



SUPPLEMENT  
TO  
**The London Gazette**  
*Of FRIDAY, the 25th of NOVEMBER.*

**Published by Authority.**

FRIDAY, NOVEMBER 25, 1898.

**A**T the Court at *Balmoral*, the 20th day of  
*October*, 1898.

PRESENT,

The QUEEN's Most Excellent Majesty.  
Duke of Fife.  
Earl of Kintore.  
Lord George Hamilton.

**W**HEREAS the territories of South Africa situated within the limits of this Order, as hereinafter described, are under the protection of Her Majesty the Queen :

And whereas by Treaty, grant, usage, sufferance, and other lawful means, Her Majesty has power and jurisdiction in the said territories.

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

1. This Order may be cited as the Southern Rhodesia Order in Council, 1898.

2. This Order is divided into parts, as follows :—

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PART I.

*Interpretation and Application.*

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

“Her Majesty” includes Her Majesty's heirs and successors.

“Secretary of State” means one of Her Majesty's Principal Secretaries of State.

“High Commissioner” means Her Majesty's High Commissioner for the time being for South Africa.

“The Company” means the British South Africa Company.

“Charter” means Her Majesty's Charter of the 29th day of October, 1889, incorporating the Company.

“High Court” means the High Court of Southern Rhodesia constituted by this Order.

“Administrator” means an Administrator appointed under this Order to administer affairs within the limits of this Order or within any parts of such limits, and includes an Acting Administrator.

“The Administrator” means, if there be two or more Administrators, the senior of such Administrators.

“Judge” means any Judge or Acting Judge of the High Court.

“Magistrate” means a Magistrate or Assistant Magistrate appointed under this Order and includes an Acting Magistrate.

“Proclamation” means a Proclamation issued by the High Commissioner under an Order in Council.

“Ordinance” means a legislative Ordinance made by the Administrator by and with the advice and consent of the Legislative Council under this Order.

“The Colony” means the Colony of the Cape of Good Hope.

“Supreme Court” means the Supreme Court of the Colony.

“Gazette” means any Official Gazette published within the limits of this Order by authority of an Administrator by and with the advice and consent of the Executive Council.

“Native” means any person not of European descent who is a native of South Africa, or of Central Africa.

“Person” includes Corporation.

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

“Document” includes minute, resolution, order,

book, telegram, letter, map, code, cypher, or any other printed typed or written matter of any nature whatsoever, or any copy thereof.

"The Treasury" means the Lord High Treasurer for the time being or the Commissioners for the time being of Her Majesty's Treasury.

"Military police forces" includes all military, volunteer, and police forces from time to time being within the limits of this Order, but does not include any civil police forces to which the High Commissioner by Proclamation may declare that this Order shall not extend.

4. The limits of this Order are the parts of South Africa bounded by the Portuguese Possessions, by the South African Republic to a point opposite the mouth of the River Shashi, by the River Shashi to its junction with the Tati and Ramaquaban rivers, thence by the Ramaquaban River to its source, thence by the watershed of the Rivers Shashi and Ramaquaban until such watershed strikes the Hunter's road (called the Pandamatenka road) thence by that road, to the River Zambesi, and by that river to the Portuguese boundary. The said limits include an area of ten miles radius round Fort Tuli, but exclude the area of the district known as the Tati district as defined by the Charter.

The territory for the time being within the limits of this Order shall be known as Southern Rhodesia.

5.—(1.) A Secretary of State may from time to time, by notice published in the Gazette and in the London Gazette, declare that any parts of South Africa south of the River Zambesi, and under the protection of Her Majesty, shall be included in the limits of this Order, and from the date of the publication of the notice in the Gazette this Order shall apply to the parts named therein.

(2.) A Secretary of State may from time to time by the like notice declare that any part of South Africa for the time being within the limits of this Order shall, until otherwise directed, be excepted from the application of this Order; and from the date of the publication of such notice in the Gazette, the part named therein shall be excluded from the limits of this Order.

6.—(1.) The powers and authorities conferred upon the High Commissioner by Her Majesty's Order in Council of the 9th of May 1891 providing for the exercise of Her Majesty's jurisdiction in certain territories of South Africa as amended by Her Majesty's Order in Council of the 30th July 1891, shall continue in force within the limits of this Order concurrently with the powers conferred upon the Company by this Order.

(2.) The powers conferred upon the Company by this Order are in augmentation of the powers conferred upon it by the Charter.

## PART II.

### *Administration and Legislation.*

7. The Company shall have and may exercise the general administration of affairs within the limits of this Order, in accordance with the terms of the Charter and any Charter amending the same or Supplementary thereto and the provisions of this Order.

8.—(1.) The Company may exercise such administration by one or more Administrators, and under him, or them, by such other officers as may from time to time be necessary, and may from time to time, with the approval of a Secretary of State, determine the number of Administrators.

(2.) The Company, with the approval of a

Secretary of State, may from time to time assign the local limits of the Province within which an Administrator shall act.

