or imposed upon him by His Majesty, or through one of His Majesty's Principal Secretaries of State, to visit any territories adjacent to or near to the Territory, he may by an instrument under the Public Seal of the Territory appoint the said Secretary, or if there be no such Officer or such Officer is absent or unable to act, any other person to be his Deputy within any part of the Territory, during such temporary absence and in that capacity to exercise, perform and execute, for and on behalf of the Governor during such absence but no longer, all such powers and authorities vested in the Governor (except the power of pardon), as shall in and by such instrument be specified.

Appointment of Deputy to Governor. *Cancelled and New Article of 9 published N.R./O.M.C. 1926 p. 56.*

and limited, but no others. Every such Deputy shall conform to and observe all such instructions as the Governor shall from time to time address to him for his guidance: Provided nevertheless that by the appointment of a Deputy as aforesaid the power and authority of the Governor shall not be abridged, altered, or in any way affected otherwise than His Majesty may at any time think proper to direct.

Succession to Government.

10. Whenever the office of Governor is vacant, or if the Governor become incapable or be absent from the Territory, or is from any cause prevented from acting in the duties of his office, the person appointed to be Chief Secretary to the Government of the Territory, or if there be no such Officer therein, or such Officer be unable to act, then such person or persons as His Majesty may appoint under His Sign Manual and Signet, and in default of any such appointment the senior Member of the Executive Council shall, during His Majesty's pleasure, administer the Government of the Territory, first taking the oaths hereinbefore directed to be taken by the Governor and in the manner herein prescribed, which being done, the Chief Secretary or any other such Administrator as aforesaid is hereby authorised, empowered and commanded to do and execute, during His Majesty's pleasure, all things that belong to the office of Governor according to the tenour of this Order, and according to His Majesty's instructions as aforesaid, and the laws of the Territory: Provided that the Governor, when, in the exercise or discharge of any powers or duties by this Order in Council or otherwise conferred or imposed upon him, he is in any territories adjacent to or near to the Territory, shall not be considered to be absent from the Territory.

Administrator.
Oaths to be taken by Administrator.

Public Seal.

11. The Governor shall have an Official Seal, bearing the style of his office, and such device as a Secretary of State from time to time approves, and such seal shall be deemed the Public Seal of the Territory, and may be kept and used by the Governor for the sealing of all things whatsoever that shall pass the Public Seal. And, until a Public Seal shall be provided, the private seal of the Governor may be used as the Public Seal.

Executive Council.

12. For the purpose of advising the Governor there shall be an Executive Council in and for the Territory, and the said Council shall consist of such persons as His Majesty may direct by instructions under His Majesty's Sign Manual and Signet, and all such persons shall hold their places in the said Council during His Majesty's pleasure.

Definition of boundaries, and formation of Provinces, etc.

13.—(1) The Governor may with the approval of a Secretary of State, by Proclamation, define any boundaries of the territories for the time being within the limits of this Order, and divide those territories into provinces or districts in such manner and with such subdivisions as may be convenient for purposes of administration describing the boundaries thereof and assigning names thereto.

(2) If a question arises whether any place is or is not within the Territory or within any province or district, and such question does not appear to be determined by any such Proclamation, or other evidence, it shall be referred to the Governor, and a certificate under his hand and seal shall be conclusive on the question, and judicial notice shall be taken thereof.

Governor empowered to make grants of land.

14. The Governor, in His Majesty's name and on His Majesty's behalf may make and execute, under the Public Seal, grants and dispositions of any lands within the Territory which may be lawfully granted or disposed of by His Majesty: Provided that every such grant or disposition be made in conformity either with some Order in Council or law for the time being in force in the Territory, or with such instructions as may be addressed to the Governor under His Majesty's Sign Manual and Signet, or through a Secretary of State.

Appointment of public officers.

15. The Governor, subject to any directions of a Secretary of State, may, on behalf of His Majesty constitute and appoint, or authorise the appointment of, such public officers for the administration of the Territory and under such designations as he may think fit, and may prescribe their duties; and all such public officers, unless otherwise provided by law, shall hold their offices during His Majesty's pleasure.

Suspension of public officers.

16. The Governor may, upon sufficient cause to him appearing, suspend from the exercise of his office any person holding any office within the Territory, whether appointed by virtue of any Commission or Warrant from His Majesty or in His Majesty's name or by any other mode of appointment. Every such suspension shall continue and have effect only until His Majesty's pleasure therein shall be signified to the Governor. In proceeding to any such suspension the Governor is strictly to observe the directions in that behalf given to him by any instructions as aforesaid.

Grant of pardon.

17. When any crime or offence has been committed within the Territory, or for which the offender may be tried therein, the Governor may, as he shall see occasion, in His Majesty's name and on His Majesty's behalf, grant a pardon to any accomplice in such crime or offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders, if more than one; and further, may grant to any offender convicted in any Court, or before any Judge or other Magistrate within the Territory a pardon, either free or subject to lawful conditions, or any remission of the sentence passed on such offender, or any respite of the execution of such sentence for such period as the Governor thinks fit, and may remit any fines, penalties or forfeiture due or accrued to His Majesty.

18. All Ordinances, Proclamations, Regulations, Rules or other public notifications shall be published in the *Gazette* and also in such other manner as the Governor may direct in the case of any particular notification.

Publication of Ordinances, etc.

LEGISLATION.

19. On and after a date to be fixed by the Governor by Proclamation in the *Gazette*, there shall be a Legislative Council constituted in such manner and consisting of the Governor and such persons as are directed by His Majesty by an Order in His Privy Council bearing even date herewith and known as the Northern Rhodesia (Legislative Council) Order in Council, 1924, or by any Order in Council amending or substituted for the same, or by any instructions under His Sign Manual and Signet or through a Secretary of State.

Legislative Council.

20. The persons who shall from time to time compose the said Legislative Council shall have full power and authority, subject always to the conditions, provisos and limitations prescribed by this Order or by the said Order in Council, or by any other Order in Council, or by any instructions under His Majesty's Sign Manual and Signet, to establish such Ordinances as may be necessary for the administration of justice, the raising of revenue and generally for the peace, order and good government of Northern Rhodesia.

Powers of Legislative Council.

The Governor shall have a negative voice in the making and passing of all such Ordinances.

Governor's Veto.

21. Subject to the provisions of this Order all Laws, Regulations, Proclamations, byelaws and rules of whatsoever nature in force at the date of the commencement of this Order within the Territory or any of them, shall continue in force until repealed, revoked or varied by or in pursuance of any Law or of any Ordinance passed by the Legislative Council.

Existing Laws to continue in force.

22. All Ordinances to be passed by the Legislative Council shall respect any native laws or customs by which the civil relations of any native chiefs, tribes or populations under His Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction.

Ordinances to respect native laws.

23. The right is hereby reserved to His Majesty to disallow any Ordinance passed by the Legislative Council. Such disallowance shall be signified to the Governor through a Secretary of State, and shall take effect from the time when the same shall be promulgated by the Governor.

Disallowance of Ordinances.

The right is also hereby reserved to His Majesty, with the advice of His Privy Council, from time to time to make all such Laws or Ordinances as may appear to Him necessary for the peace, order, and good government of the Territory or any part thereof as fully as if this Order had not been made.

Powers of legislation reserved to the Crown.

24. When a Bill passed by the Legislative Council is presented to the Governor for his assent, he shall, according to his discretion, but subject to any instruction addressed to him under His Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents thereto, or refuses his assent to the same, or that he reserves the same for the signification of His Majesty's pleasure.

Assent to Bills.

No Ordinance shall take effect until either the Governor shall have assented thereto in His Majesty's name and on His Majesty's behalf, and shall have signed the same, in token of such assent, or until His Majesty shall have given His assent thereto through a Secretary of State.

Ordinances not to take effect until assented to.

Every Ordinance assented to by the Governor shall be published in the *Gazette*, and, unless it be otherwise provided in such Ordinance, shall take effect and come into operation as Law, on the date of such publication.

A Bill reserved for the signification of His Majesty's pleasure shall take effect so soon as He shall have given His assent to the same through a Secretary of State, and the Governor shall have signified such assent by message to the Legislative Council or by Proclamation: Provided that no such message or Proclamation shall be issued after two years from the day on which the Bill was presented to the Governor for his assent.

Reserved Bills.

25. Unless he shall have previously obtained His Majesty's instructions upon such Bill through a Secretary of State, or unless such Bill shall contain a clause suspending the operation thereof until the signification in the Territory of His Majesty's pleasure thereupon, the Governor shall reserve—

Description of Bills to be reserved.

(1) Any Bill, save in respect of the supply of arms, ammunition, or liquor to natives, whereby natives may be subjected or made liable to any conditions, disabilities or restrictions to which persons of European descent are not also subjected or made liable.

(2) Any Bill altering or amending the arrangements relating to the collection and allocation of mining revenues in force at the commencement of this Order under any existing Law of the Territory or otherwise, or any Bill imposing any special rate, tax or duty on minerals in or under land within the Territory.

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1927

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page 169.
Instructions to be observed.

(3) Until legislation shall have come into force in Northern Rhodesia adopting, so far as may be applicable, the provisions of the Law in force in the United Kingdom relating to the Railway and Canal Commissioners and to the Rates Tribunal provided for by the Railways Act, 1921, any Bill dealing with railways within the Territory.

(4) Any Bill authorising the construction of any new railways.

26. In the making and establishing of all Bills and Ordinances the Governor and the Legislative Council shall conform to and observe all rules, regulations and directions in that behalf contained in any Order in Council or in any instructions under His Majesty's Sign Manual and Signet.

COURTS OF JUSTICE.

The High Court.

27.—(1) There shall be a Court of record, styled the High Court of Northern Rhodesia, with full jurisdiction, civil and criminal, over all persons and over all matters within Northern Rhodesia, subject to the provisions hereinafter contained with regard to native law and custom.