(3.) Whenever there is more than one Administrator the Company, with the approval of a Secretary of State, shall determine the precedence of the several Administrators.

9. the Company shall appoint the Administrator or Administrators and shall pay his or their salaries and the salaries of such officers as may be required for the administration of Southern Rhodesia: but shall obtain the approval of a Secretary of State before appointing any person to the office of Administrator. The salary of an Administrator shall be fixed by the Company, with the approval of a Secretary of State, and shall not be increased or diminished without his approval. An Administrator may be removed or suspended from office by a Secretary of State or by the Company with the approval of a Secretary of State.

10.—(1.) An Administrator shall hold office, unless sooner removed, for three years from the date at which he enters upon the duties of his office; and with the approval of a Secretary of State may from time to time be re-appointed for a further term of three years. At the end of any such term an Administrator shall continue in office until re-appointed or until his successor is appointed.

(2.) If at the end of any such term, or if on a vacancy in the office the Company does not within three months thereafter, with the approval of a Secretary of State, re-appoint an Administrator or appoint his successor, a Secretary of State may appoint some person to be Administrator.

11.—(1.) The Company, with the approval of a Secretary of State, may appoint some person to act as Administrator in the event of the death, removal, resignation, absence from Southern Rhodesia, incapacity, or suspension of an Administrator. A Secretary of State, or the Company, with the approval of a Secretary of State, may remove or suspend an Acting Administrator.

(2.) The precedence, powers, and duties of an Acting Administrator shall unless otherwise determined by the Company, with the approval of a Secretary of State, be the same as that of the Administrator in whose place he is acting.

(3.) When there is no Administrator or Acting Administrator appointed by the Company to any Province capable of discharging the duties of the office the Administrator or Acting Administrator of the other Province of Southern Rhodesia, or, if there shall be more than one other Province, the senior of such Administrators or Acting Administrators, or if there shall be no such Administrator or Acting Administrator in Southern Rhodesia capable of discharging the duties of the office, the Senior Member of the Executive Council other than the Resident Commissioner shall act as Administrator for the Province in which there is such vacancy.

12. The Secretary of State may appoint an officer who shall reside within Southern Rhodesia, and who shall be called the Resident Commissioner.

(1.) The Resident Commissioner shall be paid out of money provided by Parliament such salary and allowances as a Secretary of State, with the concurrence of the Treasury, may determine.

(2.) The Resident Commissioner shall be ex-officio a member of the Executive and Legislative Councils, and shall be entitled to be present at any meeting of either Council, and at any meeting of any Committee thereof, and shall be

entitled to speak but not to vote at any such meeting.

(3.) The Resident Commissioner shall make a report to the High Commissioner upon every Ordinance submitted for his assent and upon all appointments submitted for his approval, and shall, as occasion may require, fully inform the High Commissioner upon all matters of importance arising within the limits of this Order.

(4.) The Resident Commissioner shall take precedence next after the Administrator.

(5.) Every Administrator shall supply or cause to be supplied to the Resident Commissioner, by such officer and at such place as he may desire, all such information and all such documents of whatever nature having reference to the administration or the officers and servants of the Company as the Resident Commissioner may at any time require, and shall furnish true copies of any such documents at any time if requested by the Resident Commissioner so to do.

13.—(1.) There shall be in Southern Rhodesia an Executive Council to assist the Administrator, consisting of the Resident Commissioner, every Administrator other than the Senior Administrator, and not less than four members appointed by the Company, with the approval of a Secretary of State. A member of the said Council shall hold office for three years, unless sooner removed by the Company, with the like approval, but shall be eligible for re-appointment.

(2.) The Company, with the approval of a Secretary of State, shall, subject to the provisions of this Order, determine the precedence of members of the Executive Council.

14.—(1.) The Administrator shall preside at the meetings of the Executive Council. In his absence, the Administrator next to him in order of precedence who is present, or, if no Administrator is present, such other member of the Executive Council as the Senior Administrator shall designate in writing, shall preside at the meetings of the Council.

(2.) The Executive Council shall meet whenever summoned by the Administrator at such time and place as shall be specified in the summons. The Administrator shall on the request of any other Administrator or of the Resident Commissioner immediately summon the said Council.

(3.) Three members exclusive of the Resident Commissioner shall form a quorum.

15. An Administrator shall take the advice of the Executive Council upon all matters of importance affecting the administration of affairs within the limits of the province to which he has been appointed, except in cases which are too urgent to admit of their advice being taken. In all such urgent cases the Executive Council shall as soon as possible be summoned and acquainted with the action taken and the reasons therefor.

16. An Administrator may act contrary to the advice of the Executive Council, but in every such case he shall report the matter forthwith to the Company, with the reasons for his action. In every such case any member of the Council who dissents may require that the reasons for his dissent be recorded and transmitted to the Company. The Company may reverse any action of an Administrator whether taken with, or without, or against, the advice of the Executive Council.

17.—(1.) There shall be in Southern Rhodesia a legislative body to be styled "The Legislative Council," composed of the Administrator or Administrators for the time being, the Resident Commissioner, and nine other members, of whom five, hereinafter referred to as "nominated mem-

bers," shall be appointed by the Company, with the approval of a Secretary of State, and four shall be elected by the registered voters in the manner hereinafter provided. Provided that the proceedings of the Council shall not be invalid on account of any vacancies therein.

(2.) The nominated members of the Legislative Council shall take precedence of the elected members. The Company, with the approval of a Secretary of State, shall determine the precedence of the nominated members amongst themselves. The elected members shall rank among themselves in order of the date of their election, and two or more members elected on the same day shall rank in the alphabetical order of their names.

18. It shall be lawful for the High Commissioner, by Proclamation, after consulting the Administrator—

(1.) To create electoral districts and to declare what number of members shall be elected to the Legislative Council for each district;

(2.) To fix, subject to the provisions of this Order, the qualifications of electors and and elective members respectively; and

(3.) Generally to make all such provisions and regulations for the registration of voters, the issue of writs, the manner and time of holding elections and otherwise, in respect of the election of members to the said Council as shall from time to time appear to him to be necessary for the proper conduct of such proceedings.

19. The Legislative Council may, from time to time, be convoked, prorogued, and dissolved by any instrument under the hand of the Administrator.

20. The Legislative Council shall be convoked within six months after the publication of this Order in the Gazette, and afterwards once at least in every year.

21. The place of meeting the Legislative Council shall be fixed by the instrument convoking the meeting.

22. The duration of the Legislative Council, unless sooner dissolved, shall three years.

23. The Administrator shall preside at the meetings of the Legislative Council, and in his absence, the Administrator next to him in order of precedence who is present, or, if there be no Administrator present, such other Member of the Council as may be appointed in writing by the Administrator, shall preside at the meetings of the Legislative Council.

24. A member of the Legislative Council may resign his seat by writing under his hand, addressed to the Administrator, but no resignation shall take effect until it be accepted in writing by the Administrator. Any member resigning shall be eligible for re-appointment, or, unless disqualified as hereinafter provided, for re-election.

25.—(1.) The nominated members of the Legislative Council may be removed or suspended by the Company.

(2.) The nominated members shall hold their seats until the next dissolution of the Legislative Council after their appointment, unless they previously resign their seats or are removed or suspended.

(3.) Whenever the seat of a nominated member becomes vacant by death, resignation, or removal the Company shall appoint a successor; in default of such appointment by the Company within a period of three months from the occurrence of the vacancy a Secretary of State may appoint a person to fill the vacancy.

26. No person shall be qualified to be an elected member who

- (1.) Is an infant or is not a British subject by birth or naturalization.
  - (2.) Has within five years before his election, or since his election, been convicted of any crime and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, surrendered his estate as insolvent, or made a composition or arrangement with his creditors.
  - (3.) Provided that where a person is disqualified by having surrendered his estate as insolvent, or made a composition or arrangement with his creditors, the disqualification shall cease, in case of insolvency, when the debtor has obtained his rehabilitation or paid his debts in full.
27. Every elected member who shall accept any office of profit under the Government of Southern Rhodesia shall vacate his seat in the said Council, but shall be eligible for appointment as a nominated member.
28. When any elected member becomes disqualified, or vacates his seat in the Legislative Council, otherwise than by the dissolution thereof, the Administrator shall take steps forthwith, in accordance with the provisions for the time being in force with respect to the election of members of the Legislative Council, for the election of a successor by the electors of the district which such elected member represented.
29. Standing rules for the orderly conduct of business shall be made by the Legislative Council at its first meeting, and thereafter from time to time as occasion shall require.
- 30.—(1.) In the event of the suspension, absence from Southern Rhodesia, or other incapacity of a member of the Executive Council or of a nominated member of the Legislative Council, the Company may, with the approval of a Secretary of State, appoint some other person to fill the temporary vacancy thus caused.
- (2.) Provided that in default of such appointment by the Company within a period of three months after a vacancy has arisen, a Secretary of State may appoint a person to fill the vacancy.
- (3.) Every member appointed to fill any such temporary vacancy shall cease to be a member on the return to Southern Rhodesia or the removal of the suspension or incapacity of the member in whose place he was appointed.
31. Until otherwise determined by the Legislative Council the said Council shall not be considered as constituted for the despatch of business unless at least six members exclusive of the Resident Commissioner be present and assisting thereat.
32. Questions arising in the Legislative Council shall be decided by a majority of votes of the members present other than the Resident Commissioner. In the event of an equality of votes the Administrator or other presiding member shall have a second or casting vote.
33. Every member of the Executive or Legislative Councils shall, before taking his seat, take and subscribe before the Administrator or some other person authorized by him the following oath of allegiance:—
- “I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. So help me God.”
- But any person authorized by law to affirm or declare instead of taking an oath may make such affirmation or declaration in lieu of such oath.
- 34.—(1.) Full and exact journals or minutes

shall be kept of all the proceedings of the Executive and Legislative Councils, and of the proceedings of all Committees thereof, and at each meeting of either Council or of any such Committee the minutes of the last preceding meeting shall be read over and confirmed or amended, as the case may require, before proceeding to the despatch of other business.