(2) Such civil and criminal jurisdiction shall, as far as circumstances admit, be exercised upon the principles of and in conformity with the substance of the law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before courts of justice and justices of the peace in England, according to their respective jurisdictions and authorities, except so far as such law may be inapplicable or may have been modified by any Order in Council, Regulations or Proclamation or may hereafter be modified by any Order in Council or Ordinance:

Provided that no Act passed by the Parliament of the United Kingdom after the commencement of the Northern Rhodesia Order in Council, 1911, shall be deemed to apply to the said Territory, unless it shall have been applied thereto since the commencement of the said Order, or shall hereafter be applied thereto, by any law or Ordinance for the time being in force in the said Territory.

(3) The High Court shall have a seal, bearing the style of the Court and such device as a Secretary of State from time to time approves, but until such seal is provided, the seal or stamp now in use may be used instead thereof.

(4) The High Court shall sit at such place or places as the Governor may appoint.

Judges of the High Court.

28.—(1) There shall be as many Judges of the High Court as may from time to time be required.

(2) Every Judge shall be appointed by Letters Patent under the Public Seal of the Territory by the Governor in accordance with such instructions as he may receive from His Majesty through a Secretary of State, and shall hold office during His Majesty's pleasure.

(3) When there are more Judges than one, the principal Judge shall have such distinguishing title as a Secretary of State may approve.

(4) In any case of death, illness, or absence, or in any other emergency, the Governor may appoint a competent person to act as Judge.

Confirmation by Governor of capital sentences.

29. If any sentence of death is pronounced by or by direction of the High Court, a copy of the evidence shall be transmitted to the Governor; and the sentence shall not be carried into effect until confirmed by him. The Governor may signify his confirmation by telegraph.

Rules of Procedure for all Courts.

30. The High Court may make rules for regulating its procedure and practice and the admission of practitioners, and generally for the purpose of making any provision proper or necessary for the proper or effectual exercise of jurisdiction under this Order by the High Court and the Magistrates' Courts hereafter mentioned, and rules affecting the conduct of civil suits shall be so framed as to secure as far as may be that cases shall be decided on their merits according to substantial justice without excessive regard to technicalities of pleading or procedure and without unnecessary delay. Subject hereto, and so far as the same do not extend, the procedure, rules and regulations of the High Court shall be the same as the procedure, rules and regulations of the English Courts.

Appeal to the Privy Council.

31. In civil matters when the amount or value in dispute exceeds £500 sterling, an appeal shall lie from the High Court to His Majesty in Council.

Every appeal shall be brought within such time, and in such manner as regards the form and transmission of the appeal, as may be prescribed by any rules of procedure made by His Majesty in Council.

Magistrates' Courts.

32.—(1) There shall be Magistrates' Courts, with jurisdiction over all persons within the districts assigned to them. A Magistrate's Court shall be a court of record, and shall have such jurisdiction in civil and criminal cases respectively as may be prescribed by any Law for the time being in force in the Territory.

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(2) The Governor may from time to time determine the number of Magistrates' Courts required within Northern Rhodesia, and, by notice in the *Gazette*, from time to time assign to each such Court the local limits of the district within which it is to have jurisdiction, and specify the place or places at which the Court is to be held.

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33.—(1) The Governor may appoint a Magistrate to each such Court as aforesaid, and, if occasion requires, any Assistant Magistrates.

Appointment of Magistrates, etc.

(2) Every Assistant Magistrate may exercise all the jurisdiction of the Court, and the provisions of this Order with respect to Magistrates shall apply to Assistant Magistrates: provided that, in the conduct of business, every Assistant Magistrate shall be subject to the directions of the Magistrate.

(3) A Magistrate appointed to one Court may exercise the jurisdiction of any other Court if present therein.

(4) In any case of death, illness, or absence, or in any other emergency the Governor may appoint a competent person to act as Magistrate or Assistant Magistrate.

34. Subject to any regulations and rules of court, appeals shall lie to the High Court from the Magistrates' Courts.

Appeal from Magistrates' Courts to High Court.

35.—(1) There shall be Native Commissioners' Courts with such jurisdiction, civil and criminal, over all natives or otherwise within the districts assigned to them as may be prescribed by any Law for the time being in force in the Territory.

Native Commissioners' Courts.

(2) The provisions of this Order with respect to the number of Magistrates' Courts and the assignment of districts thereto and also with respect to the appointment of Magistrates and Assistant Magistrates shall apply to the like matters as regards the Native Commissioners' Courts and Native Commissioners and Assistant Native Commissioners.

(3) Appeals shall lie to a Magistrate's Court from the Native Commissioners' Courts in accordance with the provisions of any Law regulating such appeals for the time being in force in the Territory.

36. In civil cases between natives the High Court, the Magistrates' Courts and the Native Commissioners' Courts shall be guided by native law so far as that law is applicable and is not repugnant to natural justice or morality, or to any Order made by His Majesty in Council, or to any law or Ordinance for the time being in force. In any such case the Court may obtain the assistance of one or two native assessors to advise the Court upon native law and customs, but the decision of the Court shall be given by the Judge or Magistrate or Native Commissioner alone. In all other respects the Court shall follow as far as possible the procedure observed in similar cases in England.