(2.) A full and exact copy of such minutes as confirmed or amended shall be transmitted forthwith to the Resident Commissioner.

(3.) Twice in each year a full and exact copy of all the said minutes for the preceding half year shall be transmitted by the Administrator to the Company, and the Company shall upon the receipt thereof forthwith transmit a true copy to a Secretary of State.

35. It shall be lawful for the Administrator by and with the advice and consent of the Legislative Council to make Ordinances for the peace, order, and good government of Southern Rhodesia.

36. All Ordinances shall be submitted to the High Commissioner for his assent, disallowance, or other direction thereon, together with a report thereon by the Resident Commissioner, and no Ordinance shall take effect until the High Commissioner shall have signified his assent thereto and the Ordinance together with a notification of such assent shall have been published in the Gazette.

37. The High Commissioner shall sign every Ordinance assented to by him and shall, at the first convenient opportunity, transmit an authenticated copy of every such Ordinance to a Secretary of State, and every such Ordinance may be disallowed within one year from the taking effect thereof by a Secretary of State, either of his own motion or at the request of the Company, and every Ordinance so disallowed shall become null and void so soon as the disallowance thereof shall be published in the Gazette, but without prejudice to anything theretofore lawfully done thereunder.

38. An Ordinance may amend or repeal a Proclamation.

39. If any Ordinance is in any respect repugnant to the provisions of an Order made by Her Majesty in Council, such Ordinance shall be read subject to such Order, and shall to the extent of such repugnancy be absolutely void.

40. No fiscal vote or resolution shall be proposed in the said Council except by the Administrator, acting on the instructions of the Company, or by his authority in writing previously obtained.

41. The administrator shall submit to the Legislative Council before the expiration of the month of December, in each year, such an Estimate as he may think necessary of the whole expenditure, not already fixed, which is intended to be incurred for services within Southern Rhodesia, together with an Estimate of the revenue of Southern Rhodesia for the financial year then next ensuing, and shall transmit to the High Commissioner and to the Company, at the earliest opportunity, an Ordinance providing for the service of that year.

42. When the Annual Estimates shall have been passed by the Legislative Council, and the Ordinance has been approved by the High Commissioner, the expenditure of the year shall be held to be definitely limited and arranged. Should, however, any further disbursements on account of the service of that year be required which have not been foreseen, the Administrator shall submit to the Legislative Council a Supplementary Estimate of the expenditure so required.

43. The Administrator shall transmit with the

Annual Estimates such full and sufficient information as to every expense of an unusual nature therein comprised as may be necessary to enable the High Commissioner and the Company to judge of the propriety of the proposed expenditure, together with a table exhibiting the variations from the preceding year.

44. The Administrator shall at the same time that he proposes to the Legislative Council the estimate of the ensuing year's expenditure, submit to them the draft of any Ordinance which may be necessary to provide the ways and means by which the expenditure is to be met.

45. Detailed statements of the revenue and expenditure of Southern Rhodesia shall be annually published in the Gazette, immediately after the period when it is required that the accounts of each year are to be transmitted for audit.

46. Provision shall be made for a full and sufficient audit once in every year of the accounts of the Company relating to all sums received and moneys expended by the Company in connection with the administration of Southern Rhodesia.

47. No customs duties levied on any articles produced or manufactured in any part of Her Majesty's Dominions or in any British Protectorate and imported into Southern Rhodesia shall exceed in amount the duties levied on such articles according to the tariff in force in the South African Customs Union at the commencement of this Order, or the tariff contained in the Customs Union Convention concluded between the Colony, the Orange Free State, and Natal, in May 1898, whichever are the higher.

#### PART III.

##### *Police.*

48.—(1.) The military police forces shall be and remain under the direct control and authority of the High Commissioner, and all officers and members of the said forces shall conform to and obey such orders and instructions as they may from time to time receive from the High Commissioner, or from any person appointed by him to act on his behalf.

(2.) The officer exercising the chief command of the said forces shall be styled "the Commandant General," and such Commandant-General and the subordinate officers of the said forces shall be appointed by a Secretary of State. The Commandant General shall be paid out of money provided by Parliament such salary as a Secretary of State, with the concurrence of the Treasury, may determine.

(3.) The numbers of the military police forces shall not at any time be reduced without the previous approval of the High Commissioner, but this provision shall not apply to volunteer forces.

(4.) Subject to any such orders and instructions from time to time given by or by the direction of the High Commissioner it shall be the duty of the Commandant General to preserve peace and order, and for such purpose to employ the said forces in such manner as he may think proper, paying due regard to any requests in that behalf from time to time made to him by an Administrator or other officer of the Company. If in any case the Commandant General deems it undesirable to comply with any such request he may apply to the High Commissioner for instructions, and shall act in accordance with the instructions given by the High Commissioner.

(5.) Provided that in case of urgency, when it is possible to communicate more quickly with the Resident Commissioner, the Commandant General may apply to the Resident Commissioner for instructions instead of applying to the High Commissioner.

(6.) The Commandant General shall in no case take action of the nature of a military operation without the authority of the High Commissioner or Resident Commissioner, as the case may be.

#### PART IV.

##### *Judicial.*

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

(2.) The law to be administered by the High Court and by the magistrates' courts hereinafter mentioned shall, so far as not inapplicable, be the same as the law in force in the Colony on the 10th day of June, 1891, except so far as that law has been modified by any Order in Council, Proclamation, Regulation or Ordinance in force at the date of the commencement of this Order.

(3.) The Courts shall give effect to such Orders in Council, Proclamations, Regulations, or Ordinances until altered or repealed, and to any Order in Council, Proclamation, or Ordinance hereafter to be made, except so far as any such Proclamation or Ordinance is repugnant to this Order, or to any other Order made by Her Majesty in Council.

(4.) Provided that no Statute of the Colony of the Cape of Good Hope promulgated after the 10th day of June 1891 shall be of any effect within the limits of this Order, unless specially applied thereto by Proclamation, Ordinance, or Regulation.

50. In civil cases between natives the High Court and the magistrates' courts shall be guided by native law so far as that law is not repugnant to natural justice or morality, or to any Order made by Her Majesty in Council, or to any Proclamation or Ordinance. 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 alone. In all other respects the court shall follow as far as possible the procedure observed in similar cases in the courts of the Colony.

51. 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 recognized by the said native law or custom.

52. There shall be as many Judges of the High Court, to be paid by the Company, as from time to time may be necessary. The Judges shall be appointed by a Secretary of State on the nomination of the Company, subject as provided in the next Clause, and shall hold office during good behaviour, and shall only be removed by a Secretary of State. The salaries of the Judges shall be fixed by the Company with the approval of a Secretary of State, and shall not be increased or diminished without his approval.

53. Whenever the appointment of a Judge is necessary the Company shall nominate to a Secretary of State a fit and proper person for the office. If the Secretary of State does not approve of such person he shall so inform the Company, and the Company shall thereupon nominate another person, and so on toties quoties, but if the Company has not within six months from the date of the occurrence of a vacancy nominated some person whom the Secretary of State approves

the Secretary of State may appoint a person who has not been so nominated.

54. The High Court shall be held at such places as may from time to time be prescribed by the Administrator in Executive Council. The jurisdiction of the High Court may, until other arrangements are made by Proclamation, be exercised by any Judge thereof sitting alone.

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

56. The High Commissioner may remit or commute, in whole or in part, any sentence of the High Court, and may signify such remission or commutation by telegraph.

57. The High Court may make rules for regulating its procedure and practice and the admission of practitioners, and subject thereto, and so far as the same do not extend, the procedure, rules, and regulations of the High Court shall be as nearly as may be the same as the procedure, rules, and regulations of the Supreme Court.

58.—(1.) In civil matters when the amount or value in dispute exceeds one hundred pounds sterling, an appeal shall lie from the High Court to the Supreme Court.

(2.) 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 the Supreme Court.

(3.) As regards matters not provided for by such rules, the procedure on appeal in the Supreme Court may be the same as the ordinary procedure of that Court on appeal, and the order of that Court on the appeal shall be certified under its seal to the High Court, which shall give effect thereto.

(4.) An appeal from an order of the Supreme Court on appeal shall lie to Her Majesty in Council in the same manner and on the same conditions as an appeal from a judgment of the Supreme Court in its ordinary jurisdiction.

(5.) The High Court may, before deciding any matter when the amount or value in dispute exceeds one hundred pounds, state a case in writing for the opinion of the Supreme Court. The High Court shall decide the matter in accordance with the opinion of the Supreme Court.

59.—(1.) Any party to a civil cause or other civil proceeding in the High Court of Southern Rhodesia not falling within the class of matters in which an appeal is under this Order allowed to the Supreme Court may apply to a Judge of the High Court for leave to appeal from any judgment or order made in such cause or proceeding. Such application shall be made within such time and with such notice as may be prescribed by rules made by the High Court.

(2.) It shall be in the discretion of the Judge to whom such application is made to grant or refuse leave to appeal from the whole or any portion of such judgment or order.

(3.) If the Judge shall grant leave to appeal then the provisions of Article 58 of this Order shall apply to that portion of such judgment or order against which leave to appeal has been granted as if the cause or proceeding were a matter in which the amount in dispute exceeded one hundred pounds.

(4.) The jurisdiction conferred by this Article upon the Supreme Court shall not be exercised until the Legislature of the Colony shall, by reso-

lution or otherwise, have expressed its assent thereto, and until the High Commissioner shall have communicated such assent to the High Court.

60. In criminal matters an appeal shall lie from the High Court to the Supreme Court in the cases herein provided for and in no others.