Native law to be applied in civil cases between natives.

37. If in any civil case between natives a question arises as to the effect of a marriage contracted, according to native law or custom, by a native in the lifetime of one or more other wives married to him according to native law or custom, the Court may treat such marriage as valid for all civil purposes in so far as polygamous marriages are recognised by the said native law or custom.

Validity of marriage according to native law and custom.

38. Every suit, action, complaint, matter or thing which shall be depending in any Court within the Territory at the commencement of this Order shall and may be proceeded with in such Court in like manner as if this Order had not been passed.

Legal proceedings not to be affected.

39. The Colonial Prisoners Removal Act, 1884, shall apply to and take effect within the Territory as if the same were a British Possession and part of His Majesty's dominions, subject as follows:—

Application of Colonial Prisoners Removal Act, 1884.

The Governor is hereby substituted for the Governor of a British Possession.

NATIVE AFFAIRS.

40. No conditions, disabilities, or restrictions which do not equally apply to persons of European descent shall, without the previous consent of a Secretary of State, be imposed upon natives (save in respect of the supply of arms, ammunition and liquor), by any Proclamation, Regulation or other instrument issued under the provisions of any Law, unless such conditions, disabilities, or restrictions shall have been explicitly prescribed, defined and limited in such Law.

Restrictive Regulations, etc., as regards Natives.

41.—(1) It shall not be lawful for any purpose whatever to alienate from the Chief and people of the Barotse, the territory reserved from prospecting by virtue of the concessions from Lewanika to the British South Africa Company, dated the 17th day of October, 1900, and the 11th day of August, 1909.

Native rights reserved under Lewanika Concessions.

(2) All rights reserved to or for the benefit of natives by the aforesaid concessions shall continue to have full force and effect.

Acquisition of land by natives.

42. A native may acquire, hold, encumber, and dispose of land on the same conditions as a person who is not a native, but no contract for encumbering or alienating land the property of a native, shall be valid unless the contract is made in the presence of a Magistrate, is attested by him, and bears a certificate signed by him stating that the consideration for the contract is fair and reasonable, and that he has satisfied himself that the native understands the transaction.

Removal of natives from kraal or land.

43.—(1) No native shall be removed from any kraal, or from any land assigned to him for occupation, except after full inquiry by, and by order of, the Governor.

(2) If any person without such order removes or attempts to remove any native from any kraal or from any land unless in execution of the process of a competent Court, he shall, in addition to any other proceeding to which he is liable, be guilty of an offence against this Order, and on conviction before the High Court shall be liable to imprisonment with or without hard labour for any period not exceeding two years, or to a fine not exceeding 100*l.* or to both.

(3) Nothing in this section contained shall be deemed to limit or affect the exercise by the Chief of the Barotse of his authority in tribal matters, or to prohibit the removal of natives from any kraal or land assigned to them, where such removal is authorised by any Law for the time being in force relating to public health, provided that other suitable land be forthwith assigned to them in lieu of that from which they have been removed.

Reference of questions relating to natives to a Judge.

44. The Governor may refer any question relating to natives for report to any Judge of the High Court, and the Judge shall thereupon make such enquiry as he thinks fit, and shall report to the Governor the result of such enquiry.

Offences by chiefs or tribes.

45. In case of a revolt against the Government, or other misconduct committed by a native chief or tribe, the Governor may, with the approval of a Secretary of State, impose a reasonable fine upon the offender.

GENERAL.

New railways.

46. No new railway shall be constructed in the Territory save under the provisions of any Order of His Majesty in Council or of any Ordinance giving special authority in that behalf.

Public officers.

47. All persons in the public service of Northern Rhodesia at the commencement of this Order shall become public officers of the Territory and continue in full enjoyment of their existing rights.

Powers of High Commissioner.

48. Where under any Proclamation or Law in force in the Territory any power, jurisdiction or authority is at the commencement of this Order vested in the High Commissioner, such power, jurisdiction or authority shall be deemed to be transferred to and vested in the Governor so far as the continuance thereof, as a power, jurisdiction or authority so vested, is not inconsistent with the law conferring the same or repugnant to this Order.

Powers of Administrator and other officers.

49.—(1) Where, under any Proclamation or Law in force in the Territory, any power, jurisdiction or authority is at the commencement of this Order exercised by the Administrator, such power, jurisdiction or authority shall be exercised by the Governor.

(2) Where, under any Proclamation or Law in force in the Territory, any power, jurisdiction or authority is at the commencement of this Order exercised by any Officer other than the Administrator, such power, jurisdiction or authority shall continue to be exercised by such Officer until other provision shall lawfully be made with regard thereto.

Officers and others to obey Governor.