Provided that the jurisdiction hereby conferred in such criminal matters shall not be exercised by the Supreme Court until the Legislature of the Colony shall, by resolution or otherwise, have expressed its assent thereto, and until the High Commissioner shall have communicated such assent to the High Court.

61.—(1.) If any defendant who shall be tried upon any indictment in the High Court shall think that any of the proceedings of the Court before which the trial takes place are irregular or not according to law, it shall be lawful for him either during his trial or after his conviction to apply to such Court to direct a special entry to be made on the record showing the nature of the proceedings alleged to be irregular or illegal.

(2.) If such a special entry be directed to be made, it shall be drawn up by the Registrar of the Court, and the defendant and the prosecutor, or their counsel and attorneys, shall be permitted to see it and copy it, and if either of them shall object to its terms it shall be settled by the Judge of the Court before which the case is tried.

62.—(1.) If any defendant who shall be convicted of any indictable crime or offence shall obtain leave to make, and shall cause to be made, such a special entry on the record as is hereinbefore provided for, it shall be lawful for him, by leave of the Judge of the Court before which the case shall have been tried, to appeal against his conviction on the ground of the irregularity or illegality of such proceedings as aforesaid as stated in such special entry aforesaid.

(2.) Provided that within fourteen days after verdict notice of such appeal shall be given to the Registrar of the Court appealed from; and such Registrar shall forthwith, after receiving such notice, given notice of such appeal to the Attorney-General, and transmit to the Registrar of the Supreme Court an authenticated copy of the record, including copies of the evidence, whether oral or in writing, taken or admitted at the trial and of the special entry made on the record in manner aforesaid.

63. If any question of law shall arise on the trial of any person for any indictable crime or offence in the High Court it shall be lawful for the Court to reserve such question for the consideration of the Supreme Court. If the Court shall determine to reserve any such question, and the defendant shall be convicted, the Court shall state the question or questions reserved, and shall direct such case to be specially entered on the record, and a copy thereof to be transmitted to the Supreme Court.

64. If any question of law shall arise upon review of the judgment or sentence of any inferior Court in any criminal action or suit by or before the High Court, it shall be lawful for the reviewing Court, if it shall see fit to do so, to reserve such question for the consideration and determination of the Supreme Court.

65. It shall be lawful for the prosecutor or defendant in any criminal suit which shall be brought on appeal or review before the High Court from any inferior Court by leave of the High Court to appeal to the Supreme Court against the judgment of the High Court.

66. In case of any appeal against a conviction or judgment of the High Court, or of any ques-



tion being reserved as aforesaid, it shall be lawful for the Supreme Court to—

- (1.) Confirm the judgment of the Court below, in which case if the defendant has been admitted to bail any Judge of the High Court may, on production to him of the order of the Supreme Court confirming such judgment, by warrant under his hand commit the said defendant to custody for the purpose of undergoing any term of imprisonment to which he may have been sentenced; or
- (2.) Direct that the judgment shall be set aside notwithstanding the verdict, which order shall have for all purposes the same effect as if the defendant had been acquitted; or
- (3.) Direct that the judgment of the Court shall be set aside, and that instead thereof such judgment shall be given by the Court before which the trial took place as ought to have been given at the trial; or
- (4.) If such Court has not delivered judgment remit the case to it in order that it may deliver judgment; or
- (5.) Give such judgment as ought to have been given at the trial; or
- (6.) Make such order as justice may require:

Provided that no conviction shall be set aside by reason only of some irregularity or illegality, whereby the defendant was not prejudiced in his defence, or because evidence was improperly admitted or rejected by which no substantial wrong was in the opinion of the Supreme Court done to the defendant.

67. The order or direction of the Supreme Court shall in criminal cases be certified under the hand of the Presiding Judge to the Registrar of the Court before which the case was tried, and such order or direction shall be carried into effect, and shall authorize every person affected by it to do whatever is necessary to carry it into effect.

68. The execution of a sentence of the Court shall not be suspended by reason of any appeal against a conviction, or by reason of a question having been reserved for the consideration of the Supreme Court, unless

- (1.) The sentence shall be that the defendant suffer death or be flogged or whipped, in either of which cases the sentence shall not be executed until the appeal or question reserved for the Supreme Court shall have been heard and decided, or
- (2.) The Court from which the appeal is made, or by which the question is reserved, shall think fit to order either that the defendant be admitted to bail or, if he is sentenced to any punishment other than simple imprisonment, that he be treated as an unconvinced prisoner till the appeal or question reserved for the Supreme Court shall have been heard and decided.

69. 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 jurisdiction over the same matters, and to the same extent, as a court of Resident Magistrate in the Colony has jurisdiction within the district in which it is established.

70. An Administrator may from time to time determine the number of magistrates' courts required within the limits of the Province to which he has been appointed and by notice in the Gazette may assign to each such court the local limits of the district within which it is to have jurisdiction, and may alter such limits and may in

like manner specify the places at which the court is to be held.