50. All His Majesty's Officers, Civil and Military, and all other the inhabitants of the Territory are hereby required and commanded to be obedient, aiding and assisting unto the Governor and to such person or persons as may from time to time, under the provisions of this Order, administer the government of the Territory.

Power reserved to His Majesty to revoke, add to, alter or amend present Order in Council.

51. His Majesty, His heirs and successors, in Council may from time to time revoke, add to, alter or amend this Order.

Date of commencement of Order.

52. This Order shall commence and come into operation on the first day of April, 1924, and shall be published in the *Gazette*, and thereafter the Governor shall give directions for the further publication of this Order at such places and in such manner and for such time or times as he thinks proper for giving due publicity thereto.

And the Right Honourable James Henry Thomas, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

M. P. A. HANKEY.

SCHEDULE.

- The Northern Rhodesia (Customs) Amendment Order in Council, 1914.
- The Northern Rhodesia Order in Council, 1915.
- The Northern Rhodesia (Amendment) Order in Council, 1916.
- The Northern Rhodesia Order in Council, 1923.

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Northern Rhodesia.

The Northern Rhodesia (Legislative Council) Order in Council, 1924.

At the Court at Buckingham Palace

THE 20TH DAY OF FEBRUARY, 1924.

See No 55/29

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS the Territories of Africa known as Northern Rhodesia are under the protection of His Majesty the King: and whereas by treaty, grant, usage, sufferance and other lawful means, His Majesty has power and jurisdiction in Northern Rhodesia: Preamble.

AND WHEREAS by an Order of His Majesty in Council bearing date this day entitled "The Northern Rhodesia Order in Council, 1924" His Majesty has constituted the Office of Governor and Commander-in-Chief in and over the Territory of Northern Rhodesia, and has among other things provided for the establishment of a Legislative Council in and for the said Territory:

AND WHEREAS it is expedient to make further provision for the constitution of the said Legislative Council:

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

1. This Order may be cited as the Northern Rhodesia (Legislative Council) Order in Council, 1924. Short title.

2. In this Order—
 "His Majesty" includes His Majesty's heirs and successors; Definition of terms.
 "Secretary of State" means one of His Majesty's Principal Secretaries of State;

"Governor" means the Governor and Commander-in-Chief for the time being of Northern Rhodesia and includes every person for the time being administering the Government of Northern Rhodesia;

"The Council" means the Legislative Council to be established by or under the provisions of the hereinbefore recited Order in Council, which shall be known as "the Legislative Council of Northern Rhodesia";

"The Territory" means the Territory of Northern Rhodesia as defined in the hereinbefore recited Order in Council;

"Gazette" means any official Gazette published within the limits of the Territory by authority of the Governor.

3. The Council shall consist of the Governor as President, five *ex officio* Members, and five Elected Unofficial Members: Provided that until such Elected Unofficial Members have been elected, there shall be five Nominated Unofficial Members. Constitution of Legislative Council.

4. The *ex officio* Members of the Council shall be the persons for the time being fully discharging the functions of Chief Secretary to the Government, of Attorney General, of Secretary for Native Affairs and of Principal Medical Officer. Ex-officio Members.

5. The Nominated Official Members of the Council shall be such persons holding office in the Public Service of the Territory as the Governor may from time to time appoint by an Instrument under the Public Seal subject to disallowance or confirmation of His Majesty signified through a Secretary of State. They shall hold their places in the Council after their appointment, but may in any case vacate their seats in the Council at His Majesty's pleasure and shall in any case vacate their seats at the next dissolution of the Council after their appointment, but may be reappointed: Provided that if an Nominated Official Member of the Council ceases to hold office in the Public Service of the Territory, his seat in the Council shall become vacant. Nominated Official Members.

Seven

Elected Unofficial Members.

6. The elected Unofficial Members of the Council shall be such persons as may be elected in accordance with the provisions of any such Ordinance as shall be enacted in the Territory for that purpose or any Ordinance amending the same.

Nominated Unofficial Members.

7. The Nominated Unofficial Members shall be such fit persons not holding office in the Public Service of the Territory as the Governor may by an Instrument under the Public Seal from time to time appoint subject to disallowance or confirmation of His Majesty signified through a Secretary of State. They shall hold their places in the Council during His Majesty's pleasure and shall in any case vacate their seats at the next dissolution of the Council after their appointment, but may be reappointed, should no provision have been made by Law at the date of such dissolution for the election of Elected Unofficial Members.

Precedence of Members.

8. The Members of the Council shall take precedence as His Majesty may specially assign, and in default thereof, first the *ex officio* Members in the order in which their respective offices are named in Article 4 of this order; secondly, the Nominated Official Members according to the priority of their respective appointments, or if appointed by the same instrument according to the order in which they are named therein; thirdly, the Elected Unofficial Members or Nominated Unofficial Members according to the length of time during which they have been continuously Members of the Council, Members elected or appointed at the same time taking precedence amongst themselves according to the alphabetical order of their names:

Provided nevertheless that any such Elected Unofficial Member who is re-elected, or Nominated Unofficial Member who is reappointed, immediately on the termination of his term of office shall take precedence according to the date from which he has been continuously a Member of the Council.