71.—(1.) An Administrator may, with the approval of the High Commissioner, appoint a Magistrate to each such court, and, if occasion requires, an Acting Magistrate, and every person so appointed may exercise all the jurisdiction of the court.

(2.) The salaries of magistrates shall be fixed by the Administrator with the approval of the High Commissioner, and shall not be increased or diminished without his approval.

(3.) A Magistrate appointed to one court may act as a Magistrate of any other court.

(4.) Every submission to the High Commissioner for his approval of an appointment of a Magistrate or Acting Magistrate shall be accompanied by a report from the Resident Commissioner.

72. A Magistrate upon appointment may forthwith enter upon the duties of his office, but the appointment is subject to confirmation by a Secretary of State; if such confirmation is refused, the High Commissioner shall give public notice thereof in the Gazette, and thereupon the powers of the Magistrate shall cease. A Magistrate may at any time be removed from office by a Secretary of State, or by an Administrator with the approval of the Secretary of State, but not otherwise.

73. A Magistrate on appointment shall, before exercising any of the functions of his office, in open court take the following oath:—

I, A.B., do promise and swear that I will faithfully, impartially, and diligently execute to the best of my abilities the duties of the office of Magistrate. So help me God.

74. Appeals shall lie to the High Court from the Magistrates' courts in the same cases, in the same manner, and with the same procedure as are allowed in the Colony with respect to appeals from the courts of Resident Magistrates; and any criminal case which would be liable to review if tried by a Resident Magistrate in the Colony shall be liable to review by the High Court.

75.—(1.) The High Commissioner may suspend a Judge or Magistrate from his office for misconduct; but shall first cause him to be furnished with a written statement of the acts of misconduct alleged against him, and cause him to be called on to state in writing by a given day (which shall allow a reasonable interval) any grounds upon which he relies to exculpate himself.

(2.) If the suspension takes place, the High Commissioner shall forthwith transmit a full report of the matter, and the proofs of the alleged misconduct, to a Secretary of State, who may confirm or disallow the suspension.

(3.) If the suspension is confirmed, the suspended officer is thereby removed from office; if it is disallowed, the suspended officer is thereby restored to office, and is entitled to any salary that has been withheld during his suspension.

(4.) If the Secretary of State is of opinion that the officer deserves punishment, but not the extreme penalty of removal from office, he may, instead of disallowing the suspension, direct that the officer be restored to office, but be required to serve at a reduced salary, either permanently or for a stated period; or that a specific sum be deducted from any salary due or to become due to the officer; or that he be transferred to a lower office.

76. The High Commissioner by Proclamation, or the Administrator by and with the advice and consent of the Legislative Council by Ordinance, may make such other or further provisions

as from time to time may appear desirable to secure the more efficient working of the several courts constituted by this Order.

77. Notwithstanding anything in this Order contained, all general rules, orders, and regulations of Court made under the provisions of the Matabeleland Order in Council, 1894, by the High Court of Matabeleland, shall to all intents and purposes, until repealed or altered, be as binding, conclusive, valid, and effectual as if this Order had not been made.

78.—(1.) The High Commissioner shall notify by Proclamation the time when the Courts hereby established will be open, and as soon as the Judges of the High Court, and the Magistrates of the Courts hereby established, shall have assumed and entered upon the exercise of their jurisdiction, then and from thenceforth the High Court of Matabeleland and the Magistrates' Courts now established within Southern Rhodesia, and the jurisdiction of the said Courts respectively, shall be abolished, cease, and determine, and every suit, action, complaint, matter, or thing, civil or criminal, which shall be depending in such last-mentioned Courts respectively shall, and may be proceeded with in the High Court constituted by this Order, or in any of the Magistrates' Courts which shall and may have jurisdiction within the district or place where such action or suit or other matter, civil or criminal respectively, was depending, and all proceedings which shall thereafter be had in such action or suit or other matter, civil or criminal respectively, shall be conducted as if such action or suit or other matter, civil or criminal, had been originally commenced in one or other of the said Courts constituted by this Order.

(2.) All the records and proceedings whatsoever of, and belonging to, the High Court of Matabeleland and the Magistrates' Courts established by the Matabeleland Order in Council, 1894, shall, from and immediately after the opening of the Courts constituted by this Order, be delivered over and deposited for safe custody in such of the said Courts respectively as shall be most convenient, and all parties concerned shall, and may, have the same recourse to the said records and proceedings as to any other records or proceedings of the said Courts respectively.

#### PART V.

##### *Native Administration.*

79.—(1.) The Administrator shall appoint an officer to be called the Secretary for Native Affairs and officers to be called Native Commissioners, and, if occasion requires, Assistant Native Commissioners, and may from time to time, with the approval of the High Commissioner subject to confirmation by a Secretary of State, prescribe by notice in the Gazette the powers, duties, salaries, and districts to be assigned to such officers.

(2.) The provisions of this Order with respect to the appointment, salaries, suspension, and removal of Magistrates shall apply to the appointment, salaries, suspension, and removal of the Secretary for Native Affairs, Native Commissioners, and Assistant Native Commissioners, and any other persons employed in the administration of native affairs, and the High Commissioner and a Secretary of State shall have and exercise the like powers with respect to these officers as under this Order are exercisable by them in the case of Magistrates.

(3.) It shall be lawful for the High Commissioner by Proclamation to confer upon any Native Commissioner or Assistant Native Commissioner such jurisdiction, not exceeding that exercisable by Magistrates, as may from time to time appear to him to be expedient.

80. No conditions, disabilities, or restrictions shall, without the previous consent of a Secretary of State, be imposed upon natives by Ordinance which do not equally apply to persons of European descent, save in respect of the supply of arms, ammunition, and liquor.

81. The Company shall from time to time assign to the natives inhabiting Southern Rhodesia land sufficient for their occupation, whether as tribes or portions of tribes, and suitable for their agricultural and pastoral requirements, including in all cases a fair and equitable proportion of springs or permanent water.

82. All questions relating to the settlement of natives on the lands within Southern Rhodesia shall be dealt with and decided by the Administrator in Executive Council, but all such decisions shall be subject to review by the High Commissioner.

83. 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.

84. The Company shall retain the mineral rights in all land assigned to natives. If the Company should require any such land for the purpose of mineral development or as sites of townships, or for railways or other public works, the Administrator in Executive Council, by direction of the Company and upon good and sufficient cause shown, may, with the approval of the High Commissioner, order the natives to remove from such land or any portion thereof, and shall assign to them just and liberal compensation in land elsewhere, situate in as convenient a position as possible, sufficient and suitable for their agricultural and pastoral requirements, containing a fair and equitable proportion of springs or permanent water, and, as far as possible, equally suitable for their requirements in all respects as the land from which they are ordered to remove.

85.—(1.) No natives shall be removed from any kraal or from any land assigned to them for occupation, except after full enquiry by, and by order of the Administrator in Executive Council approved by the High Commissioner.

(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 proceedings 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 one hundred pounds sterling, or to both.

86. The High Commissioner may, if he thinks fit, refer any question relating to natives for report to any Judge of the High Court, and the Judge shall thereupon make such inquiry as he thinks fit, and shall report to the High Commissioner the result of such inquiry. The High Commissioner may act with reference to any such report as he thinks fit.

87.—(1.) The Administrator in Executive Council shall, when so required by the High Commissioner, appoint in any magisterial district a subordinate tribunal, to consist of the Magistrate of the district and two assessors from time



to time selected by a Judge of the High Court upon the request of the High Commissioner.

(2.) Such tribunal shall report or make recommendations to the High Commissioner upon all questions relating to natives referred to it by or by the direction of the High Commissioner, or by any Judge to whom any question relating to natives has been referred by the High Commissioner. The High Commissioner may deal with any such reports or recommendations as he thinks fit.

88. In case of a revolt against the Company, or other misconduct committed by a native chief or tribe, the Administrator in Executive Council may impose a reasonable fine upon the offender. The Administrator shall forthwith report every such case to the High Commissioner, who may remit the fine in whole or in part; the Administrator shall give effect to any such remission.

89.—(1.) The High Commissioner shall transmit to a Secretary of State a report upon every case relating to natives dealt with by him under Part V of this Order, together with copies of all reports and recommendations and all documents relating to such case, and a Secretary of State may review any case and reverse or modify any decision given or order made therein, and may give such directions in the matter as he thinks fit, and due effect shall be given to such directions by all persons.

(2.) Provided that such directions shall only be binding where a Secretary of State has within twelve months after receiving the report of the High Commissioner given notice to the High Commissioner that he intends to review any such case.

PART VI.  
*Miscellaneous.*

90.—(1.) Where the approval of a Secretary of State is required under this Order for the appointment of any officer, such officer may, upon

appointment, enter upon and perform the duties of his office before such approval has been signified, but until approved or disapproved by a Secretary of State such appointment shall be regarded as provisional only.

(2.) If any such appointment is disapproved by a Secretary of State, the person so appointed shall cease to hold the office so soon as the signification of such disapproval is received by the Administrator, but without prejudice to anything lawfully done by him during his provisional appointment.

(3.) The Administrator shall forthwith report to the High Commissioner who shall report to a Secretary of State every such provisional appointment.

(4.) Notice of the withholding of the approval of a Secretary of State shall be published in the Gazette.

91. The Matabeleland Order in Council, 1894, shall continue in force until the commencement of this Order and shall thereupon be revoked, but without prejudice to anything lawfully done thereunder.

92. Judicial notice shall be taken of this Order and of the commencement thereof, and of any Ordinance made under this Order and published in the Gazette.

93. This Order shall be published in the Gazette and shall thereupon commence and come into operation; and the High Commissioner shall give directions for the publication of this Order at such places, and in such manner, and for such time or times, as he think proper for giving due publicity thereto.

94. Her Majesty may from time to time revoke, alter, add to, or amend this Order.

A. W. FitzRoy.