Provisional appointments of Nominated Members.

9. If any Nominated Official or Unofficial Member of the Council shall die or shall with the permission of the Governor, by writing under his hand addressed to the Governor resign his seat in the Council, or shall be suspended or removed from the exercise of his functions as a Member of the Council, or shall be declared by the Governor by an Instrument under the Public Seal to be incapable of exercising his functions as such Member, or shall be temporarily absent from the Territory, or if his seat become vacant, the Governor may by an Instrument under the said Seal provisionally appoint in his place some other fit person within the Territory to be temporarily a Member of the Council, provided that only such persons are thus appointed as in accordance with Articles 5 and 7 of this Order are eligible to be appointed as Nominated Official Members and Nominated Unofficial Members respectively.

Every such person shall hold his place in the Council during His Majesty's pleasure and every such provisional appointment may be disallowed by His Majesty through a Secretary of State or may be revoked by the Governor by any such Instrument as aforesaid.

Position of provisionally appointed Member.

10. Every person so provisionally appointed shall be to all intents and purposes a Nominated Official Member or Nominated Unofficial Member of the Council as the case may be until his appointment shall be disallowed, or revoked, or superseded by a definitive appointment in his place, or until the person in whose place he has been appointed shall be relieved from suspension, or declared by the Governor by an Instrument under the Public Seal to be capable of exercising the functions of a Member of the Council or shall have returned to the Territory.

Appointments of Nominated Members to be immediately reported.

11. The Governor shall, without delay, report for His Majesty's confirmation or disallowance, to be signified through a Secretary of State, every appointment whether definitive or provisional of any person as a Nominated Official Member or Nominated Unofficial Member of the Council.

Suspension of Members.

12. The Governor may by an Instrument under the Public Seal suspend any Member of the Council from the exercise of his functions as a Member of the Council. Every such suspension shall be forthwith reported by the Governor to a Secretary of State, and shall remain in force unless and until it shall be either removed by the Governor by an Instrument under the said Seal or disallowed by His Majesty through a Secretary of State.

Oath of allegiance to be taken by Members of the Council.

13. No Member of the Council shall sit or vote therein until he shall have taken and subscribed the following oath before the Governor, or some person authorised by the Governor to administer such oath:—

"I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to His Majesty King George, His heirs and successors according to law, "So help me God."

Provided that every person authorised by law to make an affirmation instead of taking an oath may make such affirmation instead of the said oath.

Governor, or Member to be appointed by Governor, to preside.

14. The Governor, if present, or in the absence of the Governor, such Member of the Council as the Governor shall from time to time appoint, or in default thereof or in the absence of such Member, the senior Member of the Executive Council present, shall preside at the meetings of the Council.

15. Every...
16. No...
17. The...
18. Su...
19. M...
20. T...
21. T...
22. W...
23. A...
24. T...
25. E...
26. H...
27. T...

15. Every Member of the Council may, upon due notice being given, propose any vote or resolution which does not impose any tax or dispose of or charge any part of public revenue. Initiation of Bills, etc., other than money votes.
16. No Member of the Council may propose any Bill, vote or resolution the object or effect of which is to impose any tax or dispose of or charge any part of the public revenue, unless such Bill, vote or resolution has been proposed by the direction or with the express sanction of the Governor. Initiation of money votes.
17. The Council shall not be disqualified for the transaction of business by reason of any vacancy or vacancies among the Members, but no business except that of adjournment shall be transacted unless there shall be present at least seven Members besides the Governor or other presiding Member. Transaction of business notwithstanding vacancies. Quorum.
18. Subject to the provisions of this Order the Governor and the Council shall, in the transaction of the business of the Council and the passing of, and assenting to, Bills or Ordinances conform as nearly as may be to the directions contained in any Instructions under His Majesty's Sign Manual and Signet which may be addressed to the Governor in that behalf; but no Ordinance enacted by the Governor, with the advice and consent of the Council, shall be invalid by reason that in the enactment thereof any such Instructions were not duly observed. Conformity with Royal Instructions.
19. Minutes shall be regularly kept of all the proceedings of the Council, and at each meeting of the said Council the Minutes of the last preceding meeting shall be confirmed or amended, as the case may require, before proceeding to the despatch of any other business. Minutes of proceedings to be kept.
20. The Sessions of the Council shall be held at such times and places as the Governor shall from time to time by proclamation appoint. There shall be at least one Session of the Council in every year, and there shall not be an interval of twelve months between the last sitting of one Session and the first sitting of the next following Session. The first Session shall be held within six months from the coming into operation of this Order. Sessions of Council.
21. The Governor may at any time, by proclamation, prorogue or dissolve the Council. Prorogation or dissolution of Council.
22. When provision shall have been made by law for the election of Elected Unofficial Members the Governor shall dissolve the Council at the expiration of three years from the date of the last preceding election if it shall not have been sooner dissolved, and an election shall be held at such time within three months after every dissolution of the Council as the Governor shall by proclamation appoint. Duration of Council.
Elections.
23. All questions proposed for debate in the Council shall be decided by the majority of votes, and the President shall have an original vote in common with other Members of the Council, and also a casting vote if upon any question the votes shall be equal. Decision of questions by a majority.
24. The Governor may, with the advice of the Council from time to time make, amend, or revoke such Standing Rules and Orders as may be necessary to ensure punctuality of attendance of the Members of the Council, and to prevent meetings of the said Council being holden without convenient notice to the several Members thereof, and to maintain order and method in the despatch of business and in the conduct of debates in the Council, and to secure due deliberation on the passing of Ordinances, and to provide that before the passing of any Ordinance intended to affect the interests of private persons due notice of the provisions thereof is given to all persons concerned therein. Standing Rules and Orders.
- All such Rules and Orders, not being repugnant to any law for the time being in force in the Territory or to any Instructions which the Governor may receive from His Majesty, shall at all times be followed and observed and shall be binding upon the said Council unless the same or any of them shall be disallowed by His Majesty.
25. Except as provided in Article 16 of this Order it shall be competent to any Member of the Council to propose any question relating to the affairs of Northern Rhodesia for debate therein, and if seconded by any other Member, such question shall be debated and disposed of in accordance with the Standing Rules and Orders: Provided that any resolution or question which any Member may propose to bring forward for debate at any meeting of the Council shall be notified to the Governor before the day fixed for the meeting. Debate.
26. His Majesty, His heirs and successors, in Council may from time to time revoke, add to, alter or amend this Order. Power to revoke, add to, alter or amend Order.
27. This Order shall commence and come into operation on the first day of April, 1924, and shall be published in the *Gazette*, and thereafter the Governor shall give directions for the further publication of this Order at such places and in such manner and for such time or times as he thinks proper for giving due publicity thereto. Commencement.
- And the Right Honourable James Henry Thomas, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

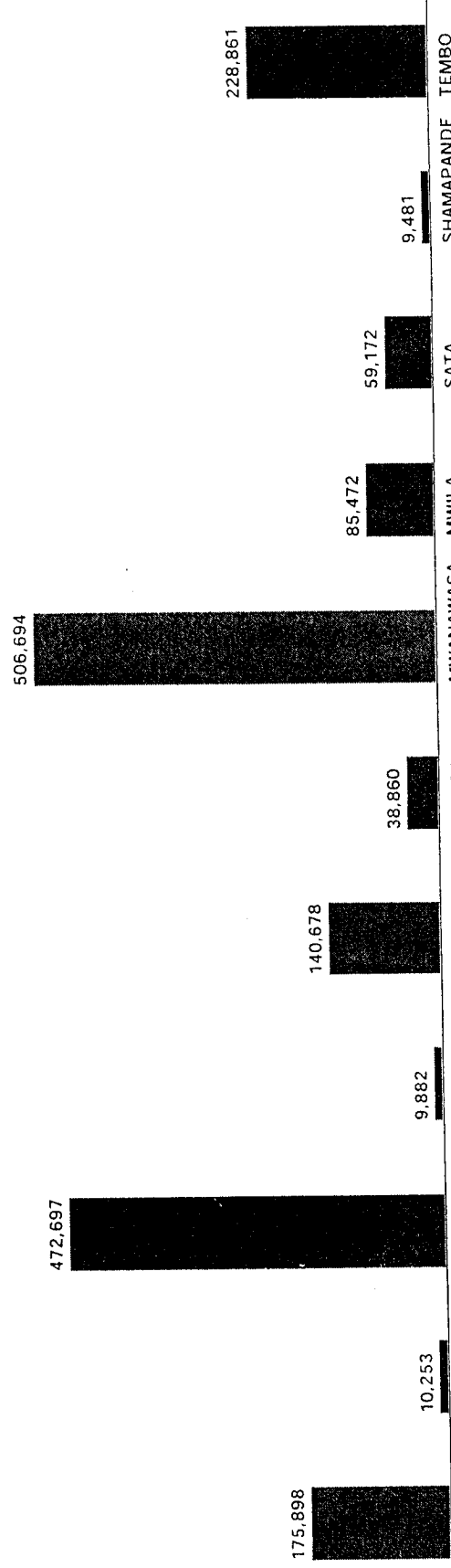
ELECTORAL COMMISSION OF ZAMBIA

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Votes Received per Candidate, NATIONAL TOTALS

Candidate Name	Valid Votes Received	% Against Votes Cast	% Registered Voters	Rejected Ballot Papers	Rejected Ballot Papers %	Total Votes Cast	Total Registered Voters	National Percentage Poll
MWANAWASA Levy P. , MMD	506,694	28.69%	19.45%					
MAZOKA Anderson K. , UPND	472,697	26.76%	18.15%					
TEMBO Christon S. (Lt.Gen.), FDD	228,861	12.96%	8.79%					
KAUNDA Tilyenji C. , UNIP	175,898	9.96%	6.75%					
MIYANDA Godfrey K. (Brig.Gen.), HP	140,678	7.96%	5.40%					
MWILA Benjamin Y. , ZRP	85,472	4.84%	3.28%					
SATA Michael C. , PF	59,172	3.35%	2.27%					
MUMBA Nevers S. (Dr), NCC	38,860	2.20%	1.49%					
KONIE Gwendoline C. , SDP	10,253	0.58%	0.39%					
MBIKUSITA-LEWANIKA Inonge (Dr), M.	9,882	0.56%	0.38%					
SHAMAPANDE Yobert K. (Dr), NLD	9,481	0.54%	0.36%					
	1,737,948	98.39%	66.72%	28,408	1.61%	1,766,356	2,604,761	67.81%



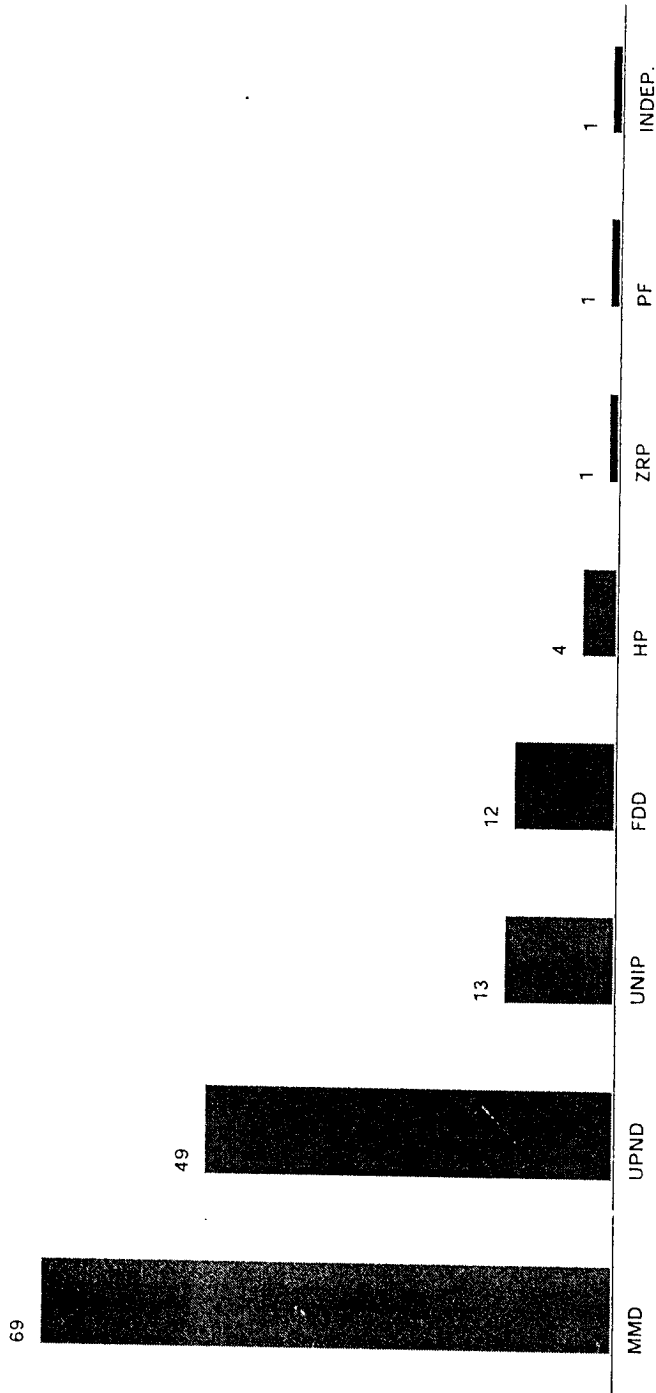
ELECTORAL COMMISSION OF ZAMBIA

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Total Seats per Party

NATIONAL TOTALS



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NATIONAL TOTALS

Party Name	Valid Votes Received	% Against Votes Cast	% Against Registered Voters	Rejected Ballot Papers	Rejected Ballot Papers %	Total Votes Cast	Total Registered Voters	National Percentage Poll
MMD	490,680	27.48%	18.84%					
UPND	416,236	23.31%	15.98%					
FDD	272,817	15.28%	10.47%					
UNIP	185,535	10.39%	7.12%					
HP	132,311	7.41%	5.08%					
ZRP	97,010	5.43%	3.72%					
INDEPENDENTS	59,335	3.32%	2.28%					
PF	49,362	2.76%	1.90%					
NCC	35,632	2.00%	1.37%					
ZAP	3,963	0.22%	0.15%					
NLD	3,155	0.18%	0.12%					
AZ	2,832	0.16%	0.11%					
NP	1,228	0.07%	0.05%					
SDP	809	0.05%	0.03%					
LPF	175	0.01%	0.01%					
DP	115	0.01%	0.00%					
TOTALS	1,751,352	98.09%	67.24%	54,133	1.91%	1,785,485	2,604,761	68.55%

